2024 ALLOCATION PLAN

National Housing Trust Fund

DRAFT Pending HUD Approval

NORTH DAKOTA housing FINANCE AGENCY

Planning and Housing Development Division
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EQUAL HOUSING OPPORTUNITY

DRAFT Pending HUD Approval

The Housing Trust Fund program contained herein is contingent upon HUD's allocation of formula grant amounts to the State of North Dakota as well as HUD's acceptance and approval of this Allocation Plan. Any approvals to and from the program are subject to such acceptance, approval, and allocation by HUD.

This recipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. Accommodations: Individuals who require accommodations including translated documents, an alternate format, or to request a copy of the plan may contact:

504 Coordinator:
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SECTION 1: INTRODUCTION

North Dakota Housing Finance Agency (NDHFA) is dedicated to maximizing housing opportunities for all North Dakotans and proactively addressing the housing needs of low- and moderate-income households.

The National Housing Trust Fund (HTF) is a permanent federal program, established as part of the Housing and Economic Recovery Act of 2008. The primary purpose of the HTF is to provide grants to state governments to increase and preserve the supply of affordable rental housing for extremely low- income (ELI) households, defined as those earning less than 30 percent of the area median income (AMI), including homeless families. The HTF is funded by an assessment on all business booked by Fannie Mae and Freddie Mac. Parties interested in pursuing HTF funding should refer to the Code of Federal Regulations, Title 24, Part 93 (24 CFR Part 93) for further guidance.

NDHFA is responsible for the administration of the HTF for the State of North Dakota, including the development of an Annual Allocation Plan (the Plan) which defines the process by which HTF funds are distributed to qualifying properties throughout the state. The Plan promotes the selection of those properties which serve to address the most crucial needs of the state within the priorities outlined in the North Dakota Consolidated Plan,[1] as well as the relevant strategies identified in North Dakota's 10-Year Plan to End Long Term Homelessness:[2]

North Dakota Consolidated Plan Housing Strategies

- Preserve and improve the quality and condition of the existing rental and owner-occupied housing stock through the rehabilitation of lower-income, disabled, and elderly households.
- Fund homeownership opportunities for lower-income residents.
- Provide funding to increase the supply of multifamily housing.

North Dakota Consolidated Plan Homeless Strategies

- Support emergency shelters and transitional housing for the homeless.
- Create additional transitional and permanent supportive housing facilities.
- Provide financial support to assist those at imminent risk of homelessness, including rapid rehousing.
- Fund homeless prevention activities, including data collection and prevention services.

North Dakota's 10-Year Plan to End Long Term Homelessness: Relevant Strategies

- Develop permanent supportive housing.
- Improve the ability to pay rent.
- Expand supportive services to wrap around housing.

The Plan was developed with input from our partners and stakeholders, solicited during a public comment period, and finalized through a public hearing process.

[1] North Dakota Department of Commerce, Division of Community Services, "2020-2024 North Dakota Consolidated Plan" (2020), available at https://www.communityservices.nd.gov/communitydevelopment/ConsolidatedPlan/

[2] North Dakota Interagency Council on Homelessness, "Housing the Homeless: North Dakota's 10-Year Plan to End Long Term Homelessness" (2018), available at https://www.ndhfa.org/wp-content/uploads/2020/07/HomelessPlan2018.pdf.

SECTION 2: DEFINITIONS

For purposes of the HTF program, the following definitions shall apply.

Broadband Infrastructure: Cables, fiber optics, wiring, or other permanent infrastructure, including wireless infrastructure, resulting in broadband capability meeting the Federal Communication Commission (FCC) definition in effect at the time the pre-construction estimates are generated.

Extremely Low-Income (ELI): The primary affordability target of the HTF, defined by the United States Department of Housing and Urban Development (HUD) as household income of not more than the greater of 30 percent of area median income (AMI) or the federal poverty line.

Grantee: The state entity that prepares the HTF Allocation Plan, receives the HTF dollars from HUD, and administers the HTF in the state. NDHFA is the HTF grantee for the State of North Dakota.

Grayfield: Previously developed property.

HTF-Assisted Unit: A housing unit which meets the HTF eligibility requirements and benefits from financial assistance from the HTF.

Multifamily: Any building or group of buildings totaling four or more permanent residential rental units operated as a single housing project. Initial leases must be for a term of at least six months.

Period of Affordability: Also, “affordability period.” Units in projects receiving HTF assistance will be required to maintain affordability to extremely low-income households for a period of at least 30 years.

Recipient: An entity which is awarded assistance from the HTF for the development, rehabilitation, or operation of multifamily rental property for the benefit of ELI households.

Rent Restricted: Rent that does not exceed the published Maximum HTF Rent Limit, which is based on an assumed 1.5 persons per bedroom (single person in an efficiency). Rental Assistance is allowed, so long as the tenant pays no more than 30 percent of their adjusted income and such tenant-paid portion does not exceed the published HTF rent limit.

Stabilized Occupancy: For purposes of the HTF, occupancy of at least 90 percent of the units in the property for a period of at least 90 days.

Total Development Cost: The all-in cost of developing the project including acquisition, pre-development costs, hard and soft construction or rehab costs, financing costs, developer fees, and reserve account capitalization.

SECTION 3: GENERAL PROVISIONS

Available HTF Funding

North Dakota is expected to receive the small-state allocation from the National Housing Trust Fund. HUD authorizes NDHFA to expend from the HTF up to a maximum of 10 percent of the state allocation for reasonable costs to administer the HTF program. The maximum amount of administrative costs NDHFA may expend from the HTF will be evaluated as to reasonableness each year during allocation plan development.

Eligible Recipient

The organization or agency that applies to NDHFA for funds to carry out the HTF project must be an eligible recipient. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; nonprofit organizations, and for-profit developers. Individuals are not eligible to receive direct assistance from the HTF.

