**2024 Carryover Allocation Agreement (CAA) Questionnaire**

***TDHCA requires this questionnaire to complete the CAA. Please email the completed questionnaire to*** ben.sheppard@tdhca.state.tx.us ***no later than Friday, September 13, 2024.***

Enter “N” if information is not applicable. If information is applicable (e.g., “first year of credit period” and “EIN”) but unavailable, your email conveying this questionnaire should explain why and state the expected date of availability.

The subject 2024 Application number is      , and the development is named      .

The following response must include any carryover allocation or Form 8609 issued from 1986 forward, even if the affordability period for such allocation has expired. All or some of the buildings in the subject development received an allocation of tax credits (HTCs) in a previous year under the following development number      .

The BINs of this previous allocation were TX-     -      through TX-     -     .

State the site’s prospective address or location below. If the address is uncertain, describe the site’s location, with precision, according to all of the following guidelines:

* Identify site’s location on its roadway as “NS” for north side, “SES” for southeast side, “NEC” for northeast corner, or “wraps NEC” if site surrounds but does not include a corner, etc. Always specify the site’s location in terms of its road frontage and distance from the nearest intersection or mapped landmark, e.g., railroad, creek/river, school campus driveway, etc., to the nearest point of the site’s ROW frontage. Only if the site does not have frontage on an existing road, use less specific descriptors, such as “NEQ” for the northeast quadrant of an intersection, etc.
* State the block number of the site, but only if it is known with certainty.
* **IMPORTANT**: If the address number or block number are not known with certainty or if there is more than one block number between intersections, state the distance in feet, blocks or fractional miles, and direction (i.e., N, S, NE, etc.), to the nearest intersecting ROW or mapped landmark (e.g., river, railroad, etc.).

State the mailing address or describe the location as instructed above:      . State each of the following: City:      , ZIP:      , **County**:      .

State the name of the Development Owner exactly as spelled and punctuated in its registration with the applicable secretary of state:      . State the annual amount of the 2024 HTC award:      . State the total reasonably expected basis (TREB) as of December 31, 2026, after reading the addendum to this questionnaire and **based on consultation with your tax advisor**. TREB is:      .

Expected first year of credit period (response is required):      . If earlier than 2026, explain how this will be accomplished (response is required):

Check this box if your award was based on a 30% increase in basis in the TDHCA underwriting report: [ ]

**Elections to fix the applicable percentage (AP) cannot be made unless the published rate for the month of election exceeds 9% or 4%** as applicable. Since 2008, §42(b)(2) has fixed the AP for non-federally assisted buildings as no less than 9%. Since 2020, §42(b)(3) has fixed the AP for all other buildings as no less than 4%. If the published APs for the month that TDHCA will execute the CAA exceed 9% or 4%, you may notify staff that you wish to fix the AP as the AP of such month. In general, TDHCA executes CAAs in December.

**For an application in the Nonprofit Set-Aside enter the name of the nonprofit organization exactly as registered (punctuated, etc.) with the secretary of state of the state where the nonprofit organization was organized:**      .

Provide the signature block for the CAA, below. **Only one person should sign the CAA**. Organization names must exactly match the spelling, punctuation, etc., of names registered with the secretary of state of the state where formed. MFP staff will seek filing information on the Texas SOS websites to document signature authority. **Organizations formed in foreign states must be documented by submission of the current record from the foreign state SOS website showing that such organizations are formed and active.**

This is the format for signature blocks:

**NAME OF OWNER,** a Texas limited partnership

By: NAME OF GENERAL PARTNER, a Texas limited liability company, its general partner

By: NAME OF MEMBER OF GENERAL PARTNER, a Texas limited liability company, its managing member

By:

Name, Title

Using the format above, indicate the signature block below. It is not necessary to bold or indent the names. The space will expand to contain your input.

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|       |

EIN/TIN (employer identification number) of Development Owner (not the GP) is required now:

State the Development Owner’s full address below. PO boxes are not acceptable addresses.

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| --- |
| Street # & name incl. St, Ave, etc., suite #:       |
| City, state abbreviation, and zip code:       |

Owner (person):       Email:       Phn/Ext:

Contact #1:       Email:       Phn/Ext:

Contact #2:       Email:       Phn/Ext:

**Do not submit requests for extensions, amendments or ownership changes in the carryover submission package. These requests must be submitted as separate packages. Submit such requests after the commitment notice is processed but before submitting the carryover package**. Note that changes in financing, development costs and expenses generally are not amendments unless there is an effect on scoring or threshold requirements. Changes in the Developer or Guarantor are amendments. Changes in Development Owners require approval or acknowledgement but generally are not amendments. Place an x in the applicable box if you expect to submit a request for an extension [ ] , ownership change [ ] , or amendment [ ] .

The CAA document is not posted on the website. Department staff will email CAAs to the Development Owners with development-specific information completed. These emails will be from DocuSign.

