9% COMPETITIVE HOUSING TAX CREDIT POLICIES

Washington State Housing Finance Commission

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RE: Good Standing Policy Package

Policies are in effect until changed and approved by the Board

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1 Overview

The 1986 Tax Reform Act created the federal low-income housing tax credit (the "Credit"), under Section 42 of the Internal Revenue Code (the "Code"), to assist in the development of low-income rental housing. The Tax Credit Program provides qualified owners with Credit to reduce their federal tax obligations. The Washington State Housing Finance Commission (the "Commission") is the authorized issuer of Credits for residential rental property located in the state of Washington. The Credit is available to owners of qualified buildings and projects that meet certain low-income occupancy and rent restrictions.

1.1 Purpose of the Policies

The Tax Credit Program is described in three separate documents: The Qualified Allocation Plan, the Rules, and the Policies. All these documents are available online on the Commission's web page.

Pursuant to the requirements of the Internal Revenue Code Section 42(m)(1)(B), the Commission has adopted a Qualified Allocation Plan ("QAP") that sets forth: (i) the preferences of the Commission in allocating Credit; (ii) the selection criteria used to determine the Commission's housing priorities; and (iii) the procedures the Commission will follow in monitoring for Noncompliance, including noncompliance with habitability standards, and notifying the Internal Revenue Service of such Noncompliance.

The Commission has also adopted rules governing the Tax Credit Program (the "Rules"). The Rules are codified in Washington Administrative Code ("WAC") 262-01-130. The Rules set forth the principles by which the Commission administers the Tax Credit Program and to which all Applicants to the Tax Credit Program will be bound.

In addition, the Commission has published these Policies. RCW 34.05.230(1) provides that "an Agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements." The Policies are intended to be these interpretive or policy statements. The Policies are intended to provide guidance to Applicants and to Commission staff, but they are not binding on the Commission and do not have the force of a Rule.

The Policies describe the process and criteria that will be used by Commission staff to evaluate and rank projects for recommendations for Credit reservations and allocations.

The Policies also describe the conditions, limitations, and requirements that must be satisfied for a project to be eligible for a Credit reservation, carryover allocation and final allocation.

If there is a conflict between any requirement, condition, definition, or restriction of the Qualified Allocation Plan, the Rules, or the Policies and the requirements of the Code, the more restrictive one will apply, as determined by the Commission.

1.1.1 Program Values

The Tax Credit Program Values are used as a framework to guide Tax Credit Program policy development, including determining how projects are prioritized. Values for the Tax Credit Program include the following:

- Advance Racial Equity
- Align Resources
- Meet Affordable Housing Needs Everywhere
- Ensure High-Quality and Affordable Housing for Residents in the Long Term
- Use Our Limited Resources Efficiently

- Prioritize Populations Who Most Need Help
- Foster Healthy and Sustainable Homes in a Changing Climate

For more information, see the Tax Credit Program Values Statement published on our website.

1.2 Approval and Effective Date of the Policies

Updates to these Policies are approved by resolution at a special meeting of the Commission and are in effect once approved until they are amended, revoked, or superseded by action of the Commission, which will ordinarily take the form of a resolution approved at a special meeting of the Commission. The Policies will apply in their entirety to all Applications submitted on or after their effective date. In addition, the Policies apply to all projects for which the Commission has executed a Credit Reservation and Carryover Allocation Contract ("RAC"), or Regulatory Agreement, or issued an IRS Form 8609, as determined by the Commission. Please contact the Multifamily Housing and Community Facilities ("MHCF") Director for clarification regarding the application of the Policies to a project. The MHCF Director will determine the applicability of the Policies to projects.

1.3 Administration and Interpretation of the Policies

Commission staff are authorized to administer, interpret, and clarify the Policies. In addition, staff have authority to administer and interpret the Code and the treasury regulations, subject to any formal written guidance, rulings or precedent received from the IRS or from court decisions.

The decisions to reserve and to allocate Credit to a project rest solely with the Commission. All projects receiving reservations or allocations must comply with the Code, specifically Section 42 of the Code, together with the restrictions, conditions, and requirements of the Tax Credit Program, which may be more restrictive than Section 42 of the Code.

The Policies should not be construed as impairing or limiting the rights of the Commission, or act to release a Tax Credit Program participant from any of the covenants, terms, obligations, duties, or conditions that apply to the participant as a result of entering into any agreement or contract. The Commission may bring a legal action against the participant as it may deem necessary or prudent if the participant fails to perform any obligation or provision, or term under any document, agreement, contract, or under any provision of law.

The Policies are subject to change by the Commission, based on, among other things, developments in federal or state law. The Commission may modify the Policies, as well as the forms, legal documents, and other material used by the Tax Credit Program, at any time determined by the Commission to be necessary and appropriate. It is necessary to stay informed of the actions of the Commission that may amend the Policies. A participant may ask Commission staff for specific information or assistance.

The Commission sends regular program announcements including updates to the Policies to an email list that is open to all interested parties. To be included on this list, sign up using this signup form.

1.4 Definition of Terms

The definitions of capitalized terms used throughout the Policies can be found in the Glossary. All chapter, section, and page references refer to the Policies, unless otherwise specified. In addition, the Policies, the RAC and the Regulatory Agreement use terms that are defined or used in Section 42 of the Code.

1.5 Program Documents and Forms

The Application packet for Credits, the Qualified Allocation Plan, the Rules, and the Policies are available on the Tax Credit Program's web page. Likewise, sample copies of primary legal documents such as the

RAC and the Regulatory Agreement are available upon request. Keep in mind that the legal documents that a participant is required to execute to participate in the Tax Credit Program may vary from the sample documents.

1.6 Application Schedule and Deadlines

The Commission will announce deadlines for receiving Applications by public notice to all interested parties registered on the Tax Credit Program's email list kept by the Commission. To be included on this list, sign up using this signup form.

The latest Application packet may be obtained from the Tax Credit Program's web page.

1.7 Correspondence

All Commission correspondence will be sent to the contact person identified in the Application. Be sure to notify the Commission in writing of any changes to the contact person or address.

1.8 Public Records Act Notice

Materials and information submitted to the Commission are subject to public disclosure unless otherwise exempt from disclosure under the Washington Public Records Disclosure Act (RCW 42.17 et seq.). No assurances can be given that any materials provided can be protected from public review and copying.

1.9 Waivers

If the Commission fails to act in accordance with the Policies, that should not be considered a waiver by the Commission of a project, person, or entity's compliance with the terms and provisions in the Policies, or establish a precedent for any other project, person, or entity. In any event, no waiver, modification, or change in the Policies will be binding unless it is in writing and signed by an agent of the Commission.

2 General Requirements

The Commission has established the following requirements and disclosures with respect to selecting projects for Credit reservations and allocations. These requirements and disclosures, in addition to the other conditions and requirements described in these Policies and the Commission's legal documents, must be satisfied to obtain, and maintain Credit reservations and allocations.

2.1 Identity of Interest

The Applicant will be required to disclose to the Commission whether certain financial, familial, business, or similar relationships exist between or among the parties participating in the development and operation of the project (i.e., whether an "Identity of Interest" exists). This disclosure shall be made when the Application is filed and at such other times during the development and operation of the project as determined by the Commission.

2.2 Misrepresentation and Fraud

The Commission may disqualify an Application and project and cancel a Credit reservation and carryover allocation, if the Applicant, a Principal, or any participant makes a material misstatement, omission, or misrepresentation to the Commission, or has been convicted of fraud, theft, or other criminal activity involving the misappropriation of funds, false certifications, financial improprieties, or the like.

2.3 Financial Solvency and Litigation Status

As part of the Application and at such other times as required by the Commission, the Applicant must provide a certification with respect to the financial solvency of the Applicant, the project and certain project participants in the form required by the Commission.

If the certification discloses any financial difficulties, risks, or similar matters that the Commission believes might substantially impair or harm the successful development and operation of the project as a qualified low-income housing project, the Commission may:

- refuse to allow the Applicant to participate in the Tax Credit Program;
- reject or disqualify an Application and cancel any Credit reservation and carryover allocation; or
- demand additional assurances that the development, ownership, operation, or management of the project will not be impaired or harmed (such as, performance bonds, pledging unencumbered assets as security, opinions of financial solvency by an independent certified public accountant, or such other assurances as determined by the Commission).

The Applicant must also disclose throughout the development and operation of the project if there is a material change in the matters addressed in the certification.

2.4 Legal Counsel and Professional Representatives

The Applicant may not engage or use the Commission's legal counsel in any matters related to the Application or project, including but not limited to representing the Applicant regarding:

- the acquisition or lease of any land or buildings intended to be part of the project;
- the organization of the ownership entity;
- the preparation of any tax opinion;
- participation in the financing or syndication process;
- the Commission's administrative rules and policies;
- project evaluation, review, recommendation, selection, monitoring, and/or cancellation; and
- establishment, administration, or enforcement of the Commission's Contracts.

In addition, the Applicant must provide the names of the Applicant's developer, project management consultant, property management consultant, architect, legal counsel, tax advisor, accountant, and syndicator. The Commission may require the Applicant to retain legal counsel or other representatives that are in addition to, or different than, the above parties. For example, an Applicant may be required to change a consultant if the Commission believes that the proposed consultant lacks sufficient experience with the Tax Credit Program. It may also happen if the proposed party has made misrepresentations or misstatements to the Commission or has violated or breached any of the specific provisions or intent of the Tax Credit Program (such as furthering themselves or their clients by taking excessive fees or advocating positions that are insupportable given the terms, conditions, and requirements in the Policies and in the Code).

2.5 Project Changes

An Applicant must notify the Commission of any change in a project. An Applicant must notify the Commission in writing at least 30 days in advance of any material change in a project and must obtain the Commission's written consent to the proposed change. A "material change" includes, but is not limited to, a change in:

- the number of buildings or units
- the project contact person

- the Identity of Interest disclosure
- the Development Team
- legal counsel or another professional representative's information
- the project's Total Project Costs
- a financing source (whether debt or equity)
- operating revenue or expenses for the project of more than 10%
- anything that would result in a loss of Allocation Criteria points.
- Project site or location

The MHCF Director will decide whether a change in a project is material.

The Commission will consider and may approve a material change to a project, if the change is consistent with the Code and the Tax Credit Program and does not decrease the total number of Allocation Criteria points for the project.

The request for approval of a material change in a project must be submitted in writing and include a narrative description and other supporting documentation, plus the applicable revised pages of the Application. If the Commission grants the request, it may reduce the Credit allocation to the project to the extent that the change results in a decrease in the equity gap or in the adjusted basis, eligible basis, or qualified basis of the project.

The Commission will consider a change in the actual Allocation Criteria for which a project has received Allocation Criteria points only if (i) the project or Applicant qualified for the Allocation Criterion when the Application was submitted; (ii) the Allocation Criterion is no longer feasible through no fault of the Applicant; and (iii) the Applicant can substitute another Allocation Criterion that results in an equal or greater number of Allocation Criteria points. Aside from this exception, the Commission will not consider a project change after the original submission of an Application if it affects project eligibility for Credit, Allocation Criteria points, or project rankings.

Generally, all direct or indirect project transfers or assignments require the prior written consent of the Commission, as set forth in Chapter 9 of the Policies.

2.6 Selection of Tax Credit Factor

The Applicant is responsible for providing the Commission with the Tax Credit Factor that the Applicant believes will be achieved when the Credit is sold. The Commission will establish a minimum Tax Credit Factor based on its evaluation of the equity market.

The Tax Credit Factor represents, on a percentage basis, the value of the Credit dollar amount available for the Total Project Costs (i.e., the amount paid by the investor for each one dollar of Credit). The Applicant's selection of the Tax Credit Factor in the Application establishes the minimum Tax Credit Factor. The Tax Credit Factor must reflect an ownership percentage of 100%. Once selected, the Commission will use the Tax Credit Factor from then on when it calculates the Credit reservation and allocation to any building in a project, except as noted below. Consequently, the Applicant should be sure to research the market to determine an appropriate Tax Credit Factor.

If the proceeds from the sale of the Credit are more than projected in the Application, then, as provided in WAC 262-01-130(7), the Commission will reduce the Credit amount to the minimum amount necessary for the project to be financially feasible and viable as a qualified low-income housing project. In calculating the amount of Credit, if the actual Tax Credit Factor is higher, the Commission will use the actual Tax Credit Factor achieved from the sale of the Credit rather than the Tax Credit Factor in the

Application. Consequently, the amount of Credit actually allocated to a building may be reduced below the amount initially reserved.

The Applicant should be aware that a final Tax Credit Factor that is lower than the figure included in the Application might result in a loss of Credit for the project. In that case, the Applicant must demonstrate that the project is both financially feasible and viable with the reduced amount of Credit. The Commission may disqualify the Project/Application and cancel the Credit reservation or allocation if the Applicant cannot do this. For example, the Applicant may have to provide evidence that it has secured other sources of funds to fill the remaining equity gap. Such alternative sources could also result in a decrease in Credit.

In characterizing the anticipated tax credit proceeds and the corresponding Tax Credit Factor listed in the application, Applicants may be asked to substantiate, to the satisfaction of the Commission, the projected tax credit pricing. If required, Applicants must provide evidence that the Tax Credit Factor listed in the Application has a reasonable likelihood of being achieved given the known conditions of the current equity market.

2.7 Housing Credit Percentage

The IRS reports the "appropriate percentage" or actual housing credit percentages monthly. The variable credit percentage (with a fixed floor rate of 9% and 4%) is applied to the project's qualified basis to determine the amount of investors tax credit during the 10-year credit period.[1] For applicable rates, see the Housing Credit Percentages published on the IRS webpage.

2.8 Feasibility and Viability Analysis

The Commission is required to limit Credit allocated to a project to the amount it determines is necessary for the financial feasibility and viability of the project. The Commission is required to perform this analysis at each of the following times:

- when the Applicant applies for Credit;
- when the Commission makes a carryover allocation by entering the RAC; and
- when each building in the project is placed-in-service.

To allow the Commission to perform these analyses, the Applicant is required to submit, among other things, (i) a comprehensive development budget showing all sources and uses of funds and the total financing plan for the project and (ii) a fifteen-year operating pro forma for the project. The form and detail of each of the budgets must be satisfactory to the Commission and must be consistent with provisions of Treasury Regulation 1.42-17.

The Commission will review the reasonableness of the development and operating budgets submitted by the Applicant. It may require that the Applicant submit documentation to substantiate that any or all a project's revenue or costs are reasonable and appropriate. In addition, the Applicant may be required to submit a copy of an appraisal with an effective date within 6 months of the Application to establish the value of the land for a project. Even if the land cost is adequately supported by an appraisal, all or a portion thereof may be treated as Developer Fee (which could have the effect of reducing eligible basis). Further, the maximum amount of Credit allowable to a project is subject to the other limitations of the Tax Credit Program, such as the Tax Credit Program Limits set forth in Chapter 3.

[1] In December 2015, Congress adopted a fixed floor 9% rate for the 9% credit. The COVID-19 stimulus bill passed in December 2020 fixed the 4% tax credit rate at 4% for buildings which received a Credit allocation after December 31, 2020.

Credit pricing is a critical component of assessing and underwriting the appropriate amount of allocation to each project. The Commission's QAP and WACs also require that the Commission give weight to projects which maximize the use of the tax credit. (WAC 262-01-130(5)(i); QAP II.B(j).

Based on the feasibility and viability analyses performed by the Commission, the amount of the Credit reservation and carryover allocation may be less than the amount set forth in the Commission's initial project approval, and the amount of the final Credit allocation reflected in Form 8609 may be less than the amount of the Credit reservation and/or carryover allocation.

2.9 Credit Reservation and Carryover Allocation

All projects that receive an allocation of credit will receive a carryover allocation. To receive a carryover allocation, the Applicant must meet all the Credit reservation and carryover allocation requirements in Chapter 7 of the Policies. If any building in the project will be placed-in-service in the same year as the Application, that building does not need a carryover allocation, but the Applicant will be required to comply with all the placed-in-service allocation requirements before the end of the calendar year, in addition to meeting other requirements.

All Credit carryover allocations will be made on a "project" basis. The Credit reserved or allocated is the lump sum amount available to each qualified building in the project. The actual amount of Credit available for any specific building will be apportioned from the lump sum carryover allocation of credit and determined when that building satisfies the placed-in-service allocation requirements.

2.10 Equity Closing

The Applicant is required to give the Commission at least 30 days' notice of the scheduled Equity Closing. At least 10 days prior to the scheduled Equity Closing but after the general contractor bids have been received, the Applicant must submit the Project's final development budget, final sources of funds, and documentation to substantiate the final Credit pricing. Using the final budget, Commission staff will evaluate the balance of sources and uses and set the final Developer Fee (see Section 3.7 and 3.8).

2.11 Regulatory Agreement

As a condition of receiving an allocation from the Commission, the Applicant must enter into a Regulatory Agreement that applies to each building in the project. The Regulatory Agreement addresses, among other things, the requirements of Section 42 of the Code, federal and state law, the Tax Credit Program, and the Commitments made in the Application and the RAC.

Generally, the provisions of the Regulatory Agreement will apply for a period of 30 years from the date the project is placed-in-service (the 15-year compliance period and an additional 15-year period, referred to as the "extended low-income use period"). However, if the Applicant makes a commitment for an Additional Low-Income Housing Use Period, the duration of the Regulatory Agreement will be extended accordingly. The Additional Low-Income Housing Use Period commences upon the close of the 15-year compliance period. If the Applicant opts for the longest extension, the total Project Compliance Period would be 60 years.

Termination of the Regulatory Agreement will occur prior to the expiration of the extended low- income use period or Additional Low-Income Use Period only under very limited circumstances. In this respect, and many others, the requirements of the Regulatory Agreement are stricter than the provisions of Section 42 of the Code.

The Regulatory Agreement must be recorded as part of the Equity Closing. It must be recorded in first lien position as a restrictive covenant running with the land and binding upon the Applicant's successors

in interest. To ensure the Commission's Regulatory Agreement is in first lien position, the Applicant must prepare and record a Priority Agreement at the Project's expense in a form acceptable to the Commission, and executed by the Applicant, the Commission, and all lienholders on the Project. The Priority Agreement must specify that the lienholders' security interests are subordinate to the interests of the Commission as shown in the Regulatory Agreement.

If documents with monetary liens are recorded prior to the Regulatory Agreement, those documents must be subordinated to the interests of the Commission as shown in the Regulatory Agreement.

If the Applicant has established a long-term lease in lieu of ownership, the owner of the land and holders of any liens and encumbrances that are secured by a recorded mortgage or deed of trust against the land and the improvements on it before the Regulatory Agreement is recorded must execute and record a subordination agreement in a form approved by the Commission. The subordination agreement shall specify that the owner's interest is subject to, and any other parties' security interest is subordinate to, the interests of the Commission as shown in the Regulatory Agreement.

2.12 Final Allocation and Form 8609

For projects receiving a carryover allocation, the Applicant will have until the deadline(s) set forth in the RAC to ensure that each building in the project is placed-in-service and meets all the placed-in- service allocation requirements in Chapter 8 of the Policies. If the Applicant complies with the terms and conditions of the RAC and all other requirements of the Tax Credit Program, the Commission will make a final allocation of Credit for each qualified building by issuing IRS Form 8609.

2.13 Minimum and Additional Low-Income Housing Commitments

The Tax Credit Program includes two low-income housing Commitments: (i) the minimum low- income housing commitment required by Section 42 of the Code and (ii) the Additional Low-Income Housing Commitment, a voluntary election under the Commission's Allocation Criterion. Both Commitments are made when the Application is submitted and are irrevocable and binding upon the Applicant and the Applicant's successors in interest.

The Applicant must choose one of the following minimum low-income housing commitments under the Code:

- at least 40% of the total housing units in a project must be rented to residents with incomes at or below 60% of the AMI adjusted for household size;
- or at least 20% of the total housing units in a project must be rented to residents with incomes at or below 50% of the AMI adjusted for household size;
- or Income Averaging - allows units to serve households earning as much as 80% of the AMI as long as a range of AMI options below 60% AMI are provided and the average income/rent limit in the property is 60% or less of AMI.

Criteria for Income Averaging: allowed on a "case by case" basis with the following:

- Submit a plan and unit configuration, using the spreadsheet created by Novogradac, showing that the unit configuration meets the income averaging; all buildings must have the same election; unit mix is expected to provide for a range of AMI options above and below 60% AMI up to 80% AMI
- Written agreement from the investor and any other public or private funders;
- Submit a market study that addresses income mix
- Commit and agree in writing to the compliance implications, as we understand them at the time of commitment (Complete Average Income Certification Form)

Note: Income averaging is not available for re-syndications or projects with market rate units.

2.14 Utility Allowances

Please note points for alternate utility allowances (UA) have been removed starting with the 2021 9% Competitive Housing Tax Credit Policies. However, applicants are still welcome to submit an alternate UA based on Method 8 from Appendix O of the Tax Credit Compliance Manual.

If the project is planning to use Method 8, a Commission approved energy modeling consultant must submit a UA modeling plan in Tab 11 of the tax credit application. Because the final energy consumption model UA schedule will not be available, the local PHA Section 8 UA can be used to complete Section 8 of the application.

*Any LIHTC projects layered with Project-Based Section 8, or which are otherwise restricted by HUD or RD cannot use alternate UA schedules. Those projects must use the applicable PHA Section 8 UA schedule or other HUD or RD approved utility allowance schedule.

If any of the low-income housing units are receiving rental assistance at the time of Application or if the Applicant has a commitment for rental assistance on any housing units in the project, the Applicant must provide a copy of the applicable rental assistance documentation or the commitment specifying the number of housing units, dollar amount, length of time, and any other significant details.

2.15 Developer Fee and Eligible Basis Limitations

Generally, that portion of the developer fee related to the construction or rehabilitation of a low-income building is capitalized as part of the building's basis and, therefore, is eligible for Credit. The portion of the developer fee that is attributable to the acquisition of the land is ineligible for credit.

In the case of an acquisition/rehabilitation project, the developer fee must be allocated among the various project components. For example, the portion of the developer fee that is earned with respect to the acquisition of the land is ineligible for Credit. The portion of the developer fee earned for the acquisition of the existing building may be eligible for the 4% credit.

Generally, expenses for activities occurring prior to the start of construction must be allocated to land and are excluded from eligible basis, unless a written explanation justifying an alternative treatment is included with the Application and with the Independent CPA's certification regarding the project's eligible basis and the qualified basis as well as the sources and uses of funds.

Specifically, amounts incurred for legal and professional fees, real estate transfer taxes, closing costs, title insurance, loan origination fees and points are ineligible. Similarly, land surveys, appraisals, demolition of existing structures, abatement of environmental hazards, escrow fees, filing fees, pre-construction period interest expense capitalized in accordance with Section 263A of the Code, Partnership organizational fees, and the like are also ineligible for Credit.