Eligible recipients must demonstrate their familiarity with the requirements of other Federal, State, or local housing programs that may be used in conjunction with HTF funds to ensure compliance with all applicable requirements and regulations of such programs.

Eligible Uses
All applications for assistance through the HTF must contain a detailed description of the eligible activities to be conducted with HTF funds. Federal statute authorizes HTF funds to be used for the production, preservation, and rehabilitation of the ELI portion of a multifamily rental housing project.

The HTF can pay those development costs, identified in 24 CFR Part 93.201, associated with the new construction, rehabilitation, acquisition, or adaptive reuse of a multifamily housing project. Such development costs include acquisition, site improvements and development hard costs, related soft costs, demolition, financing costs, relocation assistance, and rent-up reserve capital (not to exceed 18 months).

Projects involving rehabilitation must perform a minimum of $15,000 in rehabilitation per unit. Please refer to the ND Housing Trust Fund Rehabilitation Standards document on our website at www.ndhfa.org for additional requirements of rehabilitation projects. HTF funds may not be used to refinance existing debt.

Ineligible Projects
Projects under construction are not eligible for consideration. HTF funds cannot be used for development hard costs or acquisition undertaken before the HTF funds are committed to the project in the form of an executed Written Agreement between the borrower and NDHFA.

Ineligible Uses of HTF Funds
HTF funds may not be used for:

- Laundry and community facilities which are not located in the same building as the housing.
- Providing assistance during the affordability period of a project previously assisted with HTF funds. Additional HTF funds may be committed to a project up to one year after project completion, but the total assistance is subject to the maximum per-unit HTF subsidy limit identified in the Recognizable Costs paragraph of this section.
- Payment of delinquent taxes, fees, or charges on properties to be assisted with HTF funds.
- Payment for political activities, advocacy, lobbying, counseling services, travel expenses (other than those eligible under 24 CFR Part 93.202(b)), or preparing or providing advice on tax returns.
- Payment for any cost not eligible under 24 CFR Parts 93.201 and 93.202.

Maximum HTF Award
Generally, net allocations from the HTF for a single eligible project will be limited to the lesser of a) the equity required to secure necessary project financing and make the project feasible; or b) up to 100 percent of the HTF-assisted units' share of actual development cost, subject to the following Recognizable Cost limits. Exceptions to these maximums may be made on a case-by-case basis at the sole discretion of NDHFA, to accomplish overall program goals, such as meeting the priorities outlined in the North Dakota Consolidated Plan.

Recognizable Costs
NDHFA has elected subsidy limits which are aligned with the state's HOME Investment Partnerships Program (HOME) limits.

Recognizable Costs for determining maximum HTF assistance will be calculated for a project by utilizing a HUD-approved Cost Allocation method.

The following are HOME Per-Unit Subsidy Limits, effective as of April 07, 2023. Upon HUD's publication of updated per-unit subsidy limits, NDHFA shall immediately implement the updated limits. Applicants will be subject to HUD's current in-effect limits.

Unit Type	***Greater ND***	***Fargo***
Efficiency/Studio	$ 173,011	$194,638
1 Bedroom	$ 198,331	$223,123
2 Bedroom	$ 241,176	$271,323
3 Bedroom	$ 312,005	$351,005
4 Bedroom	$ 342,482	$385,293

Costs exceeding these limits are not prohibited, however they will not be included in the calculation of maximum HTF assistance. The HTF is prohibited from investing in housing which is considered luxury. NDHFA reserves the right to reject an application if it determines that project costs are excessive.

Contractor Profit and Developer Fee
Combined builder profit, builder overhead, and general requirements may not exceed 14 percent of the hard construction costs. Developer fee may not exceed 15 percent of total development cost net of the developer fee, acquisition, and any permanent financing costs. On acquisition/rehabilitation or adaptive reuse projects, the developer fee for the acquisition portion may be a maximum of five percent. The fees of all parties with an Identity of Interest with the Developer in the property will be taken into consideration when calculating the Developer's maximum fees.

When the Developer and the Contractor are the same entity, in addition to the fee limits stated above, the combined sum of Developer Fee, Contractor Profit, Contractor Overhead, and General Requirements may not exceed 20 percent of the total development cost, less the Developer Fee.

Reserves
All properties will be required to maintain a replacement reserve account for the term of the HTF loan. The replacement reserve requirement for new construction properties and substantial rehabilitation properties (i.e. rehab exceeding $30,000 per unit) designed for seniors will be no less than $350 per unit per year, inflated at three percent annually. The requirement for all properties designed for families as well as rehabilitation developments with rehabilitation costs of $30,000 per unit or less will be no less than $400 per unit per year, inflated at three percent annually. This account shall not be used for routine maintenance and upkeep expenses or for operating expenses. Project owners shall be required to provide NDHFA with a record of all activity in the replacement reserve account during the prior fiscal year in conjunction with submission of the project's annual compliance monitoring materials. Furthermore, the Limited Partnership Agreement or Operating Agreement must require that the replacement reserves may only be used for the intended purpose of funding capital expenditures or replacement of building and site components and may not be distributed to owners or partners prior to the end of the HTF Loan.

All properties will also be required to establish and maintain, until the property has achieved a minimum of five years of stabilized operations, an operating reserve equal to a minimum of six (6) months of projected operating expenses, must-pay debt service payments, and annually required replacement reserve payments. This requirement can be met with an up-front cash reserve, a personal guarantee from the developer/general partner with a surety bond to stand behind the personal guarantee, or partnership documents specifying satisfactory establishment of an operating reserve.

Each reserve account identified in this section must be accounted for separately from all other project asset accounts and held at a federally insured financial institution or the Bank of North Dakota.

