

**XX. SOURCE OF FUNDS (GRANTS AND OTHER FUNDS)**

Is any portion of the source of funds for the development financed directly or indirectly with federal, state or local government funds?

Yes  No

If "Yes," then check the type and list the amount.

	Amount
Tax-Exempt Bond Est. Net Proceeds	\$ -
HOME Funds	\$ -
CDBG Financing	\$ -
CDBG Grant	\$ -
UDAG Grant/Financing	\$ -
Federal Home Loan Bank*	\$ -
HODAG Financing	\$ -
HODAG Grant	\$ -
USDA 515 Financing	\$ -
Rental Rehabilitation Grant Funding	\$ -
State Grant	\$ -
Local Grant	\$ -
Other	\$ -

\*Not a federal subsidy if from Affordable Housing Program

Each applicant for HOME funds will be required to meet a 12.5% non-federal matching requirement. Applicants must structure their proposals based on the 12.5% matching requirement and submit Attachment M, which is an itemization of all proposed match requirements and include in TAB 49.

**XXI. CREDIT ENHANCEMENT OR PRIVATE PLACEMENT**

(For Tax-Exempt Bond Applicants Only)

Principal Amount of Bonds Requested for Reservation \$

Will the permanent financing have any type of credit enhancement?  
 Yes  No

If yes, list type of enhancement(s):

If no, attach an Investor Letter from the Qualified Investor as defined in IX(F) of the Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing.

If Tax-Exempt financing is used, list the percentage of the tax-exempt financing to the total cost of development:

**XXIII. SOURCE OF FUNDS**

**Construction Financing Information:**

<b>1.</b>		<b>Amount of Funds</b>
Source of Funds	<input type="text"/>	\$ <input type="text" value="-"/>
Contact Person	<input type="text"/>	
Email Address	<input type="text"/>	
Telephone Number	<input type="text"/>	
<b>2.</b>		<b>Amount of Funds</b>
Source of Funds	<input type="text"/>	\$ <input type="text" value="-"/>
Contact Person	<input type="text"/>	
Email Address	<input type="text"/>	
Telephone Number	<input type="text"/>	
<b>3.</b>		<b>Amount of Funds</b>
Source of Funds	<input type="text"/>	\$ <input type="text" value="-"/>
Contact Person	<input type="text"/>	
Email Address	<input type="text"/>	
Telephone Number	<input type="text"/>	
<b>4.</b>		<b>Amount of Funds</b>
Source of Funds	<input type="text"/>	\$ <input type="text" value="-"/>
Contact Person	<input type="text"/>	
Email Address	<input type="text"/>	
Telephone Number	<input type="text"/>	

Construction Financing Information: continued. . .

5.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		
<b>Total Source of Funds for Construction</b>		<b>\$ -</b>

Permanent Financing Information:

1.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		

2.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		

3.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		

4.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		

5.		<b>Amount of Funds</b>
Source of Funds		\$ -
Contact Person		
Email Address		
Telephone Number		

**Total Source of Funds for Permanent Financing \$ -**

	Amount of Funds	Interest Rate	Amortization Period (months)	Loan Term (months)	Annual Debt Service
First Mortgage	\$ -				\$ -
Second Mortgage (HOME)	\$ -				\$ -
3rd Mortgage	\$ -				\$ -
Federal LIHTC Equity	\$ -				\$ -
State LIHTC Equity	\$ -				\$ -
Historic Tax Credit Equity	\$ -				\$ -
Deferred Developer Fee	\$ -				\$ -
General Partner Equity	\$ -				\$ -
Transfer from Reserves	\$ -				\$ -
Other:	\$ -				\$ -
Other:	\$ -				\$ -
<b>Totals</b>	<b>\$ -</b>				<b>\$ -</b>

**FINAL DEVELOPMENT COSTS**

Itemized Cost	HOME Costs	Other Costs	Total Cost	% of TDC	Eligible Basis	
					Existing Buildings	New Buildings
					4% LIHTC	9% LIHTC
<b>Acquisition</b>						
Purchase of land	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
Purchase of buildings	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-
The cost of purchase for land and buildings may not exceed the appraised value. ADFA utilizes the as-is, restricted market value as the appraised value. If financed with RD, the value of the RD subsidy is included. The amount included shall be the lesser of: (1) Purchase Price or (2) Appraised Value.						
<b>Land Preparation Costs</b>						
Site Work	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
On-Site Infrastructure	-	-	-	#DIV/0!	-	-
Off-site Infrastructure	-	-	-	#DIV/0!	-	-
Demolition	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-
<b>Rehabilitation &amp; New Construction</b>						
New Building	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
Rehabilitation	-	-	-	#DIV/0!	-	-
Accessory Building	-	-	-	#DIV/0!	-	-
General Requirements* (Max. 7%)	-	-	-		-	-
Contractor Overhead** (Max. 4%)	-	-	-		-	-
Contractor Profit*** (Max. 10%)	-	-	-		-	-
FF&E:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-
*General Requirements can be no more than 7% of the total of Hard Costs which include: Site Work, On-Site Infrastructure, Demolition, New Building, Rehabilitation, Accessory Building and Hard Costs Construction Contingency						
					max. General Requirements	\$ -
**Contractor Overhead can be no more than 4% of the total of Hard Costs defined above plus General Requirements						
					max. Contractor Overhead	\$ -
***Contractor Profit can be no more than 10% of Hard Costs defined above plus General Requirements						
					max. Contractor Profit	\$ -
<b>Contingency</b>						
Hard Costs Construction Contingency	-	-	-		HARD KEY THESE TWO COLUMNS	
Soft Costs Contingency	-	-	-		-	-
Other:	-	-	-		-	-
Subtotal	-	-	-		-	-
<b>Architectural, Engineering &amp; Legal Fees</b>						
Architect Fee - Design	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
Architect Fee - Supervision	-	-	-	#DIV/0!	-	-
Engineering Fees	-	-	-	#DIV/0!	-	-
Attorney Fees	-	-	-	#DIV/0!	-	-
Building Permits	-	-	-	#DIV/0!	-	-
Inspection	-	-	-	#DIV/0!	-	-
Survey	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-
<b>Interim Costs</b>						
Construction Insurance	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
Construction Interest	-	-	-	#DIV/0!	-	-
Construction Loan Origination Fee	-	-	-	#DIV/0!	-	-
Construction Loan Credit Enhancement	-	-	-	#DIV/0!	-	-
Real Estate Taxes	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-
<b>Financing Fees and Expenses</b>						
Bond Premium	-	-	-	#DIV/0!	HARD KEY THESE TWO COLUMNS	
Credit Report	-	-	-	#DIV/0!	-	-
Permanent Loan Origination Fee	-	-	-	#DIV/0!	-	-
Permanent Loan Credit Enhancement	-	-	-	#DIV/0!	-	-
Cost of Issue/Underwriters Discount	-	-	-	#DIV/0!	-	-
Title and Recording	-	-	-	#DIV/0!	-	-
Bond Counsel's Fee	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -		-	-