2.16 Compliance With Law and Commitments

The Applicant must agree that each building in the project will be owned, managed, and operated as a residential rental property consistent with Section 42 of the Code, federal law, the laws of the state of Washington, and the Commitments. The RAC and the Regulatory Agreement will set forth specific covenants, representations, and warranties of the Applicant regarding these and other undertakings.

2.17 Use of Commission's Contracts, Agreements, and Other Legal Documents

As provided in WAC 262-01-130(9), an Applicant must use the Commission's forms of legal documents, forms, and other materials.

The Commission's documents are not subject to negotiation. However, the Commission is willing to consider revisions that improve the accuracy and clarity of the material.

An Applicant or other participant in the Tax Credit Program may ask to revise or amend the language of the RAC, the Regulatory Agreement, or other documents of the Tax Credit Program if it finds an error, contradiction, or similar problem in the data or language of the documents. The request must be in writing and include any relevant documentation or support for the requested amendment.

2.18 Project Disqualification/Cancellation

The Commission may disqualify the project and Application as well as cancel the Credit reservation and carryover allocation for the project if:

- The Applicant fails to comply with the requirements and policies of the Commission, including these Policies; or
- The Applicant fails to comply with the terms, conditions, obligations, and restrictions in the Application, the RAC, or other legal documents for the project.

The Commission will have no duty or obligation to the Applicant, the lender, or investor upon termination of the project, Credit reservation, or carryover allocation and will bear no liability for the consequences of such termination or decrease of Credit. Furthermore, if the Applicant defaults, the Commission may bring an action to enforce the terms of its agreements or contracts or seek recovery for damages.

2.19 Enforcement

If an Applicant or project owner fails to comply with the QAP, the Policies, the RAC or the Regulatory Agreement, such Noncompliance will be considered an event of default and the Commission will be entitled to exercise any of the rights and remedies it may have under the Tax Credit Program. In addition, the Commission will be entitled to the rights and remedies it has the authority to exercise by law.

The Commission may prosecute any proceeding of law to seek recovery of monetary damages for the Applicant's failure to carry out and fulfill any contract entered into in connection with the Tax Credit Program. The Commission, if it prevails, will be entitled to its reasonable costs, disbursements, and attorneys' fees, together with all expenses it may have reasonably incurred. In addition, the Applicant should understand that the Commission is required to report events of Noncompliance to the IRS regardless of whether the Noncompliance is corrected.

In addition, any resident or potential resident who meets the income limitations for the minimum low-income housing commitment or the Additional Low-Income Housing Commitment for the project, and/or meets the qualifications or restrictions for a Special Needs Housing Commitment, may bring suit to enforce the terms, conditions, obligations, restrictions, covenants, representations, and warranties in the Regulatory Agreement. These persons may be a former, present, or a prospective resident of the project. These persons' rights are more explicitly set forth in the Regulatory Agreement.

Nothing in the Policies, the RAC or the Regulatory Agreement is intended, or should be construed, to create a duty or obligation of the Commission to enforce any term or provision of the Policies, the RAC, Regulatory Agreement, or any other Tax Credit Program document on behalf of, at the request of, or for

the benefit of, any former, present, or prospective resident. The Commission assumes no direct or indirect obligation to any former, present, or prospective resident for violations by the owner or any other party.

2.20 Debarment

Under certain circumstances, the Applicant or other parties associated with the Project may be barred from participating in the Commission's Tax Credit Program. The debarment rules and procedures are set forth in WAC 262-03-040. The rights and remedies of the Commission under the Tax Credit Program, the Policies, the RAC, the Regulatory Agreement, and other Tax Credit Program documents for breach and/or Noncompliance are in addition to, and not in lieu of, the rights and remedies the Commission has authority to exercise by statute, rule, or regulation, including, but not limited to, the debarment rules.

2.21 Indemnification

As a condition of submitting an Application, the Applicant agrees to at all times defend (with counsel reasonably acceptable to the Commission), indemnify and hold harmless and release the Commission, its successors and assigns, including their respective members, officers, employees, agents and attorneys, from and against any and all claims, suits, losses, damages, costs, expenses and liabilities of whatsoever nature or kind (including but not limited to attorneys' fees, litigation and court costs, amounts paid in settlement, amounts paid to discharge judgment(s), and any disallowance of tax benefits) directly or indirectly resulting from, arising out of, or related to:

- the financing, acquisition, construction and/or rehabilitation, syndication, sale, management or operation of the project;
- any Noncompliance or failure to perform any covenant under the Application, the RAC, the Regulatory Agreement, or any other Tax Credit Program document (collectively "Tax Credit Program Documents") (whether or not cured);
- any breach of a representation, warranty, or covenant in a Tax Credit Program Document;
- any other act or omission (whether or not cured) constituting a default under a Tax Credit Program Document; or
- the enforcement by the Commission, its successors and assigns of the Commission's rights and remedies under a Tax Credit Program Document or any Tax Credit Program Document.

An indemnified party may monitor and participate in the defense of any claim or suit and may select any law firm to do so. This may include any level of participation the indemnified party wants. The Applicant will promptly reimburse the indemnified party for all attorneys' fees, litigation and court costs, amounts paid in settlement, and other sums as described above that are incurred by the indemnified party.

Furthermore, as a condition of applying, the Applicant waives any right to bring legal action, on the Applicant's own behalf or on behalf of any other party, against the Commission for any matter for which the Applicant agrees to indemnify and hold harmless the Commission.

3 Program Limits

The Commission has established the following program limits (the "Program Limits") for selecting projects for Credit reservations and allocations. The Applicant should demonstrate in the Application compliance with all the Program Limits. In determining the amount of Credit to allocate, the Commission may reduce the budget and/or Credit to reflect the Program Limits listed below.

3.1 Maximum Credit – WAC 262-01-130(7)

As required by Section 42 of the Code, the Commission will allocate no more than the minimum amount of Credit needed to ensure that the project will be financially feasible and viable as a qualified low-income housing project throughout the credit period.

As part of the Commission's Credit determination, the Commission will evaluate each project based upon the project's feasibility and viability which includes examining the development and operational costs of each project as well as the market need and demand.

3.2 Total Development Cost Limit – WAC 262-01-130(8)(a)

Given the finite resource of the Housing Tax Credit, the primary objective of the Total Development Cost Limit policy ("TDC Limits") is to balance cost containment with promoting quality development. Meaningful cost containment policies are essential to the future success and continued credibility of the Housing Tax Credit program.

Requests for utilizing different TDC limits may be determined on a case-by-case basis.

3.2.1 Seattle TDC Limits

Projects located in Seattle are subject to the Seattle TDC limits. If a scattered site project is in an additional city in or outside of King County, those units will be subject to either the Balance of King, Metro, or Balance of State TDC Limits, depending on its geographic location.

3.2.2 Balance of King TDC Limits

Projects located in King County and outside of Seattle are subject to the Balance of King TDC Limits. If a scattered site project is in an additional county(ies), units outside of King County will be subject to Seattle, Metro or Balance of State TDC Limits, depending on its geographic location.

3.2.3 Metro TDC Limits

Projects located in Pierce, Snohomish, Clark, Thurston, Whatcom, or Skagit counties are subject to the Metro TDC Limits. If a scattered site project is in an additional county(ies) that does not include King, Pierce, Snohomish, Clark, Thurston, Whatcom, and Skagit counties, units outside of the Metro area will be subject to the Balance of State TDC Limits.

3.2.4 Balance of State TDC Limits

Projects not located in the Seattle, Balance of King, or Metro TDC Limit areas, as set forth above, are subject to the Balance of State TDC Limits.

3.2.5 Permanent Supportive Housing for the Homeless

Projects located in the Balance of State TDC area that commit at least 50% of their units as Permanent Supportive Housing for the Homeless may use the Metro TDC limits.

Projects located in the Metro TDC area that commit at least 50% of their units as Permanent Supportive Housing for the Homeless may use the Balance of King TDC limits.

Projects located in the Balance of King TDC area that commit at least 50% of their units as Permanent Supportive Housing for the Homeless may use the Seattle TDC limits.

3.2.6 Urban Project TDC Limit Increase

Projects located in any city other than Seattle that fit the definition of an Urban Project set forth below, may request to be allowed to use the Total Development Costs limits one category higher than their

current category. For example, a proposed project in the Balance of State TDC Area meeting the "Urban Project" definition, may request to apply under the TDC Limits for the Metro TDC Area.

Urban Projects are defined as those that have three or more of the following and are within a designated urban growth area:

- Located within the city limits
- Located in or near a central commercial zone or downtown core
- More than 4 stories
- An elevator
- Required structured parking
- Maximizes density either through increased number of bedrooms per unit or units per acre
- Specific high-cost design elements meeting city neighborhood plans and infill goals
- Area Designated as a Difficult to Develop Area (DDA)

Projects seeking an increase in their TDC Limits under this section must notify the Commission in writing of its desire to get the increased TDC Limits at least sixty (60) days prior to applying. The Commission may request that the Applicant set forth in detail how it meets the Urban project definition. A project cannot use the increased TDC Limits absent authorization from the Commission.

If the Commission grants an increase to a project's TDC Limits, the project may still compete for Cost Containment Incentive points (see Section 6.8) as follows:

- TDC Limit Points: The project may compete for these points by using the increased TDC Limits.
- Median Square Footage Point: The project will be evaluated against other projects from its geographic credit pool defined in Section 5.2.2.

3.2.7 TDC per Unit Limit Schedule

To be able to be as responsive as possible in a volatile cost environment, the Commission will publish a TDC per Unit Limit Schedule to its website rather than have it set in policy.

A project's Total Development Cost Limit is the sum of the total number of units of each bedroom size multiplied by the cost limits of that bedroom size. Total Development Cost is defined as the Total Residential Project Cost minus the cost of land, the costs associated with offsite infrastructure improvements and the capitalized reserves as detailed below. All units (low-income, market-rate and common area units) are to be included in the calculation.

Additional costs associated with the land including, but not limited to, closing costs, infrastructure, site work or purchase and sale extensions must be included in the Total Development Cost for the purposes of determining whether a project exceeds the TDC limit.

Offsite infrastructure improvements are defined as: improvements required by the City to be dedicated for use by the public and can include roads, curbs, gutter, sidewalks, storm water drainage, domestic water inflow and utilities, including utility steel casings, wiring and installation fees.

Capitalized Reserves include long-term reserves such as an operating reserve or a replacement reserve; they do not include reserves capitalized to cover the lease-up period.

Projects are subject to the Development Cost Limit Schedule in place at the time of application. As part of the Application, Projects must provide a detailed breakdown of anticipated Total Project Costs.

3.2.8 Waiver of the Total Development Cost Limit

In setting this policy, the Commission acknowledges that some projects will not fit within these limits despite best efforts to do so. However, it is imperative that the tax credit resource be allocated to projects demonstrating prudence when making their funding proposals. While the TDC Limit policy sets distinct limits, discretion is a critical component of this policy. Through the waiver process, the Commission may consider several potential project characteristics that can create cost levels above the published limits.

These cost influences may include, but are not limited to:

- Construction type (e.g., high-rise elevator construction, structured parking)
- Density (e.g., units per acre)
- Costs related to stated program priorities (e.g., supportive housing, large family units)
- Multi-phased projects and large-scale redevelopments
- Funded initiatives promoting design or development innovation
- Costs that result in energy or water cost savings beyond local building code or Evergreen Sustainable Development Standard ("ESDS")

However, it should be noted that an increase in labor costs is not solely enough to support a waiver request.

Approval of the TDC waiver request is at the sole discretion of the Commission. The existence of the above factors should not be construed as a guarantee of waiver approval.

Projects requesting a waiver of the Total Development Cost Limit must submit a TDC Limit Waiver Request Form with required attachments 60 days prior to submission of the Application. Applications submitted that exceed the Total Development Cost limit without an approved waiver will be disqualified and not considered further.

Waiver requests will be evaluated to determine whether additional costs are reasonable and justifiable under the circumstances, attributable to unique development characteristics, and consistent with the housing needs and priorities identified in the Policies.

Total Development Cost Limit Waivers will remain valid only for the current year's application. In addition, should a Project receive a waiver under these policies but then subsequently reapply for credit under a different set of policies, then a new waiver must be requested. For example, a Project that receives a TDC Limit Waiver under these 9% policies but then reapplies for credit under the Commission's 4% tax credit/tax-exempt bond policies must apply for a new TDC Limit Waiver.

If a Project exceeds the Total Development Cost Limit by 20% or less, the waiver is subject to the approval of the MHCF Director. If a Project exceeds the Limit by more than 20%, the waiver must be approved by the Executive Director prior to the submission of the Application.

3.2.9 Total Development Cost Limit Exemption

In setting this policy, the Commission acknowledges that occasionally a project requesting tax credit funding will not fit within these limits due to extraordinary circumstances. In those rare cases, the Commission may grant a one-time exemption to the TDC limits.

Some examples of extraordinary circumstances could include historic districts and historic tax credits, seismic retrofit, hazardous material abatement, and other issues faced by projects that consist of an adaptive reuse of an existing site/building.

Projects requesting an exemption from the Total Development Cost Limit must make an initial exemption request by submitting, in writing, a request for an exemption to the MHCF Director at least 4 months prior to the Application deadline. After receipt of the initial exemption request, the MHCF Director (or staff designee) will schedule a project pre-application meeting to determine the documentation and narratives necessary to support a formal request for an exemption. If the Commission grants an exemption from the Total Development Cost Limit, the project will be subject to a project cost-analysis during the application process. The applicant can be required to submit detailed estimates of costs, which can include costs associated with abatement, demolition, seismic retrofit, structural changes, code compliance, parking and design and professional services. The Commission will determine if the project cost-analysis will be conducted by Commission staff or by a third-party reviewer. If the Commission determines that a third-party review is necessary, costs associated with that review will be borne by the Applicant.

In addition, if the project is granted an exemption from the Total Development Cost Limit, additional reporting requirements, as determined by the Commission, will be required throughout project construction. Total Development Cost Limit Exemptions are granted by the Executive Director of the Commission. Total Development Cost Limit Exemptions will remain valid only for the current year's application. In addition, the development costs associated with a project receiving an exemption shall not be used in calculation of future TDC limits.

3.2.10 Changes in Total Development Costs

The intent of this policy is to encourage the communication of any unanticipated changes in project costs. Any cost increases must be proactively communicated and approved by the Tax Credit Director. The Commission retains the right to disallow any future increased development cost.

3.2.11 Calculation of Future Total Development Costs Limits

The MHCF Division intends to annually review the TDC limits using historical internal application and cost certification data, as well as industry construction cost data. Based upon this review, the TDC limits may be modified as the MHCF division deems appropriate. The new TDC Limits may be found on the Commission's website.

3.2.12 Other Public Funders Development Costs Limitation Initiative

The Commission reserves the right to incorporate development cost containment initiatives offered by other public funders, such as the Department of Commerce or the City of Seattle, into its analysis of TDC limit waiver requests and future adjustments to its TDC limits and cost-containment policies.

3.3 Maximum Construction Contingencies – WAC 262-01-130(8)(b)

The maximum amount of Credit reserved or allocated to a project will be determined after limiting the rehabilitation contingency to 15% of the rehabilitation costs and the new construction contingency to 10% of new construction costs. Rehabilitation costs include rehabilitation hard costs, site work costs, and contractor profit & overhead. New construction costs include new construction hard costs, site work costs, and contractor profit & overhead.

3.4 Maximum Annual Credit Per Low-Income Housing Unit – WAC 262-01-130(8)(c)

The Commission uses a variable Credit Per Unit to better align the costs to develop and the credit resources needed to fill those costs. The actual dollar amount of this limit is published in Exhibit C in the Application Packet available on the website.

3.5 Maximum Credit Per Applicant – WAC 262-01-130(8)(d)

When the Commission determines the amount of Credit to be reserved or allocated, it will limit the (i) Applicant, (ii) the principals, (iii) the developer, and (iv) other parties directly or indirectly related to the Applicant or project (as determined by the Commission) to a maximum of 2 projects and 15% of the Per Capita Annual Authority Available in each year.

The actual dollar amount of this limit is published in Exhibit C in the Application Packet available on the website. An Applicant is subject to the limit in place at the time of application. If the factors that determine the Per Capita Annual Authority are not known by the application deadline, the previous year's population or credit rate will be used to determine the Maximum Credit per Applicant for the current year. In these instances, the limit will not be updated when the current year's numbers are known.

3.6 Maximum Credit Per Project – WAC 262-01-130(8)(e)

Credit reservations and allocations to a single project are limited to not more than 10% the Per Capita Annual Authority Available in each year.

The actual dollar amount of this limit is published in Exhibit C in the Application Packet available on the website. A Project is subject to the limit in place at the time of application. If the factors that determine the Per Capita Annual Authority are not known by the application deadline, the previous year's population or credit rate will be used to determine the Maximum Credit per Project for the current year. In these instances, the limit will not be updated when the current year's numbers are known.

For the purposes of this restriction, the MHCF Director may determine that it is appropriate to treat two or more otherwise separate projects, submitted by the same Applicant or by multiple Applicants, as a single project if the MHCF Director determines that the projects and/or buildings have substantially common characteristics or attributes.

In making this determination, the MHCF Director may consider, among other factors:

- location;
- plan and design;
- projected tenant base and set asides; and
- the identity of the Applicants, owners, developers, lenders, contractors and/or other parties engaged in connection with each project.

3.7 Maximum Developer Fees – WAC 262-01-130(8)(f)

The Commission will only consider developer fees in the aggregate, up to 15% of Total Project Costs less reserves, Donation, Intermediary Costs, and less the requested developer fee amount. For this purpose, developer fees include all consultant fees (other than arm's length architectural, engineering, appraisal, market study and syndication costs) and all other fees paid in connection with the project for services that would ordinarily be performed by a developer, as determined by the Commission.

The Commission will set the developer fee at the time of the Equity Closing based on the project's final budget after construction bids have been accepted and final sources and uses have been balanced. The fee presented in the Placed-in-Service documentation may not exceed the amount finalized at closing. It is expected that a project with excess funds will return those funds to one or more of the public funders involved upon Project completion. For acquisition/rehabilitation projects where the cost of rehabilitation is less than 25% of the reasonable "as-is value" of the building, the Commission will only allow in eligible basis developer fees up to 10% of Total Project Costs less reserves, Donation,

Intermediary Costs, and less the requested developer fee amount. Total rehabilitation costs consist of the budget categories of site work, rehabilitation, contractor overhead and profit, and contingency. The Commission may require the Applicant to submit a copy of a current appraisal to establish the building's as-is value.

For this policy, Intermediary Costs, Reserves, Donation, and any amounts attributed to commercial areas or other non-residential areas are not considered part of the Total Project Costs.

If there is an increase in land cost in a transaction between Related Parties or other parties with an Identity of Interest (a "Related Buyer and Seller"), the Commission may require the Applicant to submit a copy of a current appraisal to establish the land value. The Commission may limit the land costs included in the Total Project Costs. If any portion of the increased land cost in a transaction between a Related Buyer and Seller is accepted by the Commission, the amount of the increased land price will be deducted from the lesser of the developer fees listed in the Applicant's project budget or the maximum developer fees applicable to the project. If land improvements have been completed by a Related Party or other person having an Identity of Interest to the Applicant, the work should be itemized on the project's budget and not included as an increased land cost.

3.7.1 Related Party Rehabilitation Transactions

A Related Party Rehabilitation Transaction is defined as a sale or lease of a rehabilitation project between Related Parties, parties Affiliated with each other or other parties with an Identity of Interest. The allowable Developer Fee is restricted for Related Party Transactions and may not be generated on the acquisition cost of the land and the building as represented in the budget & appraisal. The Developer Fee will be calculated using the Total Project Cost less acquisition costs, capitalized reserves, intermediary costs, and donation.

3.8 Maximum Consultant Fees – WAC 262-01-130(8)(f)

Consultant fees (other than arm's length architectural, engineering, property appraisal, market study, and syndication costs) must be included in the developer fees limit set forth above.

3.9 Maximum Contractor's Profit and Overhead – WAC 262-01-130(8)(g)

When the general contractor is a Principal, Related Party or otherwise has an Identity of Interest with the Applicant or project owner, the Commission will limit the contractor's combined profit and overhead to 10% of total rehabilitation/construction costs plus site work costs.

3.10 State Designated Eligible Basis Boost

The Housing and Economic Recovery Act of 2008 (H.R. 3221) authorized allocating agencies to extend the extra 130% eligible basis boost to buildings that the state designates as requiring an increase in the credit amount to be financially feasible, effective for buildings placed in service after the July 30, 2008 date of enactment. Prior to HERA, only HUD designated DDA's and QCT's were eligible for the 130% basis boost.

Buildings in DDAs or QCTs that already qualify for the "boost" in eligible basis do not qualify for an additional state designated increase.

3.11 Rural Projects

Projects located in Rural Areas automatically qualify for the State Designated 130% eligible basis boost. For the purposes of this policy, a Rural Area is defined as follows:

- Counties with a population of less than 90,000, except for those cities within these counties with a population of greater than 25,000. For example, Franklin County except the City of Pasco

- Counties with a population greater than 90,000 but less than 390,000 when more than an aggregated 25% of that county's population resides in one substantially contiguous metropolitan area. In this case, the county except such metropolitan area would be considered rural. For example, Yakima County except the City of Yakima

To qualify as a Rural Project, the entire project must be located in one or more of the following counties: Adams, Asotin, Benton (except Kennewick and Richland), Chelan (except Wenatchee), Clallam, Columbia, Cowlitz (except Longview), Douglas (except East Wenatchee), Ferry, Franklin (except Pasco), Garfield, Grant, Grays Harbor, Island (except Oak Harbor), Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit (except Mount Vernon), Skamania, Stevens, Thurston (except the cities of Olympia, Lacey, and Tumwater), Wahkiakum, Walla Walla (except the City of Walla Walla), Whatcom (except Bellingham), Whitman (except Pullman), Yakima (except the City of Yakima).

3.12 Non-Rural Projects

Projects outside of Rural Areas may be eligible to receive the state designated 130% eligible basis increase. Approval of this increase will be made on a case-by-case basis at the sole discretion of the Commission.

Such approval will be based upon conclusive findings made by the Commission that the basis boost is necessary for the Project to be financially feasible.

Non-Rural Projects seeking the State Designated Eligible Basis Boost must submit a Basis Boost Request Form at least 60 days in advance of the application deadline.

Examples justifying the need for a basis boost may include Projects located in areas where resources are scarce or infill projects with high land costs. A location that is considered "rural in character" alone is not a valid reason for the basis boost.

Project requesting a basis boost must be able to leverage additional funding to be eligible to request approval of a basis boost.

4 Minimum Threshold Requirements

All projects must meet the minimum threshold requirements listed below (the "Minimum Threshold Requirements") by the Application deadline to be considered for a Credit reservation and allocation.