Maximum Tenant Income
All HTF funding must be used for the benefit of extremely low-income households, as verified through the "Part 5" definition of annual income. The Part 5 definition, found at Subpart F of 24 CFR Part 5, is used by a variety of programs, including LIHTC, HOME Investment Partnership, CDBG, and Section 8, as well as the North Dakota Housing Incentive Fund.

Income determination is performed at initial occupancy. Tenant self-certifications are allowed thereafter, however, income source documents must be verified at least once every six years. PBRA recertification rules prevail and will also be employed for all HTF-assisted units when applicable. The next-available-unit rule applies. HTF-assisted units must be floating, and not fixed to specific project units, to facilitate the next-available-unit rule. Tenants cannot be evicted for being over-income upon recertification.

SECTION 4: FEDERAL CROSS-CUTTING REQUIREMENTS

Environmental Review

The environmental effects of each project carried out with HTF funds must be assessed in accordance with the property standards at 24 CFR Part 93.301(f) for historic preservation, archaeological resources, farmland, airport zones, Coastal Barrier Resource System, coastal zone management, floodplains, wetlands, explosives and hazards (including a tanks search as part of the Phase I Environmental Site Assessment), contamination (including radon), noise (utilizing HUD's online Day/Night Noise Level Calculator), endangered species, wild and scenic rivers, safe drinking water, and sole source aquifers. HTF does not follow NEPA. Applicants must read 24 CFR Part 93.301(f), and HUD Notice CPD-16-14, found on the Housing Trust Fund webpage on www.ndhfa.org, for important information regarding HTF Environmental Review requirements.

Section 3

Section 3 of the Housing and Urban Development Act of 1968 requires, in the carrying out of any project assisted under the Act, to the greatest extent feasible, that opportunities for training and employment be given to lower-income persons residing in the Project's Neighborhood Service Area, and contracts for work in connection with the project be awarded to eligible business concerns. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3. Applicants must read 24 CFR Part 75, as well as NDHFA's Section 3 Guide, for important information regarding Section 3 requirements.

ADA and Section 504

Housing assisted with HTF funds must meet the accessibility requirements of 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973, and Titles II and III of the Americans with Disabilities Act, implemented at 28 CFR Parts 35 and 36, as applicable. "Covered multifamily dwellings," as defined at 24 CFR Part 100.201, must also meet the design and construction requirements at 24 CFR Part 100.205, which implements the Fair Housing Act.

Energy Efficiency

For new construction, HTF-assisted projects over three stories must comply with energy efficiency standards of the current edition of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1.

Uniform Relocation Act

The development of housing with HTF assistance is required to follow the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The Act applies to persons both temporarily and permanently relocated as a result of the HTF-assisted project. Applicants should see 24 CFR Part 93.352 for additional detail regarding the Uniform Relocation Act and NDHFA URA Policy Guide for requirements.

Lead Based Paint

Housing assisted with HTF funds is subject to the regulations at 24 CFR Part 35, subparts A, B, J, K, and R.

Affirmative Marketing

Each HTF recipient must adopt and follow Affirmative Fair Housing Marketing (AFHM) procedures and requirements for rental projects containing five or more HTF-assisted housing units. AFHM steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status, or disability. If NDHFA's written agreement with the project owner permits the rental housing project to limit tenant eligibility or to have a tenant preference in accordance with 24 CFR Part 93.303(d)(3), the recipient must have affirmative marketing procedures and requirements that apply in the context of the limited/preferred tenant eligibility for the project. NDHFA has published, on its website, an Affirmative Fair Housing Marketing Plan Guidance document which provides detailed and step-by-step direction on how to satisfy AFHM under the HTF program. Applicants should also see 24 CFR Part 93.350 for additional detail regarding the AFHM requirements of the HTF program.

Minimum Rehabilitation and Property Standards

HTF projects must follow property standards outlined in the Minimum Rehabilitation and Property Standards manual which includes all inspectable items and inspectable areas specified by HUD based on the HUD physical inspection procedures, known as the Uniform Physical Condition Standards (UPCS) prescribed by HUD pursuant to 24 CFR Part 5, subpart G. Rehabilitation projects, including adaptive reuse, must address any and all deficiencies identified in Section XV of the Minimum Rehabilitation and Property Standards manual as part of the project's scope of work so that, upon completion, all such deficiencies are cured. For projects which include rehabilitation of occupied housing, any life-threatening health and safety deficiencies, as defined in the Property Standards, must be addressed and corrected immediately. HUD is in the process of replacing UPCS with NSPIRE standards. NDHFA will update policies, procedures and plans accordingly and provide guidance to recipients upon release of further guidance. For more information review HUD NSPIRE Training.

Likewise, all deficiencies identified during annual compliance monitoring site visits of HTF-assisted properties must be cured. NDHFA will monitor property condition standards using the same process and procedures as for the federal Low-Income Housing Tax Credit Program which does not employ a scoring protocol or grade levels of deficiencies; all identified deficiencies must be corrected. Please refer to the Minimum Rehabilitation and Property Standards document for further details regarding inspectable areas, inspectable items, and observable deficiencies requiring correction.

Eminent Domain

No HTF funds may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, public use shall not be construed to include economic development that primarily benefits any private entity.

Davis-Bacon

The Davis-Bacon and Related Acts do not apply to the HTF program.

VAWA

All housing receiving HTF funds must comply with the provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). Additional information about VAWA 2013 can be found in a document in the HTF section of NDHFA's website entitled, "The Violence Against Women Act of 2013," published by the National Housing Law Project. All rental applicants and tenants should be provided with the following documents, templates which can be found on NDHFA's website: "Notice of Tenant Rights Under VAWA"; "Housing Provider's Emergency Transfer Plan Under VAWA"; "Certification of Domestic Violence"; and "Emergency Transfer Request."