Itemized Cost	HOME Costs	Other Costs	Total Cost	% of TDC	Eligible Basis	
					Existing Buildings 4% LIHTC	New Buildings 9% LIHTC
<b>Soft Costs</b>					<b>HARD KEY THESE TWO COLUMNS</b>	
Property Appraisal	-	-	-	#DIV/0!	-	-
Market Study	-	-	-	#DIV/0!	-	-
Environmental Report	-	-	-	#DIV/0!	-	-
Tax Credit Fees	-	-	-	#DIV/0!	-	-
Compliance/Monitoring Fee	-	-	-	#DIV/0!	-	-
Lease-Up Expense & Marketing	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -	-	-	-
<b>Syndication Costs</b>						
Organizational	-	-	-	#DIV/0!	-	-
Bridge Loan Fees & Expenses	-	-	-	#DIV/0!	-	-
Tax Opinion	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Other:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -	-	-	-
<b>Developer and Consultant Fees</b>					<b>HARD KEY THESE TWO COLUMNS</b>	
Developer's Fee**** (cannot exceed max)	-	-	-	-	-	-
Developer's Overhead	-	-	-	-	-	-
Consultant's Fee	-	-	-	-	-	-
Other:	-	-	-	-	-	-
Other:	-	-	-	-	-	-
Subtotal	\$ -	\$ -	\$ -	-	-	-
****New Construction: Total Developer and Consultant Fee can be no more than 15% of the Net Development Costs, which is the Total Development Costs, less Syndication Costs, less Developer and Consultant Fees Total, less Development Reserves Total.					max. Developer Fee	\$ -
****Rehabilitation Projects: Developer fee can be no more than 10% of land and building costs, plus 15% of remaining Net Development Costs. (see calculation listed above)					max. Developer Fee	\$ -
<b>Development Reserves</b>						
Replacement Reserves	-	-	-	#DIV/0!	-	-
Operating Deficit Reserve	-	-	-	#DIV/0!	-	-
Lease-up Reserve	-	-	-	#DIV/0!	-	-
Other Reserve:	-	-	-	#DIV/0!	-	-
Other Reserve:	-	-	-	#DIV/0!	-	-
Subtotal	\$ -	\$ -	\$ -	-	-	-
<b>Total Development Cost Budget</b>	\$ -	\$ -	\$ -	-	-	-
Less portion of federal grant used to finance qualifying development costs					<b>HARD KEY THESE TWO COLUMNS</b>	
List Grant:				enter as negative number>>	-	-
Less amount of non-qualified non-recourse financing.				enter as negative number>>	-	-
Less amount of non-qualified units of higher quality				enter as negative number>>	-	-
Less non-qualifying excess portion of higher quality units				enter as negative number>>	-	-
Less Historic Tax Credit (Residential Portion Only)				enter as negative number>>	-	-
Net Eligible Basis					-	-
130% Adjustment for high cost area (QCTs and DDAs)					-	100%
Total Eligible Basis					-	-
Multiplied by Applicable Fraction	#DIV/0!	#DIV/0!	Lower of two		-	-
Total Qualified Basis					#DIV/0!	#DIV/0!
Multiplied by the Applicable Percentage		0.00%	0.00%		-	-
Annual Federal Tax Credits Requested					#DIV/0!	#DIV/0!
Total Credits Requested					#DIV/0!	-
Applicable Development Credit Cap				enter here>>>>	-	-
Total Annual Federal Tax Credits Requested*					#DIV/0!	-
*This amount is the lesser of the total amount of federal credits requested or applicable development credit cap.						
State Tax Credits Requested (20% of Federal)				enter here>>>>	-	-

<b>APPLICABLE FRACTION COMPUTATION</b>			
Total No. of Units excluding manager unit(s):		Total Residential Floor area:	
No. of LIHTC Units excluding manager unit(s):		Total LIHTC Residential Floor Area:	
Percentage of LIHTC Units:	#DIV/0!	Percentage of LIHTC Sq. Ft.:	#DIV/0!

## **FINAL COST CERTIFICATION REQUIREMENTS**

All development owners requesting issuance by ADFA of IRS Form(s) 8609 must comply with the following requirements and submit all required documentation. ADFA reserves the right to clarify these requirements as necessary.