The Applicant is responsible for demonstrating to the satisfaction of the MHCF Director that the project meets all the Minimum Threshold Requirements. Projects that do not meet all the Minimum Threshold Requirements will be disqualified and will not be eligible for a Credit reservation or allocation. The Applicant may be able to request a review of this determination by the Executive Director or his designee using the procedures described in Chapter 12: Decisions and Reviews.

4.1 Complete Application and Appropriate Fee – WAC 262-01-130(1)

The Applicant must submit a complete, legible, and executed Application. The Applicant must include all required attachments and the appropriate Application fee by the deadlines established by the Commission. The Applicant must use the Commission's Application forms. Please see Chapter 11 for details on the Application fee.

The Application, attachments, and Application fee must be received by the Commission no later than 12:00 p.m. Pacific Standard Time on the Application deadline. No late Applications will be accepted.

The Applicant may pay the fee with a wire transfer, business or personal check, a money order, or a cashier's check. Cash is not accepted. An Application submitted with a check that is returned for insufficient funds will be disqualified and not considered further. The check will be returned to the Applicant. The Applicant should include all the required attachments to show that the project meets the Minimum Threshold Requirements, and all Allocation Criteria the Applicant has selected for the project.

Resolutions and/or consents demonstrating authority to sign must be provided for each entity that is a party to the Application. Sample authorizations are provided as Exhibit G2 and G3 to the Application Packet.

Material changes to an Application will be permitted only at the discretion of the MHCF Director. If the Applicant desires to make a material change to the Application after it has been submitted and the MHCF Director refuses to permit the change, the Application must be canceled, and a new Application and fee must be submitted before the Application deadlines referenced above. The MHCF Director will decide whether a change to the Application is material.

For purposes of considering project eligibility for Credit, satisfaction of the Minimum Threshold Requirements, project Allocation Criteria points, and project rankings, the Commission will only consider the material and information that is included in the Application when it is first submitted, except for (i) changes permitted by the MHCF Director as described in the preceding paragraph and (ii) material accepted during a Correction Period (as described in Section B below).

4.2 Correction Period

If the MHCF Director determines that an Application is substantially complete, but an item is missing, incorrect, or needs clarification, the Applicant will have five business days from receipt of written notice from the Commission to deliver the required information to the Commission. At the discretion of the Commission staff, additional time may be permitted to submit the required information. The written notice will be sent to the address of the contact person identified in the Application. If the Applicant fails to submit the required information within the required time period (including extensions), the MHCF Director may disqualify the Application.

The Correction Period does not apply to any Application that is determined to be substantially incomplete by the MHCF Director. The Correction Period provision may not be used to change the number of Allocation Criteria Points selected for a project.

4.3 Requirements, Disclosures and Program Limits

The Applicant and the project must comply with all the requirements and disclosures listed in Chapter 2 all the Program Limits listed in Chapter 3.

4.4 Site Control – WAC 262-01-130(2)(b)

The Applicant must have control of all land necessary for the project by the Application deadline and submit evidence of that control with the Application. Acceptable evidence of site control is a document that has a complete and accurate legal description and is either:

- a recorded deed or conveyance showing that the Applicant has ownership;
- a valid purchase and sale agreement;
- a valid option to purchase;
- a valid and recorded long-term lease;
- a valid option for a long-term lease; or
- other evidence approved in advance in writing by the Commission.

The Applicant should be sure that the name on the evidence of site control and the Application is the same. The site control document should also identify the exact same area as the project site listed in the Application and the exact same cost for the land and/or existing buildings for the project referenced in the development budget provided with the Application. If the site described in the Application and the site control document are not the same, the Applicant must provide a narrative description and supporting documentation to clarify how the area and cost for the project were established.

The Commission will only accept one Application for a specific site or for any part of the same site, regardless of whether Applications are submitted by the same Applicant or by multiple Applicants. If there is more than one Application received for the same site, or any part of the same site, the Commission will immediately disqualify all the Applications. The non-refundable Application fee for each Applicant will be retained by the Commission.

If the Commission questions the reasonableness or appropriateness of the land costs for a project, the Applicant may be required to submit a copy of an appraisal with an effective date within 6 months of the transaction and acceptable to the Commission to establish the value of the land. The Commission reserves the right to limit the land costs included in the Total Project Costs for a project when evaluating the Credit amount.

The Applicant should be aware that the Credit reservation and allocation of Credit for a project is site-specific. The Applicant must identify in the Application any changes that are anticipated in the legal description for the project site, including a narrative description and drawings to explain the planned changes (e.g., a land survey, partition, subdivision, etc.). The final legal description must be consistent with the planned site changes identified in the Application.

4.5 Title Report

The Applicant must include a title report that is dated not more than 6 months prior to the Application date that shows that the ownership of the land containing each site is vested in the exact same name as either Ownership Entity or the person/entity with which the Applicant has executed an option to purchase, a purchase and sale agreement, a long-term lease option, a long-term lease, or other acceptable evidence of site control approved in advance in writing by the Commission.

The title report must identify all encumbrances and liens upon the land and include a complete and accurate legal description.

4.6 Relocation Plan – WAC 262-01-130(2)(d)

If there are any tenants residing on the proposed project site, the Applicant must submit a relocation plan approved by the appropriate government authority. Be sure to review the Landlord/Tenant Act, RCW 59.18.010. The plan must be approved in writing by a local government that has jurisdiction over tenant relocation issues, such as a planning or community development department or housing authority.

In the absence of a local policy, Applicants are required to notify existing households of the proposed financing within 10 days following the real estate closing. It will be the responsibility of the Applicant to ensure proper notice is given to all existing residents and sufficiently posted in common areas of the property. Notice should include information regarding transfer of ownership and all potential restrictions on income, rent and/or populations served because of the proposed financing. Tenants must also be advised of where to obtain further information. Once notification has taken place, a copy of the notification must be submitted to the Commission.

To help minimize displacement, unit turnover will be allowed for units occupied by households with incomes at or below the 60% AMI, but above the income levels pledged in the Application. Once the Project places in service, all units must be rented at turnover to households meeting all program commitments, with the additional low-income set-asides being filled first.

4.7 Consistency With State or Local Consolidated Plan – WAC 262-01-130(2)(e)

All projects must be consistent with the state or local consolidated plan at the time that the Application is submitted, and the Applicant must submit adequate evidence consistent with the Plan. Specifically, for projects located in communities covered by a local consolidated plan, the Applicant must submit a letter from the local government planning or community development department or housing authority responsible for administering the consolidated plan.

The letter must:

- identify the current consolidated plan;
- state that the project is consistent with the consolidated plan; and
- indicate that the project is responsive to local housing needs described in the consolidated plan.

For projects in communities not covered by a local consolidated plan, the Applicant should submit a letter dated no later than 6 months prior to the Application date from the local government where the project is located which describes local housing needs and states that the project is responsive to those needs.

4.8 Market Study – WAC 262-01-130(2)(c)

A complete market study must be submitted with the Application. The market study must satisfy the requirements of this chapter, the Application and Section 42 of the Code. An independent third-party analyst, using generally accepted principles and theory, must prepare the market study. The analyst must be included on the Commission's list of approved providers. The analyst must have demonstrated experience in the proposed project's market area and with the rent-restricted market. The market study must have an effective date no more than 6 months prior to the date the Application is submitted to the Commission. An update of a market study will be accepted, at the Commission's discretion, if the effective date of the original market study is within 12 months of the Application deadline.

The market study must demonstrate to the Commission that the project is creating, preserving, or renovating housing that current market forces are not addressing. In addition, the market study must address current market conditions and determine the project is viable and provides units at below market rents or gives some other public benefit.

The Commission will accept a current appraisal with an effective date no more than 6 months prior to the date that the Application is submitted in lieu of the required market study, provided that the market analysis and rent discussion sections include the information listed below. In addition, at the Commission's discretion, the Commission may require further market justification of the project or accept a market study in a different format. Any deviation from the market study requirements must be approved in writing by the Commission prior to submission of the Application. The Commission reserves the right to contact the market analyst as needed. The list of approved providers and instructions for being added to that list may be found on the Commission website at http://www.wshfc.org/mhcf/9percent/msprovider.htm or by contacting the MHCF Division.

1. EXECUTIVE SUMMARY
2. PROJECT DESCRIPTION
    a. Description of Market Area (general and specific)

b. Site Amenities (include any unique characteristics)
c. Description of Improvements (as available in the case of new construction)
d. Unit mix, unit amenities, common amenities
e. Comparison to market rate projects (does project have typical finish, amenities found in local market)
f. Comparison to other rent restricted projects

3. MARKET AREA ECONOMY
    a. Delineation of market area
    b. Population and household trends
    c. Housing trends, including proposed projects and other new developments
    d. Supply and Demand Analysis
    e. Market Rate Supply
        i. Existing
        ii. Potential/Developing
    f. Market Rate Demand
        i. Vacancy rates, incentives
        ii. Rent Trends
        iii. Absorption
    g. Rent-Restricted Supply (discuss HUD-assisted housing, TC projects, other subsidized projects, and public housing, as applicable)
        i. Existing
        ii. Potential/Developing
    h. Rent-Restricted Demand
        i. Vacancy Rates
        ii. Market Penetration Analysis (using income banding – min. and max. income for project)
        iii. Projected Absorption for project
        iv. Analysis of project's special needs set-asides, if applicable.
        v. Statistical and anecdotal information from appropriate social service agencies
        vi. Analysis of specific demand for special needs units.
        vii. Conclusion: Proposed project's competitive position
4. COMPETITIVE RENTAL MARKET
    a. Description of Comparable Properties, both market rate and rent-restricted
    b. Analysis of rents, including amenities and utilities
    c. Conclusion of Rents by unit type
    d. Analysis of Rent Gap (Gap between maximum restricted rents, projected restricted rents and market rents)
    e. Analysis of the project's effect on the market area, including the impact on Tax Credit and other existing affordable rental housing
5. CONCLUSION
    a. Specific Questions:
        i. Is the project, as proposed, viable?
        ii. Does the project meet a current or projected market need?
        iii. Does the project supply units below market rate?
        iv. If not, does the project provide some other public benefit? (i.e. Curing deferred maintenance or supplying better housing than currently available, holding rents

stable in a market of increasing housing prices, or supplying reasonably-priced housing where there is a shortage?)

6. SUMMARY
    a. Recap of project
    b. Conclusion and Recommendations

4.9 Evergreen Sustainable Development Standard

All Projects funded with Housing Tax Credits must comply with the Evergreen Sustainable Development criteria as developed under legislative mandate by the State of Washington Department of Commerce ("Commerce"). Specific information regarding ESDS can be found online at http://www.wshfc.org/mhcf/9percent/EvergreenStandard.htm.

Projects financed through Commerce are not required to submit any additional materials at application.

All Projects without Commerce funding must submit the Evergreen Sustainable Development Standard Checklist as well as the Project Priorities Survey, Sustainable Development Outline, and the Evergreen Owner Certification along with their Application. The Evergreen Owner Certification attests that the Applicant has read and understands the Evergreen Sustainable Development Standard as posted on Commerce's website. Projects must meet all mandatory criteria and must score a minimum of 40 option points for moderate rehabilitation projects or 50 points for new construction projects or substantial rehabilitation.

As part of the placed-in-service package for these projects, the Applicant will submit a copy of the Integrated Development Plan and the Evergreen Project Plan (the "EPP"). The EPP will document exactly how the project met each of the criteria indicated in the Evergreen Sustainable Development Standard Checklist. It will be accompanied by an architect's certification attesting to the information supplied in the Plan and the Plan's implementation.

Failure to comply with this requirement may result in a temporary suspension from the program. Such action will be considered on a case-by-case basis.

Substantial Rehab (or Gut Rehab): a project that includes the replacement and/or improvement of all the major systems of the building, including its envelope. The building envelope is defined as the air barrier and thermal barrier separating exterior from interior space. For Substantial Rehab projects, this could include either removing materials down to the studs or structural masonry on one side of the exterior walls and subsequently improving the building envelope to meet the whole- building energy performance levels for the project type or creating a new thermal and air barrier around the building.

Moderate rehabilitation: a project that does not fully gut and expose the structure and air barrier of the building envelope or replace / improve all major systems of the building.

To maintain consistent definitions throughout the Policies, the Commission uses the Tax Credit Program's definition of Rural (See Section 3.10.1) on all Projects without Commerce funding.

A Rural Project is one located in any of the following counties: Adams, Asotin, Benton (except Kennewick and Richland), Chelan (except Wenatchee), Clallam, Columbia, Cowlitz (except Longview), Douglas (except East Wenatchee), Ferry, Franklin (except Pasco), Garfield, Grant, Grays Harbor, Island (except Oak Harbor), Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit (except Mount Vernon), Skamania, Stevens, Thurston (except the cities of Olympia, Lacey, and Tumwater), Wahkiakum, Walla Walla (except the City of Walla Walla), Whatcom (except Bellingham), Whitman (except Pullman), Yakima (except the City of Yakima).

An Urban project is one located in any municipality with a population greater than 25,000 that does not fall under the definition of rural. Projects located within a municipality with a population<20,000, but which is adjacent to a city deemed "Urban" may be deemed functionally related to that city and therefore also deemed Urban; for example, Bier, population 6,361 (2003), which is functionally related to the City of Lynnwood.

4.10 Development Team Capacity – WAC 262-01-130(2)(g)

The Project Sponsor must demonstrate capacity as outlined in Section 3 of the Good Standing Policy Package, approved and effective September 24, 2026.

4.11 Property Management Capacity – WAC 262-01-130(2)(h)

Documentation must demonstrate capacity as outlined in Section 4 of the Good Standing Policy Package, approved and effective September 24, 2026.

4.12 Consultant Contract

If consultant services and corresponding fees are not detailed in the developer agreement, the Applicant must submit a copy of each consultant contract that itemizes the services to be performed by each consultant and the amount of the consultant fee for each service or group of services.

4.13 Financial Feasibility – WAC 262-01-130(7)

The Applicant must submit a 15-year operating pro forma for the project demonstrating financial feasibility and viability for the 15-year compliance period. The operating pro forma must list each of the 15 years separately and include assumptions, notes and explanations regarding the income and expense projections.

Absent a long-term commitment, projects with rental assistance must demonstrate financial feasibility excluding the rent subsidy.

If the project includes commercial and/or other non-residential space, the Applicant will need to submit the following information and supporting documentation in addition to the residential pro forma requested above:

- a breakdown of the total residential and commercial project costs;
- a list of the financing sources for the commercial areas;
- a 15-year operating pro forma for both the residential and commercial areas.

All the forms an Applicant will need to submit for residential and commercial/non- residential Applications are incorporated into the Combined Funders Application provided on the Commission website. See latest published application package at https://www.wshfc.org/mhcf/9percent/app.htm.

4.14 Notification of Public Housing Authorities – WAC 262-01-130(2)(f)

The Applicant must submit a copy of a written letter committing to notify the public housing authority of the availability of low-income units. The letter must be in the form described below, dated no earlier than 60 days before the date of the Application, and addressed to the relevant public housing authority or to such other agency authorized to act in lieu of a public housing authority where no public housing exists. If there is no public housing authority and no other agency authorized to act in lieu of a housing authority serving the community where the Project is located, this notification requirement is waived. In the commitment letter, the Applicant must:

- identify the location, the planned number of low-income housing units, the target population and the expected placed-in-service date for the proposed project;

- agree to notify the public housing authority or other such agency, in writing, of the availability of low-income housing units at least 60 days before the placed-in-service date of each building in the project;
- agree to notify the public housing authority or other such agency, in writing and at least once a year, of the ongoing availability of low-income housing units; and
- encourage the public housing authority or such other agency to make the above notices available in any way it deems appropriate to those people on a waiting list for public housing programs.

This requirement does not apply if the housing authority is the project owner or its general partner.

4.15 Allocation Criteria Point Minimum – WAC 262-01-130(3)(a)

The Applicant must select Allocation Criteria in the Application that total a minimum number of Allocation Criteria points according to the county in which the project is located.

- King County: 160 points
- Metro Counties: 158 points
- Non-Metro Counties: 154 points

4.16 Documentation of Ownership Entity

The Applicant must submit the required documentation below for the Ownership Entity of the Project. If the Ownership Entity has not been formed by the date of Application submission, the Applicant may subsequently satisfy these requirements and transfer the Applicant's rights, title, and interest in the project, the Application, the Credit reservation, and/or the carryover allocation, as applicable, to the entity; however, the Applicant may do so only if it satisfies the requirements established by the Commission to approve a project transfer or assignment (See Chapter 9).

The following items must be submitted with the Application:

- IRS notification of Ownership Entity's federal identification number;
- An organizational chart or diagram that identifies each entity or individual with an ownership interest in the project and the Applicant, including the percentage of ownership;
- A Certificate of Existence/Authorization issued by the Washington Secretary of State dated within 6 months of the Application date; and
- In the case of a general partnership, the Applicant must submit a Certificate of Existence/Authorization issued by the Washington Secretary of State for each Limited Partnership, Limited Liability Company or corporate entity.

If any entity is incorporated or organized outside of Washington, the Applicant must submit a Certificate of Existence/Authorization from the state of incorporation or organization.

4.17 Requirements For Rehabilitation Projects

A Rehabilitation Project is defined as the acquisition and renovation of existing use-restricted housing. If the Project has multiple sites each site must have units to be rehabilitated.

Projects Not Qualifying under Sections 5.2.2.8 and 5.2.2.9 include:

- The new construction of a project in its entirety
- The creation of new affordable units through the adaptive re-use of an existing non- residential building
- The conversion of existing market-rate units to use-restricted and affordable units

- If more than 20% of the units of an existing rehabilitation project are new construction units, the Project will not be considered as a rehab project. However, the project must still conform to the requirements of 4.17.3.

4.17.1 Project Age

Project must have placed in service at least 20 years before the year of Application.

Placed in Service is defined as the date of the original Certificates of Occupancy or the date the last substantial rehabilitation was completed. Applicants must submit the most recent Certificate of Occupancy or Temporary Certificate of Occupancy for the project to document the age of the project. Projects seeking the 4% credit with bonds may apply after year 15.

4.17.2 Project Sponsor

The Project Sponsor must be in compliance with Section 2 of the Commission's Good Standing Policy Package, approved and effective September 24, 2026.

4.17.3 Feasibility as a 4% Tax Credit/Bond Project

Washington State has a growing population and an ever-increasing need for affordable housing. At the same time, the portfolio of aging use-restricted housing with need of repair and/or total rehabilitation is increasing. To better administer the limited 9% tax credit resource, all Rehabilitation Projects in the Metro and Non-Metro areas (even those meeting the definition of "At Risk") must schedule a meeting for pre-authorization before applying for 9% tax credits. If you have not received pre-authorization, the application will not be accepted.

All Rehabilitation project developers are strongly encouraged to consider bonds with 4% tax credits. A smaller project may need to be combined with a new construction project or several other sites in need of rehabilitation to be feasible.

All meetings for preauthorization must be scheduled by the date posted on the timeline on the website.

WHAT TO BRING TO THE MEETING?

- Forms 6A & 6E of the Current Combined Funders Application
- A viable 3rd party CNA and replacement schedule with prioritization
- The current population served and proposed rents. Projects with any project-based rent subsidies should provide the proposed post-rehabilitation rents.
- List of current funders on the project(s)
- A detail of all use restrictions affecting the property(ies)
- Operating proforma, and current reserve account balances
- A narrative explaining the goals of the renovation and future use of the building(s)
- A narrative explaining the greatest current rehabilitation need and timing.

THINGS TO CONSIDER WHEN PREPARING FOR THE MEETING:

- Can certain needs be met by other means or temporary financing?
- Would the project be more feasible as part of a larger/combined financing?
- What aspects of the rehabilitation will affect future energy use and resource conservation?
- Are other sources of funding available that could meet certain project needs?
- Have you sought out other partnerships and other sources of funds to fill the funding gap?

The determination that a project is not feasible as a 4% Tax Credit/Bond Deal is at the sole discretion of the MHCF Director.

4.17.4 Recapitalization of existing 4% Tax Credit/Bond Projects

A Project originally financed with 4% tax credits and tax-exempt bonds is not eligible for recapitalization in the 9% program unless it is determined eligible through the process 4.17.3 noted above.

4.17.5 Capital Needs Assessment (CNA)

All Rehabilitation projects must submit a professional, independent, third-party Capital Needs Assessment (CNA) with their application. The purpose of the CNA is to determine a project's physical capital needs over the next 20 years based on the observed current physical conditions of the project. CNA must identify deferred maintenance; physical needs; the age, useful life and remaining useful life of key components; building material deficiencies and material building code violations that affect the property use; structural or mechanical integrity, and future physical and financial needs. The CNA must be the basis from which the scope of work for the project has been developed and the basis on which any capitalized or annual contributions to the replacement reserves are based.

If 100% of the units have not been inspected, the CNA must include an explanation that includes any assumptions about areas that were not inspected and the reasons for making those assumptions.

Applicants must also complete the Property Conditions Summary Form in the LIHTC Rehab Addendum using the information from the CNA.

4.17.6 Minimum Rehabilitation Threshold

A project applying to the 9% Program is expected to use the recapitalization opportunity to extend the life of the project by at least 20 years. A minimum of $40,000 in hard construction costs per unit must be included in the development budget and supported by a 3rd party Capital Needs Assessment.

The "Hard Construction Costs" referenced above may not include any amount attributable to the Rehab Contingency or sales tax.

4.17.7 Additional Low-Income Housing Commitment

If the project has an existing Commission Regulatory Agreement, the Additional Low-Income Housing Commitment in the new Tax Credit Regulatory Agreement will be determined by comparing the weighted average of the low-income set-asides in the existing Regulatory Agreement to the available set-aside options under Allocation Criteria 6.1.

If the weighted average of the existing low-income set-asides is less than 40% AMI in Higher Income Counties or 42% AMI in Lower Income Counties (these are the weighted averages of the current 60-point options), the project will be required to choose less restrictive set-asides on the new Regulatory Agreement, to be filled through attrition.

If the weighted average of the low-income set-asides in the existing Regulatory Agreement is greater than 40% AMI in Higher Income Counties or 42% AMI in Lower Income Counties, the Applicant may choose equivalent or more restrictive set-asides under Allocation Criteria 6.1. These may also be filled through attrition.

4.18 Related Party Rehabilitation Projects

A Related Party Transaction is defined as a sale or lease of property between Related Parties, parties Affiliated with each other or other parties with an Identity of Interest. Applicants that have questions

regarding whether their transaction is considered a Related Party Transaction are encouraged to inquire with the Commission prior to applying.

Sections 4.18.1 – 4.18.3 below describe the requirements of any Related Party Transaction:

4.18.1 History of Strong Asset Management

The Project Sponsor must be able to demonstrate strong asset management performance on the project.