FFATA

All recipients of HTF funds are required to comply with the Federal Funding Accountability and Transparency Act of 2006, as amended (FFATA). All applicants for HTF funding, as well as all contractors involved in the project construction, must have a Data Universal Number System (DUNS) number and be registered on the System for Award Management (SAM). Refer to https://fedgov.dnb.com/webform and www.sam.gov to obtain these DUNS and SAM registrations. Furthermore, recipients of HTF awards must report to NDHFA the names and compensation of the five most highly compensated officers in their organization, unless exempt under 2 CFR 170.110(b).

SECTION 5: APPLICATION PROCESS

Applicants must apply using NDHFA forms to receive a conditional commitment of financial assistance from the HTF program. The complete application must be received by 5:00 p.m., Central Time, on the closing date to be eligible for consideration in the funding round. The application rounds will be as follows until all HTF funds have been obligated:

Maximum Amount of HTF Assistance Available Per Application Closing Date

Round 1:	September 30, 2024	Up to $2,700,000
Round 2:	September 30, 2025	Balance of available HTF assistance, if any

Application Processing Fee

Remittance of a nonrefundable Application Processing Fee, payable to "North Dakota Housing Finance Agency," shall be received by the Agency prior to 5:00 p.m., CT, on any Application Closing Date for its corresponding application to be reviewed for eligibility and/or considered for funding within any competitive funding round.

A. For an application in which HTF is the only NDHFA-funded program being applied for in the Application Round, the Application Processing Fee shall be $500.

B. For an application in which more than one NDHFA-funded program is being applied for in the Application Round, the Application Processing Fee shall be $500 for the primary program and an additional $250 for any subsequent NDHFA-funded program being sought by the Applicant for the Project in the Application Round.

Threshold Requirements

When an application is received and its corresponding Application Processing Fee has been verified as collected by the Agency, the application shall be issued an application number and reviewed for eligibility to be scored. To be eligible for scoring, an application must be fully executed, fully completed, and satisfy each Threshold Requirement detailed within this section.

An applicant may request an exemption to the requirement of attaching a CNA to the application if there are other funding sources for the project which would, due to the timing, require additional costs or multiple reports. Any such exemption must be received from NDHFA prior to and included within the project's application. If granted such an exemption(s), the application will not be subject to a scoring deduction for the exempted requirement(s); however, the report(s) are required prior to the issuance of a Financial Award to the applicant.

A. **Application:** NDHFA's currently published Multifamily Application must be fully completed and executed. All applicable Exhibit's to the application must be fully completed and submitted.

B. **Demonstrated Site Control:** Evidence the Applicant, or Applicant's affiliate, currently has, and is contractually able to maintain throughout the entirety of the application period, site control of the entirety of the project's anticipated scope. An as-developed site plan must accompany the application.

C. **Zoning Availability:** Evidence of current appropriate zoning for the entire scope of the proposed project. If current zoning does not comply, verification from the jurisdiction-having municipal office verifying, at a minimum, a preliminary review of the project's plans and proposed land use complies with the zoning type being sought.

   Upon completion, the Project must meet all applicable State and local codes, ordinances, and requirements as applicable, or, in the absence of a State or local building code, the International Residential Code, International Building Code (as applicable to the type of structure), or the International Existing Building Code (for rehabilitation projects) of the International Code Council.

D. **Infrastructure and Utility Availability:** Evidence must be provided that appropriate infrastructure (i.e. roads, curb, gutter, etc.) and utilities (i.e. water, sewer, electricity, natural gas, Broadband Infrastructure, etc.) are in-place, or are able to be put in-place, and have adequate capacity to absorb the proposed project. Examples of evidence include letters from the applicable utility companies and the city official.

   Projects must install Broadband Infrastructure to all units and common area community rooms. A letter from the project architect confirming the inclusion of Broadband Infrastructure is within the project's plans shall be included.

   If all required infrastructure is not currently, or will not be available, on the proposed site(s), or on land directly adjacent to the proposed site(s), as of the Application Closing Date, a letter from the local jurisdiction must accompany the application confirming that no adequate infill opportunities exist within the community.

E. **Development Team:** Application must demonstrate, to the satisfaction of the Agency, all members of the team have the experience, ability, and financial capacity, in their respective roles, to develop, construct, own, operate, manage the project, and are familiar, and prepared to fully comply, with this program's requirements.

   9% or 4% LIHTC:

   1. Applicants new to LIHTCs must partner with a developer, sponsor, and or consultant included in a development team which received a LIHTC allocation from a federally approved allocator for a specific project and has placed that project in-service within the prior five years.
   2. An applicant who has not yet placed a LIHTC project in-service in North Dakota will be ineligible to submit a subsequent application for an additional project until the initial development is, at a minimum, under construction and proceeding on schedule.

   HOME or HTF:

   1. Application including the use of HOME and/or HTF funding shall include a copy of the Applicant's currently Active Registration on Sam.gov.
   2. Application should demonstrate the proposed team's experience with, or working knowledge of, all federal cross-cutting requirements including, but not limited to, Section 3, Women-owned and Minority-owned Business Enterprise contracting practices, Davis-Bacon and related acts, environmental review, Section 504 and ADA requirements, lead-based paint mitigation, Uniform Relocation Act and property condition requirements.

      Applications including any of the development team with limited experience in the development, construction, ownership, and/or management of an affordable Multifamily Project are encouraged to partner with an experienced developer, party, and/or sponsor. Agency may require the Applicant to provide historical financial statements as deemed necessary.

      An applicant who has not yet placed a project in-service in North Dakota will be ineligible to submit a subsequent application for an additional project until the initial development is, at a minimum, under construction and proceeding on schedule.