All developments placing in service after November 3, 2010, must submit a complete cost certification package, including all documents and information required herein, **within one-hundred twenty (120) days of placement in service.**

If a complete cost certification package is not been submitted within (120) days of placement in service, **ADFA may deny any or all other applications for ADFA resources that are pending or that become pending prior to submission of a complete cost certification package and all fees paid that have accrued as set forth below.**

**A \$15.00 per calendar day late fee shall be assessed for all cost certification packages submitted after the deadline set forth herein.**

**The \$15.00 per calendar day late fee shall also be assessed for all cost certification packages submitted within the time set forth herein but which fail to include all information and documentation required herein to be included with the cost certification package request for IRS Form(s) 8609.**

Further documentation or information that becomes necessary to obtain based upon review of the complete cost certification package may be requested in writing by ADFA and shall be provided to ADFA within 10 calendar days, excluding the day such request is sent by ADFA (which shall be established by date of letter or date that electronic mail is sent from ADFA requesting such information or documentation). **A separate \$15.00 per calendar day late fee will be charged for each day after the provided 10 calendar days that the documentation or information is not submitted to ADFA. This fee accrues until ADFA is in actual receipt of such requested documentation and information.**

**All fees set forth above, and all other fees otherwise due such as but not limited to the allocation fee and the monitoring fee, must be paid before ADFA will proceed with the cost certification review and issuance of IRS Form(s) 8609.**

### **I. REQUIRED DOCUMENTS.**

The development owner is required to submit the following items to ADFA staff for review:

A. Proof of placement in service, as defined by IRS Notice 88-116, for each building in the development. Proof of placement in service is evidenced by:

1. New Buildings:

Certificate(s) of Completion (Occupancy) by proper state or local authority for each building in the development. Temporary Certificates of Occupancy will not be accepted as evidence of placement in service except if accompanied by a tax counsel opinion which unequivocally opines that such temporary certificates of occupancy, under the circumstances particular to the development for which such Temporary Certificates are submitted, validly evidences

placement in service under IRS Section 42. Such tax counsel opinion must specifically state that the opinion may be relied upon by ADFA.

2. Existing Buildings:

- a. Date of transfer to taxpayer, if, on the date of transfer, the building or any unit in the building is ready and available for its intended purpose;  
OR
- b. Date first unit in the building is certified as being suitable for occupancy by the proper state or local authority.

3. Rehabilitation Expenditures:

- a. Proof that rehabilitation is complete;
- b. Schedule of rehabilitation expenditures by month;
- c. Certification that the minimum expenditure requirement of 26 U.S.C. §42(e)(3)(A), and ADFA's minimum rehabilitation expenditure requirement, has been met;
- d. Certification of the month in which the federal rehabilitation expenditure requirement was met for each building; and
- e. Certification of the placed-in-service date for the rehabilitation expenditures of each building.

B. Development owner must submit a draft Land Use Restriction Agreement (LURA) to the ADFA Multi-Family department for review. Upon approval, an original recorded file-marked copy of the development's LURA along with all attachments and exhibits shall be sent to ADFA.

1. The owner of the development will be required to execute and record a Land Use Restriction Agreement ("LURA") that sets forth those covenants that will restrict the development property for a minimum of thirty (30) years ("the extended use period"). The owner is required to submit a draft copy of the LURA for review and approval by ADFA prior to recording the LURA in accordance with Arkansas law. ADFA will not issue IRS Form(s) 8609 until the LURA has been reviewed and approved by ADFA, properly recorded, and a copy of the recorded LURA, with file-mark, returned to ADFA.
2. The LURA shall state that the owner will comply with all applicable requirements under the Code, the Qualified Allocation Plan, Guidelines for Multi-Family Housing Application, other relevant statutes and regulations and all representations made in the Multi-Family Housing Application. Among other things, the LURA will:
  - a. State that the owner will not apply for relief under Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(I) of the Code;
  - b. Identify:
    - (i) each building in the development;
    - (ii) the income limit for each low-income unit in the development;
    - (iii) the applicable fraction for each building and will state that the applicable fraction for any building will not be reduced during the extended use period; and
    - (iv) the 1602 percentage if applicable;
  - c. State that during the term of the LURA, the owner will covenant, agree, and warrant:
    - (i) each low-income unit will remain suitable for occupancy;
    - (ii) any existing tenant in any low-income unit will not be evicted or have her/his occupancy terminated for other than good cause; and
    - (iii) the gross rent of any low-income unit will not be increased except as permitted under Section 42 of the Code.

- d. State that, notwithstanding the termination of the “extended use period,” per Section 42(h)(6)(E)(ii) of the Code, for a period of three years following such termination existing tenants in low-income units in the development cannot be evicted (other than for good cause) and the gross rent of such units will not increase other than permitted by Section 42;
  - e. Authorize individuals who meet the income and rent limitations applicable to the building the right to enforce those limitations in Arkansas courts;
  - f. Prohibit the disposition of a portion of any building identified in the LURA to any person unless the entire building is so disposed;
  - g. State that the owner will not refuse to lease any residential unit in the development to a holder of a voucher or certificate of eligibility under Section 8 of the Housing Act of 1937 (42 USC § 1437(f)) because of the status of the prospective tenant as such a holder; and
  - h. State that the LURA is binding on all successors of the owner.
- C. A signed Certification from the licensed design architect or licensed engineer confirming:
- 1. Compliance with ADFA's "Multi-Family Housing Minimum Design Standards” applicable to the development;
  - 2. Compliance with all applicable federal and state building codes and all applicable federal and state accessibility laws;
  - 3. The certifying architect or engineer has reviewed the development owner’s Multi-Family Housing Application and all ADFA-approved changes thereto and the development as-built includes all amenities represented in the application and all ADFA-approved changes of amenities if any;
  - 4. The certifying architect or engineer has reviewed the development owner’s Multi-Family Housing Application and all ADFA-approved changes thereto and the development as-built contains all advanced energy features represented in the application and all ADFA-approved changes of advanced energy features, if any;
  - 5. The certifying architect or engineer has reviewed the HERS rating report submitted with owner’s application for housing tax credits, and the HERS rating report submitted with the cost certification package submitted hereunder, and all energy features, methods, and all other criteria on which the HERS rating submitted with the owner’s Multi-Family Housing Application, were adhered to and/or installed in the as-built development. This requirement shall apply to developments for which credits were awarded in 2010, 2011 and 2012.
- D. A signed certification from a certified HERS rater stating the HERS rating of all building(s) within the development as-built and placed in service. This requirement shall apply to developments for which credits were awarded in 2010, 2011 and 2012.
- E. Cost Certification by an independent third-party Certified Public Accountant which, at a minimum:
- 1. Utilizes the “Final Development Costs’ form to certify total development costs and the ‘Final Development Sources’ form to certify final development sources. Both are on ADFA’s website;
  - 2. Certifies, pursuant to 26 USC § 42, the eligible basis, square footage, applicable fraction, and maximum qualified basis for each building in the Development; (Submit both calculations for

the applicable fraction based upon the “unit fraction” method and the “floor space fraction” method). The cost certification shall also include in this same schedule the maximum amount of qualified basis for each building within the development, as determined by the applicable fraction and applicable percentage, i.e., the maximum amount of qualified basis for each building, when multiplied by the applicable percentage, shall equal an amount of credits which in total equal no more than the amount of credits allocated by the carryover allocation;