4.18.2 History of Project Reserves

The Sponsor must be able to track and account for contributions to and draw upon the project's reserves. Operating and Replacement Reserve balances are expected to be transferred into the new Project. Failure to adequately account for accruing operating and replacement reserves may result in a required equity contribution by the Project Sponsor. A form to track project reserve history has been provided in the LIHTC Rehab Addendum. Evidence of project reserve balances must be attached to the Application.

4.18.3 Appraisal and Value of Asset

Applicants must submit an Appraisal to substantiate the value of the land and building acquisition shown in the project budget. It is expected that any equity or appreciation in value realized over time by the Project Sponsor will remain in the project as a contribution (e.g., as seller financing).

4.18.4 Developer Fee Limitation

The allowable developer fee will be restricted on related party transactions. See Section 3.7.1.

4.19 Disqualification – WAC 262-01-130(3)(a)

The Commission may disqualify any Application that does not meet the requirements and disclosures listed in Chapter 2, the Program Limits in Chapter 3, and the Minimum Threshold Requirements listed in Chapter 4 by the Application deadline. The Applicant may be able to request this determination be reviewed using the procedures described in Chapter 12: Decisions and Reviews.

4.20 Utility Incentive Contact

The applicant must contact their utility(s) before submitting a 9% Competitive Tax Credit Application to discuss qualifying for energy efficiency incentives.

These incentives can significantly lower the costs associated with constructing energy efficient buildings. The Commission recommends integrating utility incentives early in the design process to ensure projects take full advantage of more efficient technologies and corresponding savings.

To comply with this requirement, projects must submit the Utility Contact Form with their application. To identify potential incentives or points of contact in the project's area- please visit www.dsireusa.org or contact the Commission's Senior Sustainable Energy Coordinator at energy@wshfc.org.

5 Project Ranking Policies

This chapter explains the Commission's procedures for ranking projects and awarding Credit within the Geographic Credit Pools. The Allocation Criteria and point system used by the Commission are set forth in Chapter 6.

5.1 Commission Priorities – WAC 262-01-130(5)

For the purposes of ranking projects and allocating credit dollar amounts, the Commission will give preference to fully funded projects that serve the lowest income tenants for the longest period, and that

are in qualified census tracts and the development of which will contribute to a concerted community revitalization plan. In determining housing priorities, the Commission will consider sponsor and project characteristics. The Commission will give weight to those projects which, among other things:

- Are in areas of special need as demonstrated by location, population, income levels, availability of affordable housing and public housing waiting lists;
- Commit units to serving special needs populations such as large households, the elderly, the homeless and/or the disabled;
- Preserve federally assisted projects as low-income housing units;
- Rehabilitate buildings for residential use;
- Include the use of existing housing as part of a community revitalization plan;
- Have received written authorization to proceed as a United States Department of Agriculture – Rural Housing Service multifamily new construction project approved by the Commission;
- Are historic properties;
- Are in targeted areas;
- Leverage public resources;
- Maximize the use of credits;
- Demonstrate a readiness to proceed;
- Serve tenant populations of individuals with children; and
- Are intended for eventual tenant ownership.

The housing priorities above are integrated into the policies and procedures described in this chapter and in the Allocation Criterion outlined in Chapter 6.

5.2 Project Ranking Policies

5.2.1 Fully Funded Projects

For purposes of ranking projects and allocating credit, the Commission will give top priority to Projects that qualify as Fully Funded. A Project will be considered Fully Funded if it has all the permanent/takeout financing necessary to meet the Total Project Costs, except the anticipated Credit equity, committed at the time of Application. The permanent financing for any commercial component of the project must also be committed at the time of application.

To be considered Fully Funded, Applicants must demonstrate to the satisfaction of the Commission that all necessary funding commitments have been made at the time of Application:

- Public funding and any source of funds that is allocated on a competitive basis (e.g., FHLB- AHP funds): Applicants must provide evidence of a binding loan/grant commitment or other documentation that is deemed acceptable by the Commission to demonstrate commitment of funds for each source or have applied during a concurrent funding round where there is public funder coordination.
- Funding from private sources, the Applicant must provide a letter of interest from the expected lender dated no more than 60 days prior to the Application date for each source.
- Rehabilitation projects using USDA Rural Development financing must submit a letter from the State RD office indicating that a complete application has been submitted for each property that is part of the Application. The Commission will not schedule a scoping meeting for the bond financing until the State RD office has confirmed their applications have been submitted to the National RD Office for approval. Within 120 days of executing the RAC, the Applicant will be required to submit evidence to the Commission that final financing approval has been received from the USDA National Office or the RAC will expire, and the credit will be deemed returned.

Unless stated otherwise, projects that do not satisfy the Fully Funded Projects policy will not be considered over projects that have.

5.2.2 Geographic Credit Pools

Pursuant to WAC 262-01-130(6), the Commission has established specific percentages of the Annual Authority for credit set-asides. The Commission has divided the state into three Geographic Credit Pools: Seattle/King County, Metro and Non-Metro. The purpose is to group similar counties so that like projects compete against like projects. After reviewing population size, population density, population living in Urbanized Areas, access to local housing funds, development capacity, and housing needs, the Geographic Credit Pools are made up of the following counties:

- Seattle/King County Pool
- Metro Pool: Clark, Pierce, Snohomish, Spokane, Whatcom
- Non-Metro Pool: Adams, Asotin, Benton, Chelan, Clallam, Columbia, Cowlitz, Douglas, Franklin, Ferry, Garfield, Grant, Grays Harbor, Island, Jefferson, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Stevens, Thurston, Wahkiakum, Walla Walla, Whitman, Yakima

Projects compete for credit allocations based upon the pool in which they are located. Eligibility for each pool is based solely on the location of the project.

5.2.2.1 Scattered Site Proposals

Projects consisting of multiple sites in different counties that cross between the Credit Pools will be treated as follows: Any proposal with one or more sites located in the Non-Metro Counties and one or more sites in the Metro Counties will be treated as a proposal in the Metro Pool. Likewise, any proposal with one or more sites located in the Non-Metro Counties and/or the Metro Counties but also having one or more sites in King County will be evaluated within the Seattle/King County Pool.

5.2.2.2 Geographic Sizing Methodology

In creating the Geographic Pools, the number of Renter Households at or below 50% AMI with one or more Housing Problems was used to determine the baseline for statewide housing needs.

Ultimately, the sizing of the Seattle/King County and Metro County Pools was agreed to through negotiation.

Annual Credit Authority by Geographic Pool	
Seattle/King County	35%
Metro	37%
Non-Metro	28%
Statewide	100.0%

5.2.2.3 Review of Geographic Credit Pools' Allocation

The amount of the credit allocated in each Geographic Credit Pool shall be reviewed every two years by comparing the housing needs of each Geographic Credit Pool by using commonly available data that can include, but is not limited to, HUD Comprehensive Housing Affordability Strategy (CHAS) data and the State of Washington Housing Needs Assessment. When calculating the housing need in the Geographic Credit Pools, data identifying the populations set forth in Section 6.3 (Housing Commitments for Priority Populations) should be used whenever possible.

5.2.2.4 Modification of Geographic Credit Pools' Allocation

If during the review of the Geographic Credit Pool's allocation, as set forth above, it is shown that the allocation percentages deviate by more than 2% from the current calculations, then the allocation percentages shall be modified to reflect the updated calculated amount.

5.2.2.5 Modification of Geographic Credit Pools Membership

The distribution of counties, along with the size and number of Geographic Credit Pools, may be modified at the Commission's discretion. However, such modification will take place subject to stakeholder input and general acceptance by all members of all geographic pools.

5.2.2.6 Administration of Geographic Credit Pools

The credit will be tracked by Geographic Credit Pool. Returned Credit will be credited to the Geographic Pool from which it originated. Likewise, forward commitments of credit will be deducted from the Geographic Pool to which it was committed. National Pool credit will be split according to the geographic sizing methodology above.

However, under no circumstances will credit or the Commission's eligibility for National Pool credit be put at risk. If credit cannot be used within its designated Geographic Pool, the credit will be allocated to another Pool at the discretion of the Commission. An adjustment will be made in the following round to credit the original Geographic Pool and debit the receiving Pool.

The Geographic Credit Pools are "soft" set-asides of credit. If the remaining portion of the credit in a certain Pool equals at least 50% of the next highest ranked project's credit request in that Pool, the remaining credit amount will be made available to that project through a forward commitment of the following year's credit, as necessary, from that same pool.

The Seattle/King County Credit Pool will be administered as a "soft" set-aside of credit, but projects within King County are also allowed, at the Commission's discretion and in coordination with the local funders, to adjust their initial credit requests to fit the last project in or to consume the entire credit amount in the Seattle/King County Pool. To allow the King County funders the most flexibility to allocate funding within the Pool, all projects located in King County will be allowed to use the higher Maximum Annual Credit per Low-Income Housing Unit Limit. King County Projects will remain subject to the 10% Maximum Credit per Project and 15% Maximum Credit per Applicant limits. Should the Seattle/King County Credit Pool go undersubscribed, the credit will be split between the Metro and Non- Metro Credit pools according to the geographic sizing proportions.

If the Metro Pool is undersubscribed, the Commission will look to the remaining non-Metro projects first for funding. If the Non-Metro Pool is undersubscribed, the Commission will look to the remaining Metro projects first for funding. If both the Metro and Non-Metro Pools are undersubscribed, the Commission will look to projects located in King County to ensure that all credit is allocated.

5.2.2.7 Metro Pool Allocation Methodology

Each county in the metro geographic pool will be allocated 9% tax credits based on the following formula:

- Base Allocation of $1,000,000 per county;
- Additional Allocation based upon need as calculated by the most current CHAS housing needs data available (and rounded to nearest $100,000).

We anticipate that each county will receive an allocation of approximately $1.2 to $1.7 million.

This methodology will remain in place over a five-year period and a rolling average reconciled at year five for each county will be done. Should significant program changes be enacted the Commission reserves the right to implement appropriate changes with input from program stakeholders.

As a part of this allocation process, each county shall develop or modify current processes to select one prioritized project per year. The county's prioritization process shall be submitted to the Commission. As a part of this process, each county shall designate a contact person(s) that is familiar with the process and understands the local pipeline and prioritization structure. It is expected that the key public funders, affordable housing development consortia and the development community will work together to establish a pipeline and prioritize pending projects to be brought forward for each county's portion of the allocation. Proposed projects will need to participate in the local designated process to be eligible for the per county 9% tax credit allocation.

5.2.2.8 Preservation And Recapitalization In Metro And Non-Metro Pools

Preservation and Recapitalization ("P&R") projects will compete with new production in their respective Metro and Non-Metro Credit Pools ("Pools"). P&R projects will have a limit of 25% in each of the above-mentioned Pools.

The P&R limits will be "soft." If a project is above the line in its Pool and 75% of its credit request is within the 25% allowable limit, then the full amount of credit requested will be made available to that project, through forward commitment if necessary ("soft").

A project's credit request may not be adjusted after the Application is submitted to meet the "soft" limit allowable percentage. Should a P&R limit go undersubscribed, any remaining credit will flow in the New Production portion of that Credit Pool. If the New Production portion of a Pool goes undersubscribed, the remaining credit in that Pool will be made available to P&R Projects in rank order on the allocation list.

5.2.2.9 Preservation And Recapitalization in King County

In King County only, preservation and recapitalization projects will compete with new construction projects. All Projects will be ranked together based on the number of Allocation Criteria Points they have selected. All Minimum Threshold Requirements for Rehabilitation and Related Party Transactions outlined in Section 4.17 and 4.18 apply to projects in King County.

5.2.3 Qualified Non-Profits (QNP)

Section 42(h)(5) of the Code and WAC 262-01-130(6)(a) requires that ten percent of the total amount of Annual Authority be allocated to projects that will be owned directly or indirectly by an organization that is a Qualified Nonprofit Organization. To be considered a Qualified Nonprofit Organization, the organization must be described in Section 501(c)(3) or Section 501(c)(4) of the Code and have as one of its exempt purposes the "fostering of low-income housing." Furthermore, the organization must materially participate in the development and operation of the project throughout the compliance period. The organization must not be Affiliated With, or Controlled By, a for-profit organization, entity, or individual. For a partnership, all general partners must be QNPs. For a limited liability company, all members, other than the investor/member, and managers must be QNPs. Further, the investor/member must not actively participate in the day-to-day management of the Company.

Projects receiving an allocation of credit in the King County Credit Pool will be looked to first to satisfy this Code requirement, as this is where the requirement has historically been fulfilled. All applicants will be asked to identify whether they are a 501(c)3 or 501(c)4 nonprofit organization with the "fostering of

low-income housing" as one of their tax-exempt purposes. The highest scoring projects in King County sponsored by a QNP will be used to fulfill the IRS requirement.

In the event no QNP is competitive in the KC Pool, we will look second to projects receiving an allocation of credit in the Metro Pool and then lastly to the Non-Metro Pool to follow the Code. In the event no QNP is competitive within the established Credit Pools, the Commission will consider a Forward Commitment of credit to the highest scoring QNP on the waiting list to ensure this requirement is met.

To document an Applicant's QNP status, the Applicant must submit the following:

- A copy of the QNP's IRS determination letter;
- A complete and current as amended copy of the QNP's articles of incorporation as filed with the Secretary of State. The articles of incorporation must have as one of its exempt purposes the "fostering of low-income housing;"
- Complete and current as amended copies of the bylaws and other governing instruments of the QNP;
- Evidence that the QNP has an ownership interest in the project, and that the QNP will materially participate in the development and operation of the project throughout the project compliance period;
- A certification by the QNP that it is not Affiliated With, or Controlled By, a for- profit organization, entity, or individual; and
- A current list of names of all board members and officers of the QNP and any affiliation (plus the nature of the affiliation) such board member or officer has with any for-profit entities or individuals.

5.2.4 Credit Extension Policy – Administrative/Legal Delays

5.2.4.1 Extensions for Projects Delayed One Year

Projects funded with Tax Credits occasionally experience unforeseen delays arising from circumstances that are not under the reasonable control of the developer. These circumstances may include delays in funding from government or philanthropic sources; missed timelines for the completion of necessary public infrastructure improvements; delays in local government approvals; lawsuits challenging land use and permit approvals. A project that meets the application criteria, competes successfully, conforms in good faith to land use and zoning requirements, but is delayed due to subsequent action or inaction out of its control is at risk of losing the credit allocation because the project cannot progress in a timely enough manner to comply with the IRS tax credit program deadlines.

In an effort, not to penalize projects experiencing delays beyond their control as described above, the Commission gives the Director of Multifamily Housing and Community Facilities ("MHCF") the discretionary authority to extend the credit for up to one year, subject to concurrence by the Executive Director and notice to the Commission at its next special meeting of the extension.

5.2.4.2 Priority for Projects Delayed by Two Years or More

The Commission also gives discretionary authority to the Director of MHCF, in consultation with the Executive Director, to establish the priority of projects that are forced to return credit due to circumstances that may result in delays extending beyond one year but intend to return to compete in a future round of funding. The basis for any such priority must be explained to the full Commission by the Director of MHCF at the project's public hearing.

The Director of MHCF may give the highest priority for a new allocation of tax credits to delayed projects that meet the following conditions, regardless of the Application's total point score in relationship to other projects in that round:

The applicant must submit substantially the same project proposal before the delay occurred.

- The applicant must demonstrate the case for such priority including an explanation of the factors that caused the unanticipated delay;
- The applicant must demonstrate that the project had met or would have met all then existing land use and zoning requirements, i.e., the challenge failed to demonstrate a failure to comply with applicable requirements;
- The project must remain viable, feasible and fully funded and serving substantially the same population as it originally intended.

Projects recognized under Section 2 of this Credit Extension policy must pay a new Application fee but will be credited the Credit Reservation Fee if paid previously and it had not been returned.

Credit returned or allocated under both Sections of this policy will be credited to or deducted from the appropriate Geographic Credit Pool.

The discretionary authority provided to the Director of MHCF with respect to any project is limited to permitting a three-year delay in project readiness, unless extended after a full Commission review.

5.2.5 Geographic Dispersion Policy

NOTE: This Geographic Dispersion Policy does not apply to the Seattle/King County Geographic Pool.

Non-Metro Geographic Pool: If in any one year, projects in any one county are allocated 50% or more of the credit allocated in that county's Geographic Credit Pool, then in the following year, the first 50% of the credit available in the Credit Pool must be awarded outside of that county, but inside the Geographic Credit Pool, before any projects proposed in that county will be considered. An exception will be made if there are not enough projects outside of that county to consume 50% of the credit. If that happens, projects in that county will be considered in rank order after the projects outside of that county regardless of the amount of credit awarded.

Metro Geographic Pool: Projects from any one county are allowed a maximum of 35% of that pool's yearly credit allocation. If that threshold is met, other projects within the pool will receive the remaining credit in rank order. If after allocation to those other projects there is credit remaining to be allocated in the geographic pool, then the projects from any county that has met the 35% threshold will become eligible for additional credit allocation.

5.2.6 Allocation Criteria

Commission staff will use the Allocation Criteria as described in Chapter 6 and the points assigned to each Allocation Criterion to assess the degree to which the proposed projects promote the Commission's housing priorities. Projects will be ranked by staff according to the total number of Allocation Criteria points awarded. The Applicant is responsible for demonstrating in the Application that the project meets the requirements of the Allocation Criteria selected. However, it is the MHCF Director who will make the final determination as to whether a Project meets the requirements of a specific Allocation Criterion.

5.2.7 Tiebreakers

If projects receive equal scores within the same Geographic Credit Pool, the first tie breaker will be if a project is in a Qualified Census Tract (QCT). The second tie breaker will be the project that requests the

least amount of Credit. The third tie breaker will be the project that requests the least amount of Credit per Low-Income Housing Unit.

5.2.8 Priorities For Credit Allocations

Staff will recommend projects meeting the Minimum Threshold Requirements and Program Limits (outlined in Chapters 3 and 4) to the Commission for an allocation of credit after applying the Project Ranking Policies in the following order of priority:

Priority	Project Ranking
1st	Fully funded
2nd	Geographic Credit Pool
3rd	Credit Extension Policy
4th	Geographic Dispersion Policy
5th	Allocation Criteria
6th	Tiebreakers

Commission staff will recommend that Credit reservations and allocations be awarded beginning with the highest ranked project to the lowest ranked project until the total available Annual Authority is consumed. All Credit reservations and allocations will be contingent upon the Applicant and the Project meeting all applicable requirements. Projects will also be evaluated on their feasibility and viability as qualified low-income housing projects. This will include an examination of the development and operational costs of each project as well as the market need and demand.

As part of their recommendations, Commission staff may also present any anomalies or concerns regarding the project ranking; any market need or demand issues such as the appropriateness of the number of low-income housing units in each area or the impact of the proposed project on existing rental housing; or other significant items which may be necessary for the Commissioners to consider along with the project ranking.

Although it will receive the staff's recommendations, the Commissioners alone will determine whether a project should receive a Credit reservation and allocation from the Annual Authority and the amount of the Credit. The staff's recommendation of projects to receive Credit reservations and allocations based on their Allocation Criteria points and their ranking is intended to be advisory only and is not binding on the Commissioners.

5.2.9 Waiting Lists

When the number of qualified projects exceeds the available Annual Authority, projects not awarded Credit will be placed on a waiting list. These projects will be listed in the order described under these Policies unless otherwise determined by the Commissioners. In the event a project being considered for a Credit reservation or allocation either withdraws or is cancelled, projects on the waiting list may move up from the waiting list and thereby contend for Credit.

5.2.10 Forward Credit Commitment

If due to insufficient Annual Authority, the last project to receive a Credit reservation or carryover allocation in any round receives a carryover allocation for only a portion of the Credit needed, the Commission may choose to provide the project a Forward Credit Commitment for the balance of Credit needed from the following year. The Forward Credit Commitment will be contingent upon having Annual Authority available in the following year. Thus, the Forward Credit Commitment contract may be executed even though it is uncertain whether there will be any available Annual Authority. The Applicant should be aware of the risks of proceeding with a project given this uncertainty.

The Commission may choose to provide a Forward Credit Commitment to one or more projects. The Commission may, in its discretion, commit up to 20% of the following year's anticipated Annual Authority for this purpose.

6 Allocation Criteria

Commission staff will use the Allocation Criteria described below and the points assigned to each Allocation Criteria to assess the degree to which the proposed projects promote the Commission's housing priorities. The points associated with these Allocation Criteria, when satisfied, facilitate ranking of projects by the staff as described in Chapter 5.

Allocation Point Criteria have been tailored to meet the specific needs and priorities of each Geographic Credit Pool (described in Chapter 5). Not all Allocation Criteria are available in all locations, and some points are weighted differently depending on location. The summary chart on the following page outlines these differences.

The Applicant must select Allocation Criteria in the Application that total a minimum number of Allocation Criteria points according to Geographic Credit Pool in which the project is competing. The minimum points required are as follows:

- King County: 160 points
- Metro Counties: 158 points
- Non-Metro Counties: 154 points

Any Application that does not have the minimum number will be disqualified, and the Application fee will not be refunded.

The Applicant is responsible for demonstrating in the Application that the project meets the requirements for all the Allocation Criteria selected. However, it is the MHCF Director who will make the final determination as to whether a Project meets the requirements of a specific Allocation Criterion.

The number of points that a specific qualified project will need to be recommended by Commission staff for a Credit reservation and allocation will depend on, among other things:

- the number of qualified Applications the Commission receives;
- the number of points received by other projects;
- the total amount of Credit requested by Applicants;
- the amount of Annual Authority available;
- the number of other projects that qualify for the same Geographic Credit Pool; and
- the amount of Credit the Applicant is requesting for the project.

Summary of Allocation Criteria	King County	Metro County	Non Metro County
Additional Low-Income Set-Aside	50-60	50-60	50-60
Additional Low-Income Housing Use Period	22-44	22-44	22-44
Priority Population Set-Aside:			
(A.) Homeless		-	-
75%	35	-	-
25%	-	25	25
(B.) Farmworker (75%)	-	25	25
(C.) Up to two of the following:			
20% Farmworker	10	10	10

20% Large Households	10	10	10
20% Disabled	10	10	10
20% Homeless	10	10	10
100% Elderly	10	10	10
Funding:			
Leverage	2-10	2-10	2-10
Public Funding	2	2	2
Project Based Rental Assistance	1-5	1-5	1-5
Development Costs:			
Cost Containment Incentive			
TDC Limit	1-6	1-6	1-6
Median Square Footage	2	2	2
Developer Fees	2-10	2-10	2-10
Targeted Areas:			
Eligible Tribal Area	6	5	10
Location Efficient Projects	2	2	2
Area Targeted by a Local Jurisdiction	2	2	-
Community Revitalization Plan	1	1	-
Transit Oriented Development	1	1	-
Job Centers	-	1	1
High/Very High Opportunity Areas	1	-	-
At-Risk of Loss or Market Conversion (Rehab only)	4/6	4/6	4/6
Historic Property (New Production Only)	5	5	5
Nonprofit Sponsor	5	5	5
Donation in Support of Local Housing Needs	5	5	5
Eventual Tenant Ownership	2	2	2
Energy Modeling Option	2	2	2

6.1 Additional Low-Income Housing Commitment

50 – 60 Points

Points will be awarded to projects based on the Applicant's Commitment to provide selected percentages of the total low-income units for occupancy by households at or below selected area median income levels (the "Additional Low-Income Housing Commitment"). An Applicant may choose only one option listed in the table below. Units subject to the Additional Low-Income Housing Commitment are both rent and income restricted at the selected income levels.

