

# **ARKANSAS HOUSING TRUST FUND (“AHTF”)**

## **PROGRAM REGULATIONS**

AS ADOPTED BY THE BOARD OF DIRECTORS OF THE ARKANSAS DEVELOPMENT FINANCE  
AUTHORITY (“ADFA”) DATED \_\_\_\_\_

### **I. Purposes of the AHTF:**

As contained in Arkansas 15-5-1702 (3) of the Arkansas Housing Trust Fund Act of 2009, the purposes of the AHTF shall be:

1. To provide a flexible source of funds for communities to address their affordable housing needs;
2. To help families attain economic stability;
3. To revitalize distressed neighborhoods and build healthy, vibrant communities by developing high-quality affordable housing;
4. To leverage additional private investment in Arkansas communities;
5. To contribute to economic growth through increased housing production, employment, and tax revenues, thereby benefitting all the citizens of the state;
6. To alleviate deficiencies in the supply of safe, accessible, and affordable housing for the citizens of the state most likely, because of low incomes, to suffer from these deficiencies, including, without limitation, persons who are homeless, disabled, elderly, or victims of domestic violence; and
7. To alleviate deficiencies in the supply of safe, accessible, and affordable housing for the citizens of the state living in rural areas.

### **II. Eligible Beneficiaries:**

As contained in Arkansas 15-5-1709 (a) (1) of the Arkansas Housing Trust Fund Act of 2009, eligible beneficiaries of AHTF activities must have total annual household incomes equal to or less than eighty percent (80%) of the Department of Housing and Urban Development (“HUD”) area median income, adjusted for family size.

### **III. Eligible Activities:**

As contained in Arkansas 15-5-1708 (b) of the Arkansas Housing Trust Fund Act of 2009, the eligible activities of the AHTF may include, without limitation or priority, the following:

1. New construction, reconstruction, or rehabilitation of rental housing or housing designed for owner occupancy;

2. Rental assistance;
3. Land acquisition;
4. Predevelopment costs;
5. Infrastructure;
6. Transitional housing;
7. Down payment assistance;
8. Housing and foreclosure counseling; and
9. Technical assistance.

#### **IV. Eligible Applicants:**

As contained in Arkansas 15-5-1708 (c) of the Arkansas Housing Trust Fund Act of 2009, eligible applicants of assistance from the AHTF shall include, without limitation or priority, the following:

1. Local governments;
2. Public housing authorities, public housing agencies, and public housing facilities boards;
3. Nonprofit organizations (must have IRS 501 (c)(3) designation);
4. Nonprofit housing developers; and
5. For-profit housing developers.

#### **V. Eligible Uses of AHTF Resources:**

As contained in Arkansas 15-5-1708 (a) of the Arkansas Housing Trust Fund Act of 2009, the uses of the AHTF shall be to provide assistance for eligible activities proposed by eligible applicants, including, without limitation, grants, loans, loan guarantees, and loan subsidies.

#### **VI A. Minimum Requirements:**

As contained in Arkansas 15-5-1709 (a) of the Arkansas Housing Trust Fund Act of 2009, for an activity to be eligible for AHTF support, the following minimum requirements must be present:

1. Beneficiaries of the activity must have total annual household income equal to or less than eighty percent (80%) of the HUD area median household income, adjusted for family size.
2. Housing funded by the AHTF must have the same duration of affordability as set forth in the rules of the ADFA HOME Investment Partnerships Program ("HOME").
3. Housing funded by the AHTF must adhere to the Universal Design criteria set forth in the rules and regulations of ADFA.
4. Housing funded by the AHTF must meet all building and maintenance standards set forth in the rules of ADFA.
5. Housing funded by the AHTF may not expend more than ten percent (10%) of the project budget for administrative costs or developer fees.