3. For each building with rehabilitation expenditures, certifies that the expenditures’ requirements of 26 USC § 42(e)(3)(A) and ADFA’s \$15,000/unit requirement have been met and identifies the 24-month period allowed under 26 USC § 42(3)(A) for aggregating rehabilitation expenditures;
  4. Schedule of rehabilitation expenditures included in the 24-month rehabilitation period by month, and certification of the date the rehabilitation placed-in-service by building, pursuant to IRC Section 42 and related regulations and IRS guidance, that is requested to be stated as the placed-in-service date on each building’s IRS Form 8609 for rehabilitation;
  5. Certifies that the Per Unit Cost; Developer’s Fee; General Requirements; Contractor’s Overhead; Contractor’s Profit; and Rehabilitation Costs Standard are within ADFA’s Program requirements and as represented in the development owner’s Multi-Family Housing Application and all ADFA-approved changes thereto;
  6. For each building financed with tax-exempt bond proceeds, certifies the percentage of aggregate basis of each building financed by tax-exempt bond proceeds; and
  7. For each building with market rate units, certifies:
    - a. The cost of each such unit;
    - b. The square footage of each such unit;
    - c. The average cost per square foot of the low-income units in the development; and
    - d. Whether the market rate units are “above the average quality standard of the low-income units” as described in Section 42(d)(3)(B)(i) of the Internal Revenue Code and whether the development owner elected to exclude the excess costs pursuant to Section 42(d)(3)(B)(ii) of the Internal Revenue Code.
- F. Statement identifying the first taxable credit year for each building in the development and, if beyond first taxable year for any building, that the development met the minimum set-aside requirements of 26 USC § 42(g)(3)(A) prior to the close of the first taxable credit year for such building(s);
- G. List stating the Building Identification Number assigned at carryover allocation and the full street address reflected on the Certificate of Occupancy for each building in the development;
- H. Full name, address, telephone number, and Federal Tax ID number for the development owner;
- I. Payment to cover allocation of credits - \$150.00 per low-income unit in the development and payment to cover monitoring fee - 8% of annual Federal credit allocation for the development;
- J. Sources = Uses
1. Applicant shall provide copies of all documents evidencing the financing utilized for the development, which shall be at least equal to the total development costs as certified by the Certified Public Account pursuant to Section I(E) herein.

2. If financing sources utilized exceeds the amount of certified total development costs, ADFA may reduce the amount of credits issued via IRS Form(s) 8609 so as to comply with the federal requirement that no more housing credits be issued than necessary in order for the development to be financially feasible.
  3. All deferrals of developer fee shall be evidenced in writing and an updated pro forma shall be submitted evidencing that the amount of deferred developer fee is projected to be paid from cash flow within fifteen (15) years from the date the development placed in service. If the total amount of deferred developer fee is not evidenced by the pro forma, based upon reasonable projections and in compliance with all Program requirements, to be paid back from the development's cash flows within fifteen (15) years from placement in service, Applicant may submit a financing commitment letter evidencing how the total amount of deferred developer fee will be paid to developer within fifteen (15) years from placement in service. If the applicable condition above is not met, the amount of credits issued via IRS Forms 8609 may be decreased and the General Partner must evidence the ability to contribute an amount of equity equal to the equity lost due to the decreased credits prior to ADFA's issuance of IRS Form(s) 8609;
- K. Final executed amended and restated Limited Partnership Agreement;
  - L. Organizational bylaws or Operating Agreement of General Partnership and any amendments thereto;
  - M. Warranty deed and title policy;
  - N. Bank statement evidencing the funding of operating reserves and replacement reserves in the requisite amounts, at minimum;
  - O. Certification that there has been no change in the development team members represented in the Multi-Family Housing Application. If ADFA has approved a change, a copy of the owner's request and a copy of the approval letter from ADFA shall be included; and
  - P. In addition, ADFA will underwrite the Final Cost Certification to ensure continued compliance with all THRESHOLD REQUIREMENTS, ADDITIONAL REQUIREMENTS FOR A COMPLETE APPLICATION, and SELECTION CRITERIA set forth in the applicable Qualified Allocation Plan, Guidelines for Multi-Family Housing Application and all representations evidenced in the owner's Multi-Family Housing Application for Federal Low-Income Housing Tax Credits.

**II. TAX CREDIT ASSISTANCE PROGRAM ("TCAP") and SECTION 1602 EXCHANGE FUND DEVELOPMENTS.**

- A. All development owners that received Section 1602 Exchange funds under The American Recovery and Reinvestment Act must comply with all final cost certification requirements set forth above, except as modified in this subsection.
- B. The cost certification prepared by the Certified Public Account must include, in addition to all other requirements set forth above, a certification of expenditures of all TCAP and Section 1602 Exchange funds and a certification that all development costs for which TCAP funds and Section 1602 Exchange funds were expended were eligible costs under the respective program (TCAP or Section 1602 Exchange).

- C. ADFA shall issue documentation of the placement in service of Section 1602 Exchange funded developments as appropriate; such documentation shall not be filed by development owner with the Internal Revenue Service unless otherwise requested or required by the Internal Revenue Service.
- D. All development owners that received Section 1602 Exchange funds shall pay to ADFA a total monitoring fee, **due within one-hundred twenty (120) days after placement in service**, equal to 8% of the original Federal credit amount awarded in 2007, 2008, or 2009, as applicable, prior to development owner returning such original credit allocation or reservation. The allocation fee shall be \$150.00 per low-income unit in the development. This requirement shall remain applicable to future awards of Exchange funds, if any, unless otherwise amended.

