

Community Housing Development Program



Administrative Plan



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Contents

I. PURPOSES AND GOALS	1
II. POLICIES AND PROCEDURES	1
A. THE PLAN	1
1. <i>Distribution of Funds</i>	2
2. <i>Applications</i>	2
3. <i>Application Eligibility</i>	2
B. AMENDMENTS TO THE PLAN	2
C. SDHDA AUTHORITY/DISCLAIMERS	2
III. GENERAL REQUIREMENTS	3
A. ELIGIBLE ACTIVITIES	3
1. <i>Rehabilitation or Acquisition and Rehabilitation</i>	3
2. <i>Acquisition/Conversion</i>	3
3. <i>New Construction</i>	4
B. INELIGIBLE ACTIVITIES.....	4
C. PROJECT COMPLIANCE PERIOD	4
D. AMOUNT OF ASSISTANCE	4
G. TENANT RELOCATION AND DISPLACEMENT	5
IV. PROJECT REQUIREMENTS	5
A. OCCUPANCY REQUIREMENTS	5
B. RENT REQUIREMENTS	5
C. MIXED USE PROJECT	5
D. TENANT CERTIFICATIONS	5
E. TENANT PROTECTIONS.....	5
V. APPLICATION PROCESS	6
A. APPLICATION STAGE.....	6
1. <i>Underwriting Review Criteria - Project Cost Evaluation consists of reviewing:</i>	6
3. <i>Reserves</i>	7
4. <i>Determination of Funding Amount</i>	7
B. COMMITMENT STAGE.....	7
C. <i>DISBURSEMENT OF FUNDS</i>	8
1. <i>Loan Documentation</i>	8
2. <i>Construction Start</i>	8
3. <i>Financing</i>	8
5. <i>Cost Certification</i>	8
VI. PROJECT SELECTION CRITERIA.....	9
A. LOCAL HOUSING NEEDS	9
B. PROJECT CHARACTERISTICS	9
C. LOCAL SUPPORT.....	9
D. APPLICANT CHARACTERISTICS	9
E. PROJECT COSTS.....	10
F. PROJECT LOCATION.....	11
G. READINESS TO PROCEED	11
VII. GENERAL REQUIREMENTS.....	11
A. FAIR HOUSING AND EQUAL OPPORTUNITY.....	11

B. LEAD-BASED PAINT.....	11
C. CONFLICTS OF INTEREST.....	12
D. DEBARMENT AND SUSPENSION	12
E. HISTORIC PROPERTIES.....	12
F. FLOOD INSURANCE.....	12
G. REPAYMENT	12
VIII. MONITORING FOR COMPLIANCE	12
IX. FEE SCHEDULE.....	13
X. DEFINITIONS.....	13
EXHIBITS	
1. Required Submissions	
2. Needs Assessment Requirements	
3. Project Characteristics	
4. Prohibited Lease Terms	
5. Application Checklist	

**SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY
COMMUNITY HOUSING DEVELOPMENT PROGRAM
ADMINISTRATIVE PLAN**

I. PURPOSES AND GOALS

The South Dakota Housing Development Authority (SDHDA) is a body politic and corporate and an independent public instrumentality. SDHDA's purposes include encouraging the investment of private capital in and stimulating the construction and rehabilitation of decent, safe, sanitary and affordable residential housing to meet the needs of South Dakota citizens.

As South Dakota's economy evolves, so must the housing opportunities for the State's residents. The creation of the Community Housing Development Program (CHDP) will assist in expanding the supply of decent, safe, sanitary and affordable rental housing for the residents of South Dakota and thereby strengthen our South Dakota communities.

SDHDA will focus on the following purposes and goals in administrating the CHDP:

Assist in the construction or preservation of decent, safe, sanitary, and affordable residential rental housing in areas of demonstrated need in the State.

Providing geographic distribution of housing across the State.

Assist in the provision of rental housing to meet the needs and priorities of the State of South Dakota and local communities.

Provide opportunities to a variety of for-profit and nonprofit developers, for a variety of types of housing projects.

Encourage innovative approaches that are cost effective in providing affordable rental housing, including planning, design, construction quality, energy efficiency, and financing.

Encourage applications for projects that show a high degree of readiness to proceed with the project.

Investment of private capital to leverage CHDP funds and use of existing government and private sector mortgage financing.

Provide only that amount of CHDP funds as are necessary to make a project financially feasible and viable.

In accordance with these stated purposes and goals, SDHDA will not make an award of CHDP funds for any application that is not consistent with the purposes and goals of the program.

II. POLICIES AND PROCEDURES

A. THE PLAN

SDHDA is the agency responsible for the administration of the CHDP. This Community Housing Development Program Administrative Plan (Plan) provides the method for allocation of CHDP funds.

1. Distribution of Funds

SDHDA will geographically distribute these funds throughout the State. Funds will be awarded on a first-come, first-serve basis as applications are deemed complete.

2. Applications

Applicants must use the SDHDA CHDP Application Form. Applications may be hand delivered or delivered via postal or private mailing. Applications via facsimile or e-mail will not be accepted.

3. Application Eligibility

SDHDA may reject applications that are incomplete or that contain incomplete or inaccurate information.

SDHDA will not make an award of CHDP funds to any application that SDHDA determines is not:

- a. Consistent with the purposes and goals of this Plan,
- b. Proposing an eligible activity, or
- c. Financially feasible.

This determination may be made at initial review or at any time during processing of the application.

B. AMENDMENTS TO THE PLAN

The Plan may be amended by the Board for any one or more of the following purposes, and any such amendment will be effective and incorporated herein upon the Board's adoption of such amendment:

1. To cure any ambiguity, correct any omission, or cure or correct any defect or inconsistent provision in the Plan.
2. To facilitate the award of CHDP funds that would not otherwise be awarded.

C. SDHDA AUTHORITY/DISCLAIMERS

SDHDA may deny CHDP funds for any project SDHDA determines is inconsistent with the purposes and goals of the CHDP or which SDHDA believes is unlikely to fulfill the purposes and goals of the CHDP, including on the basis of, without limitation, the following:

1. information indicating that a particular market is saturated with comparable housing projects,
2. applicant's (including any related party's) lack of acceptable prior housing experience, or
3. undesirability of site based on SDHDA inspection.

All funding decisions made under this Plan will be made solely at the discretion of SDHDA. SDHDA in no way represents or warrants to any applicant, investor, lender, or any other party that any project is feasible or viable.

SDHDA may modify or waive, on a case-by-case basis for good cause, any condition of this Plan.