      Applicants who have been convicted of, entered an agreement for immunity from prosecution for or have pleaded guilty, including a plea of nolo contendere, to a crime of dishonesty, moral turpitude, fraud, bribery, payment of illegal gratuities, perjury, false statement, racketeering, blackmail, extortion, falsification, or destruction of records are ineligible. Applicants who have been debarred from any North Dakota program, other state program or any federal program are ineligible. Agency may determine Applicants having an Identity of Interest with any debarred entity are ineligible.

F. **Ownership:** The applicant must be either the owner or developer of the project. If the Applicant intends to sell or transfer the project within five (5) years from the application date, the Applicant must disclose the intent to sell or transfer the project and, if known, the names and backgrounds of those who will purchase or receive the project. Failure to provide this information may result in forfeiture of any outstanding Conditional Commitment or Financial Award.

   Funds are Awarded to the proposed project's Owner. A sale or transfer of a controlling ownership interest of the Owner prior to Project Completion requires an amended application, Agency approval and payment of a nonrefundable transfer fee of $2,500, or 1% of the HTF Award currently awarded to the Owner for the proposed project, whichever is greater. Payment of this fee does not oblige the Agency to approve the transfer.

G. **Financial Projections:** NDHFA's currently published Multifamily Application Exhibit A, must be submitted in Excel format. All applicable tabs must be fully completed.

The reasonableness of development costs and operating expenses, in relation to other similar developments, will be assessed when the Agency evaluates a project's financial feasibility.

The Agency reserves the right to decline any application if, during underwriting, the project is determined to have a Hard-Debt-Service Coverage Ratio, or Expense Coverage Ratio for a project which proposed no hard-debt, less than 1.10.

H. **Subsidies:** The application package must include a signed certification as to the full extent of any federal, state and/or local subsidy that are expected to apply to the project.

I. **Public Housing Waiting List:** The application package must include a copy of a written communication from the Applicant to the jurisdiction-having public housing authority (PHA) describing the proposed project. The Applicant's communication shall include a commitment to communicate project completion and work directly with the PHA during the proposed project's lease-up in an attempt to house households on PHA waitlist(s) and granting waitlisted households' priority in obtaining occupancy within the project.

J. **Housing Need:** Applications must include a comprehensive market study of the housing needs of low-income individuals in the market area to be served by the project. The market study should be completed at the Developer's, or affiliate of the Developer, expense by an acceptable disinterested party to the Agency.

The market study must demonstrate there is sufficient sustained demand in the market area to support the proposed development, and that the development of any additional affordable units will not have an adverse impact on the existing affordable units in the market area. The market study must have been completed within six (6) months of Application Close Date and must contain the National Council of Housing Market Analysts' (NCHMA) current model content standards unless the Agency authorizes deviation from these standards.

K. **Capital Needs Assessment:** A Capital Needs Assessment (CNA) must be submitted with all application packages involving rehabilitation, adaptive reuse, or acquisition of an existing building which will, in-whole or in-part, remain an asset of the project.

The CNA must be completed by a competent, independent third party acceptable to the Agency, such as a licensed architect and/or engineer. The assessment must include a site visit and a physical inspection of the interior and exterior of all units and structures, as well as an interview with available on-site property management and maintenance personnel to inquire about past repairs and improvements, pending repairs, and existing or chronic physical deficiencies.

The assessment must consider the presence of environmental hazards such as asbestos, lead paint and mold on the site. The assessment must include an opinion as to the proposed budget for recommended improvements and should identify critical building systems or components that have reached or exceeded their expected useful lives. If the remaining useful life of any component is less than fifty percent (50%) of the expected useful life, immediate rehabilitation will be required unless capitalized. If the remaining useful life is less than the Affordability Period, the application package must provide a practical way to finance the future replacement.

The assessment must also include a projection of recurring probable expenditures for significant systems and components impacting use and tenancy, which are not considered operation or maintenance expenses, to determine the appropriate replacement reserve deposits on a per unit per year basis. The assessment will examine and analyze the following:

1. Site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utilities and their lines; and
2. Structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system, and drainage; and

3. Interiors, including unit and common area finishes (i.e. carpeting, tile, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors; and
4. Mechanical systems, including plumbing and domestic hot water; HVAC, electrical, lighting fixtures, fire protection, and elevators.

Projects proposing the demolition and new construction replacement of existing housing must demonstrate the benefit of such activity over rehabilitation, including an opinion of costs of rehabilitation to assist the Agency in determining the cost savings and/or other benefits.

L. **Appraisal:** Applicant must provide a written acknowledgement confirming the applicant's requirement to provide an appraisal of the subject property associated to the application if any of the following are proposed or, prior to closing, include:
   1. Acquisition and/or equity contributions of real estate exceeding 15.00% of the proposed project's Total Development Costs.
   2. Any source of Project-Based Rental Subsidy.
      a. Projects proposing the acquisition of land held in a Tribal Trust and are proposing a source of Project-Based Rental Subsidy from HUD's Office of Native American Programs (ONAP) shall be exempt from producing an appraisal prior to equity closing so long as all necessary parties concur with the omission of an appraisal for purposes of any Subsidy Layering Analysis.

   If required, the appraisal shall be completed no longer than six (6) months prior to the project's closing date by a state-certified general real property appraiser and must support the total amount of acquisition cost presented within the Total Development Costs.

M. **USDA Financing:** An application proposing the inclusion of new or existing USDA debt must include written confirmation from the regional USDA officer which verifies any progress made on an initial transfer request and/or the approval of any proposed debt additional to the existing USDA debt, and any associated lien to the debt, proposed.

N. **Self-Scoring:** The applicant must provide a self-scoring narrative indicating the number of points being sought in each Scoring Category. The narrative should be brief but also explain the applicant's justification(s) for the points being sought.

Scoring Deductions

Applications with a Project location is within the same city as a Project which has scored higher and/or been selected in the current application round to receive HTF Funds prior to its application (Scoring Criteria L) shall receive a scoring deduction.