### **III. TAX-EXEMPT BOND DEVELOPMENTS.**

The limitation to the amount of credits awarded or approved as set forth by ADFA in its award letter to tax-exempt bond applicant shall not apply to final cost certifications of developments financed by tax-exempt bonds. The limitation on total credits per development shall not apply to developments financed by tax-exempt bonds. All credits requested by developments financed by tax-exempt bonds must be supported by qualified basis certified by a Certified Public Accountant.

**WHEN RECORDED RETURN TO:  
ARKANSAS DEVELOPMENT FINANCE AUTHORITY  
MULTIFAMILY HOUSING DEPARTMENT  
900 WEST CAPITOL AVENUE, SUITE 310  
LITTLE ROCK, ARKANSAS 72201**

**LAND USE RESTRICTION AGREEMENT and  
DECLARATION OF LAND USE RESTRICTIVE COVENANTS  
FOR LOW-INCOME HOUSING TAX CREDITS**

THIS LAND USE RESTRICTION AGREEMENT and DECLARATION OF LAND USE RESTRICTIVE COVENANTS FOR LOW-INCOME HOUSING TAX CREDITS (this "AGREEMENT"), dated as of \_\_\_\_\_, is entered into by [Click here to enter text.](#) and its successors and assigns (the "Development Owner") and the Arkansas Development Finance Authority, a public body politic and corporate of the State of Arkansas, together with any successor to its rights, duties and obligations (the "Authority"). This AGREEMENT is entered to comply with Section 42 of the Internal Revenue Code of 1986, as amended, 26 USC § 1 *et seq.*, (the "Code"), and serves as the "extended low-income housing commitment" required by Section 42(h)(6)(A) of the Code.

**WITNESSETH:**

WHEREAS, the Development Owner is the owner of a low-income rental housing development, known as [Click here to enter text.](#) (the "Development") located on land in the City of [Click here to enter text.](#), County of [Click here to enter text.](#), State of Arkansas, more particularly described in Exhibit A hereto; and

WHEREAS, the Authority has been designated as the housing credit agency for the State of Arkansas for the allocation of federal low-income housing tax credit ("Tax Credits") pursuant to Section 42 of the Code; and

WHEREAS, the Development Owner filed its Multi-Family Housing Application for Tax Credits, dated [Click here to enter text.](#) (the "Application") by which the Authority has determined the Development would support an allocation of Tax Credits in an amount not to exceed [Click here to enter text.](#) annually; and

WHEREAS, the Development Owner has represented to the Authority in the Application that it will impose additional rent and occupancy restrictions and will maintain the Section 42 rent and income restrictions for the period of time evidenced in Section 5 of this AGREEMENT; and

WHEREAS, the Code requires as a condition precedent to the allocation of Tax Credits that the Development Owner execute, deliver and record this AGREEMENT in the official real property records of the county in which the Development is located in order to create certain covenants running with the Development land, as particularly described in Exhibit A hereto, for the purpose of enforcing the requirements of Section 42 of the Code by regulating and restricting the use and occupancy and transfer of the Development as set forth herein; and

WHEREAS, the Development Owner declares and covenants that the regulatory and restrictive covenants set forth in this AGREEMENT shall govern the use, occupancy and transfer of the Development and are covenants running with the Development for the term of the AGREEMENT stated herein and shall be binding upon all subsequent owners of the Development during such term, and are not merely personal covenants of the Development Owner.

NOW THEREFORE, in consideration of the representations and covenants set forth in this AGREEMENT, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Development Owner and the Authority agree as follows:

## **SECTION 1 – DEFINITIONS**

“Development,” as used in this AGREEMENT, shall mean, in addition to the real property described in Exhibit A, attached hereto, any building, structure, fixture and improvement located on said real property.

“Term of this AGREEMENT” shall have the meaning set forth in Section 5 herein.

Each word and phrase used in this AGREEMENT, not defined herein, shall have the same definition or meaning and effect as used within Section 42 of the Code or within rules, regulations, or other official notices or statements promulgated by the United States Department of the Treasury or the Internal Revenue Service.

## **SECTION 2 – RECORDING AND FILING: COVENANTS TO RUN WITH THE LAND**

- (a) Following execution by the Development Owner and the Authority, the Development Owner shall cause this AGREEMENT and all amendments hereto to be recorded and filed in the office of the Circuit Clerk and Ex-Officio Recorder of the County in which the Development is located, and shall pay all fees and charges incurred in connection therewith. Upon recording, the Development Owner shall immediately transmit to the Authority an executed original of the recorded AGREEMENT showing the date, record book and page numbers of record or record of instrument number, as applicable. The Development Owner agrees that the Authority will not issue the Internal Revenue

Service Form 8609 constituting final allocation of the Tax Credits unless and until the Authority has received the recorded executed original of this AGREEMENT.

- (b) The Development Owner intends, declares and covenants on behalf of itself and all future Development Owners or successors in interest of the Development during the term of this AGREEMENT, that this AGREEMENT and the covenants and restrictions set forth in this AGREEMENT regulating and restricting the use, occupancy and transfer of the Development (i) shall be and are covenants running with the Development, encumbering the Development for the term of this AGREEMENT, binding upon the Development Owner's successors in title and all subsequent Development Owners of the Development, (ii) are not merely personal covenants of the Development Owner, and (iii) shall bind the Development Owner (and the benefits shall inure to the Authority and any past, present or prospective tenant of the Development) and its respective successors and assigns during the term of this AGREEMENT. The Development Owner hereby agrees that any and all requirements of the laws of the State of Arkansas that must be satisfied in order for the provisions of this AGREEMENT to constitute valid restrictions and covenants running with the Development are deemed satisfied in full, and that any requirements or privileges of estate are satisfied, or in the alternative, that an equitable servitude has been created to insure that these restrictions and covenants run with the Development. For the term of this AGREEMENT, each and every contract, deed or other instrument hereafter executed conveying the Development, or any building (or interest therein) a part of the Development, shall expressly state that such conveyance is subject to this AGREEMENT. However, the covenants contained herein shall survive and be effective regardless of whether or not such contract, deed or other instrument hereafter executed conveying the Development states that such conveyance is subject to this AGREEMENT.
- (c) The Development Owner shall obtain from all lien holders of record on the Development, other than the Authority, and submit with this AGREEMENT, the written consent of each such lien holder, other than the Authority, to the execution of this AGREEMENT and to the subordination of its lien(s) to the rights and interests established pursuant to Section 42(h)(6)(E)(ii) of the Code as detailed in subsection 5(c) herein. The Development Owner agrees that such written consent is a condition precedent to the Authority's issuance of Internal Revenue Service Form 8609 constituting the final allocation of the Tax Credits. The Development Owner represents and warrants that attached hereto and incorporated herein as Exhibit B is an executed and acknowledged Lien Holder's Consent for each lien holder, if any, other than the Authority, existing the date this AGREEMENT is filed of record in the county in which the Development is located.