SDHDA may request additional information and perform additional project evaluation as deemed necessary and appropriate to verify project costs, feasibility, and need. SDHDA reserves the right to exchange information with other state and federal agencies and with other parties as SDHDA deems appropriate. By submitting an application for CHDP funds, the applicant is acknowledging and agreeing to this exchange of information.

No executive, employee or agent of SDHDA or any other official of the State of South Dakota will be personally liable concerning any matters arising out of, or in relation to, the allocation of CHDP funds or the approval or administration of the Plan.

III. GENERAL REQUIREMENTS

A. ELIGIBLE ACTIVITIES

The following activities are eligible residential rental housing activities:

1. Rehabilitation or Acquisition and Rehabilitation

Rehabilitation or acquisition and rehabilitation of an existing residential rental housing project that needs rehabilitation is an eligible activity.

Rehabilitation must meet the applicable rehabilitation standards in effect at the time a building permit is obtained from the locality. This includes the costs of essential improvements including energy-related repairs or improvements, modifications necessary to permit use by persons with disabilities, abatement of lead-based paint hazards, and repair or replacement of major housing systems in danger of failure. The application must describe in detail the level of rehabilitation and the cost necessary for the exterior and for the interior by each individual unit, if applicable.

Within 60 days of a reservation of funds, SDHDA will order an appraisal that complies with Uniform Standards of Professional Appraisal Practice (USPAP) and a physical needs assessment. If there are significant variances between the original application and the appraisal or the physical needs assessment submitted later, the award of CHDP funds may be withdrawn. The applicant must pay for all costs of the appraisal and the physical needs assessment, but such costs may be included in the CHDP financing. Three years of audited financial statements for an existing housing project must be submitted with the application.

Management practices will be reviewed by SDHDA, and the applicant may be required to provide documentation that Disinvestment of the property has not occurred, the long term needs of the project can be met, and the feasibility of serving the targeted population over an extended affordability period (no less than 20 years) can be maintained. If SDHDA determines that Disinvestment has occurred, SDHDA will finance the property only if the property is purchased through an arm's-length transaction and the previous owner and management will have no involvement with the proposed project.

The new investment must be made to maintain current or create additional affordable units. The cost in terms of assistance to acquire and rehabilitate an existing property may not exceed the amount of assistance necessary to construct a new property of like quality.

Upon completion of rehabilitation, if applicable, all major systems (roof, windows, heating, etc.) of the property must be in like new or new condition. If these systems are not in need of repair at the time of application, sufficient reserves must be established to allow for replacement of such components if the normal life span would require replacement prior to the end of the affordability period. Consideration will be given to functional obsolescence of the property. If it is not cost effective to overcome structural problems, the property may not be eligible for financing. Modifications to allow a higher level of care to elderly residents of a property are eligible if there is an identified need for such level of care and the property is financially feasible upon completion.

Under no circumstances will the term of the CHDP financing term exceed the expected remaining useful life of the property.

2. Acquisition/Conversion

Acquisition and conversion of a non-residential structure to a residential rental housing project is an eligible activity and is considered a rehabilitation or Reconstruction Project.

3. New Construction

New construction of a permanent residential rental housing project is an eligible activity.

Eligible costs include land acquisition, demolition of existing structures, improvements to the project site that are comparable with the surrounding projects, and utility connections including off-site connections from the property line to the adjacent street.

Improvements to the project site may include on-site roads and sewer and water lines necessary for the development of the project. The project site consists only of that property owned by the project owner upon which the project is located.

Acquisition of vacant land or demolition will be undertaken only in conjunction with a specific housing project intended to provide permanent housing under the Plan and for which construction funds have been committed prior to and conditioned only upon the SDHDA commitment of CHDP funds for the acquisition or demolition.

B. INELIGIBLE ACTIVITIES

CHDP funds may not be used to:

1. Purchase or rehabilitate a Manufactured Home or
2. Develop temporary housing.
3. New construction projects that have been placed in service or rehab projects that have received a certificate of substantial completion.
4. Costs associated with commercial/retail space.

C. PROJECT COMPLIANCE PERIOD

The applicant must keep the property in compliance with CHDP guidelines for the minimum restrictive use period of either 20 years or for the length of time the CHDP mortgage is outstanding.

D. AMOUNT OF ASSISTANCE

The minimum amount of CHDP funds that may be awarded to a project is \$250,000 and the maximum amount \$5,000,000. SDHDA will evaluate each application to determine the amount of assistance required. SDHDA will evaluate the physical features of the development, including amenities, type of building materials, size of units, etc. to ensure the development is comparable to other affordable residential rental housing in the market.

For for-profit applicants, CHDP funds are limited to 90 percent of (1) the market value of the property or (2) the total project costs, whichever is less. For nonprofit applicants, CHDP Funds may be used to finance up to 100 percent of the total project costs.

E. TERMS OF ASSISTANCE

The CHDP funds will be issued as fixed rate financing for a maximum term of 30 years with the interest rate to be established by SDHDA. SDHDA may allow a step rate permanent financing option.

F. COLLATERAL/GUARANTEES

SDHDA will place a mortgage lien on the property, file a UCC statement, take an assignment of rents and leases, require personal and corporate guarantees, and require other forms of collateral as SDHDA deems necessary to secure its interest in the property.

G. TENANT RELOCATION AND DISPLACEMENT

Applicants proposing a housing development that would cause permanent displacement of any current residents must contact SDHDA prior to submitting an application or proceeding with the project. SDHDA will require all applicants to follow proper procedures and provide financial compensation for individuals permanently displaced. SDHDA's Relocation Plan can be downloaded from SDHDA's web site at www.sdhda.org. Applications involving any permanent displacement must include a relocation plan and budget.

IV. PROJECT REQUIREMENTS

A. OCCUPANCY REQUIREMENTS

During the Affordability Period, the project must set-aside a minimum of 50 percent of the housing units for rental to households at or below 120 percent Area Median Income (AMI). The 120 percent AMI test must be met at initial occupancy and data evidencing compliance must be reported to SDHDA annually.

B. RENT REQUIREMENTS

At a minimum, 50 percent of the housing units will be subject to rent limitations designed to ensure that rents are affordable but are also comparable to current market rents. Maximum rents will be limited to rents for a family whose annual income equals 80 percent for the AMI, as determined by HUD, with adjustments for number of bedrooms in the unit. Rents should not exceed current market rents for that area for comparable units.

Restricted unit rents must include allowances for utilities and services (excluding telephone, cable and internet). Applicants are to utilize the HUD Utility Schedule Model, the SDHDA Utility Allowance Calculator or calculate their own allowances based on documentation from service providers.