Recognizing that the area median income (AMI) across the state varies greatly, counties are divided into Lower Income and Higher Income Counties, and the Additional Low-Income set-aside combinations have been specifically configured to take into consideration the differing levels of rents in the two groupings. The Lower Income Counties are those counties whose 50% AMI income for a four-person household is $31,951 or less as documented on the Commission's Rent and Income Limits webpage. Higher Income Counties are those whose 50% AMI income for a four-person household is greater than $32,000 per year.

Also recognizing that at a county level there can be income level disparities, an applicant may ask to have its designation changed when it can demonstrate enough need. For example, a county may be designated as Higher Income because many of its residents enjoy a higher AMI, but a city within that county may have a low AMI or have lower employment rates than the rest of the county. The change in designation is a part of the preapproval process and an applicant must notify the Commission in writing

at least 30 days in advance and may require supporting documentation. The decision to allow the change in designation will be made by the MHCF Director.

Lower Income Counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Grant, Grays Harbor, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Spokane, Stevens, Wahkiakum, Walla Walla, Yakima.

Higher Income Counties: Benton, Clark, Franklin, Garfield, Island, Jefferson, King, Kitsap, Kittitas, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Whatcom, Whitman.

Projects may select one of 20 different set-aside combinations valued between 50 and 60 points. The project's location in a Lower or Higher Income County determines the point value of a specific set-aside combination. Projects in Lower Income Counties receive a two-point advantage over the Higher Income Counties when the same set-aside combination is chosen in recognition that the same income targets are more difficult to serve in Lower Income Counties where the allowable rents do not generate as much operating income.

Points have been assigned to the set-aside combinations according to the income generated at the Maximum Allowable Tax Credit rents. The lower the income generated, the deeper the income targeting; therefore, the higher the points. The set-aside combinations are grouped into in the

Higher Income Counties, the Additional Low-Income Set-Aside options are based on the principle that all 9% tax credit projects in the Higher Income Counties should serve a significant number of households at 30% AMI. In the Lower Income Counties, the presumed percentage of units set aside at 30% AMI has been reduced. In the Lower Income Counties, combinations that have 40-50% of the units at 30% AMI cross-subsidized by a large number of units at 60% AMI are not allowed because 60% AMI rents are typically not achievable in those counties. In recognition that 60% AMI rents are not always achievable, there are options that use 50% AMI as the highest income served.

Projects seeking points for set-aside options for units designated at 30% and below must be able to demonstrate feasibility through other income sources, other allowable rents or rental assistance.

Additional Low-Income Set-Aside Menu							
Option	**30% AMI**	**40% AMI**	**50% AMI**	**60% AMI**	**Higher Income County Points**	**Lower Income County Points**	**Weighted Average Income Served**
1	50@30	25@40		25@60	60	-	40%
2	50@30	-	50@50	-	60	-	40%
3	50@30	-	30@50	20@60	58	-	42%
4	25@30	50@40		25@60	56	60	42.5%
5	50@30	25@50		25@60	56	-	42.5%
6	10@30	50@40	40@50	-	-	60	43%
7	50@30	10@40	-	40@60	54	60	43%
8	10@30	40@40	50@50	-	-	58	44%
9	-	50@40	50@50	-	56	58	45%
10	10@30	60@40	-	30@60	-	58	45%
11	10@30	30@40	60@50		54	58	45%
12		50@40	40@50	10@60	-	56	46%
13		40@40	60@50		-	56	46%
14	-	40@40	50@50	10@60	54	56	47%
15	-	25@40	75@50	-	54	56	47.5%
16	-	50@40	20@50	30@60	-	56	48%
17	-	40@40	30@50	30@60	54	56	49%

*A dash (-) in the points column indicates a combination that is not available in that location without MHCF Director's approval.

6.1.1 Rounding Rule

For instances where the respective percentage of units that are subject to the commitment do not distribute evenly (i.e., 50% of 25 units = 12.5), start by rounding the lowest income targeting category up to the next unit, then round the 2nd lowest income set-aside category up to the next unit. The remaining number of units will then be assigned to the highest income set-aside category.

Example A: 25-unit project selecting Option 20 above:				
	≤ 40% AMI	**≤ 50% AMI**	**≤ 60% AMI**	**Total**
% of low-income units selected:	50%	50%	0%	100%
Actual units per % selected:	12.5 units	12.5 units	0	25 units
Units after rounding rule:	13 units	12 units	0	25 units

Example B: 47-unit project selecting Option 5 above:				
	≤ 30% AMI	**≤ 40% AMI**	**≤ 60% AMI**	**Total**
% of low-income units selected:	40%	30%	30%	100%
Actual units per % selected:	18.8 units	14.1 units	14.1 units	47 units
Units after rounding rule:	19 units	15 units	13 units	47 units

6.2 Additional Low-Income Housing Use Period

24-44 Points

Twenty-four points will be awarded to Applicants that commit to an Additional Low-Income Housing Use Period of 25 years (the "Additional Low-Income Housing Use Period"). One additional point will be awarded for each additional year of the Additional Low-Income Housing Use Period selected by the Applicant beyond 25 years, up to a maximum of 44 points for an Additional Low-Income Use Period of 45 years.

The Additional Low-Income Housing Use Period commences upon the close of the compliance period. If the Applicant makes this Commitment, the Applicant agrees to maintain the low-income housing units and all applicable Commitments made by the Applicant in the Application to receive Allocation Criteria points for the duration of the Project Compliance Period.

6.3 Housing Commitments for Priority Populations

10-35 Points

Points will be awarded based upon the Applicant's Commitment in the Application to provide housing units for the populations listed below in the following manner:

A. Housing Commitment providing a minimum percentage of the total housing units as Permanent Supportive Housing for the Homeless is worth 25 or 35 allocation points.

- Seattle/King – minimum of 75% required for 35 points
- Metro and Non-Metro – minimum of 25% required for 25 points

OR

B. Housing Commitment providing a minimum percentage of the total housing units as Farmworker Housing is worth 25 allocation points.

- Metro and Non-Metro – minimum of 75% required

OR

C. The following Housing Commitments are worth 10 allocation points each. A maximum of two options may be selected for a total of 20 points.

- Provide a minimum of 20% of the total housing units as Housing for Farmworkers
- Provide a minimum of 20% of the total housing units as Housing for Large Households
- Provide a minimum 20% of the total housing units as Housing for Persons with Disabilities
- Provide a minimum of 20% of the total housing units as Housing for the Homeless
- Provide an Elderly Housing Project

Applicants may not combine option A. or B. with any of the other options. Under option C above, Applicants may select no more than two priority populations for a maximum score of 20 points. The selection under option C cannot be for the same priority population; for example, an Applicant may not select 20% Large Household twice to achieve 20 points for a 40% Large Household set-aside.

To receive points for Housing Commitments for Priority Populations, the Applicant must agree to comply with all the requirements and conditions described in this section, as applicable.

6.3.1 Housing for the Homeless

10 – 35 Points

Points will be awarded based on the Applicant's Commitment to provide low-income housing units for Homeless households (the "Housing for the Homeless Commitment").

Each unit must be set-aside to serve Homeless households as defined under the Stewart B. McKinney Homeless Assistance Act or under RCW 43.185c010(12), and must provide supportive services designed to promote self-sufficiency, meeting the needs of the target population. Any Household initially qualifying as Homeless counts toward the Homeless Set-Aside Commitment for as long as the household remains in the project.

All projects providing Housing for the Homeless must demonstrate consistency with any plan adopted by the City, County or State that addresses homelessness in these jurisdictions at the time the Application is submitted. If primary support services for the Homeless are provided by an agency or organization that is different from the Project Sponsor, then a Memorandum of Understanding (MOU) must be submitted that defines the roles and responsibilities of each entity, including the nature and scope of duties for each. The MOU must also include how costs will be covered.

Applicants must complete Section 10 of the Combined Funders Application which includes:

- A comprehensive service plan including both an assessment and identification of the service needs of the targeted population and a specific strategy for service delivery (i.e., what services, who will provide them, how and where they will be provided).
- A detailed funding strategy for the provision of services, including annual budget, proposed funding sources, and respective funding cycles with letters of interest from each service provider and funder.

In providing Housing for the Homeless, the Applicant may select either option A. or option C. under Housing Commitments for Priority Populations in Section 6.3.

- Applicants who select option A. must provide units that meet the definition of Permanent Supportive Housing (see Glossary for complete definition). To qualify for these points, Sponsors must have a successful track record of serving this population and of operating this type of service-intensive housing or partner with the necessary and appropriate provider to ensure services are delivered. Applicants choosing these points are highly encouraged to contact the Commission prior to the application date to determine whether the project meets the intent of this criterion.
- Applicants who select option C. and also intend to provide Transitional Housing must ensure that each housing unit in a building used for Transitional Housing contains sleeping accommodations as well as kitchen and bathroom facilities. The units must be used exclusively to ease the transition of homeless persons to independent living within 24 months. Applicants selecting Transitional Housing for the Homeless must provide evidence in their application that a governmental body or Qualified Nonprofit Organization (QNP) will provide Homeless individuals with temporary housing and supportive services designed to assist them in locating and retaining permanent housing. For a governmental body, the Applicant must submit a resolution authorizing the governmental body to provide temporary housing and supportive services for the project. For a Qualified Nonprofit Organization, the Applicant must submit all documentation required of a QNP outlined in Section 5.2.3. Requirements for all Projects electing the Housing for the Homeless Commitment

6.3.2 Farmworker Housing

Farmworker means a household whose Income is derived from farm work in an amount not less than $3,000 per year. See Glossary for a complete definition of "farm work." All housing units subject to the Farmworker Housing Commitment must be rented to qualifying Farmworker households at initial project occupancy.

Projects that dedicate 75% or more units to farmworker housing can receive up to 25 points. In the Non-Metro Geographic pool, an allocation will not be made for more than two farmworker projects per year.

6.3.3 Housing for Large Households

Points will be awarded based on the Applicant's Commitment to provide a minimum of 20% of the total housing units in the project as low-income housing units with three bedrooms or more that are reserved for Large Households (the "Housing for Large Households Commitment"). A Large Household consists of four or more persons who are not necessarily related.

6.3.4 Elderly Housing

Points will be awarded on the Applicant's Commitment to maintain the project as an Elderly Housing Project (the "Elderly Housing Commitment"). At Application, the Owner must commit to one of the following elderly options:

- 62 or over: A Project in which all Housing Units are intended for, and solely occupied by, Residents who are 62 or older.
- 55 or older: A Project in which all Housing Units are intended and operated for occupancy by at least one Resident who is 55 or older, where at least 80% of the Total Housing Units in the Project are in fact occupied by at least one Resident who is 55 or older.
- RD 515 or HUD: A Project subject to either the Rural Development (RD) Section 515 program for elderly persons or a HUD elderly program.

The Elderly Housing Commitment is for 100% of the Housing Units in the project, regardless of the elderly option chosen.

6.3.5 Housing for Persons with Disabilities

Points will be awarded based on the Applicant's Commitment to provide a minimum of 20% of the total housing units in the project for persons with Disabilities (the "Housing for Persons with Disabilities Commitment").

6.3.6 Requirements of All Housing Commitments for Priority Populations

All Applicants who select one or more Housing Commitments for Priority Populations must comply with all the following requirements:

- The Applicant must address the need for housing for the priority population in the Market Study. See Section 4.8 for the specific requirements of the Market Study.
- The Applicant agrees that any Housing Commitment for Priority Populations will be established, implemented, and kept in compliance with the Fair Housing Act, as amended; the Architectural Barriers Act of 1968; the Americans with Disabilities Act; and any other local, state, and Federal nondiscrimination or accessibility laws, regulations, or requirements.
- All housing units subject to the Housing for Large Households Commitment, the Housing for the Homeless Commitment, or the Farmworker Housing Commitment must be rent- restricted, low-income housing units.
- With respect to the Housing for Persons with Disabilities Commitment and the Elderly Housing Commitment, the Applicant may reserve a combination of the low-income housing units and the

market-rate housing units for the given Commitment if a project includes both low-income housing units and market-rate housing units. The Applicant agrees that the gross rent for the low-income housing units must be rent-restricted.

- Except for the 100% Elderly Housing Commitment, the same housing unit cannot be used to satisfy more than one Housing Commitment for Priority Populations, regardless of whether a resident is eligible for more than one. Further, the Applicant must provide a minimum of 20% of the total housing units in the project for each Housing Commitment for Priority Populations selected. For example, if the Applicant selects the 20% Housing for Large Households Commitment and the 20% Housing for Persons with Disabilities Commitment, the Applicant must provide a minimum of 40% of the total housing units in the project, including specifically a minimum of 20% of the total housing units for Large Households and a minimum of 20% of the total housing units for Persons with Disabilities.
- When a project with any Housing Commitment for Priority Populations is placed-in-service and ready for initial occupancy, each housing unit subject to such a Commitment must first be rented to and occupied by a resident who qualifies for the commitment (e.g., in the case of the Farmworker Housing Commitment, by a Farmworker household), or else the unit must be held unoccupied. Upon taking possession of an acquisition/rehabilitation project, the project owner may satisfy all Commitments, beyond any Federal minimums, through attrition.
- If, after initial occupancy by a qualified resident, a housing unit subject to a Housing Commitment for Priority Populations (other than Elderly Housing Commitment and the Housing for the Homeless Commitment) is subsequently vacated, the project owner shall actively market any vacant housing units that are necessary to comply with the applicable Commitment(s) for a minimum of 30 days. The owner shall not rent such units to anyone who is not eligible for the selected Commitment(s) during this 30-day period. More specifically, a housing unit in this Special Needs Housing Commitment must remain vacant during this 30-day recruitment period until the Applicant can rent it to a person or household who meets the eligibility criteria for the Housing Commitment for Priority Populations.
- The minimum 30-day recruitment period begins when the housing unit becomes vacant and ready for occupancy and the Applicant begins to actively market the housing unit. The Applicant must document recruitment efforts (e.g., the active use of the project's referral and marketing agreements).
- The Applicant cannot rent the housing units to a person or household who does not meet the eligibility criteria for the specific Commitment(s) during the minimum 30-day recruitment period. If the Applicant is unable to secure an individual or household who meets the eligibility criteria after 30 days of active marketing, the Applicant may rent the housing unit to another resident as applicable.
- If the Applicant rents a housing unit to an individual or household who does not meet the eligibility criteria after completing the minimum 30-day recruitment period, the Applicant must actively market the next available housing units of comparable size and type, following the same recruitment procedures, until all the Commitment(s) are achieved and maintained.
- The recruitment requirements described in this subsection apply to all housing units in the Farmworker Housing Commitment, the Housing for Large Households Commitment, and the Housing for Persons with Disabilities Commitment, including both low-income housing units and market rate housing units.
- For the Elderly Housing Commitment or the Housing for the Homeless Commitment, the Applicant must actively market and exclusively rent all the housing units for the duration of the

Project Compliance Period to persons who meet the eligibility criteria of the applicable Special Needs Housing Commitment.

- In the event of reasonably unforeseen circumstances that prevent a project from fully meeting its Commitments, the project owner may seek a waiver or modification to any such Commitments. This request must be made in writing and approval is at the sole discretion of the Commission.

6.4 Leverage Scoring and Points

2-10 Points

Points will be awarded for applicants who have secured funding commitments for one or more capital sources that include but may not be limited to local, state, and federal public funds, as well as capital contributions from health care providers.

Points for this category are based upon the amount of **capita**l sources leveraged, defined below, as a percentage of the Total Project Costs, and will be awarded as follows:

Pool Range = % of other sources as % of **Total Project Costs**				
King	5-10%	11-20%	21-25%	26% and above
Points	2	4	7	10
Metro	2-7%	8-12%	13-17%	18% and above
Points	2	4	7	10
Non- Metro	2-7%	8-15%	16-22%	23% and above
Points	2	4	7	10

The percentage of leverage is calculated by using the amount of all other committed sources as shown in the development budget and specifically identified in the application on the sources form. (Tax credit equity and developer fee excluded).

Applicants seeking points for sponsor loans or charitable donations must have backup to document the source and have at least 50% of the funds received at the time of application. These sources must be approved by the Commission 60 days prior to the submission of an application.

For purposes of calculation under this policy, sources not included are:

- Developer Fee either cash fee or Deferred Loan;
- Any operating related subsidy or operating budget sources;
- Funds not fully committed at the time of application.

6.5 Public Leverage

2 Points

In addition to the points awarded above, two additional points can be awarded for projects that have 50% (fifty percent) or more public resources committed as part of the other sources leveraged. See Sec. 5.2.1 Fully Funded Projects for guidance on committed public funds.

6.6 Project-Based Rental Assistance

1-5 Points

Points will be awarded to projects who have secured funding commitments for federal project-based rental assistance (PBRA) and/or nonfederal funding commitments for operating and maintenance (O&M).

PBRA Points (1-4): Federal rental assistance may be administered by HUD, USDA Rural Development, another state agency, or by the local Public Housing Authority, including Section 811 PBRA. The rental assistance may be an existing or a new contract, and must be committed at the time of application. The Applicant must agree to renew such subsidy for as long as the rental assistance is available. If rental assistance is eliminated, the applicant may request the Commission waive or modify the rent structure and target population to ensure the economic viability of the project.

Points are awarded based on the following threshold for PBRA Points:

Percentage of Low-Income Units with PBRA Points	
10-25%	2 points
26-49%	3 points
50% or more	4 points

O&M Point (1): Other nonfederal funding commitments for Operating and Maintenance (O&M) will also be considered for an additional point. Applicants must submit a letter at application containing a two-year minimum commitment to receive points for O&M funding.

Points are awarded based on the following threshold for the O&M Point:

Length of Funding Commitment for Operating and Maintenance	
≥ 2 years	1 point

6.7 Cost Containment Incentive

1-8 Points

TDC Limit Point: TDC Limit Cost Containment Point will be awarded to a project that is below its appropriate TDC Limits at the time of application as follows:

- One (1) point for being under the appropriate TDC limit; or
- Three (3) points for being more than five (5) percent under the appropriate TDC limit; or
- Six (6) points for being more than ten (10) percent under the appropriate TDC limit

Commission staff allow exemptions to the applicable total development cost limit to further acknowledge the impact of certain cost drivers on projects' total development costs. These exemptions are the actual cost of approved cost drivers.

The sustainable building feature listed below is eligible for an exemption

- Costs associated with including a solar energy array include solar equipment procurement, installation, labor, system engineering, and site plans.

Applicants seeking to qualify for exemptions must submit a form of construction cost estimate from the General Contractor (GC), clearly delineating the hard cost, as well as the applicable portion of overhead, profit, WSST, etc., in addition to a narrative explanation. Commission staff has full discretion over the final amount approved as an exemption.

Note: these points are not cumulative

Median Square Footage Point: Two (2) cost-containment points can be awarded to projects based on how they compare to the median cost per square foot in its Geographic credit pool (see Section 5.2.2) for the allocation round in which it applies as set forth below.

When Applications are received, the Residential Cost per Square Foot (Cost/SF) of each project will be calculated per the following definitions:

- **Residential Project Square Footage** is defined as the gross residential square footage of the buildings to be constructed or rehabilitated.
- **Gross residential square footage** is to be measured from the outside face of the exterior walls and the centerline of party walls.

Everything within the building envelope will be included in the calculation, including unheated mechanical space, common area, circulation area and structured parking.

Anything outside of the building envelope such as balconies, roof top decks, carports, and surface parking is to be excluded.

Commercial spaces to be owned under a separate legal entity and whose costs are not reflected in the Residential Project Budget may not be included in the total project square footage.

Space that is shared between a Residential Project Condominium and other condominiums in a building may be included on a pro rata basis.

A certification of the Project's Gross Residential Square Footage by the project architect must be included in the Application and recertified at the time of final cost certification. (Form 2B and Square Footage from Architect should be consistent)

- **Total Development Cost** is defined in the same way as it is under the existing TDC Limit Policy: Total Residential Project Cost minus the cost of land and minus capitalized reserves.
- **Cost per Square Foot** is determined by dividing the Total Development Cost by the project's Residential Project Square Footage.

Projects competing in the same allocation round that are in the King/Seattle Geographic credit pool (see Section 5.2.2) will be grouped together to determine the median King/Seattle Cost/SF for the round. Those same projects will then be awarded two (2) points if they are less than or equal to the median for that grouping.

Projects competing in the same allocation round that are in the Metro Geographic credit pool (see Section 5.2.2) will be grouped together to determine the median Metro Cost/SF for the round.

Those same projects will then be awarded two (2) points if they are less than, or equal to, the median for that grouping.

Projects competing in the same allocation round that are in the Balance of State Geographic Credit pool (see Section 5.2.2) will be grouped together to determine the median Balance of State Cost/SF for the

round. Those same projects will then be awarded two (2) points if they are less than, or equal to, the median for that grouping.

Projects must maintain eligibility for the points awarded. If at the time of Final Cost Certification, a project has failed to meet the total development costs proposed in its application, the Commission may, among other penalties it determines to be appropriate, deduct an equal number of points from the Project Sponsor's next complete, Fully Funded 9% tax credit application that satisfies all applicable Minimum Threshold criteria.

6.8 Developer Fees

2-10 Points

Points will be awarded based on the Applicant's Commitment in the Application to limit the maximum developer fees, in the aggregate, for the project to:

% of Total Project Cost*	Points
10%	10 Points
11%	8 Points
12%	6 Points
13%	4 Points
14%	2 Points
15%	0 Points

**For a discussion of how and when the developer fee is calculated with respect to a Project, see Section 3.7.*

6.9 Properties At Risk of Loss Or Market Conversion

4-6 Points

This Allocation Criterion prioritizes projects that are at imminent risk of loss to the State's affordable housing portfolio due to the potential loss or conversion of use-restricted units to market rate units. Projects must have an expiring use restriction and the units must be at risk of loss under one of three scenarios:

- The current ownership is selling the property and the units will no longer be use restricted and will convert to market.
- The Project has significant and immediate capital needs, and the Project Sponsor is faced with letting the use restriction lapse to increase cash flow to fund capital expenditures.
- A project owned by a Housing Authority in the Non-Metro Geographic Pool that needs extensive rehabilitation and has unique economic factors and faces potential loss of the housing stock.