### **SECTION 3 – REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE DEVELOPMENT OWNER**

The Development Owner hereby represents, covenants and warrants as follows:

- (a) The Development Owner: (i) is a Click here to enter text. (*Type of Entity: e.g., Corporation, Limited Liability Company; Partnership; Limited Partnership*) duly organized under the laws of the State of Click here to enter text., and is qualified to transact business under the laws of

the State of Arkansas; (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted; and (iii) has the full legal right, power and authority to execute and deliver this AGREEMENT.

- (b) The execution and performance of this AGREEMENT by the Development Owner: (i) will not violate or, as applicable, have not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body; (ii) will not violate or, as applicable, have not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Development Owner is a party or by which it or the Development is bound; and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.
- (c) The Development Owner has, at the time of execution and delivery of this AGREEMENT, good and merchantable fee simple title to the Development, or a long term leasehold on the Development, free and clear of any lien or encumbrance except for those created pursuant to this AGREEMENT or those loan documents relating to the Development and acknowledged as permitted encumbrances in mortgages existing on the Development as of the date of execution of this AGREEMENT.
- (d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or to the knowledge of the Development Owner, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its own right to carry on business substantially as now conducted (and as contemplated by this Agreement) or would materially adversely affect its financial condition.
- (e) The Development constitutes or will constitute a “qualified low-income building” or a “qualified low-income housing project,” as applicable, as those terms are defined and intended in Section 42 of the Code and regulations promulgated thereto.
- (f) Each unit in the Development contains complete facilities for living, sleeping, eating, cooking and sanitation (unless the unit qualifies as a single-room occupancy unit or transitional housing for the homeless), and used on other than a transient basis. Each unit in the Development shall comply with all habitability standards required by law with the Authority’s Minimum Design Standards in effect during the year in which tax credits were awarded to the Development, except for any waivers granted by the Authority.
- (g) During the term of this AGREEMENT, all low-income units shall be leased or rented to members of the general public who qualify for such units pursuant to Section 42(g) of the Code.
- (h) During the term of the AGREEMENT, the Development Owner covenants, agrees and warrants that:
  - (1) each low-income unit is and will remain suitable for occupancy;
  - (2) any existing tenant(s) in any low-income unit will not be evicted or have her/his/their occupancy terminated for other than good cause; and
  - (3) the gross rent of any low-income unit will not be increased except as permitted under Section 42 of the Code.

- (i) The Development Owner covenants that it will not sell, transfer, or exchange a portion of any building in the Development. The Development Owner may sell, transfer or exchange an entire building(s) or all buildings in the Development (or interest therein) subject to the requirements of Section 42 of the Code and of this AGREEMENT. The Development Owner is required, as a condition precedent to any such sale, transfer, or exchange, to obtain a written assumption from any buyer or successor in interest of the requirements and obligations under of Section 42 of the Code and this AGREEMENT. The Development Owner agrees that the Authority may void any sale, transfer or exchange of the Development if the buyer or successor in interest fails to execute and file of record any such assumption. This AGREEMENT and the covenants contained herein shall survive and be effective whether or not any buyer or successor in interest executes and files of record any such assumption.
- (j) Prior to any sale, transfer or exchange of the entire Development or any building a part of the Development, the Development Owner agrees to notify the Authority in writing of such intended sale, transfer or exchange and the names and addresses of the prospective buyer(s) or successor(s) in interest.
- (k) The Development Owner shall not demolish any part of the Development or substantially subtract any real or personal property of the Development or permit the use of any residential rental unit for any purpose other than rental housing during the term of this AGREEMENT, unless required by law.
- (l) The Development Owner represents, warrants and agrees that if the Development, or any part thereof, shall be damaged; destroyed; condemned or acquired for public use, the Development Owner will use its best efforts to repair and restore the Development to substantially the same condition as existed prior to the event causing damage or destruction, or to relieve the condemnation, and thereafter to operate the Development in accordance with the terms of this AGREEMENT. Owner agrees to promptly notify the Authority of any event described herein and to keep the Authority fully informed.
- (m) The Development Owner agrees that it will not apply for relief under Section 42(h)(6)(E)(i)(II) of the Code during the term of this AGREEMENT.
- (n) The Development Owner agrees to comply fully with the requirements of the Fair Housing Act, 42 U.S.C. 3601 *et seq.*
- (o) To ensure compliance with Section 42(h)(6)(B)(iv) of the Code, the Development Owner will not refuse to lease any residential unit in the Development to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 USC § 1437f, because of the status of the prospective tenant as such a holder.
- (p) The Development Owner warrants that it has not and will not execute any other agreements with provisions contradictory to, or in opposition to, the provisions herein, and that in any event, the requirements of this AGREEMENT are paramount and controlling as to the rights and obligations set forth herein and supersede any other requirements in conflict herewith.