Each residential building in a project must contain housing that meets the occupancy and rent requirements. For purposes of meeting the project requirements, the dwelling units specified as restricted housing may be changed over the Affordability Period, so long as the total number of restricted housing units remains the same, and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the originally designated housing units.

C. MIXED USE PROJECT

A building that is designed in part for other than residential rental housing may qualify for CHDP funds if such housing units meet the occupancy and rent requirements set forth above. Any laundry or community facilities that a project contains for the exclusive use of the project residents and their guests are considered residential use. Costs for common areas shared by both residential and commercial tenants will be prorated. Commercial areas are not eligible for CHDP funds.

D. TENANT CERTIFICATIONS

Tenant eligibility must be determined by the owner at the time of initial occupancy. Annual re-certifications of existing tenants will not be required; however, new tenants will require certification to ensure the occupancy requirement is being maintained.

E. TENANT PROTECTIONS

1. Lease. The lease term must be for at least one year, unless by mutual consent the tenant and the owner agree to a shorter term.

2. Prohibited Lease Provisions. A list of prohibited lease provisions is attached as Exhibit 4.
3. Termination of Tenancy. An owner may not terminate the tenancy or refuse to renew the lease of a tenant except for serious or repeated violation of the terms of the lease; for violation of applicable federal, state or local law; or for other good cause. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy.
4. Maintenance and Replacement. An owner must maintain the project in compliance with all applicable Uniform Physical Condition Standard (UPCS) and local building code requirements.
5. Resident Selection. The owner must adopt written resident selection policies and criteria. The resident selection plan must include, at a minimum, the following criteria: citizenship and social security number requirements; procedures for taking applications and selecting from the waiting list; and screening for suitability. A listing of recommended resident selection criteria is available from SDHDA.

Owners may not refuse to lease to a family because the family holds a rental voucher.

V. APPLICATION PROCESS

Requests for funds are considered in a two-step process - Application Stage and Commitment Stage. No construction activity may occur until the application and commitment process is complete and a start order has been issued by SDHDA.

A. APPLICATION STAGE

The applicant must submit a complete application and all documentation referenced in Exhibit 1.

1. Underwriting Review Criteria - Project Cost Evaluation consists of reviewing:
 - a. Land value
 - b. Site Improvements (including existing buildings)
 - c. Construction or rehabilitation costs
 - d. Fees (architectural, legal, consulting, etc.)
 - e. Developer's and/or Builder's Profit
 - f. Financing and carrying charges
 - g. All other related soft costs
 - h. Pro Forma / Debt Service Coverage Ratio: Pro formas must reflect a debt service coverage ratio of not less than 1.15 for the entire length of the mortgage. The debt coverage ratio is the ratio of net operating income to the total annual debt service. Furthermore, the application must reflect that rental income reserve funds are sufficient to cover the property's debt and operating expenses over the Compliance Period. Annually, income will be trended at two percent, expenses and replacement reserves will be trended at three percent, and vacancy will be projected at seven percent. A higher vacancy rate may be used in the first year for an acquisition/rehabilitation project if the project is currently sustaining higher vacancies and it is not reasonable to expect the project to achieve a seven percent vacancy rate within the first year.
2. Project Characteristics and Marketability
SDHDA will review proposed developments for marketability and long-term viability. Applicants are encouraged to incorporate the features of brick, energy efficiency systems, additional handicap-adapted units, second bathrooms (for three and four bedroom units), community rooms, townhouse

style units with an accessible bathroom on the main floor, creative design features, and other amenities where appropriate.

The residential unit living square footage will be evaluated to ensure sufficient and reasonable square footage is proposed for all of the rental units.

3. Reserves

To protect financial feasibility, the owner will be required to establish and maintain proper reserve accounts. At a minimum, the reserves listed below must be established and covered by a written agreement between SDHDA and the property owner. The escrow accounts may be maintained by SDHDA.

- a. Taxes and Insurance: Escrowed at levels estimated to meet those expenses.
- b. Replacement: Minimum of \$400 per unit, per year, must be initially funded and maintained for the full Affordability Period. If all major systems are not replaced or repaired in an acquisition/rehabilitation project or a rehabilitation project, sufficient reserves must be established to allow for replacement of such components if the normal life span would require such replacement prior to the end of the Affordability Period. The replacement reserves will be trended at three percent annually.
- c. Operating: Six months operating reserve to include debt service, or an Irrevocable Letter of Credit in lieu thereof, to pay debt service and operating expenses to prevent an event of default. SDHDA may permit this account to be closed or the Irrevocable Letter of Credit to be released three years from the placed in service date.

4. Determination of Funding Amount

SDHDA will estimate the amount of CHDP funding necessary to make a project financially feasible. The analysis to determine the necessary amount of funds will be done at the time of application, at the time a commitment is approved, and at the time the project is placed in service, or as soon thereafter as all project costs are finalized and certified. Current rents, along with any anticipated changes in operating expenses, will be utilized at each underwriting stage.

5. Changes to Project

The award of funds is based upon information provided in the application and the architectural plans submitted with the application. Any significant change in a project may require the funds to be returned. A significant change includes, but is not limited to, any reduction in the number of bedrooms per unit or square footage of the units, decrease in number of total units, change in financial feasibility, increase in overall density, change in unit or project amenities, or any change that, had it been in the original project, may have caused SDHDA to make a different decision with respect to approval or the amount of an award. All changes to the project must be pre-approved by SDHDA prior to implementation.

B. COMMITMENT STAGE

Upon a conditional commitment from the SDHDA Board of Commissioners, SDHDA will issue a conditional approval letter. Upon receipt of the approval letter, the applicant will have 120 days in which to provide SDHDA with any documentation necessary to complete the evaluation of the proposed project. Failure to provide the required information within this time period may result in cancellation of the conditional commitment. Required documentation will include a detailed analysis of financial feasibility, final architectural plans, owner's organizational documents, binding financial commitments from other funding sources, site control, etc. SDHDA will evaluate the

additional documentation provided and if such documentation is sufficient and meets CHDP Plan requirements, a final Commitment will be issued for the amount determined by SDHDA to be necessary to make the project financially feasible.

The applicant will have 180 days from the date the Commitment is executed to begin construction or rehabilitation on the proposed project. Failure to start within this timeframe may result in withdrawal of SDHDA's Commitment.

C. DISBURSEMENT OF FUNDS

1. Loan Documentation

Loan documentation will include a Loan Agreement, the SDHDA Mortgage Note, Mortgage 180 Day Redemption, Security Agreement and Fixture Filing, Regulatory Agreement, Assignment of Rents and Leases, Personal and Corporate Guaranties, Declaration of Land Use Restrictive Covenants, Agreement, Sworn Construction Statement, and any other documents required by SDHDA.