Eligible Projects will be awarded points based on the number of units At Risk of Market Conversion:

Number of Units	Points
79 units or less	4 points
80 units or more	6 Points

Applicants choosing these points are highly encouraged to approach the Commission prior to the application date to determine whether the project meets the intent of this criterion.

Projects are eligible for the At Risk of Market Conversion Criterion if all the following requirements are met:

- Projects must have one or more Federally Assisted Buildings.
- The Federal Agency regulating the low-income use must certify that the owner may be released from all low-income use restrictions within three years of the date of the preapproval request.
- The Applicant must demonstrate that a market exists for the project to be converted to market rate housing and that the existing residents are likely to be displaced should the project not be purchased or recapitalized by the Sponsor.
    - The market study must indicate the market rents that might be achievable at the property without the federal assistance restriction.
    - The Applicant must supply the rent rolls that show the incomes of the residents to demonstrate that the population living in the units is unable to afford market rate rents in the same market area.
- Projects qualifying under Scenario 2: The project must have significant and immediate capital needs evidenced by a required 3rd party Capital Needs Assessment.

These points will be valid for three allocation rounds after the initial application is granted if the above criteria can be documented. The project must compete for credit in the round in which it applies.

At Risk of Market Conversion points are not available to projects competing in the New Production pool, e.g., a project made up of units that are 40% rehab and 60% new construction.

6.10 Historic Buildings

5 Points

Points will be awarded to Projects that fit the definition of New Production, are using the federal Historic Tax Credit (RTC) as part of the project financing, and are:

- Listed, or have been determined eligible for listing, in the National Register of Historic Places administered by the U.S. Department of the Interior in accordance with the National Historic Preservation Act of 1996; or
- Located in a registered historic district and certified by the Secretary of the U.S. Department of the Interior as being of historic significance to that district.

To receive points, 50% or more of the total housing units in the project must be located in the building(s) designated as historic property. Projects must submit evidence of the historic designation and a Title Report that shows no existing Affordable Housing Use Restrictions with the Application. Applicants must also complete the Historic Tax Credit tab of the LIHTC addendum as well as show Historic Tax Credits as part of the Project financing.

6.11 Eligible Tribal Area

6 Points in King County / 5 Points In Metro / 10 Points In Non-Metro

Points will be awarded to Projects located within the boundaries of an eligible Indian Reservation or within the service area of an eligible tribe provided that the project is sponsored by the Indian tribe or

tribally designated housing entity. Indian Tribes eligible for these points are those where the percentage of households living below the poverty level is 20% or more of the total tribal households.

Eligible Tribes	Poverty Rate
Chehalis	20%
Colville	21%
Hoh	35%
Kalispel	30%
Lower Elwha	26%
Makah	27%
Nooksack	30%
Quileute	37%
Quinault	27%
Port Gamble S'Kallam	25%
Skokomish	24%
Spokane	24%
Squaxin Island	24%
Upper Skagit	47%
Yakama	24%

Tribal eligibility is based upon poverty rate levels as determined by the U.S. Census. For tribes not listed as eligible, on a case-by-case basis, the Commission will consider supplemental demographic data provided by the Applicant that demonstrates that 20% or more of the total Indian households are living below the poverty level. To be considered for these points using supplemental data, the Applicant must present their data to the Commission for preapproval at least 30 days prior to the application deadline.

The Applicant must provide a site map identifying the project location and the boundaries of the Indian Reservation or the Service Area of the Tribe. If a project consists of multiple sites, all sites must be located within the Eligible Tribal Area.

Note: If a Project selects points under this Allocation Criterion, it is not eligible to select points under the other allocation criteria that target specific locations: Location Efficient Projects, Area Targeted by a Local Jurisdiction, Community Revitalization Plan, Transit Oriented Development, Job Centers, and High Opportunity Areas.

6.12 Location Efficient Projects

2 Points

Points will be awarded to Projects that provide nearby access to food and go beyond the minimum Access to Community Resources criterion of the Evergreen Sustainable Development Standard (ESDS). *Under ESDS Criterion 2.04a, urban projects should be located within 0.5 walk mile distance of at least four, or within 1-mile of seven community, retail, or service facilities. Rural projects should be located within 5 miles of at least four facilities.*

For the purposes of this Allocation Criterion, urban and rural hold the same definitions as under ESDS (See Section 4.9) and the same distance measurement, from the center of the site to the entrance of the facility, will be used.

<u>Two points will be awarded to Urban Projects that are:</u>

- located within 0.5 mile walk distance of at least five community, retail or service facilities, OR within 1-mile of eight facilities from the list below; AND

- located within 0.5 mile walk distance of a supermarket, a grocery store with produce, or a farmers' market. This does not count as one of the 5 or 8 facilities referenced above.

Two points will be awarded to Rural Projects that are:

- located within a 5-mile driving distance of 6 or more facilities from the list below; AND
- one of the 6 facilities must be a supermarket, a grocery store with produce, or a farmers' market.

Examples of Civic and Community Facilities, Services, and Retail

- Medical clinic or office
- Licensed Adult or senior care
- Licensed Childcare
- Community or recreation center
- Entertainment venue (theater, sports)
- Educational facility (including k-12 school, university, adult education, vocational school, community college)
- Cultural arts facility (museum, performing arts)
- Police or fire station
- Public Library
- Public Park
- Post office
- Place of worship
- Government office that serves public on-site
- Social services center
- Bank
- Restaurant, café, diner
- Laundry, dry cleaner
- Gym, health club, exercise studio
- Supermarket
- Other food store with produce
- Farmers' market
- Hardware store
- Pharmacy
- Clothing retail
- Other retail

The facilities used to meet this criterion must be built at the time of application. Facilities that are planned, but not built, may be eligible with preapproval.

A Farmer's Market must operate at least once a week for at least 5 months of the year.

Each establishment must be a separate and distinct business and may only count as one facility. Separate and distinct businesses under one roof will each count as a facility. For example, a Safeway that also houses a Wells Fargo Bank and a Starbucks will count as 3 facilities.

If a project includes multiple sites, each of the sites must be within the required distance of the specified number of facilities.

The Applicant is responsible for explaining and demonstrating how the listed facilities meet the intent of this policy; however, it is the Commission, in its sole discretion, who will determine whether the specific facilities, services and/or retail presented qualify.

Applicants must attach the following materials:

- a list of the required number of services, facilities, and/or retail establishments including the name, type of facility and address; and
- a context map demonstrating that the center of the Project site is within the required walking or driving distances of the required number of services.

Google Maps offers a function to demonstrate walking or driving distance. On Google Maps, go to "Get Directions" and then click on the image of a pedestrian. The Commission will, in its sole discretion, determine whether the specific facilities, services and/or retail presented meet the intent of this policy.

6.13 Area Targeted by a Local Jurisdiction

2 Points in King County and Metro Counties

Points will be awarded to a Project that is located within the defined geographic boundaries of a planning document approved by the governing body of the local jurisdiction. The planned targeted area must provide for a mix of housing, retail and services and have zoning provisions to accommodate new growth in the area. The plan must include policies addressing the creation or preservation of affordable housing serving households at 80% AMI or below. The targeted area cannot be an entire local jurisdiction, nor can it be a site level designation.

The Applicant must submit documentation of the targeted area designation by the local jurisdiction and a site map showing the Project's location within the designated area. If a project includes multiple sites, each of the sites must each be located within an area targeted by a local jurisdiction.

6.14 Community Revitalization Plan (CRP)

1 Point in King County and Metro Counties

One point will be awarded to a Project that is located within the defined geographic boundaries of a Community Revitalization Plan. If a project includes multiple sites, each of the sites must each be located within an area covered by a Community Revitalization Plan. Applicants choosing these points are highly encouraged to approach the Commission prior to the application date to determine whether the project meets the intent of this criterion.

A Community Revitalization Plan must:

- Be a published document, approved and adopted by a governing body, by ordinance, resolution, or other legal action; and
- Target funds or tax incentives to specific geographic areas for either:
    - economic development, including economic related initiatives.
    - Commercial/retail development, including infrastructure and community facility improvement.

To earn this point, submit the following:

- Identify by name, the Community Revitalization Plan document(s) being relied upon to qualify for the CRP allocation points. Attach and highlight the specific sections in the document that apply.
- Provide a narrative explanation to justify how this project meets the Policy requirements to receive the CRP points. Provide details on any of the following and include page references from the applicable plan:
    - Infrastructure such as streets, walkways, street lighting, trees, greening activities, water, sewer, etc.
    - Community Facilities such as parks, playgrounds, activity centers, etc.

- Economic and Business Development such as new or rehabbed commercial space, business organizations, tax incentives, transportation/parking facilities, façade improvements, marketing, etc.
- Identify the specific geography targeted by the plan and provide a map showing the location of the project within the geography.
- List each of the local, state, federal and/or private "economic development" funding source(s) being targeted to the identified revitalization initiatives(s):
    - Please list the amount of funding that has been committed under each source
    - Specifically explain the activities that will be performed using the targeted economic development funds

6.15 Transit Oriented Development (TOD)

1 Point in King County and Metro

Projects will be awarded 1 point if they are located within the following fixed-distance buffers of existing or planned high-capacity transit, as determined using the Washington State Department of Commerce's publicly available Transit-Oriented Development (TOD) tool:

- ¼ mile from existing or planned Bus Rapid Transit (BRT); or
- ½ mile from existing or planned Light Rail Transit (LRT).

If the qualifying transit does not yet exist, the transit investment must be planned, approved, and funded at the time of Application. Transit investments that have been funded but not yet sited will not be considered.

Documentation must include (1) a dated map or screenshot from the Department of Commerce TOD mapping resource showing the site in relation to the transit facility, and (2) identification of the specific qualifying transit facility. If a project includes multiple sites, each of the sites must independently satisfy the applicable buffer to be eligible for the TOD point.

6.16 Job Centers

1 Point in Metro and Non-Metro Counties

One point will be awarded to Projects located in or near the top 25 cities and Census Designated Places (CDP) within each of the Metro and Non-Metro Credit Pools that have experienced the highest absolute job growth over the five-year period from 2019 to2023

Projects must be within a 5-mile radius of the top growth places in the Metro Credit Pool and within a 10-mile radius of the places in the Non-Metro Credit Pool.

The list of Top Job Growth Cities and Places will remain constant for a five-year period. Updates generally will occur one year prior to implementation of the updated list to take development pipelines into account. For the 2027 cycle, the updated list will be effective for the current cycle.

If the Project's address clearly demonstrates that the Project is in a Job Growth Place, no documentation needs to be submitted with the Application. If the Project's address shows the project is not located in a Job Growth Place, the Applicant must submit a site map demonstrating that the Project is located within the required distance of a Job Growth Place.

If a project includes multiple sites, each of the sites must demonstrate eligibility for points to be awarded under the Job Center criterion.

For the 2027 allocation cycle, an Applicant may request a waiver of this criterion where the Project meets the intent of the policy but does not appear to qualify under the published list or distance requirements; the point may be awarded with Commission preapproval.

A waiver request must be submitted in writing to the Commission no later than 30 days prior to the Application deadline and must include: 1. the specific reason the project does not qualify under the published criteria, 2. documentation demonstrating how the project advances the policy intent (such as proximity to a concentration of employment, designated employment center, or job growth data published after the most recent list update, and 3. confirmation that no other job center is reasonably available to serve the Project's intended residents. The Commission will issue a written determination prior to the application deadline. The point will be awarded only upon written Commission preapproval.

Top 25 Job Growth Places in Metro Counties

City or CDP	County	2023 Jobs	2019 Jobs	Job Growth	Rank
Tacoma	Pierce	125,202	116,984	8,218	1
Vancouver	Clark	106,898	99,923	6,875	2
Lakewood	Pierce	29,363	26,011	3,352	3
Spokane	Spokane	130,180	127,473	2,707	4
Sumner	Pierce	18,651	15,981	2,670	5
Everett	Snohomish	100,608	98,515	2093	6
Ridgefield	Clark	4,361	2,389	1,972	7
Liberty Lake	Spokane	9,805	8,124	1,681	8
DuPont	Pierce	4,819	3,293	1,526	9
Mount Vista	Clark	6,560	5,185	1,375	10
Puyallup	Pierce	31,502	30,227	1,275	11
South Hill	Pierce	9,930	8,657	1,233	12
Arlington	Snohomish	11,500	10,339	1,161	13
Orchards	Clark	5,047	3,912	1,135	14
Camas	Clark	10,400	9,310	1,090	15
Bellingham	Whatcom	52,978	51,928	1,050	16
Hazel Dell	Clark	8,325	7,299	1,026	17
Spokane Valley	Spokane	57,006	56,051	955	18
Marysville	Snohomish	15,352	14,412	939	19
Lake Stevens	Snohomish	6,799	5,869	930	20
Bothell	Snohomish	14,112	13,293	819	21
Five Corners	Clark	3,273	2,472	801	22
Battle Ground	Clark	6,908	6,142	766	23
Woodland	Clark	5,117	4,376	741	24
Silver Firs	Snohomish	2,825	2,090	735	25

*Source: U.S. Census Bureau Center for Economic Studies: https://onthemap.ces.census.gov/

Top 25 Job Growth Places in Non-Metro Counties

City or CDP	County	2023 Jobs	2019 Jobs	Job growth	Rank
Lacey	Thurston	30,261	22,970	7,291	1
Tumwater	Thurston	25,168	21,183	3,985	2
Pasco	Franklin	26,506	22,781	3,725	3
Yakima	Yakima	50,432	47,435	2,997	4
Kennewick	Benton	30,868	33,144	2,942	5
Olympia	Thurston	59,337	56,868	2,469	6
West Richland	Benton	3,190	970	2,220	7
Wenatchee	Chelan	26,728	25,013	1,715	8
Richland	Benton	43,685	42,176	1,509	9
Moses Lake	Grant	14,497	13,045	1,452	10
Othello	Adams	5,641	4,437	1,204	11
Port Townsend	Jefferson	4,798	3,838	960	12
Quincy	Grant	4,487	3,608	879	13
Longview	Cowlitz	21,057	20,209	848	14
Chelan	Chelan	3,898	3,087	811	15
Port Angeles	Clallam	9,533	8,908	625	16
Omak	Okanogan	3,078	2,644	434	17
Centralia	Lewis	8,012	7,468	544	18
Prosser	Benton	3,764	3,350	414	19
College Place	Walla Walla	2,312	1,919	393	20
Grandview	Yakima	3,540	3,164	376	21
Colville	Stevens	4,484	4,202	282	22
Oak Harbor	Island	5,758	5,497	261	23
Ephrata	Grant	3,922	3,671	251	24
Port Orchard	Kitsap	7,578	7,329	249	25

*Source: U.S. Census Bureau Center for Economic Studies: https://onthemap.ces.census.gov/

6.17 High and Very High Opportunity Areas

1 Point in King County

Projects in a census tract that is rated High or Very High on the Comprehensive Opportunity Index as defined by the Puget Sound Regional Council will be awarded 1 point. More information on Opportunity Mapping is available on PSRC's website. If a project includes multiple sites, each of the sites must each be located within a High or Very High Opportunity Census Tract to be eligible for this point.

6.18 Nonprofit Sponsor

5 Points

Nonprofit Organizations are critical to the delivery of affordable housing for low-income households in Washington. Nonprofit housing developers are mission driven entities that do not need to produce economic profits for investors and thus are able to place a very high priority on the needs and interests of residents most in need. They have a vested and long-term interest in developing, maintaining and preserving safe, quality and affordable housing options for low-income individuals and families.

Across our state, the organizational capacity and housing development experience of Nonprofit Organizations is uneven. In certain areas of the state, especially in rural areas, the existing capacity of Nonprofit Organizations is not sufficient to meet affordable housing needs.

For-profit entities also provide an important vehicle for the provision of affordable housing. In certain parts of the state, they are the only developers of such housing, and they often bring equity and expertise to transactions that would not otherwise be available to Nonprofit Organizations.

Because of their need to produce returns on investment and their sensitivity to the tax treatment of investments, for-profit entities as a group may not provide the sustained development capacity needed to meet the long-term affordable housing needs of low-income individuals and families.

It is the primary intent of this policy to increase the capacity of Nonprofit Organizations to provide affordable housing and thereby increase the number of affordable housing projects developed and owned by Nonprofit organizations now and in the future. The secondary objective is to encourage partnerships between Nonprofits Organizations and for-profit entities, thereby expanding the capacity of Nonprofit Organizations and recognizing the important contribution that for-profit entities can provide to meet our housing needs. The third objective is to recognize situations where there is simply insufficient Nonprofit Organization capacity or other unique circumstances and provide incentives to for-profit entities to develop affordable housing.

For the purposes of this policy, a Nonprofit Organization is defined as an organization organized and operated exclusively for Charitable Purposes and that is tax-exempt under Section 501(a) of the Code. Examples of these are organizations described in Sections 501(c)(3) and 501(c)(4) of the Code. A Nonprofit Organization also includes public housing authorities, public development corporations, Tribes, and Tribally Designated Housing Entities.

To be considered for the five Nonprofit Sponsor points, Applicants must qualify under one of the following three scenarios:

6.18.1 Nonprofit only

Developed, owned and operated solely by a credible and viable Nonprofit Organization, recognizing that there may be for-profit partners or participants to provide tax- credit equity.

6.18.2 For-Profit/Nonprofit Partnership

Developed, owned and operated by a partnership between a for-profit entity and a Nonprofit Organization as co-owners (FP and NP Partnership). For example, a Limited Partnership may have a for-profit and a Nonprofit Organization as co-general partners or in the case of a Limited Liability Company, co- managing members. Also, projects may be co-developed by partnerships between for-profit entities and Nonprofit Organizations. The Nonprofit Organization should have a material role in the development or management of the project, provide services or otherwise contribute to the project.

6.18.3 Nonprofit Sponsor Waiver

Under certain circumstances and only after making specific findings, the MHCF Director may waive the required Nonprofit Organization involvement. The findings must demonstrate that either no credible and viable Nonprofit Organization is willing and/or able to participate in the project development and ownership, or that unique conditions exist such that only a for-profit entity can complete the project. Approval for such waiver requests must be granted in advance of the published application deadline. Waiver requests must be made in writing at least 60 days in advance of the application submittal deadline.

All Applicants selecting the Nonprofit points must submit the following (as applicable) with their Application:

- A copy of the Nonprofit Organization's IRS determination letter;
- A complete and current as amended copy of the Nonprofit Organization's articles of incorporation as filed with the Secretary of State;
- Complete and current as amended copies of the bylaws and other governing instruments of the Nonprofit Organization;
- Evidence that the Nonprofit Organization has an ownership interest in the project and that the Nonprofit Organization will materially participate in the development and operation of the project throughout the project compliance period;
- A certification by the Nonprofit Organization that it is not Affiliated With, or Controlled By, a for-profit organization, entity, or individual; and
- A current list of names of all board members and officers of the Nonprofit Organization and any affiliation (plus the nature of the affiliation) such board member or officer has with any for-profit entities or individuals.

6.19 Donation in Support of Local Housing Needs

5 Points

Points will be awarded to projects based on the Applicant's Commitment to contribute funds to a local Nonprofit Organization in an amount based upon the Total Project Costs (TPC) as follows:

- $0 -$12,500,000 (TPC)=$15,000 Donation
- $12,500,001 and above (TPC)=$25,000 Donation

The Nonprofit Organization being supported must include in its service area the county in which the Project is located and must provide housing, housing-related services, or nearby community/social services that are available to the residents of the Project. The program receiving the donation cannot require participants to have a specific religious affiliation. Donations may be split among no more than four recipients. Up to 25% of the total donation may be made to an advocacy organization.

As part of the Placed-in-Service process the Applicant must provide the Commission with:

- A written request to approve a donation to a specific Nonprofit Organization.
- Certifications (in a form acceptable to the Commission) from both the Applicant/donor and the recipient confirming that the contribution will be made or received, respectively, without any favor, benefit, gift, or other consideration.
- A letter from the approved Nonprofit Organization acknowledging receipt of the proper contribution amount as well as a copy of the cancelled check from the transaction. The

letter must show receipt of the proper contribution amount, identify the low-income housing program, and specify how the funds will be used.

The Commission may grant exceptions on a case-by-case basis to projects that can demonstrate unique challenges due to capacity and/or location in meeting the full requirements of this section

6.20 Eventual Tenant Ownership

2 Points

Two points will be awarded to Projects that include units that are intended for eventual tenant ownership after the initial 15-year compliance period.

Eventual Tenant Ownership (ETO) is an option under the Tax Credit Program elected by the owner which allows the rental units financed under the program to be made available to residents for purchase as homeownership units after the end of the first 15-year compliance period. Post year 15, units are made available for sale under the conditions and requirements as outlined in the Lease Addendum and in compliance with the project's Conversion Plan and the Tax Credit Compliance Procedures Manual.

Applicants interested in ETO must review the 9% Housing Credit Program Eventual Tenant Ownership Guide for Property Owners and Residents for specific requirements and recommended practices. Applicants are required to have a pre-meeting to discuss their project and ETO obligations with Commission staff prior to submitting an application. It is recommended that owners reach out to Commission staff early to schedule a meeting and no later than 30 days before applying.

The Commission allows the election of points for ETO **only** on properties which are developed as Single Family, Townhomes or Duplexes with clear lot delineation to convert to homeownership. In addition, each unit must be assigned its own Building Identification Number (BIN) and separate legal descriptions for each unit, prior to closing.

Applicants interested in ETO must submit the required Conversion Plan Application Form and provide all the relevant documentation at the time of application. This form will allow the Commission to review how the owner intends to convert applicable units from rental units bound by the project's Regulatory Agreement to a unit available to be purchased by the resident. The conversion of units shall be in accordance with Section 42(i)(7) of the Code and the owner's Conversion Plan submitted in the application form and accepted by the Commission.

The documents and requirements mentioned in the above paragraphs are subject to change at any time. Please visit our website to find the most updated versions.

ETO Compliance Requirements:

As part of the owner's annual report submission each January 31st, the owner will be required to confirm in the Owner Annual Certification their compliance with the project's ETO Conversion Plan, commencing on the first anniversary of the date of the Regulatory Agreement. Commencing on the 13th anniversary, the owner must provide a detailed summary report describing its progress towards compliance with the Conversion Plan, including, but not limited to:

- The number of homeownership residents who intend to purchase their units after year 15

- Any materials in relation to ETO delivered from the owner to the residents
- Applicable information about homeownership education and counseling sessions (budget, financial, and maintenance/repair sessions) offered to the residents

Additionally, the owner is required to provide an ETO Lease Addendum to each resident detailing the specific provisions related to ETO for the property. See the 9% Housing Credit Program Eventual Tenant Ownership Guide for Property Owners and Residents for more guidance.