Applications failing to satisfy a Threshold Requirement as of the application deadline will be a 5-point scoring deduction for EACH unsatisfied Threshold Requirement and be given a reasonable amount of time to submit any missing items required to satisfy the Threshold Requirement(s).

Scoring Criteria

Each application meeting the threshold requirements will be reviewed and assigned points according to the following selection criteria. Representations made by applicants for which points are given will be binding and will be monitored through the annual compliance review process. Applications must achieve a minimum score of 85 points to be considered for funding. Based on ranking, projects will be selected for a conditional commitment. Once a property is selected, NDHFA will determine the amount of HTF to be awarded, which may not equal the amount requested in the application.

In the event of a tie between two or more projects when insufficient program funds remain to fund each one, the tie breaker will go to the project which best meets the Housing Strategies outlined in the current North Dakota Consolidated Plan in effect at the time of HTF application.

Serves Extremely Low-Income Households **Up to 50 points**

Awarded to properties with units both income and rent restricted for ELI households. Elections made in this category will be incorporated into the Land Use Restrictive Agreement and will be binding, at a minimum, for the term of the HTF loan.

1. 35% of total unit income and rent restricted at or below ELI..50 points
2. 30% of total unit income and rent restricted at or below ELI..40 points
3. 25% of total unit income and rent restricted at or below ELI..30 points
4. 20% of total unit income and rent restricted at or below ELI..20 points

For purposes of applying the ELI rent restriction under this category, an exception for exceeding the ELI rent may be granted for project-based rental assistance where it can be shown that additional rents are necessary to make the project feasible and that the tenant-paid portion of the rent will not exceed 30 percent of their household income nor the published HTF rent limit.

Use of LIHTCs **Up to 20 points**

Projects which have received or are applying for federal Low-Income Housing Tax Credits in a pending application round, will receive points under this category. Projects which applied for but are not awarded LIHTCs in the current pending application round are ineligible for points under this category.

1. Projects with an award of 4 percent LIHTCs ....20 points
2. Projects with an award of 9 percent LIHTCs ....10 points

Committed Non-Federal Leverage **Up to 20 points**

An applicant who provides signed, firm commitments for contributions or incentives from state or local government, private parties and/or philanthropic, religious, or charitable organizations, excluding entities with an identity of interest or those with a significant role in the property (e.g. contractors, accountants, architects, engineers, consultants, etc.), will receive points in this category. Not eligible as sources of leverage under this category are interest bearing loans to the project, LIHTCs, HRTCs, HOME, CDBG, NAHASDA, or any other federal source of funding. Also, not eligible as leverage under this category is project-based rental assistance which earns points in scoring category D.

1. Leverage of at least 50% of total development cost ....20 points
2. Leverage of at least 40% of total development cost ....15 points
3. Leverage of at least 30% of total development cost ....10 points
4. Leverage of at least 20% of total development cost ....5 points

Project-Based Rental Assistance **Up to 5 points**

Project has received binding commitments for federal, state, or local project-based rental assistance for all of the extremely low-income units in the project will receive 5 points.

Redevelopment and Revitalization **Up to 5 points**

1. The project is located on a site considered by NDHFA, in its sole discretion, to be grayfield in nature.
2. The project is in a city revitalization area established by resolution or other legal action by the city, and the development of the project contributes to a concerted community revitalization plan. For purposes of this Plan, a concerted community revitalization plan is defined as a locally approved revitalization plan targeting specific existing areas or neighborhoods within the community for housing and economic development including the infill new construction or rehabilitation of housing. To qualify, the plan must be officially adopted by the local governing body, identify a specific time period, apply only to a defined geographic area within the community, and specifically call for infill new construction or rehabilitation of affordable housing within the boundaries of the plan. Local housing needs surveys, consolidated

housing or economic development plans, short-term work plans, municipal zoning or land use plans, or plans which are so broad as to encompass the entire community or so narrow as to encompass only the project's subject property do not qualify under this definition.

3. The project is located in an Opportunity Zone, as defined in Code Section 1400Z-1.

Adaptive reuse projects are eligible for points under this category. Rehabilitation of existing habitable and occupied housing is not eligible for points under this category.

Tenant Support Coordinator **Up to 10 points**

Projects which are committed to supporting tenants with special needs affecting their long-term housing stability and which create an environment that encourages and provides service coordination may receive up to 10 points.

1. Tenant Support Coordinator
   Projects which provide, either through direct employment or by contract with an experienced third party, a dedicated Tenant Support Coordinator (TSC) for at least one hour per project unit per month will receive 5 points. The TSC would be required to develop and maintain working relationships with tenants in the project. The TSC's role is to increase the ability of all tenants to maintain stability and uphold lease obligations through the following: facilitating provision of supportive services by connecting tenants with appropriate providers, identifying needs for assistance, and educating tenants on available resources.
2. Tenant Support Coordinator and Medicaid-Approved Service Provider
   Projects which provide the TSC provisions in the preceding paragraph (1) and which also enter into a formal letter of intent with one or more qualified service agencies with demonstrated experience providing housing stability services consistent with the needs of the project's residents will receive 10 points. The service provider(s) must also be able to process for Medicaid reimbursement and provide their Medicaid biller number issued by the State of North Dakota. The letter of intent must be detailed regarding the suite of supports and services to be made available to tenants who need and want them.

Projects receiving points under this category must include tenant support coordination capable of the following, at a minimum:

- Support the person to understand and maintain income and benefits to retain housing.
  - Household budgeting and financial management.
  - Assistance in applying for benefits related to housing affordability.
  - Establishment of payee/guardian services as needed.
  - Assistance with the income recertification process.
  - Wealth and asset building initiatives.
- Support the building of natural housing supports and resources in the community.
  - Encouragement of community activity.
  - Facilitation of meetings with a tenant support team.
- Identify and prevent behaviors that may jeopardize continued housing.
  - Coordination with parole and probation requirements.
  - Collaboration with law enforcement (i.e. the creation of safety plans).
  - Training on lease compliance, household management and best practices of successful tenants.
- Promote health and wellbeing that enables tenants to retain housing.