Regarding the Determination of Total Reasonably Expected Basis (TREB)

Total reasonably expected basis (TREB) must be sufficient to justify the amount of the tax credit award that is indicated by the eligible basis (EB) calculation in the “Development Cost / Itemized Basis” table (DC/IB) of the TDHCA underwriting report. In relation to the DC/IB, TREB cannot be lower than the unadjusted EB plus the acquisition cost of land and buildings**,** including **closing costs**, associated **legal fees**, and **demolition cost.** Buildings that will be demolished have no acquisition basis, but their demolition cost is generally part of the basis in land (IRS Publication 551 [7/2011]). **Ground leases** require informed consideration because **capitalizing** these leases and including them in TREB is frequently the required tax treatment. Because the DC/IB may include TDHCA underwriting limits on EB that do not apply to TREB, TREB will typically be substantially higher than acquisition costs plus EB. Some of these underwriting limits are more apparent in the Development Cost Schedule (DCS) than the DC/IB. They may be reflected in **Voluntary Eligible Building Costs** or **Voluntary Eligible “Hard Costs,”** and the EB components of **Contingency**, **Contractor Fees** and **Developer Fees**. In addition, underwriting constraints may affect “**Commercial Space Costs**,”“**Carports and/or Garages**,” and “**Structured Parking.**” However, these three items, in their entirety, not only the EB portions, must always be included in TREB. Generally, the entire cost on the “Subtotal Building Costs” line of the Development Cost Schedule should be included in TREB. In addition, some types of Off-site Costs should be included in TREB. All Soft Costs except Marketing might be part of TREB. If the development involves rehabilitation and there are acquisition costs as well as rehabilitation costs, these costs might be part of taxpayer’s basis and includible in TREB, even if they cannot be claimed as acquisition eligible basis. On the other hand, nothing that comes after Total Housing Development Costs in an application’s DCS is a concern of TREB. Therefore, the high cost area adjustment and applicable fraction have no bearing on TREB.

When considering TREB with respect to the DC/IB, the evaluation generally should be based on the same side of the DC/IB that REA used to determine the amount of tax credits indicated by the eligible basis calculation. The applicable side can be determined from the bottom line of the DC/IB. If the bottom line states, “Applicant’s Uses are within 5% of TDHCA Estimate,” the applicant side of the DC/IB is applicable. If the statement, “Total Housing Development Costs Based on 3rd Party SCR/CNA,” is present at the bottom of the DC/IB, the TDHCA Cost / Basis Items side of the DC/IB is applicable. The side of the DC/IB that is applicable can be confirmed by determining which of the side-by-side figures immediately above the “Total Housing Development Costs” figure at the bottom of the DC/IB is the same number as “Total Housing Development Costs.” If “Total Housing Development Costs” corresponds to the applicant-side figure immediately above it, the eligible basis calculation generally is based on the “applicant” side of the DC/IB. If the underwritten cost is the same as the figure on the “TDHCA” side of the spreadsheet, the eligible basis calculation of tax credits is generally based on the TDHCA side of the spreadsheet. All of the foregoing can be confirmed on the next page of the underwriting report by working backward from the “Eligible Basis” “Method” amount of “Annual Credits” under “Annual Credit Calculation Based on Applicant Basis” (or “Annual Credit Calculation Based on TDHCA Basis”) in the second table from the top on the left side of the page.

**Multifamily staff’s evaluation of TREB**:To evaluate the reasonableness of an Owner’s TREB as stated on the first page of this questionnaire, staff will look to the applicable side of the DC/IB, as described above, starting with the Total Housing Development Cost (Unadjusted Basis) line of the Total Costs (not EB) column. From the total cost stated on this line, staff will subtract the amounts in the Total Costs column for Off-Sites, Soft Costs, Financing, and Reserves. Then staff will add the amounts in the Eligible Basis column for Off-Sites, Soft Costs, and Financing. The result of this calculation generally will reflect the sum of the acquisition costs and depreciable costs of development, unaffected by REA’s underwriting limits on EB (e.g., relating to voluntary basis, Contingency, Contractor Fees, Developer Fee, garages/carports/storage that require payment in addition to the base rent, etc.). Staff may choose to use the greater of the Applicant side or TDHCA side land value and closing costs (depending on the facts of the case under review). **Consult your tax advisor about the TREB that you will state in the Carryover Allocation Agreement (CAA) and be prepared to provide authoritative support for your number. A TREB that cannot be supported can invalidate the carryover allocation.**

**Regarding Electing to Fix the Applicable Percentage**

**The applicable percentage cannot be fixed by an election unless the applicable percentage that is published for the month that TDHCA executes the carryover allocation agreement is greater than 9% for non-federally subsidized new buildings or 4% for all others.** Section 42(b)(2) mandates that the applicable percentage for non-federally subsidized new buildings “shall not be less than 9 percent”. Section 42(b)(3) mandates that the applicable percentage for buildings not covered by §42(b)(2) “shall not be less than 4 percent”. Whether an election is made to fix the applicable percentage in the month that TDHCA executes the carryover allocation agreement (CAA) or not, the 9% and 4% minimums set by §42(b)(2) and §42(b)(3) apply. However, under §42(a)(1)(A) “an election, once made, shall be irrevocable”. Therefore, an election in the CAA, might preclude using the applicable percentage that will be effective in the month of placement in service. Applicable percentages are published as Revenue Rulings late in the month that precedes the month for which the published rates are effective. CAAs are typically executed by TDHCA in December.

SPECIAL RULES FOR ELECTIONS: Elections in the CAA require that the owner and the Department execute and **notarize** the CAA in the same month. Typically, the requirements of staff review of the commitment and carryover packages mean that the CAA will be executed in December. This means that if an election to fix the applicable percentage is to be made, a CAA containing an “X” in the election box and a block for notary acknowledgement must be requested from the Department in time for all necessary actions to be performed. The CAA bearing the election and notary acknowledgement must be printed single-sided on paper, wet-signed by the owner and notary, and the original, wet-signed, paper document must be physically delivered to the Department’s Multifamily Finance Division no later than the second week of December so that the Department can execute and notarize the CAA by December 31. If the December 31 deadline is not met, the allocation will be invalid. [See CFR §1.42-8(a)(1)(v) and §1.42-8(a)(3)(v)].