The Commission expects to receive all information and documentation in a timely manner reasonably requested by the Commission, its representatives, or designees throughout the Project Compliance Period. This includes but is not limited to all Certifications or other documentation as to the compliance of each Building in the Project with the terms of this policy, the Conversion Plan, the Low-Income Housing Tax Credit Compliance Manual, all applicable Tax Credit Laws, other requirements of the Commission, IRS, state, federal or local authorities.

The Owner must be familiar with and have read the Commission's Low Income Housing Tax Credit Compliance Procedures Manual section(s) specific to ETO and the 9% Housing Credit Program Eventual Tenant Ownership Guide for Property Owners and Residents.

6.21 Energy Efficiency Modeling

2 Points

To encourage building owners to make savings investments that optimize a building's energy efficiency, we are encouraging the use of energy modeling for **new construction**.

Two points will be awarded for projects that select Option #1 from ESDS Section 1.02 Advanced Tools. The selected consultant must be chosen from the Commission's approved roster of energy modeling consultants.

With the submittal of the tax credit application, the applicant must attach a commitment letter from the chosen energy consultant attesting they will join the project team and provide modeling early enough in the design process to inform design decision making. The letter must also detail if the sum of the multifamily, nonresidential, hotel, motel and dormitory floor areas will exceed 20,000 square feet and if so, include a written description and timeline sharing how the applicant intends to comply with the Clean Building Performance Standards enforced by the Department of Commerce. Those compliance requirements are:

- Benchmarking by measuring and tracking energy use in a building over time.
- Implementing an operations and maintenance program.
- Creating an energy management plan.

7 Credit Reservation and Carryover Allocation Requirements

Those projects selected by the Commission as eligible for Credit will be issued a Credit reservation and carryover allocation only if they meet the requirements set forth in this Chapter, the Application and the Program. The Credit reservation and carryover allocation is made pursuant to the terms of the Credit Reservation and Carryover Allocation Contract (RAC). The Commission will disqualify the

Project/Application and cancel the Credit reservation and carryover allocation for any project if any of these requirements are not met by the deadlines set by the Commission.

7.1 Credit Reservation and Carryover Allocation Contract (RAC)

The Applicant must execute the RAC in a timely manner. The Commission anticipates that the RAC will be distributed to Applicants no later than thirty days after the Commission's approval of the Project's Credit allocation. The Applicant must execute the RAC in the form provided by the Commission. Before the Commission will execute a RAC for a project, an Applicant must satisfy each of the following requirements:

7.1.1 Payment of Fifty Percent (50%) of the Reservation Fee

The Applicant must pay at least fifty percent (50%) of the reservation fee for the project when the RAC is signed by the Applicant and submitted to the Commission. The reservation fee is nonrefundable and nontransferable. The Applicant must pay the reservation fee with a business or personal check, a money order, or a cashier's check. Cash is not accepted. A RAC submitted with a check that is returned for insufficient funds will not be executed, and the project may be disqualified.

7.1.2 Feasibility and Viability Analysis

At the time of the carryover allocation and before signing the RAC, the Commission will perform a financial feasibility and viability analysis for each project (as described in Section 4.13 of these Policies). The Commission will advise the Applicant of documentation that must be submitted to allow the Commission to perform this analysis. The Commission may issue a carryover allocation to a project for an amount of Credit that is less than the amount requested in the Application (and set forth in the Commission's initial project approval), if the project does not qualify for such Credit amount based on the Commission's feasibility and viability analysis or for other reasons. Under no circumstances will the amount of the carryover allocation exceed the amount requested in the Application. The excess credit amount will be deemed automatically returned to the Commission and the Applicant will have no further right to the Credit. The Credit will be available, at the discretion of the Commission, for reservation and/or allocation to other qualified projects.

7.2 Equity Closing

The Applicant is required to give the Commission at least 30 days' notice of the scheduled Equity Closing. At least 10 days prior to the scheduled Equity Closing but after the general contractor bids have been received, the Applicant must submit the Project's final development budget, final sources of funds, and documentation to substantiate the final Credit pricing. Using the final budget, Commission staff will evaluate the balance of sources and uses and set the final Developer Fee (See Section 3.7 and 3.8).

The Applicant must enter into a Regulatory Agreement that applies to each building in the project (See Section 2.11). The Applicant is responsible for the drafting of a Priority Agreement that ensures the Commission's Regulatory Agreement is in first lien position as a restrictive covenant on the land and all improvements thereon. Both the Regulatory Agreement and Priority Agreement must be executed and recorded as part of the Equity Closing.

Once the Equity Closing is completed, the Applicant is responsible for ensuring that the Commission receives a copy of the final title report and the executed Limited Partnership or Limited Liability Company Agreement.

7.3 Carryover

The Applicant must meet each of the following requirements within 12 months of the date of the RAC. The Commission will endeavor to complete its review within 60 days of receipt of all requirements.

7.3.1 Ten Percent (10%) Carryover Test

The Applicant must demonstrate to the satisfaction of the Commission that it has incurred more than ten percent (10%) of the reasonably expected basis of the project, as required by Section 42(h)(1)(E) of the Code and Treasury Regulation 42.6. Specifically, the Applicant must certify to the Commission that it has fulfilled this requirement and must also submit a CPA's certification that satisfies the requirements of Treasury Regulation 42-6(c)(2).

The CPA's certification should itemize all the costs that have been incurred to satisfy the 10% requirement. If the Applicant is itemizing any portion of the developer fee or consultant fees for purposes of satisfying the 10% requirement, the certification must contain a detailed breakdown of the services performed by the developer and each consultant and the amount of the fees apportioned to each service. The Applicant must also submit a copy of all developer and consultant contracts as well as an itemized statement apportioning the fees earned to each service provided.

The Commission may require the Applicant to submit additional documentation of the costs reflected in the certifications and the Commission may limit or exclude certain costs if it cannot determine that they are reasonable and appropriate.

7.3.2 Payment of Balance of Reservation Fee

The Applicant must pay the balance of the reservation fee by the deadline in the RAC.

7.3.3 Election Regarding Calculation of Gross Rent Floor

If the Applicant desires to use the placed-in-service date of the building for purposes of calculating the gross rent floor under Section 42(g)(2)A of the Code and the Applicant did not make an effective election to do so as part of the RAC, the Applicant must affirmatively elect to use the placed-in- service date by giving written notice to the Commission. This notice should be received by the Commission no later than the date that the building is placed-in-service, otherwise the IRS will treat the gross rent floor as taking effect the date the Commission initially allocated Credit to the project.

7.4 Compliance With Code and Commission Requirements

The Applicant, each Principal, each member of the Development Team, each Related Party to the project owner, and the Project must follow any requirements of the Code and any terms, conditions, or obligations of the Tax Credit Program with respect to the project before being issued a RAC. Further, the Commission may choose not to issue a RAC if the Applicant, a principal or any member of the Development Team is in Noncompliance with any requirements under the Code and/or any terms, conditions, or obligations of the Tax Credit Program for any project. If the Commission decides to disqualify the project/Application and cancel the Credit reservation and carryover allocation, any Credit reserved to the project will be automatically returned to the Commission without further action of the parties and the Applicant will have no further right to such Credit. The Credit will be available for reservation and allocation to other qualified projects.

7.5 Extensions

The requirement for a Project to incur more than ten percent of the reasonably expected basis of the project, as required by Section 42(h)(1)(E) of the Code and Treasury Regulation 42.6, within 12 months of the execution of the RAC cannot be extended.

However, if the Applicant anticipates that it will be unable to submit all the Credit reservation and carryover allocation requirements on time, the Applicant may ask for an extension in writing no less than thirty (30) days in advance of the specified dates in the RAC.

The Applicant's request will only be considered if it has demonstrated a strong probability that documentation of the credit reservation and carryover allocation requirements will be fulfilled within the additional requested time. The Commission may or may not grant the Applicant's request for an extension.

8 Placed-In-Service Allocation Requirements

The Commission will accept and process Placed-In-Service documents and issue IRS Form 8609(s) throughout the year. However, a project owner must submit all Placed-In-Service documentation, including the Independent Certified Public Accountants Report ("Cost Certification") and the certificates of occupancy for each building in the project at least 90 days prior to when they expect to receive the IRS Form 8609(s).

8.1 Compliance Training

The Applicant's property management representative must attend a Commission Tax Credit compliance workshop or receive equivalent training by a Commission Portfolio Analyst by the earlier of:

- at least 120 days before the first building is placed-in-service; or
- prior to commencement of initial rent-up activities for the project. Certificates cannot be more than 18 months old by placed-in-service date.

If the Applicant's property management representative has attended a Commission Tax Credit compliance workshop within the 12 months before the placed-in-service date, the representative is not required to attend another workshop prior to commencement of the property's initial rent-up activities. "Property management representative" is defined as someone who will be working directly with the project on a regular basis from the point of initial rent-up onward. To keep staff trained on the latest compliance issues, owners should also send new staff to the first available tax credit compliance workshop and senior staff every three years.

8.2 Title Report

The Applicant must provide a copy of the current title evidence demonstrating that the Commission's Regulatory Agreement is in first lien position. For projects with recorded liens prior to the Commission's Regulatory Agreement, the project will need to subordinate those liens with the Commission's Subordination Agreement. The Title Report should reflect the recording of the Commission's Regulatory Agreement, Deeds of Trust, Subordination Agreements, and the legal description.

8.3 Property Management Agreement

The Applicant must provide an executed copy of the property management agreement or related documents. The agreement must include specific terms, conditions, and responsibilities. If the

Applicant has previously submitted a property management agreement and amended it; the Applicant must provide a copy of the agreement.

8.4 Long-Term Lease Covenant

If the Applicant has established a long-term lease in lieu of ownership, the Applicant must execute, notarize, and record an agreement between the Applicant and the owner of the land. The owner must agree to allow the Applicant to record the Regulatory Agreement as a restrictive covenant on the land and all improvements on it that is binding upon the current owner and any successors in interest to the owner.

8.5 Regulatory Agreement

The Applicant must confirm that all project specific information in the Regulatory Agreement accurately reflects the project as completed. If the project has changed, an amendment to the Regulatory Agreement must be executed, notarized and recorded in each county where the Regulatory Agreement was originally recorded.

8.6 Compliance with Code and Commission Requirements

Before the Commission will issue IRS Form 8609 to any building in a project, the project owner, each of the principals, each member of the Development Team, all Related Parties to the project owner and the project must be in compliance with any requirements the Code and the terms, conditions, or obligations of the Tax Credit Program with respect to the project. Further, the Commission may choose not to issue IRS Form 8609 for a building if the project owner, a principal, a member of the Development Team, or a Related Party to the Tax Credit project owner is in Noncompliance with respect to any project subject to the Tax Credit Program. In addition, the Commission may cancel any Credit reservation and carryover allocation for any Noncompliance, for example, the failure to pay any fee assessed by the Commission with respect to the project.

If the Commission decides to disqualify the project/Application and cancel the Credit reservation and/or the carryover allocation, the Credit will be available, at the discretion of the Commission, for reservation and/or allocation to other qualified projects.

8.7 Approval Of and Payment of Funds for Local Housing Needs

If the Applicant represented that it would provide funds for local housing needs, the Applicant must provide the Commission with a written request to approve a donation to a specific Nonprofit Organization that provides housing or housing-related services in the county where the project is located. The Applicant must provide the Commission with certifications (in a form acceptable to the Commission) from both the Applicant/donor and the recipient confirming that the contribution will be made or received, respectively, without any favor, benefit, gift, or other consideration. The Applicant must provide a letter from the approved Nonprofit Organization acknowledging receipt of the proper contribution amount as well as a copy of the cancelled check from the transaction. The letter must show receipt of the proper contribution amount, identify the low-income housing program, and specify how

the funds will be used. The amount of the donation cannot be included in the Project's Total Project Costs.

8.8 Program Requirements

All applicable Program requirements and disclosures set forth in Chapter 2 and the RAC and all applicable Program Limits must be met. All Allocation Criteria Commitments must be satisfied.

8.9 Occupancy Permit

The Applicant must get a certificate of occupancy or temporary certificate of occupancy for each building and provide a copy of each certificate to the Commission. The Applicant must place each building in service by the deadlines set by the Commission. Generally, a building will be deemed to be Placed-In-Service when it is issued a certificate of occupancy by a governmental permitting agency or as otherwise defined by the Code.

8.10 Final Cost Certification

The Applicant must provide a certification, addressed to the Commission, and prepared by an independent CPA, of the eligible basis of each building and, based on the Applicant sworn representations about the low-income use of each building, its qualified basis. The certifications must explicitly note if there are any common areas in a building or on the property and must identify which areas are included in eligible basis and which are not. The certifications must also list sources and uses of all funds for the project, for example, the proceeds from the sale of the Credit. The independent CPA's certification must be accompanied by executed copies of the developer agreement, each consultant contract, and an itemized statement earmarking the developer's fees and/or consultant fees earned for the services provided.

8.11 Partnership Agreement

If the Applicant is a partnership or a limited liability company, the Applicant must provide the most current Partnership Agreement.

8.12 Financing Documents

The Applicant must provide financing documents, if not previously submitted, for all loans or grants made to the project. For loans, a copy of the promissory note will fulfill this requirement.

8.13 Operating Pro Forma

The Applicant must provide a copy of a current 15-year operating pro forma for the project.

8.14 Evergreen Sustainable Development Standard

The Applicant must provide a copy of the Evergreen Final Architect Certification, ESDS Final Report, and all required backup documentation.

Projects financed through Commerce are not required to submit any additional materials at placed in service.

8.15 Housing for the Homeless

If the Project is subject to a Housing for the Homeless commitment, then the Applicant must provide a current Memorandum of Understanding (MOU) for each agency or organization that provides support

services. The MOU must define the roles and responsibilities of each entity, including the nature and scope of the duties for each.

9 Project Transfer or Assignment Requirement

Pursuant to the Commission's rules (WAC 262-01-130), Policies, and Regulatory Agreements, a transfer of an interest in a project requires Commission approval. A stated goal of the Commission's Tax Credit Program is to prefer projects that are affordable to the lowest income tenants for the longest period of time. Toward that end, the Commission will decide whether to approve a proposed transfer based on whether the proposed transfer will (1) promote satisfaction of all applicable regulatory and contractual obligations, and (2) further the Commission's priorities for LIHTC projects as set forth in WAC 262-01-130, including by increasing the likelihood the project will continue to serve the lowest income tenants for the longest period of time. This will be determined based on the totality of circumstances, including but not limited to the characteristics of the project, existing partners, and transferee.

Transferees are required to submit a short paragraph explaining how the proposed transfer satisfies the Commission's approval criteria and to complete a Financial Solvency and LIHTC History (FSLH) form as part of the transfer process. This form is designed to help the Commission determine whether the transferee is positioned and likely to support the Commission's stated goals. The Commission may pause, require additional certifications or information from a transferee, or disallow the transfer depending on what the FSLH or other documents reveal. Potential grounds for disallowing the transfer include but are not limited to:

Transferee has been part of a LIHTC ownership/project that subsequently was found by a court or administrative body to be in violation of a LIHTC statutory or regulatory requirement or covenant;

Transferee has been part of a LIHTC ownership/project that subsequently reduced the project's associated financial resources such that the project was not able to meet its planned capital needs;

Judicial or administrative finding against the Transferee of causing actionable harm to a LIHTC project or partner; committing fraud; or violating a LIHTC requirement or covenant.

9.1 Project Transfer or Assignments Requiring Commission Consent

A project transfer means any direct or indirect sale, contribution, assignment, lease, exchange, or other similar transfer of, or change in:

- an interest in the land, the Project, or any building;
- an ownership interest in the entity that is the Applicant or project owner (for example, a transfer of a partnership interest or, with respect to a limited liability company, a membership or managers' interest);
- the rights, title, or interest of the Applicant or project owner in any agreement in which the Commission and the Applicant or project owner are parties;
- the sale or transfer of, or change in, the interest of a limited partner (including the addition, removal, or withdrawal of a limited partner); or
- in the case of a limited liability company, the sale or transfer of, or change in, the interest of the investor member (unless the investor member actively participates in management of the company, such as in the case of a transfer of an investor member interest to a fund in which the investor member serves as the fund manager).

Only a few types of project transfers do not require the prior written consent of the Commission. They include:

- the grant of a security interest or lien junior to the interest of the Commission;
- the issuance, redemption, or transfer of stock or shares of a corporation that is not a closely held corporation;
- a sale or transfer of the interests in a fund or funds constituting the investor limited partner or member, so long as such sale or transfer does not result in a change of control of the fund or funds constituting the investor limited partner or member;
- a sale or transfer of the interests of the investor limited partner or member to implement the ownership arrangement initially agreed upon by the parties at the time of closing, including as a result of the involvement of a syndicator, such as a contemplated transfer of the investor interest to a syndicated fund identified at the closing of the transaction.

9.2 Process and Requirements for Obtaining the Commission's Consent

The first step in obtaining the Commission's written consent is to advise the Commission staff in writing of the Applicant's proposed project transfer or assignment. At a minimum, the Applicant should describe: (1) the name of the project; (2) the names of the project Applicant and/or the owner, the proposed transferor and transferee, and all other relevant parties; (3) a complete description of the proposed project transfer or assignment, including the proposed effective date; and (4) any special circumstances related to the proposed project transfer or assignment.

After receiving the Applicant's written request, the staff will advise the Applicant if Commission consent is necessary. If it is, the staff will require the short paragraph and Financial Solvency and LIHTC History form described above and will advise the Applicant of the Commission's process and conditions that must be satisfied in order to obtain the Commission's consent, including the payment of a nonrefundable transfer fee to the Commission.

Please see submittal instructions in Chapter 9 of the Tax Credit Compliance Procedures Manual.

If the Applicant made a Commitment to participate under the Credit Set-Aside category for Qualified Nonprofit Organizations, any project transfer or assignment must be such that the project continues to qualify for applicable Credit Set-Aside category.

9.3 Final Conditions to Consent by Commission

The Commission will indicate its consent to the proposed project transfer or assignment by executing and returning to the Applicant a certain "Agreement Regarding Transfer of Project Consent." The Applicant may not complete the proposed project transfer or assignment until the Commission has executed and returned this agreement to the Applicant and until the Applicant has performed or satisfied all other requirements and conditions established by the Commission. If a Regulatory Agreement has been recorded for the project, the "Agreement Regarding Transfer of Project

Interest" must be recorded in the office of the county auditor or recorder of each county where any building in the project is located.

Any project transfer or assignment made without the Commission's prior written consent (unless otherwise expressly permitted in this chapter) or otherwise in violation of the requirements or provisions of this chapter, the RAC, the Regulatory Agreement, or the Tax Credit Program will be:

- ineffective to relieve or release the transferor, the land, the project, and/or any building from the obligations and provisions of the Policies, the RAC, the Regulatory Agreement, and/or the Tax Credit Program;
- considered an event of default under the Application, the RAC, the Regulatory Agreement, and the Tax Credit Program, allowing the Commission to exercise any or all available remedies; and
- considered an event of Noncompliance that may result in the cancellation or invalidation of the reservation and/or allocation of Credit for the project and/or any building.

The indemnity and hold-harmless provisions of the RAC, the Regulatory Agreement or any other Tax Credit Program agreement by the Applicant and/or a successor-in-interest will survive the ending of such parties' interest in the project and will continue to be a personal obligation of such party.

10 Project Monitoring

Pursuant to the Qualified Allocation Plan and WAC 262-01-130(16), the Commission has established certain compliance monitoring requirements for the owners of projects. These requirements, described in the Qualified Allocation Plan and in a project's Regulatory Agreement, specify the requirements and process an owner must follow to make sure the project is in compliance with Section 42 of the Code and the Tax Credit Program. They also specify the process the Commission or its representatives will follow in monitoring for compliance with the provisions of Section 42 of the Code and the requirements of the Tax Credit Program, and in notifying the IRS of any Noncompliance.

Federal and state laws, together with Commission policies, governing the compliance monitoring are frequently amended. It is the responsibility of the owner to make sure its project complies throughout the Project Compliance Period.

10.1 Owner's Responsibilities and Requirements

The owner's responsibilities and obligations for maintaining project compliance are set forth in the Qualified Allocation Plan and the Regulatory Agreement. In addition, the Commission has prepared a Tax Credit Compliance Procedures Manual and Tax Credit Questions and Answers that govern how an owner and its agent(s) are to carry out their responsibilities and obligations for compliance with the Tax Credit Program. The Commission also provides Tax Credit compliance workshops throughout the year for owners, managers, and on-site managers to support compliance monitoring.

In addition to such other rights the Commission may exercise in connection with compliance monitoring, as a condition of participation in the Tax Credit Program a project owner agrees that the Commission may perform an on-site review of any building in the project, interview residents, review residents' applications and financial information, and review an owner's books and records relating to the project. A project owner must provide the Commission reasonable access to the project and its books and records to allow the Commission to perform compliance monitoring. In connection with this obligation, an owner must take all action as may be reasonably necessary to allow the Commission to inspect housing units occupied by residents.

The Commission will report events of Noncompliance (whether the Noncompliance relates to a violation of federal or state Tax Credit Program requirements) to the IRS regardless of whether the Noncompliance is corrected timely. Noncompliance may result in the loss and recapture of Credit, in addition to the Commission exercising its rights and remedies under the Policies, the RAC, the

Regulatory Agreement, the Tax Credit Program, and law. The procedures set forth for the Commission to report Noncompliance to the IRS are not intended to and will not limit or restrict any other rights and remedies available to the Commission under the Policies, the RAC, the Regulatory Agreement, the Tax Credit Program, or law.

11 Fee Schedule

The Commission has set the fee schedule listed below for the Tax Credit Program. The Commission may make additions or modifications to the fee schedule.

11.1 Application Fee – WAC 262-01-130(1) and (14)

The Application fee is the greater of:

- $26 per housing unit (based on the total housing units in the project, including both low- income and market rate housing units, but excluding any common area units); or
- $1,265.

The Application fee is nonrefundable and must be paid upon submission of the Application. A new Application fee must be paid each time a new Application is submitted, regardless of whether that Application is for the same building(s) or project.

11.2 Reservation Fee – WAC 262-01-130(14)

The reservation fee is:

- 9.50% of the total (i.e., first year) Credit reservation amount for a project that selects an Additional Low-Income Housing Commitment of at least 50% of the total low-income housing units at 50% or less of the area median gross income; or
- 12.53% of the total (i.e., first year) Credit reservation amount for any other project.

An Applicant must pay at least 50% of the reservation fee when the RAC is signed by the Applicant and submitted to the Commission, and the Applicant must pay the balance of the reservation fee by the deadline in the RAC. If the Commission does not receive the balance of the reservation fee within five business days of the deadline in the RAC, and the Commission determines that it will accept a late payment, the balance of the reservation fee must be accompanied by a late charge of 1.5% per month accruing from the RAC deadline.