- o Connecting tenants with health providers.
- o Assistance in securing and increasing employment.
- o Assistance in securing childcare.
- o Identifying educational opportunities in areas such as nutrition, education, and physical wellness.
- o Parenting supports.
- o Life coaching via peer support specialists.
- o Facilitating connections to Home and Community-Based Care services.

A tenant selection plan must be provided as part of the initial application for HTF assistance. The tenant selection plan must describe in detail how individuals and/or families with special needs will be identified, affirmatively marketed to, and assisted in renting units at the project.

Projects which received 10 points under this scoring category F will be required to submit, prior to HTF closing, a formal executed agreement with each provider identified in the letter(s) of intent.

Compliance monitoring activities will include:

- Confirmation of hiring or contracting with a TSC
- Confirmation of the provision of the services pledged at the time of initial application, if applicable.
- Review of marketing efforts targeted at special needs populations.

For purposes of this scoring category, tenants with special needs include individuals or families who:

- Suffer from serious or persistent mental illness.
- Suffer from substance use disorders.
- Have disabilities, including intellectual, physical, or developmental.
- Are experiencing long-term homelessness or are at significant risk of long-term homelessness.
- Are justice involved.
- Are frail elderly, defined as those 62 years of age or older, who are unable to perform one or more "activities of daily living" without help. Activities of daily living comprise walking, eating, bathing, grooming, dressing, transferring, and home management activities. Assisted living, or projects serving a similar purpose, are not eligible under this Plan.

Universal Design **Up to 17 points**

Applicants seeking Project Standards points are required to provide a written statement from the project's architect, verifying the architect has fully reviewed NDHFA's current Universal Design Standards and that 100% of the Project Standards will be implemented within the design of the proposed project.

1. All Project Standards implemented ....5 points
   Applicants seeking Unit Standards points are required to provide a written statement from the project's architect, verifying the architect has fully reviewed NDHFA's current Universal Design Standards and that 100% of the Unit Standards will be implemented within specific units the proposed project. The Applicant and architect shall specify which units are proposed to be these Universal Design Units.
2. Greater-than or equal to 10.00% but less than 15.00% of the project's total units......................3 points
3. Greater-than or equal to 15.00% but less than 20.00% of the project's total units......................6 points
4. Greater-than or equal to 20.00% but less than 25.00% of the project's total units......................9 points
5. One point for each Universal Design Unit which is two-bedroom or larger........................Up to 3 points

Design Standards **Up to 10 points**

1. Elevator in each residential building. ....10 points
2. A separate outside main entrance for each unit. ....10 points
   Projects may score points under only one Design Standard. Projects with multiple buildings must include any anticipated Design Standard, in which the applicant is seeking points, in all buildings.

Readiness to Proceed **Up to 25 points**
Applicants must provide a timeline for completion of the project. Points awarded in this category are based on the earliest achievable completion of the activity. Such things as letters of interest or commitment for all sources of project financing; ownership of the land; and availability of infrastructure will be considered in the award of points. Points will be awarded at the sole discretion of NDHFA in comparison to other projects competing in the application round.

Housing for Families **Up to 10 points**
Twenty percent (20%) or more of the HTF-assisted units identified in the application are three-bedroom or larger will receive 10 points.

Period of Affordability **Up to 1 point**
The minimum period of affordability for projects assisted by the HTF is 30 years. Projects which commit to affordability for a period of 31 years or longer will receive one point.

Geographic Diversity **5-point reduction**
Federal regulation places a priority on the use of HTF funding in a geographically diverse manner. Projects located in the same city as a project which has already been selected in the current HTF application round shall receive a scoring deduction of five points.

SECTION 6: SET-ASIDE

Native American Set-Aside
Ten percent (10%) of the state's HTF funding will be set aside for projects located within North Dakota Indian Reservations or on Tribal land, either held in trust or fee simple. If sufficient qualifying proposals on Indian Reservations or Tribal lands are not received by the close of the first application round, the unused set-aside funding will be included in the general pool of funding, eligible to be awarded to non-Native American proposals in accordance with this Plan. The Native American set-aside will only be available in the first application round, and not in subsequent application rounds, of each Plan year.

To be eligible for approval under this set-aside, applications must meet all requirements contained in this Plan, including all general provisions, federal cross-cutting requirements, threshold requirements, and minimum scoring.

SECTION 7: AWARD PROCESS

Proposals received by the due date will be reviewed, ranked, and communicated within an approximate 60-day timeframe. Successful proposals will be issued a Conditional Commitment of financial assistance from the HTF. During this timeframe, applicants will be required to reach certain benchmarks identified in NDHFA's conditional commitment letter, including completion of an environmental review. An extension of the conditional commitment period may be granted at the sole discretion of NDHFA. Upon satisfactory review of these items, a Financial Award agreement will be issued. Federal regulation requires that all HTF funds must be committed by NDHFA within 24 months and expended within five years of HUD's agreement with NDHFA.

Required monthly progress reports from financial award to HTF loan closing.
To ensure that HTF funding is conditionally committed to projects which are proceeding according to the schedule presented in the application, each applicant receiving an HTF financial award will be required to submit

monthly progress reports until closing of the HTF loan. The report must describe the applicant's actual progress to date together with an estimated timeline for future project activity.

Required quarterly progress reports from HTF loan closing to occupancy.
Commencing with closing of the HTF loan, the borrower must submit quarterly progress reports until the project has reached stabilized occupancy. The report must describe actual development progress to date together with a current development budget and estimated timeline for future activity and lease-up. Development costs which increase above the contingency listed in the HTF application must be disclosed in the progress reports along with an explanation as to how the gap is being filled. At NDHFA's discretion, information submitted with draw requests, such as site reports, may serve to satisfy the quarterly reporting requirement.