## SECTION 4 – INCOME RESTRICTIONS; RENTAL RESTRICTIONS

In order to satisfy the requirements of Section 42 of the Code and representations made in the Application, the Development Owner represents, warrants, and covenants that throughout the term of this AGREEMENT that, as more specifically detailed in Exhibit D which is incorporated herein word for word,:

*(Mark all boxes designating percentage elections that apply to the Development)*

- (a) (1)  At least 20%, [Click here to enter text](#). If not applicable, insert zero (0)., *(minimum number of units so restricted)* of the residential units in the Development are both rent-restricted and occupied by individuals whose income is 50% or less of the area median gross income.
- (2)  At least 40%, [Click here to enter text](#). If not applicable, insert zero (0)., *(minimum number of units so restricted)* of the residential units in the Development are both rent-restricted and occupied by individuals whose income is 60% or less of the area median gross income.
- (3)  At least 15%, [Click here to enter text](#). If not applicable, insert zero (0)., *(minimum number of units so restricted)* of the residential units in the Development are both rent-restricted, as described at Section 142(d)(ii) and 142(d)(iii) of the Code and occupied by individuals whose income is 40% or less of the area median gross income. (“Deep rent skewed” development.)
- (4)  At least 5%, [Click here to enter text](#). If not applicable, insert zero (0)., *(minimum number of units so restricted)* of the residential units in Development are both rent-restricted and occupied by individuals whose income is 30% or less of the area median gross income.
- (b) The determination of whether a tenant meets the low-income requirements of the Code shall be made by the Development Owner at least annually to the Authority on the basis of the current income of such low-income tenant.
- (c) The Development Owner agrees that the amount of Tax Credits allocated to the Development is premised on the requirement that the Applicable Fraction for each building, a part of the Development, will be specified, building-by-building, at Exhibit D, hereto. The Development Owner further agrees that it is subject to the requirements set forth in Exhibit D, which are incorporated into this AGREEMENT and made a part hereof; and that it will not reduce the Applicable Fraction for any low-income building a part of the Development during the term of this AGREEMENT.

- (d) The actual number of units restricted and type of restriction is stated on Exhibit D and incorporated herein.

## **SECTION 5 – TERM OF THIS AGREEMENT**

- (a) This AGREEMENT shall become effective the first day of the Compliance Period on which any low-income building becomes a part of the Development. This AGREEMENT shall remain effective for a period of [Click here to enter text.](#) (*minimum 30 years*) years following the first day of the Compliance Period for any low-income building a part of the Development. All low-income buildings, a part of the Development, are identified in Exhibit D hereto.
- (b) Notwithstanding subsection 5(a) above, this AGREEMENT may terminate for any low-income building, a part of the Development, on the date such building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the U.S. Secretary of Treasury determines that such acquisition is part of an arrangement, a purpose of which is to terminate this AGREEMENT, with the Development Owner.
- (c) Notwithstanding termination of this AGREEMENT pursuant to subsection 5(b) above, no existing tenant in an affected low-income unit will be evicted or have her/his occupancy terminated, other than for good cause, for a 3-year period following termination of this AGREEMENT; nor will the gross rent of any such affected low-income unit be increased above the amount permitted by Section 42 of the Code for a 3-year period following termination of this AGREEMENT.
- (d) Notwithstanding subsection 5(a) above, pursuant to the requirements of Section 42(i)(7) of the Code, this AGREEMENT shall terminate, at any time following completion of the Compliance Period of any low-income building, a part of the Development, upon the acquisition of such building by its tenant(s), a qualified nonprofit organization, or a government agency.

## **SECTION 6 – ENFORCEMENT, ADMINISTRATION AND COMPLIANCE**

- (a) The Development Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code, any regulations, rules, notices or rulings or other official statements promulgated thereto and of the requirements of this AGREEMENT. Moreover, the Development Owner covenants to take any lawful action (including amendment of this AGREEMENT as may be necessary in the opinion of the Authority) to comply fully with the Code and with all applicable regulations, rules, notices or rulings, policies, procedures or other official statements promulgated by the United States Department of the Treasury, the Internal Revenue Service, or the United States Department of Housing and Development, from time to time, which affect the Development or pertain to the Development Owner's obligations under Section 42 of the Code.

- (b) The Development Owner acknowledges that the Authority is required, pursuant to Section 42(m)(1)(B)(iii) of the Code,; (1) to monitor the Development's compliance with the requirements of Section 42 of the Code and any rules, regulations, rulings, notices and other official statements promulgated thereto by the United States Department of the Treasury or the Internal Revenue Service; and (2) to report any noncompliance to the Internal Revenue Service. The Development Owner agrees that it will assist or cooperate with the Authority in monitoring such compliance and take all actions required by the Authority pursuant to such monitoring including the submission of any information, documentation or certifications which the Authority shall deem reasonably necessary to substantiate the Development Owner's compliance with the requirements of Section 42 of the Code and any rules, regulations, rulings, notices and other official statements promulgated thereto by the United States Department of the Treasury or the Internal Revenue Service.
- (c) The Development Owner represents, covenants, and warrants that, during the term of this AGREEMENT, it will adhere to and comply with all rules, regulations, policies and procedures as required by the Authority's Qualified Allocation Plan in effect at the time of the Development's award of tax credits, "Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program;" including but not limited to: the creation and maintenance of low-income unit and tenant files and records for all such Development units and tenants; the preparation and submission to the Authority, no later than January 15 of each year following the first taxable year of the Development Owner's tax credit period, an "Owner's Certificate of Continuing Program Compliance"; and the preparation and submission to the Authority no later than February 1 of each year following the Development Owner's first taxable year of the Development Owner's tax credit period, the "LIHTC Compliance Monitoring Status Report." The Development Owner further represents, covenants and warrants that, during the term of this AGREEMENT, it will comply with all record keeping and record retention requirements, applicable to the Development, as required by the Authority's "Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program."
- (d) The Development Owner shall permit the Authority, at reasonable times and upon adequate and reasonable notice, to enter upon the Development and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management and maintenance, including but not limited to: the inspection of any books and records of the Development Owner regarding the Development with respect to the incomes of low-income tenants which pertain to compliance with Section 42 of the Code and any rules, regulations, rulings, notices and other official statements promulgated thereto by the United States Department of the Treasury or the Internal Revenue Service and compliance with the Authority's "Compliance Monitoring Policies and Procedures Manual for the Low-Income Housing Tax Credit Program."
- (e) In the event of a violation or attempted violation of any of the covenants and provisions herein, any one or more of the following may institute and prosecute any proceeding at law or in equity to abate, prevent or enjoin any such violation or attempted violation, or to recover monetary damages caused by such violation or attempted violation: (1) the Authority or any governmental entity succeeding to the Authority's functions, or (2) any individual who meets the income limitation applicable to any building a part of the

Development under Section 42 of the Code, whether that individual is a prospective, present or former occupant of any such building. The covenants and provisions herein are imposed upon and made applicable to the Development, shall run with the Development, and shall be enforceable against the Development Owner and each purchaser, grantee, owner, lessee or successor in interest of the Development or any low-income building, a part of the Development, or interest therein. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the same or obtain relief against or recover for the continuation or repetition of such breach or violation of any similar breach or violation thereof at any later time or times.