2. Construction Start

The new construction or rehabilitation of the building may begin when SDHDA has received all executed loan documentation and the owner has received a written construction/rehabilitation start order from SDHDA. Construction or rehabilitation must commence no later than six months after execution of the Commitment.

3. Financing

The CHDP Funds can be utilized as construction and/or permanent financing. SDHDA will make periodic site reviews of the project throughout the construction period and at the completion of construction; however, SDHDA assumes no liability for construction quality or code compliance.

The local building official will be required to approve both the proposed project and completed work.

4. Draws

If CHDP funds are utilized for construction financing, SDHDA will disburse funds no more often than every two weeks. If SDHDA contracts with another agency to administer the construction draw process, any fees imposed by that agency in connection with disbursements must be paid by the Owner. Disbursements will be based on receipt of lien waivers from all contractors, and receipts for all costs outside of the construction contract, an updated Sworn Construction Statement, AIA Forms G702 Application and Certificate for Payment and G703 Continuation Sheet evidencing the percent of project completion. SDHDA will retain five percent of the total CHDP Funds until all final project completion information is received (i.e., CPA cost certification).

5. Cost Certification

At the end of project construction or if SDHDA does not provide construction financing, the owner will be required to submit a complete cost certification on SDHDA approved forms prepared by a Certified Public Accountant prior to the final disbursement of funds. All cost overruns are the responsibility of the owner. SDHDA may reduce the amount of funds committed to a project based on a cost certification indicating reduced total project cost, change in financing, or increase in cash flow since the time the funds were committed. SDHDA will only finance the amount of funds necessary to make a project financially feasible.

VI. PROJECT SELECTION CRITERIA

Proposals will be reviewed initially for completeness, including all submission requirements referenced in Exhibit 1. Projects will be further evaluated based on the following criteria.

A. LOCAL HOUSING NEEDS

All applicants must demonstrate a need for the proposed housing by submitting a local housing needs assessment or a market analysis that is less than six months old. Refer to Exhibit 2.

B. PROJECT CHARACTERISTICS

Housing that is constructed or rehabilitated with CHDP funds must meet all applicable local building codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. If rehabilitation standards in effect in the community in which the project is located, are less restrictive, or if the community has no rehabilitation standards, then at a minimum the current edition of the International Code Council (ICC) building codes published, maintained, and adopted by the State of South Dakota will apply.

New construction must meet the current edition of the International Energy Conservation Code (IECC) published and maintained by the International Code Council and all applicable local and State building code requirements in effect at the time of project completion.

The housing must meet the accessibility requirements of 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and 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 implement the Fair Housing Act (42 U.S.C. 3601-3619).

The proposed site must be suitable for the proposed project. If the site includes any detrimental characteristic, the applicant must provide a remediation plan and budget to make the site suitable for the project. If any detrimental site characteristic exists on, or adjacent to the site, SDHDA may reject the application. Detrimental characteristics may include but are not limited to: physical barriers; unsuitable slope or terrain; location within one-half mile of any of the following: pipelines, storage areas for hazardous or noxious materials, sewage treatment plants, or sanitary landfills; location within 500 feet of an airport runway clear zone, or 1000 feet of a railroad, commercial property or military operation; location within 1000 feet of registered historic property; or location in flood hazard area.

C. LOCAL SUPPORT

Local support may be evidenced by a letter of support or financial contributions from governmental, nonprofit or for-profit agencies. Financial contributions may include but are not limited to cash, in-kind services, tax abatements or other items that assist in reducing project costs and improving financial feasibility.

D. APPLICANT CHARACTERISTICS

The applicant and all members of the development team must be in good standing, as defined below. In addition, any applicant or member of the development team who has an Identity of Interest with any person or entity not in good standing may not be eligible in the sole discretion of SDHDA. The application must identify any persons or entities with whom the applicant or any member of the development team has as Identity of Interest. "Good standing" shall mean that the individual has not been (i) convicted of, entered into an agreement for immunity from prosecution for, or pled 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, or (ii) debarred from any South Dakota program, other state program, or Federal program.

E. PROJECT COSTS

Reasonable and necessary soft costs incurred by the owner and associated with the financing or development (or both) of new construction, rehabilitation, conversion or acquisition with rehabilitation of housing assisted with CHDP funds may include but are not limited to the following:

- a. Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups.
- b. Costs to apply for and obtain financing for the project, such as private lender origination fees, credit reports, title insurance, fees for recordation and filing of legal documents, building permit fees, attorney's fees directly related to the project, appraisal fees and fees for independent cost estimates.
- c. Costs for an audit or cost certification that SDHDA may require with respect to the development of the project.
- d. Costs to provide information services such as Affirmative Marketing and fair housing information to prospective tenants as required in the Fair Housing section.
- e. The cost of funding an initial operating deficit reserve, which is a reserve to meet any shortfall in project income during the period of project rent-up (not to exceed 18 months) and which may only be used to pay project operating expenses; reserve for replacement payments; and debt service.
- f. Developer's Fees: The developer of a project will be entitled to a Developer's Fee not to exceed (1) 15 percent of the total project costs minus Developer's Fees and Consultant's Fees for projects of 16 units or less and (2) 12 percent of the total project costs minus Developer's Fees and Consultant's Fees for projects of 17 units or more.

Developers may choose to defer their Developer's Fee. The amount of deferred Developer's Fee or owner equity presented in the application will be underwritten as a project financing source. The submitted pro forma must evidence sufficient project cash flow after all debt service is applied; for repayment of the deferred Developer's Fee within the first 12 years of operation.

- g. Consultant's Fees: Consultant Fees will be included within the Developer's Fees limitation and may not exceed two percent of the total project costs minus Developer's Fees and Consultant Fees.
- h. Builder/General Contractor's Fees: Builder's Profit is limited to six percent, Builder's Overhead is limited to two percent, and General Requirements is limited to six percent of the total hard costs for the project.
- i. Soft costs include, but are not limited to, all items in a - h of this section and developer overhead, operating reserves, partnership organizational fees, and rent-up reserves. Soft costs will be limited to 19 percent or less of the total project costs.

F. PROJECT LOCATION

Applicants should consider developing housing in areas that are in close proximity to community services, public transit, and areas of economic opportunity. Community services include but are not limited to grocery and retail stores, hospitals, medical clinics, schools, public and private service offices and other sources of employment.