The reservation fee is nonrefundable. If a RAC is canceled, the Commission will keep the entire reservation fee. Also, no adjustment of the reservation fee will be made if the final Credit allocated to a project is less than the Credit reserved to it.

11.3 Annual Compliance Monitoring Fee – WAC 262-01-130(14)

The Commission is required to monitor compliance of projects with applicable laws, regulations, and agreements. The annual compliance monitoring fee for projects placed-in-service after March 31, 2001, is $450 for projects with 10 or fewer low-income housing units and $45.00 per low-income housing unit for projects with 11 or more low-income housing units. These fees are nonrefundable. The annual compliance monitoring fee may be increased to cover increased compliance monitoring costs in the future.

If the first year of the credit period for a project begins with the taxable year when a building is placed-in-service, the owner must pay the annual compliance monitoring fee for the first Credit year for the entire project by the deadline in the RAC, and in any event no later than the first Monday in November of the year that the first building is placed-in-service.

The full annual compliance monitoring fee must be paid annually by the Commission deadline. The current deadline for the full fee for all projects is January 31 of each year, although the Commission may change the date. If the full fee is not paid within 30 days and the Commission determines that it will accept a late payment, the payment must be accompanied by a late fee of 1.5% per month on any unpaid amounts.

The full fee is due for a project when it is placed-in-service and is subject to compliance monitoring for a given year, regardless of the number of days a project is subject to compliance within a given year.

11.4 Transfer Fee – WAC 262-01-130(13) and (14)

A transfer fee applies to any project transfer or assignment occurring after an application is submitted The fee is not refundable. The Commission's transfer fee schedule is outlined in Chapter 9 of the Tax Credit Compliance Procedures Manual and is subject to change. Commission staff do not review an Applicant/Owner's request for a transfer until the Commission reviews the transfer fee.

11.5 Disqualification, Cancellation, Notification to IRS of Noncompliance, and Debarment

If an Applicant or project owner fails to pay any Tax Credit Program fee on time and in full, the Commission may disqualify the project and Application, cancel the Credit reservation and carryover allocation, assess a late charge, report the Noncompliance to the IRS, or prevent the Applicant, project owner, and parties associated with the project from any participation in the Tax Credit Program pursuant to the debarment rules found in WAC 262-03-040.

12 Decisions and Reviews

The MHCF Director is responsible for determining whether a project meets the Program Limits in Chapter 3, the Minimum Threshold Requirements set forth in Chapter 4, and whether the project qualifies for an award of Allocation Criteria points as set forth in Chapter 6 and the Application. Any person who has a question about this process, or who believes that the Policies have been violated or misapplied, should contact the MHCF Director and attempt to resolve the matter.

Following submission of the Application, the MHCF Director will notify an Applicant whether its project meets the Minimum Threshold Requirements and, if so, whether the project qualifies for the number of Allocation Criteria points awarded to the project. The notice may be given by any reasonable method as determined by the Commission, including posting the results on the Commission's website (www.wshfc.org) and notifying each Applicant by email that the results are so available. Except for extraordinary circumstances, the MHCF Director will not change a determination as to eligibility, qualification, satisfaction of conditions or requirements, or an award of Allocation Criteria points after posting the results.

The Applicant may request that the determination by the MHCF Director with respect to these matters be reviewed by the Executive Director or his designee using the procedures described below. The

Commission will generally not consider any complaint or argument about the MHCF Director's determinations that an Applicant could have raised through these review procedures if the Applicant has not sought and obtained such review.

12.1 Review By Executive Director

If an Applicant believes it has been treated unjustly by a determination that (and only that): (i) the project does not satisfy the Minimum Threshold Requirements or (ii) the project is not entitled to an award of Allocation Criteria points, the Applicant may ask the Executive Director to review that determination. To be considered, the request must be:

- In writing;
- Signed by the Applicant; and
- Received by the Executive Director no later than five business days after the Commission notifies the Applicant that the results are available.

A determination that a project does not meet the Minimum Threshold Requirements or does not qualify for an award of certain allocation Criteria points, may be reviewed only if the Applicant can show that:

- The MHCF Director erred in applying the Policies to the Applicant's project, or
- Extraordinary circumstances exist such that:
    - It is unreasonable and unjust to apply the Policies to the project, and
    - Making an exception will not detract from the integrity and fairness of the Tax Credit Program.

An Applicant may seek a review only with respect to the determination or award that has been made regarding the Applicant's project. No party may intervene or otherwise participate in another party's review. An Applicant may not challenge the ranking of its project relative to others. The deadlines in the Policies are not subject to review.

A request for review must state all objections to the MHCF Director's determination or award, give specific reasons for the contention that the MHCF Director erred or that extraordinary circumstances exist, and specify the desired remedy. The request must identify all information the Applicant wants the Executive Director to consider in the review. Although a request for review may include supporting documents, an Applicant may not use the review procedure to supplement the existing record.

The Executive Director (or the Executive Director's designee) will review each request for review based upon the Application and materials in the Commission's file for the project when the MHCF Director decided or award.

The Executive Director or designee may also investigate and talk to or meet with the Applicant. The Executive Director will grant relief only if the Applicant has met the burden of showing that the MHCF Director erred in applying the Policies to the Applicant's project, or that extraordinary circumstances exist such that applying the Policies as written to the project is unreasonable and unjust, and making an exception in this case will not detract from the integrity and fairness of the Program.

The Executive Director will issue a written decision within 10 business days after receiving a request for review or notify an Applicant within that period that more time is needed to respond.

12.2 Judicial Review

Judicial review of any decision of the Commission is governed by RCW 34.05.510 et seq. In accordance with RCW 34.05.534, any person seeking judicial review must first have exhausted administrative remedies.

12.3 Timing Of Reviews

The Commission administers the Tax Credit Program under strict deadlines set by the Internal Revenue Code. These deadlines may make it difficult or impossible to complete the review by the Executive Director. Any reviews that remain unresolved as of a carryover allocation or final allocation deadline set by the Code will be deemed of no practical importance.

This chapter does not apply to any decision made by the Commission relating to a project after the RAC is executed. The rights and remedies of the parties to that contract will be as set forth in the RAC.

13 Glossary

Note: The following definitions are used in the Policies and in other documents that relate to the Tax Credit Program. Capitalized terms in the Policies bear the meaning given them in the definitions in this Glossary.

The definitions in this Glossary may be amended by the Commission to comply with federal or state law. If there is a conflict between an Internal Revenue Code and a Tax Credit Program definition, restriction, or requirement, the more restrictive one will apply, as determined by the Commission.

Additional Low-Income Housing Commitment means the specified percentage of housing units that are both rent-restricted and occupied by residents whose household income is at or below the selected percentage of the area median gross income, which is at or below the level of the minimum low-income housing set-aside. The percentages refer to the Commitments made in the Application to receive Allocation Criteria points.

Additional Low-Income Housing Use Period means the number of years (commencing after the close of the compliance period) that an Applicant made a Commitment in the Application to maintain the low-income housing units and all the applicable Commitments made to receive Allocation Criteria points and to comply with all the terms and conditions of the Regulatory Agreement, as well as the requirements of Section 42 of the Code and the Tax Credit Program. The period of years refers to the applicable Commitment made in the Application to receive Allocation Criteria points.

Affiliated With means a relationship that permits a person to directly or indirectly, materially and unduly influence the policies and decisions of an organization or entity, regardless of whether the influence is exercised or merely exercisable. In the case of an individual, material and undue influence exercised or exercisable by the individual's family shall be taken into account. The Commission shall have the sole discretion to interpret and apply this definition in its broadest sense, and the Commission's determination shall be based on all relevant facts and circumstances. Unless determined otherwise by the Program Director, the following relationships are presumed to permit a person to materially and unduly influence the policies and decisions of an organization or entity:

- A single for-profit organization owns, directly or indirectly, 33 1/3 % or more of the total combined voting power of all classes of stock or membership interests of the Nonprofit

Organization; or 33 1/3% or more of the total number of shares or membership interests of all other classes of stock or interests of the Nonprofit Organization; or

- A single for-profit organization has the power, directly or indirectly, to elect 33 1/3% or more of the members of the board of directors (or similar governing body) of the Nonprofit Organization; or remove 33 1/3% or more of the members of the board of directors (or similar governing body) of the Nonprofit Organization; or
- 33 1/3% or more of the board of directors (or similar governing body) of the Nonprofit Organization are officers, directors, employees, or agents of a single for- profit organization.

For the purposes of the above, a for-profit "organization" may be a sole proprietorship or individual.

Allocation Criteria means the allocation criteria set forth in Chapter 6 and the Application used by the Commission to assess the degree to which a proposed project promotes the Commission's Housing Priorities set forth in Chapter 5.

Annual Authority means the total state Housing Tax Credit dollar amount that the Commission may allocate for any calendar year, equal to the state Housing Tax Credit ceiling. Total Annual Authority is comprised of the Per Capita Authority plus National Pool Credit plus Returned Credit less any credit forward committed in the previous year. Whether Annual Authority will be available in a given year depends on the status of federal legislation and the Commission's actions.

Applicant means the party that applies to the Commission for a Credit reservation and/or allocation, including its successors in interest.

Application means the Tax Credit Program Application and amendments thereto, if any, submitted by an Applicant for a project.

Certification Period means the 12-month period following the date that the Owner is required to give the Annual Certification in accordance with the reporting requirements of the Regulatory Agreement and Section 42(m) of the Code.

Code means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable temporary, proposed, and final Treasury Regulations, and Revenue Rulings and pronouncements issued or amended regarding it by the U.S. Department of the Treasury or IRS to the extent applicable to the project.

Combined Funder Application is an application for affordable multifamily housing development capital jointly developed and used by the State Department of Commerce, the Commission, King County, ARCH, and the City of Seattle.

Commission means the Washington State Housing Finance Commission, a public body corporation and politic in the State of Washington.

Commissioners means the eleven-member board of Commissioners of the Commission, composed of nine members appointed by the governor and two ex officio members.

Commitment means a representation or agreement by an Applicant in the Application that is binding upon the owner of a project throughout the project Compliance Period unless otherwise noted in the Policies, the Application, or agreements in connection with the Tax Credit Program.

Common Area means a facility or facilities expected to be used by the tenants and that can reasonably be associated with residential rental properties. Examples include but are not limited to parking areas, swimming pools, storage areas, and computer rooms. Common areas must be made available to all tenants in the property on a comparable basis. Tenants may be charged a separate fee for the use of any common areas not included in eligible basis. Tenants **cannot be charged a separate fee** for the use of any common areas included in eligible basis.

Common Area Unit is a unit that is not considered a residential rental unit. The unit is treated as a common area that is required by the project to support property operations. Common area units are to be used to house on-site employees, not LIHTC housing applicants. Under certain circumstances and with Commission pre-approval, a common area unit may be temporarily redesignated as a restricted unit. A common area unit cannot ever be used as a market rate unit.

Community Revitalization Plan means a plan that is (1) a published document, approved and adopted by a governing body, by ordinance, resolution, or other legal action; and (2) targets funds or tax incentives to specific geographic areas for either of the following: economic development, including economic related initiatives; and/or commercial/retail development, including infrastructure and community facility improvement.

Controlled By or In Control Of means any kind of control, direct or indirect, by means of which a person in fact controls an organization or another person, whether or not the control is legally enforceable and regardless of the method control is exercised or merely exercisable. In the case of an individual, control possessed by the individual's family shall be considered. The Commission shall have the sole discretion to interpret and apply this definition in its broadest sense and the Commission's determination shall be based on all relevant facts and circumstances.

Correction Period has the meaning set forth in Section 4.2.

Development Team means the Applicant, the developer, the project management consultant, the general contractor and includes all persons or organizations materially involved in the acquisition, construction, rehabilitation, development, or improvement of the project.

Disabilities means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, such as not being able to care for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, or learning.

Donation means the contribution of funds made to qualify for the Donation in Support of Local Housing Needs Allocation Criterion points.

Elderly Housing Commitment has the meaning set forth in Section 6.3.4 of the Policies.

Elderly Housing Project means a project that conforms to the Fair Housing Act, as amended, and:

- A project in which all housing units are intended for and solely occupied by residents who are 62 or older;
- A project in which all housing units are each intended and operated for occupancy by at least one resident who is 55 or older, and where at least 80% of the total housing units are in fact occupied by at least one resident who is 55 or older; or

- A project which is financed, constructed, and operated under the RD Section 515 program for the elderly or a HUD elderly program

Equity Closing is the date the Project closes on its Tax Credit partnership.

Equity Gap has the meaning set forth in the Application.

Executive Director means the Executive Director of the Commission.

Farm work means services relating to cultivating the soil, raising or harvesting, or in catching, netting, handling, planting, drying, packing, grading, storing, or in preserving in its unmanufactured state any agriculture or aquaculture commodity; or delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aqua cultural commodity; or working in a processing plant and directly handling agricultural or aqua cultural product.

Farmworker means a household whose Income is derived from farm work (as defined above) in an amount not less than $3,000 per year.

Farmworker Housing Commitment has the meaning set forth in 6.3.2 of the Policies.

Federally Assisted Building means any building that is substantially assisted, financed, or operated under Section 8; Section 221(d)(3) or Section 236 of the National Housing Act; or Section 515 of the Housing Act of 1949.

Forward Commitment of Credit means the reservation and/or allocation of credit of a portion of the Annual Authority available in a subsequent year to a qualified project during a calendar year when there is not enough Annual Authority available for that project.

Geographic Credit Pools has the meaning set forth in Section 5.2.2.

Higher Income Counties are Benton, Clark, Franklin, Island, King, Kitsap, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, and Whatcom counties for the purposed of the Additional Low- Income Housing Set-Aside Allocation Criterion.

Homeless has two meanings:

- The meaning set forth in the Stewart B. McKinney Homeless Assistance Act
- RCW 43.185C0.10(12): "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

Housing Commitment(s) for Priority Population means the Farmworker Housing Commitment, the Housing for Large Households Commitment, the Elderly Housing Commitment, the Housing for Persons with Disabilities Commitment and Housing for the Homeless Commitment.

Housing for Large Household Commitment has the meaning set forth in Section 6.3.3 of the Policies.

Housing for the Homeless Commitment has the meaning set forth in Section 6.3.1 of the Policies.

Housing for Persons with Disabilities Commitment has the meaning set forth in Section 6.3.5 of the Policies.

Housing Unit means a low-income housing unit or a market rate housing unit in a building that is available for rent or rented by residents. A common area unit is not a Housing Unit. "Total Housing Units" refers to all the low-income and market rate units in a Project unless the context clearly means all the Housing Units in a Building.

Identity of Interest means a financial, familial, or business relationship that permits less than arm's length transactions. For example: Related Parties; persons, entities, or organizations Affiliated with or Controlled by or In Control of another; existence of a reimbursement program or exchange of funds; common financial interests; common officers, directors, stockholders, or managers; or family relationships between officers, directors, or stockholders.

Intermediary Costs are expenses involved in selling the Credit to raise equity capital and include syndication fees, partnership organizational costs, and broker fees.

Investor and Lender Notice means the notice that must be included in any loan application, syndication agreement, offering circular, prospectus, or other information given to potential lenders or investors.

Large Household means a group of four or more income qualified residents who are not necessarily related and who live together in a low-income housing unit containing three or more bedrooms.

Lease Rider means the disclosure statement required by the Commission which is to be attached by the owner to each resident lease and rental agreement for all Low-Income Housing Units and all market rate housing units in a project. The Lease Rider describes in general the rights of the residents of a project.

Lower Income Counties are Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, Spokane, Stevens, Wahkiakum, Walla Walla, Whitman, and Yakima for the purposes of the Additional Low-Income Set-Aside Allocation Criterion.

Low-Income Housing Unit means a Housing Unit that meets the definition of a Qualified Low- Income Housing Unit. In addition, all Housing Units in the Additional Low-Income Housing Set- Aside are Low-Income Housing Units. Common area units are not included.

MHCF means the Multifamily Housing and Community Facilities Division of the Commission.

Metro Counties are Clark, Pierce, Snohomish, Spokane, and Whatcom Counties, grouped to create the Metro Geographic Credit Pool.

Minimum Threshold Requirements means the requirements that must be met by the Application deadline for a project to be considered for a Credit reservation and allocation, all as set forth in Chapter 4 of the Policies.

New Production Project is defined as new construction, the creation of new affordable units through the adaptive re-use of an existing non-residential building; or the conversion of existing market-rate units to use-restricted affordable units. A Rehabilitation project that does not meet the new vs. rehab unit percentage thresholds outlined in the Rehabilitation definition above (e.g., a project comprised of 40% rehabilitated units and 60% new construction units) is considered a New Production Project.

Noncompliance means a failure to observe or perform any covenant, condition or term of any agreement between the Applicant or project owner and the Commission, or failure to meet the requirements of Section 42 of the Code, the Policies, or the Tax Credit Program.

Non-Metro Counties are Adams, Asotin, Benton, Chelan, Clallam, Columbia, Cowlitz, Douglas, Franklin, Ferry, Garfield, Grant, Grays Harbor, Island, Jefferson, Kitsap, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Stevens, Thurston, Wahkiakum, Walla Walla, Whitman, and Yakima Counties, grouped to create the Non-Metro Geographic Credit Pool.

Nonprofit Organization means an organization organized and operated exclusively for Charitable Purposes and that is tax-exempt under Section 501(a) of the Code. Examples of these are organizations described in Sections 501(c)(3) and 501(c)(4) of the Code. A Nonprofit Organization also includes public housing authorities, public development corporations, Tribes, and Tribally Designated Housing Entities.

Placed-In-Service Allocation Requirements means the terms, conditions, obligations, and restrictions of the Tax Credit Program that are in the RAC that must be satisfied for a project to receive an allocation and for the Commission to issue IRS Form 8609.

Permanent Supportive Housing is defined under RCW 36.70A.030(19) as follows:

> subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admission practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter **59.18** RCW.

Principal(s) means

- with respect to a project owned by a partnership, the partners;
- with respect to a project owned by a limited liability company, the members and managers; and
- with respect to a closely held corporation, the shareholders.

Program Limits has the meaning set forth in Chapter 3 of the Policies, that is, the limits established by the Commission and set forth in Chapter 3 to be used for selecting projects for Credit reservations and allocations.

Project Compliance Period means the period beginning with the year a building in a project is placed- in-service and continuing until the latest of the following periods for each building in the project:

- The compliance period;
- The extended low-income housing use period;
- The Additional Low-Income Housing Use Period; or
- The Three-Year Period.

Qualified Allocation Plan means the plan adopted by the Commission pursuant to Internal Revenue Code Section 42(m)(1)(B), as more fully described in Chapter 1 of the Policies.

Qualified Nonprofit Organization means a nonprofit organization described in Section 501(c)(3) or Section 501(c)(4) of the Code or that is tax-exempt under Section 501(a) of the Code and that is determined by the Commission not to be Affiliated With or Controlled By a for-profit organization, entity, or individual.

RAC means the Credit Reservation and Carryover Allocation Contract.

Regulatory Agreement means the Commission's Regulatory Agreement and amendments thereto, if any, that is required to be executed by the owner and recorded in first lien position. See Section 2.11 for a discussion of the Regulatory Agreement.

A **Rehabilitation Project** is defined as existing use-restricted housing that consists of the rehabilitation of 80% or more of the housing units that exist in the Project prior to rehabilitation. The number of rehabilitated units must be 75% or more of the total units in the project.

Related Buyer or Related Seller has the meaning set forth in Section 3.7.

Related Party means:

1) the brothers, sisters, spouse, ancestors, and direct descendants of a person;
2) a person and corporation where that person owns more than 50% in value of the outstanding stock of that corporation;
3) two or more corporations that are connected through stock ownership with a common parent with stock possessing:
    a) at least 50% of the total combined voting power of all classes that can vote, or
    b) at least 50% of the total value of shares of all classes of stock of each of the corporations, or
    c) at least 50% percent of the total value of shares of all classes of stock of at least one of the other corporations,
    d) excluding in computing that voting power or value stock owned directly by the other corporation;
4) a grantor and fiduciary of any trust;
5) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
6) a fiduciary of a trust and a beneficiary of that trust;
7) a fiduciary of a trust and a corporation where more than 50% in value of the outstanding stock is owned by or for the trust or by or for a person who is a grantor of the trust;
8) a person or organization and an organization that is tax-exempt under Section 501(a) of the Code and that is Affiliated with or Controlled By that person or the person's family members or by that organization;
9) a corporation and a partnership, limited liability company, or joint venture if the same persons own more than:
    a) 50% in value of the outstanding stock of the corporation; and
    b) 50% of the capital interest or the profits' interest in the partnership, limited liability company, or joint venture;

10) one S corporation and another S corporation if the same persons own more than 50% in value of the outstanding stock of each corporation;
11) an S corporation and a C corporation, if the same persons own more than 50% in value of the outstanding stock of each corporation;
12) a partnership, limited liability company, or joint venture and a person or organization owning more than 50% of the capital interest or the profits' interest in that partnership, limited liability company, or joint venture; or
13) two partnerships, limited liability companies, or joint ventures, or a combination thereof, where the same person or organization owns more than 50% of the capital interests or profits' interests.

For purposes of 1) through 13) above, the constructive ownership provisions of Section 267 of the Code apply.

Reservation and Carryover Allocation Requirements means the terms, conditions, obligations, and restrictions of the Tax Credit Program, the RAC, together with the satisfaction of the requirements under Section 42(h)(I)(E) and/or Section 42(h)(I)(F) of the Code and Treasury Regulation Section 1.42-6.

Rules means those rules adopted by the Commission and codified in Washington Administration Code 262-01-130 governing the Tax Credit Program.

Special Needs Housing Commitment(s) has the same meaning as Housing Commitment for Priority Populations.

Tax Credit Factor means the factor selected by the Applicant that represents, on a percentage basis, the value of the tax Credit dollar amounts available for Total Project Costs.

Tax Credit Program means the Commission's program for awarding, reserving and allocating Credit and monitoring projects for compliance with the Tax Credit Program and Section 42 of the Code, as set forth in the QAP, the Rules, the Policies, and the Commission's agreements, contracts, manuals, guides and documents.

Total Project Costs means the total costs incurred in acquiring and developing the project as set forth in the proposed budget in the Application and/or in an Independent CPA's report of sources and uses of funds given to the Commission.

Transient/Transient Basis means a housing unit that does not have a minimum initial lease term of six months or that does not meet the definition of Transitional Housing. A single-room occupancy unit shall not be treated as used on a Transient Basis merely because it is rented on a month-by-month basis.

Transitional Housing means a housing unit that contains sleeping accommodations, kitchen and bathroom facilities and is located in a building that is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months; and where a governmental body or Qualified Nonprofit Organization provides those individuals with temporary housing and supportive services to assist them in finding and keeping permanent housing.