**2023 Carryover Allocation Agreement (CAA) Questionnaire**

***This questionnaire is necessary for TDHCA to complete the CAA. Please email this questionnaire to*** ben.sheppard@tdhca.state.tx.us ***as soon as possible and not later than September 15, 2023.***

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 2023 Application number is      , and the development is named      .

The following question includes 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 (HTC) 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, “wraps NEC” if site surrounds but does not include a corner. Always specify the site’s location in terms of its road frontage and distance from the nearest intersection (or landmark, e.g., railroad, creek/river, school campus driveway, etc.) to the nearest point of the site’s road 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 (in punctuation, etc.) as registered with the applicable secretary of state:      . State the annual amount of the 2023 HTC award:      . State the total reasonably expected basis (TREB) as of December 31, 2025, 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 2025, 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) in the CAA are irrevocable, precluding use of the AP at placement in service. Per §42(b)(2) and §42(b)(3), elections in the CAA have no effect unless the AP published for the month of TDHCA execution exceeds 9% (new/rehab) or 4% (acquisition). See explanation of elections on subsequent page.

Check this box if you elect to fix the AP as the AP published for the month that TDHCA executes the CAA: [ ]

**If this questionnaire is for an application containing an election to be included in the Nonprofit Set-Aside mark “x” in the following box and 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:** [ ]  and state the registered name of the nonprofit here:      .

Provide the signature block for the CAA, below. Organization names must exactly match (in spelling, punctuation, etc.) the names registered with the secretary of state of the state where formed. Signers should sign the same name entered under the signature line below. **Only one person should sign the CAA. Document the authority of each organization in the signature block to sign for the organization above it by submitting the Texas and/or foreign state SOS website record that is currently available to show this authority. Submit the summary record of the applicable SOS office for each organization. These SOS summaries typically reflect the status of the organization (e.g., active and in good standing) and name the organization that controls it and/or is under its control. The SOS summary should be submitted rather than the collection of documents that were actually filed. Include the organization’s management in each Texas SOS website print-out by selecting the “MANAGEMENT” link in the Texas SOS record before printing the summary. Texas SOS website summaries of for-profit organizations will print to pdf on a single page. Nonprofit organizations sometimes run into a second page.** If the authority to sign for an organization is not clear from the SOS summary, a resolution from the controlling organization will typically clarify this authority. If sufficient filing information is not available on SOS websites to document signature authority for a timely submission of this questionnaire, do not wait for it. Submit the questionnaire and MFP staff will ask for additional documentation as needed.

This is the format for signature blocks:

**CAPPED & BOLDED 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.

|  |
| --- |
|       |

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.

|  |
| --- |
| Street no., street name, and suite no.:       |
| 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 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. These underwriting limits may be 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 usually can be confirmed by determining which of the two side-by-side figures immediately above the “Total Housing Development Costs” figure at the bottom of the DC/IB is the same number as the “Total Housing Development Costs.” If the figure labeled “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, 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**

If an election is not made in the CAA, the applicable percentage for rehabilitation and new construction “shall not be less than 9 percent” as mandated by §42(b)(2), and the applicable percentage for acquisition of existing buildings “shall not be less than 4 percent” as mandated by §42(b)(3), i.e., whether an election is made to fix the applicable percentage at carryover or not, the 9% and 4% minimums set by §42(b)(2) and §42(b)(3) are applicable. However, elections in the CAA are irrevocable. If an election is made in the CAA, this irrevocability precludes use of the applicable percentage that will be effective in the month of placement in service. Applicable percentages are published by the IRS as Revenue Rulings in approximately the middle of the month that precedes the month for which the published rates are effective. CAAs are typically executed by TDHCA in December. Notification is required if the CAA will contain an election to fix the applicable percentage.

SPECIAL RULES FOR ELECTIONS: Elections in the CAA require that the owner and the Department notarize the CAA within five days of the end of the month to which the election applies. In practice, this means that the Department and the owner must both notarize (execute) the CAA in the same month, December. These requirements mean 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 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)].