G. READINESS TO PROCEED

SDHDA will review applications to determine their readiness to proceed with the proposed development. SDHDA will review the following factors when considering approval of funding:

- Completeness of architectural plans and specifications or submission of a physical needs assessment for projects involving rehabilitation.
- Site Control – evidence that the applicant and/or owner has a control of the subject property via a purchase agreement, recorded warranty deed, or a recorded long term lease.
- If applicant is proposing to utilize CHDP funds for only permanent financing, applicant must document a commitment for construction/interim financing.
- If additional permanent financing will be provided from another funding source, applicant must submit documentation evidencing the financing commitment. The documentation must indicate a fixed interest rate, amortization term, and conditions of the loan.
- Evidence of utilities (e.g. water, sewer, electric, and natural gas) availability at the project site, documented by the utility providers.
- Documentation of how the project site is currently zoned and whether any rezoning will be required.
- Documentation evidencing that the project site has had a final plat recorded (includes referencing plat book and number).

VII. GENERAL REQUIREMENTS

A. FAIR HOUSING AND EQUAL OPPORTUNITY

All applicants and owners must adhere to the following;

1. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended, (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;
2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8;
3. The requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60;

B. LEAD-BASED PAINT

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not taken care of properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and lead-based paint hazards in the dwelling. For additional information regarding lead based paint please visit the following websites -

<http://www.epa.gov/lead/>

or

http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/healthyhomes/lead.

C. CONFLICTS OF INTEREST

Applicants must disclose to SDHDA if any conflicts of interest exist. A conflict of interest is deemed to exist whenever an individual is in the position to approve or influence the policies or actions of the project which involve or could ultimately harm or benefit financially: (a) the individual; (b) any member of his immediate family (spouse, parents, children, brothers or sisters, and spouses of these individuals); or (c) any organization in which he or an immediate family member is a Director, trustee, officer, member, partner or more than 10% shareholder. Service on the board of another nonprofit corporation does not constitute a conflict of interest.

D. DEBARMENT AND SUSPENSION

Owners and contractors are prohibited from employing, awarding contracts, or funding any contractors or subcontractors who have been debarred, suspended, proposed for debarment or placed on ineligibility status by the federal government. In addition, any owners who are debarred, suspended, or proposed for debarment will be prohibited from participating in the CHDP. Those excluded from participating are listed on the Excluded Parties List System found at <https://www.epls.gov>.

E. HISTORIC PROPERTIES

Applicants proposing rehabilitation to a structure which is over 50 years old should contact the local and State Historical Preservation Offices to determine if the proposed rehabilitation will have any effect on the historical significance of the structure or if adherence to the National Historic Preservation Act (16 U.S.C. 470) is required.

F. FLOOD INSURANCE

CHDP funds may NOT be used in connection with acquisition, conversion, new construction, or rehabilitation of a project located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the community in which the site is located is participating in the National Flood Insurance Program and flood insurance is obtained as a condition of approval of the commitment. A flood certification will be obtained by SDHDA.

G. REPAYMENT

Any owner of a project which CHDP funds have been awarded and which is (1) not completed within the timeframe mandated by SDHDA or (2) does not meet the occupancy and rent requirements for the Affordability Period must immediately repay, upon demand of SDHDA, all CHDP funds provided to the project. Financial penalties may also apply.

H. COMPLIANCE AND CRIME FREE HOUSING

SDHDA staff is available to provide compliance training for applicants. Applicants are also encouraged to participate in the Crime Free Multi-Housing Program administered through the South Dakota Law Enforcement Officers Standards and Training Commission.

VIII. MONITORING FOR COMPLIANCE

SDHDA will monitor each project for compliance with the CHDP requirements. Program compliance will be assessed through annual certification of compliance with CHDP requirements and on-site reviews conducted by SDHDA staff. SDHDA will provide a CHDP compliance guide detailing required responsibilities for continuing CHDP compliance. SDHDA may impose financial

penalties for non-compliance, during the Affordability Period, with the CHDP rent and occupancy requirements.

All CHDP rent and occupancy requirements, along with any other special use restrictions imposed under The Plan or other items promised by the applicant, will be made part of the Declaration of Land Use Restrictive Covenants.

IX. FEE SCHEDULE

Fees charged will vary depending on the type of financing requested. All applicants will be charged the following non-refundable fees. The listed fees do not include the direct expenses incurred by an applicant such as legal fees, closing costs, etc.

Application Fee (due with application)	1/8% of requested amount
Issuance Fee (due at loan closing)	7/8% of loan amount

X. DEFINITIONS

Annual Income: For rental housing, SDHDA uses the annual income definition as defined in 24 CFR Part 5.609 (Part 5 Annual Income).

Applicant: Applicant refers to the owners, developers, and sponsors involved with the project.

Area Median Income (AMI): The income determined by HUD on which program income and rent limits are based.

Affirmative Marketing: Consists of actions to provide information and attract eligible persons from all racial, ethnic, and gender groups in the housing market area, to the available housing.

Builder's Profit: Compensation to the builder for completing the construction contract.

Builder's Overhead: Builder's business expenses (e.g., rent, insurance, heating, etc.) not chargeable to a particular part of the work or product to build the project.

Commitment: The written, legally binding agreement between SDHDA and the project owner providing CHDP funds to a project.

Compliance Period: The period, during which the occupancy and rent requirements must be maintained, which period must be at least (1) 20 years or (2) the length of time the CHDP loan is outstanding. This period starts when the permanent financing is closed.

Developer's Fee: Compensation to the developer for time and risk involved to develop the project.

Disinvestment: Withdrawal of capital that otherwise could have been utilized to sustain the viability of a project.

General Requirements: An allowance for the contractor's project-related expenses, such as building permits, fencing around the site, temporary storage for materials, and the cost of a performance and payment bond, etc.

Housing Quality Standards (HQS): The performance standards for housing as established in 24 CFR Part 882 and amended by the Lead Paint Regulations in 24 CFR Part 35.

HUD: U.S. Department of Housing and Urban Development.

Identity of Interest: An identity of interest means any relationship, including any financial, business, or family relationship, that the applicant or any member of the development team has with others involved in the project.

New Construction: Any project involving adding units outside the existing walls of the structure, the construction of new residential units and the acquisition of land or the demolition of an existing structure for the purpose of constructing a new structure.

Reconstruction Project: A project that replaces an existing building's floor plan with an overall new floor plan for residential living units or that replaces an existing building's residential unit plans with new residential unit living plans.

EXHIBIT 1 REQUIRED SUBMISSIONS FOR CHDP

A. APPLICATION REQUIREMENTS

Applications must be submitted on the SDHDA CHDP Application Form and include the following required information. SDHDA may reject applications with incomplete or incorrect application information.

1. Local housing needs assessment or a complete market analysis. The needs assessment or market analysis must have been completed within six (6) months of submission by a market analyst who is unaffiliated with the developer and has experience with multifamily rental housing. A South Dakota licensed appraiser who is MAI certified and meeting the criteria listed may also complete the market study.