SECTION 8: ACCESS TO HTF FUNDS

Draws against an HTF financial award can be made for eligible costs incurred upon firm commitment of all other funding sources. A mortgage with recapture provisions, deed restriction, loan agreement, and promissory note (collectively, the Loan Documents) must be executed prior to release of any HTF funds. The deed restriction must be in a senior position to any foreclosable loan(s) on the property. The Loan Documents will detail the loan terms and affordability requirements, as well as any additional requirements particular to the project.

The borrower may request one or more draws of available HTF loan proceeds for payment or reimbursement of eligible costs incurred toward the development of the project. Draws are requested by submitting to NDHFA a completed HTF Draw Request form together with an ACH authorization, documentation supporting the expenses claimed, general contractor's sworn construction statement, architect's inspection or trip report, and either (1) conditional lien waivers for any general contractor or major subcontractor payments in the current draw as well as unconditional lien waivers for any general contractor and major subcontractor payments paid by the previous draw or (2) a date-down endorsement showing lien-free title. All disbursements are made by electronic funds transfer to the borrower's account or designated escrow agent.

Disbursement of up to 95 percent (95%) of the HTF loan proceeds may be made during construction of the project. A hold-back amount of five percent (5%) of the HTF loan proceeds will be retained until Project Completion. Disbursement of the hold-back amount will be made upon satisfaction of all post-closing conditions including but not limited to final sworn total development cost certification, certificate of occupancy, completion certification, final lien waivers, and executed loan or grant commitments for all other permanent funding sources.

SECTION 9: REPAYMENT OR RECAPTURE OF HTF FUNDS

All HTF awards will be structured as loans with a term matching the Applicant's committed-to Period of Affordability. Repayment terms will be based on cash flow and determined on a project-specific basis as necessary to achieve project feasibility. Recapture of HTF funds may occur if final total development costs are such that assistance provided by the HTF exceeds established program limits or exceeded that which was necessary to make the project financially feasible.

Income and rent restriction requirements will remain on the project for the Period of Affordability and will be enforced through a deed restriction on the land. In the event of a prepayment of the loan, the deed restriction will ensure the income and rent restrictions remain in place for the remainder of the HTF Period of Affordability.

A recapture of the HTF funds from the borrower will occur at any time during the term of the loan if the borrower fails to abide by the representations made in the application. In the event of recapture of the HTF funds, the deed restriction will remain in place for the remainder of the original term of the HTF loan.

SECTION 10: COMPLIANCE MONITORING

Owners of HTF-assisted properties must remain in compliance with program guidelines throughout the Period of Affordability. NDHFA will monitor all properties for compliance with HTF program requirements including those related to income and rent limits, cash flow, reserve accounts, insurance coverage, and property condition. Annual compliance monitoring will consist of a desk review of information provided by the project owner and/or a property inspection and review of documentation at the project location. A copy of the HOME and HTF Ongoing Compliance Monitoring Manual is available on the NDHFA website at www.ndhfa.org.

On an annual basis during the Period of Affordability, owners of HTF-assisted properties must provide, at a minimum, the following items to NDHFA:

- Certificates of Liability Insurance (ACORD 25) and Hazard Insurance (Acord 27 or 28) verifying coverages and NDFHA's interest as Mortgagee. Mortgagee clause MUST list the loan number and read as follows:

  Loan #
  North Dakota Housing Finance Agency
  Its Successors and/or Assigns
  2624 Vermont Avenue, PO Box 1535
  Bismarck, ND 58502-1535

- An HTF Annual Owner's Certification attesting to the owner's continued compliance with all HTF regulatory requirements contained in 24 CFR Part 93.
- Fully completed Annual Rental Compliance Report together with any Agency-required supporting documentation.
- A Statement of Income and Expenses for owner's operation of the requested Project Fiscal Year
- A Year-over-Year Balance Sheet reflecting Beginning-of-Year and End-of-Year account balances of the requested Project Fiscal Year
- A calculation and certification of the Hard-Debt Service Ratio and listing of all cash flow distributions, in order of distribution, for the requested Project Fiscal Year in a form and substance acceptable to the Agency

NDHFA may charge each HTF-assisted property an annual fee to cover expenses incurred during normal and routine monitoring activities. The fee is currently set at $50 per property, plus $40 per Restricted Unit. NDHFA reserves the right to adjust the annual fee as necessary. Additional fees may be assessed to properties determined to be in substantial noncompliance to cover the expense of additional monitoring. The HTF compliance monitoring fee should be included in the operating budget of applications for HTF assistance.

Developments which are subject to annual compliance monitoring fees for other programs administered by NDHFA may be eligible for a reduction in their HTF compliance monitoring fee at the sole discretion of NDHFA.

SECTION 11: DISCLAIMER OF NDHFA LIABILITY

NDHFA seeks to allocate sufficient HTF assistance to a project to make the project economically feasible. Such decision shall be made solely at the discretion of NDHFA but in no way represents or warrants to any applicant, investor, lender, or others that the property is feasible, viable, or of investment quality.

No member, officer, agent, or employee of NDHFA shall be personally liable concerning any matters arising out of, or in relation to, the allocation of HTF assistance.

SECTION 12: MODIFICATION TO THE ALLOCATION PLAN

The Executive Director may make minor modifications deemed necessary to facilitate the administration of the HTF or to address unforeseen circumstances. Further, the Executive Director is authorized to waive any conditions not mandated by federal statute or regulation on a case-by-case basis. As a matter of practice, NDHFA will document any waiver of elements of this Allocation Plan and will make this documentation available to the public, upon request.