**VI B. Other Minimum Requirements:**

6. Applications or proposals for use of AHTF resources for development or redevelopment activities may not provide for fewer than five (5) affordable housing units.
7. All applications or proposals for use of AHTF resources must be accompanied by a letter of support from the chief elected official or a majority of the members of the elected governing Board or Council of the jurisdiction where the affordable housing is to be located.
8. All applications or proposals for use of AHTF resources for development or redevelopment activities must include a current market study, compiled by an ADFA-approved market study provider, or a housing needs assessment, pre-approved by ADFA, dependent upon the application or proposal submitted, evidencing the need for the affordable housing units proposed.
9. Relative to all applications or proposals for use of AHTF resources for development or redevelopment activities, all contractors and eligible subcontractors must be in good standing and have an active contractor's license issued by the Arkansas Contractor's Licensing Board.
10. Per project allocation maximum for development or redevelopment activities shall not exceed the applicable maximum per project allocation of a similar ADFA Program.
11. Per unit allocation maximum for development or redevelopment activities shall not exceed the applicable maximum per unit allocation of a similar ADFA Program. For affordable housing non-construction activities, the per unit allocation maximums will not apply.

**VII A. Fund Distribution - Set-asides, incentives, inducements:**

As contained in Arkansas 15-5-1709 (b) of the Arkansas Housing Trust Fund Act of 2009, the following rules shall apply to distribution of any AHTF resources:

Activities shall be selected through a competitive process.

The following groups served shall be eligible for set-asides or incentives, without limitation:

1. Persons with very low-income,
2. Persons living in rural areas,
3. Homeless persons,
4. Persons with disabilities,
5. Elderly persons,
6. Victims of domestic violence

**VII B. Other Set-asides:**

7. Veterans

### **VII C. Other Fund Distribution Requirements:**

AHTF resources will be provided to approved recipients in a manner consistent with fund distribution of other ADFA housing resources. This requirement includes meeting the following conditions, at a minimum, prior to fund disbursement:

- All AHTF recipients will be required to execute an AHTF Agreement drafted by ADFA staff. The agreement, when executed by all parties, will serve as the commitment of AHTF funds by ADFA and will outline all applicable requirements to be accomplished by the AHTF recipient.
- Satisfactory execution of the AHTF agreement, closing documents, and filing of the applicable documents, as required, including the filing of a mortgage and note in favor of ADFA for the full amount of AHTF resources allocated as loans.
- A preconstruction or pre-implementation conference is conducted with the recipient and ADFA representatives present.
- ADFA will issue one written Notice to Proceed applicable to all ADFA housing programs approved for the AHTF-assisted activity. It is imperative the recipient does not begin the project or activity until the written Notice to Proceed is issued by ADFA and received by the recipient.
- For all activities involving construction, rehabilitation, land acquisition, or infrastructure, the recipient must complete and ADFA must approve the appropriate HUD environmental review process.

### **VIII. Terms of AHTF Loan Assistance:**

If AHTF funds are provided to eligible recipients in the form of a loan, the funds will be loaned at a minimum interest rate of one percent (1%) per annum for a minimum loan term of twenty (20) years, amortized over twenty (20) years. For projects utilizing AHTF resources and U.S. Department of Agriculture (“USDA”) Rural Development (“RD”) funds, the AHTF loan may match the terms of the USDA RD loan. For projects utilizing AHTF resources and HUD funds, the AHTF loan may match the terms of the HUD loan.

### **IX. Program Income:**

AHTF activity which generates program income, as defined in the AHTF grant or loan agreement between the recipient and ADFA as a direct result of AHTF-funded activity(s), the recipient must immediately remit such program income received from AHTF activity(s) directly to ADFA. ADFA will reallocate any program income received to eligible AHTF applicants for eligible AHTF activities.

**X A. Evaluation Criteria:**

As contained in Arkansas 15-5-1709 (b) (3) of the Arkansas Housing Trust Fund Act of 2009, the following evaluation criteria, without limitation, shall be used to determine recipients of funding from the AHTF:

1. The experience of the entity making the proposal determined through consideration of the proposer's past history in completing activities of a similar scale and nature;
2. If rental housing is being proposed, an evaluation of the property management history of the developer and management agent;
3. The timeliness with which units will be developed or the activity implemented and completed;
4. The number of years a development shall maintain units at affordable rents or sales prices and the strength of enforcement mechanisms to ensure long-term affordability;
5. The number of affordable units being made available to households with household incomes at or below fifty percent (50%) and thirty percent (30%) of HUD area median household income, adjusted for family size;
6. The degree to which AHTF resources are used to leverage additional funding. Applicants are encouraged to leverage AHTF resources to the maximum extent possible with funds from other sources. The extent to which AHTF resources will be returned through repayment;
7. The extent to which the activity will leverage or augment local community affordable housing goals or locally adopted affordable housing plans such as revitalization areas or other geographic areas targeted for investment;
8. The extent to which the activity will minimize negative impacts on existing tenants and community members, with particular emphasis on displacement;
9. The extent to which housing produced will be part of a mixed income development or neighborhood;
10. The extent to which the activity serves households with special needs, including persons living in rural areas, persons who are elderly, disabled, homeless, or victims of domestic violence;
11. The extent to which the activity adheres to energy efficiency and other environmental and sustainability standards, as adopted by ADFA;
12. The extent to which housing will be located near transit, shopping, community services, and other amenities;
13. The extent to which financial and homeownership counseling is provided to households served by the activity;
14. The amount of the activity budget spent on administrative costs or developer fees, with such costs or fees capped at ten percent (10%) of total development costs;

**X B. Other Evaluation Criteria:**

15. The amount of AHTF resources requested, the total development budget, provision of firm financial commitments of all other funding budgeted, per unit costs, and the reasonableness of all development costs associated with the AHTF-financed activity;
16. The appropriateness, quantity, and quality of any supportive services to be provided in conjunction with the affordable housing to be developed or redeveloped.

**XI. Affordable Rents:**

Rents for eligible tenants will be considered to be affordable if the rent does not exceed thirty percent (30%) of the household's income at eighty percent (80%), sixty percent (60%), and fifty percent (50%) of the HUD area median income, adjusted for family size, for the area where the AHTF-assisted activity is located or is to be located.

**XII. Project Reporting:**

All AHTF recipients will be required to and are responsible for reporting information related to the uses of AHTF resources to ADFA in a timely manner to facilitate ADFA's reporting requirements. Specific reporting requirements will be delineated in the AHTF agreement executed between ADFA and the recipient.

**XIII. Project Monitoring:**

- All activities funded by AHTF resources will be periodically monitored for compliance. During project implementation, ADFA inspectors will inspect any work completed using AHTF funds. The timing of such inspections will be addressed in a pre-implementation conference, but ADFA reserves the right to inspect any activity completed with AHTF funds at any time. This right extends to AHTF Advisory Committee members, State Officials, and any other authorized entity with oversight responsibilities of the AHTF. After the affordable housing activity is completed and placed-in-service and for the full applicable affordability period, ADFA Compliance Monitoring staff will periodically perform on-site property inspections, review of documentation, and monitor adherence to all applicable AHTF and ADFA requirements.
- The purpose of the compliance monitoring inspections will be to determine and ultimately ensure compliance with all applicable program regulations and requirements contained in these policies and the regulations of any applicable ADFA program used in the AHTF activity. In the event non-compliance occurs, ADFA staff will work with the project owner to re-establish compliance. Should the non-compliance continue or the AHTF activity is incapable of being brought

into compliance, ADFA may use any and all lawful means at its disposal to recapture the AHTF funds and re-allocate them to other eligible AHTF activities.

- Failure to adhere to ALL applicable requirements as contained in AHTF Program Regulations and the AHTF agreement will be considered a default of the AHTF agreement and may be addressed by ADFA using any and all available remedies, as provided by law. The intent of any remedies implemented is to establish or re-establish program and agreement compliance. If full compliance by the recipient is not possible, ADFA may take any and all lawful actions necessary to ensure compliance with all applicable requirements up to and including recapture of all AHTF funds.

The ADFA Board of Directors reserves the right, in its sole and absolute discretion subject to applicable law, to allocate AHTF resources and to refrain from making AHTF allocations based upon available funding, quality of applications received, and other criteria. The ADFA Board of Directors may, at its discretion, implement changes to the AHTF Program Regulations at any time to ensure compliance with state and federal law, grant waivers or exceptions to AHTF requirements, and exhibit flexibility in their interpretation of AHTF Program Regulations and ADFA Policies and Procedures associated with AHTF resources to fully and more efficiently utilize the AHTF resources for their intended purposes. In accordance with Arkansas 15-5-1707 (b)(1), the HTF Advisory Committee will collaborate with the staff of ADFA to draft regulations, compliance responsibilities, incentives, and funding priorities for the AHTF and the programs funded by the AHTF, which regulations and policies will be referred by the Advisory Committee to ADFA for its review and approval.