A modified market analysis may be submitted at SDHDA's discretion for projects involving rehabilitation or acquisition and rehabilitation of an existing affordable multifamily housing project or applicants proposing construction of 20 or fewer units.

The minimum includable items to be addressed in the needs assessment are listed in Exhibit 2.

2. Applicants must submit a project narrative outlining the project characteristics (tenants being served, amenities provided, financing in place, etc). The narrative is intended as a summary of the proposed project to assist SDHDA in reviewing the information in the application and exhibits.
3. Evidence of local support. All Applicants are encouraged to contact the local governing and private entities located within the community in which the housing will be developed, to request letters of support for their development. Letters of support can be submitted by the city office, local public housing authority, economic development office, local employers, and other interested parties.
4. All proposed restricted unit rents must include utility allowances. The application must include the supporting documentation (The completed HUD Utility Schedule Model, the SDHDA Utility Allowance Calculator or local utility provider) evidencing the calculated allowance.
5. Pro Forma / Debt Service Coverage Ratio: Pro formas submitted must reflect a debt service coverage ratio of not less than 1.15 for the Affordability Period. To ensure the housing remains affordable, SDHDA will review proposed rents and projected cash flow to ensure owners are not receiving excessive return on their investment. SDHDA will allow a return on investment of up to 10 percent of their original owner equity contribution.

The debt coverage ratio is the net operating income to the total annual debt service. Furthermore, the application will reflect that rental income and reserve funds are sufficient to cover the property's debt and operating expenses over the Compliance Period. Annually, income must be trended at two percent, expenses and replacement reserves must be trended at three percent, and vacancy must be projected at seven percent. A higher vacancy rate may be used for an acquisition/rehabilitation project if the project is currently sustaining higher vacancies and it is not reasonable to expect the project to achieve a seven percent vacancy rate within the first year.

6. Applicants must submit supporting documentation of all annual operating expenses, evidencing how the applicant arrived at the submitted amounts (e.g., calculation of real estate taxes from county assessor). If the proposed project involves rental acquisition and/or rehabilitation, this requirement may be met with the submission of historical financial information.
7. Site control; during the application process the following is acceptable:
 - purchase agreement or option to purchase, signed by both the buyer and seller;
 - warranty deed or title; or
 - long term lease equal to or greater than the term of the Affordability Period.

Applicants should be cautioned that a conditional commitment of CHDP funds is site specific, therefore any changes to the site may require a full review of the application and reconsideration by the SDHDA Board of Commissioners.

8. At a minimum, Applicants must submit a drawing of proposed project site plan showing the general build-up of the site including the location of all proposed building(s), streets, parking areas, service areas, playgrounds and any other significant details of the site and a typical floor plan showing the dimensional plan for each building and each type of living unit.
9. Documentation of how the project site is zoned at the time of application and documentation that reflects the current status of a project's plat.
10. Copy of recent corporate and personal financials (within 90 days).
11. Applicant must provide copy of organizational documentation. If the applicant is a nonprofit, a description of the organization and its activities is required.
12. Letter of intent evidencing the preliminary arrangements for construction, interim, and/or permanent financing, as applicable. The amount of the loan, the rate and the term must be included in the letter.

NOTE: Interim financing (bridge loan) fees will not be allowable project costs if financing is provided by an entity having an identity of interest with the developer, builder, syndicator, or applicant. Only interest costs at or below market rate will be allowed.

13. Projects involving rental acquisition and/or rehabilitation, the applicant must provide a relocation plan and budget; along with a list of existing tenants.
14. Projects involving rental acquisition and/or rehabilitation must submit the last three years audited financial statements. SDHDA reserves the right to request financial information for additional years if deemed necessary.
15. Projects involving rental rehabilitation: a detailed description of the activities to be completed for each individual unit, the interior common areas, the exterior of each building, property site improvements and the corresponding cost.
16. Documentation of utility availability (i.e. water, sewer, electric, natural gas). If none, an explanation, including dates, as to when all utilities will be available must be provided.
17. Any other information requested by SDHDA.

B. CONDITIONAL COMMITMENT

All requirements in this section must be provided, within the 120 day time frame allowed, before loan closing can occur.

1. Signed funding commitment documentation from all sources associated with the project including the amount, rate and term of the financing.
2. Information on the ownership entity, including an executed copy of the partnership agreement or articles of incorporation, a copy of the certificate of registration with South Dakota Secretary of State and a copy of federal tax payer identification number.
3. An affidavit executed by the owner, general partner, an officer, a director or corporate officer stating that under penalties of perjury all facts and statements contained in all documents and exhibits submitted in conjunction with the application are true and accurate to the best of his or her knowledge.
4. Site ownership documented by a recorded contract for deed, warranty deed, or long term lease (lease must be for length of the mortgage or minimum of 20 years).
5. Final itemization of the costs related to the completion of the project, including both hard cost and soft costs.
6. Final plans and specifications stamped by the project Architect and or Engineer.
7. Copy of the management plan, management agreement, resident selection policy, Section 504 reasonable accommodation policy, and the intended lease to be utilized for the project, which may not include any prohibited lease terms as listed in Exhibit 4.
8. Projects involving acquisition of an existing property must submit a "Market Value As Is" appraisal and projects involving rehabilitation or new construction must submit a "Market Value As If Completed" appraisal meeting the USPAP and completed by an independent, State Department of Revenue and Regulation certified appraiser (www.state.sd.us/drr2/reg/appraisers/complain-rosters.htm). SDHDA will approve the appraiser and the applicant will pay for all costs for this service.
9. Any other information deemed necessary by SDHDA to evaluate this request.

EXHIBIT 2 NEEDS ASSESSMENT REQUIREMENTS

All Applicants must submit documentation evidencing the need for the proposed housing.

Projects involving rehabilitation of existing housing units may provide three year's occupancy records to demonstrate the housing need. However, if the proposed project will dramatically alter the units and tenancy and the development consists of 20 or more units, then a third party market analysis must be submitted.

Applicants proposing construction of fewer than 20 new housing units may provide their own analysis of housing demand, and will not be required to contract with a third party analyst.

Applicants proposing to construct 20 or more new housing units must submit a third party market analysis. The analyst completing the study must be unaffiliated with the developer and have housing knowledge and experience. A South Dakota licensed appraiser who is MAI certified and meeting the criteria listed may also complete the market study.

