

2023 TAX CREDIT RESERVATION CONTRACT

Farolito Senior Community
Project: TC-23007
May 18, 2023

Attention: Felipe Rael, Greater Albuquerque Housing Partnership

In accordance with Section IV.G of the 2023 Qualified Allocation Plan (the "2023 QAP") and our Reservation Letter to you dated May 18, 2023, the New Mexico Mortgage Finance Authority (MFA) hereby advises you of its Reservation¹ of Low Income Housing Tax Credits (Tax Credits) in the amount of \$1,622,805 for Farolito Senior Community, a new construction project to be located in Albuquerque, NM (the "Project").

The Tax Credits will be finally allocated (Final Allocation) when the building(s) in the Project are Placed in Service and the Project Owner has delivered a complete final allocation application package satisfactory in form and substance to MFA. Subject to the availability of Tax Credits, as well as the limitations and obligations of the 2023 QAP, the amount of the Tax Credits will be determined at the time of Final Allocation on the basis of: 1) the Project Owner's final certifications, in form and substance satisfactory to MFA, as to the building(s)' Qualified Basis, as adjusted by MFA; 2) the Applicable Credit Percentage; and 3) the minimum amount that MFA determines necessary for the financial feasibility of the Project. Costs in excess of any limits contained in the 2023 QAP may be excluded from the Project's Qualified Basis when calculating Maximum Tax Credit Eligibility.

This Reservation is not a guarantee of the availability of Tax Credits for this Project. This Reservation is also subject to the conditions of this Reservation Contract, as well as all conditions, obligations, and requirements of the 2023 QAP, and no Tax Credits will be allocated unless the Project, and/or the entity requesting the allocation of Tax Credits (Project Owner) has demonstrated compliance with all conditions and requirements to the satisfaction of MFA, including the following:

1. To be eligible for a Final Allocation in 2023, the Project Owner must, by November 15, 2023, without exception, demonstrate to MFA's satisfaction that by December 31, 2023, the building(s) will have been Placed in Service for Federal income tax purposes; **or**
2. To be eligible for a Carryover Allocation, the Project Owner must submit a complete carryover allocation package in a form provided by and satisfactory to MFA by November 15, 2023. Among these requirements to be eligible for a Carryover Allocation, the Project Owner must demonstrate to MFA's satisfaction that the following conditions have been met:
 - a. The Project Owner must deliver Financing Commitments for construction and permanent financing for the entire Project and any other rental or other subsidy, as applicable. Commitments must be submitted for all funding and subsidy sources including construction and first mortgage lender(s), all secondary financing sources

¹ Capitalized terms that are not defined in this letter are defined in the 2023 Qualified Allocation Plan.

- (i.e., grants, loans, in kind contributions), rental assistance contracts, and fully executed letters of intent from all equity providers.
- b. The Project Owner must provide a copy of the Certificate of Partnership or other similar organization document if the Project Owner entity is not a partnership, and evidence of Project Owner's federal tax identification number.
 - c. The architect's certification, certifying that all local, state and federal development standards have been met, including, but not limited to, Fair Housing Laws, health, safety and building codes and MFA's 2023 Mandatory Design Standards for Multifamily Housing, and commitments made in the Initial Application regarding site and building design.
 - d. If Project is listed, or eligible for listing, on the National Register of Historic Places, Project Owner must provide evidence: 1) that the New Mexico State Historic Preservation Office determined that the Project will have no adverse effect, and, if Project financing includes the use of federal historic preservation tax credits, 2) that a complete Historic Preservation Certification Application Part II has been submitted to the National Park Service.
 - e. If not previously provided, evidence that all required zoning approvals have been obtained.
 - f. The general contractor's résumé, if it was not provided in the Initial Application.
 - g. Projects involving the acquisition and rehabilitation of an existing building, or buildings, must provide an Appraisal and Capital Needs Assessment of the existing property dated within 12 months of the date the Carryover Allocation application package is submitted to MFA.
3. This Reservation may be revoked, and Reservation Contract may be terminated at any time prior to Final Allocation in accordance with the 2023 QAP, including if, in MFA's sole discretion, the construction, acquisition, or rehabilitation of the subject building or Project has not proceeded in a timely manner satisfactory to MFA. Applicants who receive Reservations of Tax Credits must meet benchmarks and provide materials, when and as described in Part IV.G. of the QAP and will be required to provide additional periodic status reports outlining progress toward completion. See IV.G.2 of 2023 QAP which requires quarterly progress reports. Information requested may include, but is not limited to zoning approvals, firm debt and/or equity financing commitments, and later, construction progress. Commencing construction without MFA's prior approval and a failure to either submit a status report or quarterly report by the specified date or keep MFA apprised of 1/3rd construction completion, 2/3rd construction completion and final completion, may also result in the revocation of the Reservation and the termination of this Reservation Contract.