The local housing needs assessment or market analysis must be less than six months old at the time of submission and must be completed by a market analyst who is unaffiliated with the developer and who has experience with multifamily rental housing. A South Dakota licensed appraiser who is MAI certified and meeting the criteria listed may also complete the needs assessment or market analysis. The analysis can be community based or project specific, but must address in depth the following:

1. What are the demographic and economic characteristics of households in the community? What is the current income level of households in the community and what is the anticipated income level in the future?
2. What are the expectations with respect to economic, employment, and population change in the community in the next 2 to 5 years, the next 10 years, and the next 15 years?
3. Based on market information, what is the nature and extent of the community's short-to-mid-term housing demand and long-term housing demand? What is the demand in various categories, including: new construction, rehab, senior housing, family housing, rental, and homeownership? What is the price range for demand in various categories?
4. What is different between this Studies' findings and that of prior studies? If the results found and forecasts developed under this Study differ from previously published studies for the community, note reasons for the divergence.
5. Review of meeting/correspondence with local planners, housing and community development officials, and market participants to evaluate the local perception of the need for additional housing.

Minimum Required Data Elements

Each study at a minimum, must quantify the following data elements:

1. Existing Housing Stock
 - By tenure – rent, own
 - By type – single, multi-family, manufactured
 - By value – property values, rents
 - By age and condition

- Vacancy rates
2. Other Housing Issues
 - Affordable housing – Low Income Housing Tax Credit, Public Housing, Section 8, USDA
 - Senior/assisted living options
 - Housing market turnover/sales data
 - Building permit history (community’s experience with new construction)
 - Infrastructure capacity/challenges (if applicable)
 3. Demographics – now and future (2 year, 5 year, 10 year, and 15 year)
 - Population by age
 - Households by income, age, size
 - Migration patterns
 4. Economics
 - Economic base – by industry and key employer
 - Anticipated employment trends
 - Commuting patterns – employment and services (for example, education, retail, healthcare)
 5. Recommendations (based on analysis of data collected)

If the market study is project specific, in addition to the requirements above, it must include the following:

1. Review of proposed site including color photos of the site and adjoining property; definition of the primary and secondary market areas including a map that clearly marks the areas and an explanation of the basis for the boundaries; description of site characteristics and evaluation of the accessibility and visibility of the site;
2. Review of the proposed project including the number of units by number of bedrooms and bathrooms, income levels to be served, rent to be charged, calculating utility allowances and amenities to be provided;
3. Review of existing community services and their proximity to the proposed project including a site map identifying such services;
4. Review and listing of existing multifamily projects in the market area for both affordable housing (Section 8, HOME and Rural Development) and market-rate, listing the type of housing, location, number of bedrooms, number of bathrooms, unit size, condition of buildings, vacancy rates, waiting lists, amenities, utility allowances (whether included in rent or not), and rental rates;
5. Review of projected new multifamily projects (affordable and market rate) including number and type of building permits issued in the past three years;
6. Executive Summary with a precise statement of the conclusions reached by the analyst. The statement must include the analyst’s opinion of (i) market feasibility, (ii) the prospect of long-term performance of the property, (iii) recommended modifications to the proposed project, (iv) market related strengths and weaknesses, (v) positive and

negative attributes and issues that will affect the property's lease-up and performance, and (vi) the impact the subject property will have on the existing multifamily projects.

EXHIBIT 3 PROJECT CHARACTERISTICS

The following minimum standards apply to all new construction projects; however, rehabilitation or Reconstruction Projects should also strive to meet these minimum standards.

General Project Scope:		
	Minimum Standards	Single Family Project must include individual exterior storage units at a minimum of 8'x12' or a garage.
Site Exterior:		
Parking:		
	Minimum Standards	At a minimum, the parking lot will be engineered asphalt, having concrete curb and gutter where required. Single Family home developments must contain concrete off-street parking for two vehicles. For multifamily developments each efficiency, 1 and 2 bedroom units must have 1-1/2 parking spaces and each 3 and 4 bedroom units must have 2 parking spaces. The number of handicap designated spaces must equal the amount of handicap units. In the event that local jurisdiction codes exceed this total then the local code supersedes these requirements. Garage counts as parking spaces (s).
Sidewalks:		
	Minimum Standards	A concrete sidewalk will be provided from each primary entrance door and any accessible entry door to a public right of way.
Exterior Landscaping:		
	Minimum Standards	New Construction should have a minimum of a live landscaped area of no less than 5% of the hard surfaced area of the project site. Hard surface includes building pad as well as all sidewalks, parking lots and other hard finish areas.
	Minimum Standards	A Minimum of 2% slope for hard surfaces adjoining foundation and no less than 5% for landscaped surfaces.
	Minimum Standards	Multifamily rental project of 16-47 units must have at least one Section 504 compliant playground area. Projects of 48 or more units, must have at least two Section 504 compliant playground areas.
	Minimum Standards	A minimum of a 4 foot downspout extension or 3 foot concrete splash block that positively discharges water away from the foundation at all downspout locations.
Signage:		
	Minimum Standards	The project must have permanent signage installed with Equal Housing Opportunity and ADA logos and the identification of the developer and South Dakota Housing Development Authority. This requirement may be waived for single family projects
Building(s) Exterior:		
Exterior Siding/Finish:		

	Minimum Standards	Minimum of 15 year finish warranty 30 year substrate warranty solid cementitious or composite prefinished siding. If vinyl siding is used, it must be a minimum of 0.44 mil thick and have a lifetime warranty. Prefinished soffits, fascia, gutters and downspouts are required.
Roofing:		
	Minimum Standards	Minimum of 30 year warranty asphalt or composite shingle, 29ga metal roofing with a 40 year film and 30 year chalk/fade warranty or a rubberized roof system with a 30 year warranty for flat roofs.
Windows/Doors:		
	Minimum Standards	Energy Star certified exterior prefinished windows constructed of vinyl, wood, composite or fiberglass containing Low-E Glass scored with better than .30 U-Factor (lower is better) and a SHGC of 0.42 or higher (higher is better) by the National Fenestration Rating Council.
	Minimum Standards	Exterior doors shall be insulated steel or composite in a metal clad or composite frame/brickmould. Unit entry doors without windows shall have a peephole installed with 180 degree view. All unit entry doors must be equipped with a deadbolt with 1" inch throw into reinforced jamb.
	Minimum Standards	Main entrances for projects containing interior accessed units must be equipped with an ADA/ABA compliant automatic door opener.
Construction and Energy Efficient Design Features:		
Wall/Roof Assembly:		
	Minimum Standards	Slab on grade construction to have a minimum R-10 vertical foundation and horizontal perimeter under slab insulation per 2012 IECC. Crawl spaces are to be sealed, insulated (min R-10) and conditioned.
	Minimum Standards	A minimum of a 6 mil or greater vapor barrier to be required under slab on grade, basement slab or crawlspace floor.
	Minimum Standards	Foam plastics when used under any condition listed under Section R316 Foam Plastics of the 2015 IRC shall comply with the pertaining code subsection.
	Minimum Standards	2x6 exterior wall assemblies insulated to a minimum of R-20. Roof assembly to have energy heel trusses and be insulated to a minimum of R-49. Rim/band joists to be insulated to the same R-value as the exterior walls above. All assemblies must be constructed to the higher of the SDHDA minimum, local adopted code or the current state adopted IRC/IBC if no local code exists.

Special and Accessible Design Features:	
Minimum Standards	All projects containing more than 4 units must be compliant with Section 504 under the Rehabilitation Act of 1973. All other housing must meet the requirements of the Fair Housing Act. Rehabilitation of housing containing more than 15 units and costing at least 75% of replacement cost or that is vacant must also meet Section 504.
Building Interior:	
Unit Entry Doors:	
Minimum Standards	The unit entry doors must meet the code requirement of the wall assembly containing it. It must include a peephole with 180 degree viewer or have a window and a deadbolt with a 1" throw into a reinforced jamb.
Unit Interior Doors:	
Recommended	Solid core doors with metal door jambs for interior units. (i.e. bedroom, bathroom and closet)
Floor Covering:	
Minimum Standards	Carpet must meet the standards of HUD use of material bulletin 44D. VCT, Vinyl Plank, LVT, sheet vinyl and other floor coverings must meet or exceed the ASTM standards for Resilient Floor Covering and carry a minimum of a 10 year Manufacturer Warranty. An aluminum "J" trim must be installed at the tub/shower transition when sheet vinyl flooring is installed and sealed with a silicone sealant.
Laundry:	
Minimum Standards	A common laundry room must be located in each building of a project and contain a window within or near the door. Projects with single family dwellings, townhomes, or apartments without common laundry space must provide washer and dryer hook-ups within each unit. Washers and dryers must meet Energy Star qualifications.
Recommended	A common laundry room per each building floor or a washer and dryer provided in each unit.
Unit Bathrooms:	
Minimum Standards	Minimum of one-half bath per floor for multi-story townhomes or single family dwellings containing 2 or more bedrooms.
Minimum Standards	Primary bath light and bathroom ventilation fan must be switched together. Bath fan cannot be used to meet mechanical ventilation code for local jurisdictions that have adopted 2012 IECC or other codes that require mechanical ventilation.
Minimum Standards	For new construction projects that must comply with Section 504 of the Rehabilitation Act of 1973, a UFAS compliant curbless roll-in shower must be provided in at least 50% of the Section 504 mobility impaired accessible units or at least one.

Appliances and Fixtures:	
Minimum Standards	All provided appliances including refrigerators, freezers, washers, dryers, dishwashers, ceiling fans and computers must be Energy Star Qualified.
Minimum Standards	A minimum of a 14 cu. Ft. frost free refrigerator/freezer for all 0 or 1 bedroom units. A minimum of 18 cu. Ft. refrigerator/freezer for all 2 or more bedroom units.
Minimum Standards	Water Sense qualified faucets, toilets/urinals, showerheads. Kitchen faucets are required to meet the same Water Sense GPM standards as bathroom faucets.
Window Coverings:	
Minimum Standards	Window coverings or blinds shall be provided and installed.
Mechanical:	
Heating and Cooling:	
Minimum Standards	At a minimum high efficiency cove heat. Electric baseboard heat, PTAC's and VTAC's are NOT allowed for new construction. 92% AFUE minimum gas furnace, Heat Pumps rated at HSPF of 8 or greater with a 13.0 SEER rating or higher (packaged or split). Programmable thermostats are required.
Minimum Standards	All units must have Energy Star qualified through the wall air conditioning or central air conditioning rated at 13 SEER or better.
Note: Proposed heat pump systems used for primary heat must be submitted for approval.	
Water Heating:	
Minimum Standards	A minimum of a 0.93 UEF electric water heater in each unit. Atmospheric vented gas water heaters will not be allowed. Any central hot water systems must be submitted for approval.
Healthy Homes	
Minimum Standards	<ol style="list-style-type: none"> 1. Low VOC paints, stains, adhesives and sealants. 2. Formaldehyde free insulation. 3. Formaldehyde free or sealed particle board products such as shelving, cabinets and countertops. 4. Lead detection and abatement. Only applies to rehabilitation projects. 5. Passive radon system.
Electrical Standards	
Minimum Standards	<ol style="list-style-type: none"> 1. Hardwired CO sensors required with installation of gas appliances. 2. The use of incandescent light bulbs are not allowed.

		<p>3. New construction or substantial rehabilitation of rental housing with more than four (4) units must incorporate the installation of broadband infrastructure.</p>
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I certify that the above indicated characteristics will be incorporated into the final working drawings and that they must be provided prior to occupancy of the project.

I certify that the housing will meet the accessibility requirements of 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 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 implement the Fair Housing Act (42 U.S.C. 3601-3619).

Applicant Date

Architect Date

EXHIBIT 4
PROHIBITED LEASE TERMS

The lease may NOT contain any of the following provisions:

1. Agreement to be sued. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;
2. Treatment of property. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law;
3. Excusing owner from responsibility. Agreement by the tenant not to hold the owner or owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant;
5. Waiver of legal proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
6. Waiver of jury trial. Agreement by the tenant to waive any right to a trial by jury;
7. Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and
8. Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

EXHIBIT 5

Application Checklist

The following items must be submitted with the completed Application form to ensure a complete application is received by SDHDA. Please refer to the Community Housing Development Program Administrative Plan and application for clarification of any submission items.

Submission Item	Enclosed	Meet SDHDA requirements
1. Completed and signed Application form	_____	_____
2. Needs Assessment/Market Analysis	_____	_____
3. Project Narrative	_____	_____
4. Letters of Community Support	_____	_____
5. Utility Allowance Calculation	_____	_____
6. Pro forma	_____	_____
7. Documentation of Operating Expenses	_____	_____
8. Site Control	_____	_____
9. Architectural site plan	_____	_____
10. Architectural floor and unit plan	_____	_____
11. Zoning letter and project plat	_____	_____
12. Recent corporate/personal financials (within 90 days)	_____	_____
13. Organizational documentation	_____	_____
14. Executed Project Characteristics (Exhibit 3)	_____	_____
15. Documentation of financing	_____	_____
16. Availability of utility service	_____	_____
17. Application Fee	_____	_____
18. Detailed rehab listing	_____	_____
19. Three years audited financials	_____	_____
20. Current tenant rent roll	_____	_____