4. Allocations of Tax Credits are subject to payment of a Reservation Fee in the amount of seven and three-quarter percent (7.75%) of the Tax Credit amount shown above, as defined in the 2023 QAP, which must be received by MFA on or before [June 5, 2023](#).
5. No later than [June 30, 2024](#), the Project Owner must provide complete Project plans, specifications, and construction documents demonstrating compliance with MFA's 2023 *Mandatory Design Standards for Multifamily Rental Housing*
6. Prior to Final Allocation, MFA will require execution of a Land Use Restriction Agreement (LURA) by the Project Owner, providing for the Extended Use Period required by Section 42(h)(6) of the Internal Revenue Code of 1986 (the Code) and incorporating commitments made in the Initial Application. The LURA will be recorded as a restrictive covenant and will be a superior lien to any permanent financing for the project.

MFA reserves the right to revoke or modify this Reservation if it determines at any time, in its sole judgment, that (i) there are insufficient Tax Credits available, (ii) the building(s) will not be Placed In Service in 2023, or, in the case of a Carryover Allocation, that the requirements of the QAP will not be met by the deadline for Carryover described above, or (iii) that the building(s) do not in fact constitute "qualified low income building(s)" eligible for the Tax Credit under Code Section 42 and applicable regulations thereunder.

Code Section 42(g)(2)(A) provides that a low income unit in the Project is "rent-restricted" if the gross rent for such unit does not exceed 30 percent (30%) of the imputed income limitation applicable to the unit. Under Revenue Procedure 94-57, the effective date used to determine the income limitation and to establish the gross rent floor for purposes of Section 42(g)(2)(A) is the date MFA initially allocates a Housing Tax Credit dollar amount to the Project (that is, the date of a Carryover Allocation or, if no Carryover Allocation is made, the date of Final Allocation), unless the Owner designates a building(s) Placed in Service date as the effective date for the gross rent floor. Additionally, pursuant to Section 42(b)(1)(A), the Project Owner and MFA may enter into an agreement as to the Tax Credit amount to be allocated to the Project for the purpose of establishing the "applicable percentage" as defined in Section 42(b) as either the Carryover Allocation date or the Placed in Service date. Both the gross floor rent and applicable percentage designations will be made in the Carryover Allocation Agreement. For Projects not seeking a Carryover Allocation, the gross rent floor will be the date of Final Allocation, which ordinarily closely follows the placed in service date, and the applicable percentage will be determined by the Placed in Service date.

This Reservation is made and conditioned on the accuracy, truthfulness and completeness of the information that has been submitted to MFA. Such information is subject to confirmation at or prior to the Final Allocation. Representations made in the Application with respect to the Project are binding on the Project Owner without regard for MFA's scoring determinations. This Reservation is subject to and may be modified or revoked on account of 1) any failure to comply with applicable proposed, temporary, or final regulations promulgated by the U.S. Department of Treasury with respect to Section 42 of the Code, 2) changes made to the Project without prior MFA approval, or 3) failure to adhere to any requirements of the 2023 QAP.

This Reservation does not constitute a declaration or representation by MFA of the feasibility or viability of the Project. MFA makes no representation concerning any tax consequences resulting from this

Reservation and accepts no responsibility for any adverse consequences to the Project Owner or its investors arising out of this Reservation, the Reservation Contract, or other information concerning the Tax Credit.

This Reservation Contract terminates, and this Reservation shall be revoked, on December 31, 2023, if not terminated or revoked earlier, and cannot be assigned.

ACCEPTED BY:

Greater Albuquerque Housing Partnership
a New Mexico Nonprofit Corporation

BY: _____
Felipe Rael
Its: Executive Director

Date

RECEIVED AND ACCEPTED BY:

New Mexico Mortgage Finance Authority
A public body politic and corporate, separate and apart from but constituting a governmental instrumentality of the state of New Mexico

BY: _____
Jeff Payne
Chief Lending Officer

Date