## **SECTION 7 – NOTIFICATION**

In the event the Authority discovers any noncompliance with this AGREEMENT or with Section 42 of the Code and any rules, regulations, rulings, notices and other official statements promulgated thereto by the United States Department of the Treasury or the Internal Revenue Service, the Authority will notify the Development Owner in writing of such noncompliance as well as the time period within which compliance must be met. In turn, the Authority will notify the Internal Revenue Service, no later than 45 days after the end of the designated time for correction, of any noncompliance. The Development Owner agrees that the Authority is authorized and entitled to do all acts necessary to comply with monitoring the notification responsibilities set forth in Section 42(m)(1)(B)(iii) of the Code and any rules, regulations, rulings, notices and other official statements promulgated thereto by the United States Department of the Treasury or the Internal Revenue Service.

## **SECTION 8 – MISCELLANEOUS**

- (a) Fees, Release and Indemnification. The Development Owner will pay any legal fees incurred by the Authority with respect to the Development. The Development Owner hereby agrees to pay, indemnify and hold the Authority harmless from any and all costs, expenses and fees, including all reasonable attorney's fees, which may be incurred by the Authority in enforcing, attempting to enforce, or defending this AGREEMENT. The Development Owner agrees to release the Authority from any claim, loss, demand or judgment as a result of the allocation of Tax Credits to the Project or the recapture of same by the Internal Revenue Service, and to indemnify the Authority for any claim, loss, demand or judgment against the Authority as a result of an allocation of Tax Credits to the Development or the recapture of same by the Internal Revenue Service.
- (b) Severability. If any term, clause, part, provision or section of this AGREEMENT shall be deemed unenforceable or invalid by operation of law, the remaining terms, clauses, parts, provisions or sections of this AGREEMENT shall remain in full force and effect during the term of this AGREEMENT.
- (c) Notice. All notices given pursuant to this AGREEMENT shall be in writing to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the Authority: Arkansas Development Finance Authority  
ATTN: LOW-INCOME HOUSING TAX CREDIT  
COMPLIANCE and MONITORING SECTION  
P.O. Box 8023  
Little Rock, Arkansas 72203-8023

To the Development Owner: [Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

To the Limited Partner: [Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

[Click here to enter text.](#)

(d) Amendment. Except for the designation of a different notice address as provided for in subsection 8(c) above, this AGREEMENT may not be amended or modified except by written instrument signed by the Development Owner and approved by the Authority, or their respective heirs, successors, or assigns, which instrument shall not be effective until it is recorded as required within subsection 2(a) above. The Development Owner agrees that it will take all actions necessary to effect the amendment of this AGREEMENT as may be necessary to comply with Section 42 of the Code and all applicable rules, regulations, policies, procedures, notices, rulings or other official statements promulgated by the United States Department of the Treasury or the Internal Revenue Service.

(e) Governing Law. The laws of the State of Arkansas shall govern this AGREEMENT.

This space left blank intentionally.

IN WITNESS WHEREOF, the Development Owner has caused this AGREEMENT to be signed by its duly authorized representative as of the day and year provided herein for the consideration and purposes contained herein.

Click here to enter text.

By: Click here to enter text.

Its: Click here to enter text.

By: \_\_\_\_\_

Name: Click here to enter text.

Title: Click here to enter text.

**ACKNOWLEDGMENT**

STATE OF Click here to enter text.

COUNTY OF Click here to enter text.

On this day before me the undersigned notary public, personally appeared the within named Click here to enter text. who acknowledged that Click here to enter text. was the Click here to enter text., of Click here to enter text., the Click here to enter text. of Click here to enter text. and was authorized in such capacity to execute the foregoing instrument on behalf of Click here to enter text. and so executed the foregoing instrument for the consideration, uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this Click here to enter text. day of Click here to enter text., Click here to enter text..

\_\_\_\_\_  
(Notary Public Signature)

My commission expires:

\_\_\_\_\_  
(Seal)

IN WITNESS WHEREOF, the Authority has caused this AGREEMENT to be signed by its duly authorized representative as of the day and year provided herein for the consideration and purposes contained herein.

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY**

BY: \_\_\_\_\_  
Aaron S. Burkes, President

**ACKNOWLEDGMENT**

STATE OF ARKANSAS

COUNTY OF \_\_\_\_\_

On this day before me the undersigned officer, personally appeared Aaron S. Burkes, the President of the Arkansas Development Finance Authority, who acknowledged that he was authorized in such capacity to execute the foregoing instrument on behalf of the Arkansas Development Finance Authority and so executed the foregoing instrument for the consideration, uses and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*(Notary Public Signature)*

My commission expires:

\_\_\_\_\_  
(Seal)

## **Exhibit A – LEGAL DESCRIPTION**

Click here to enter text.

**Exhibit B – Lien Holder’s Consent**

(Executed by each Lien Holder on the Development as of the effective date of this AGREEMENT)

The undersigned Lien Holder hereby consents to the execution by the Development Owner of this AGREEMENT for [Click here to enter text](#). If not applicable, insert N/A (*Name of the Development as it appears in this AGREEMENT*)

The undersigned Lien Holder hereby subordinates its lien(s) to the rights and interests of any existing tenant as described in subsection 5(c) of this AGREEMENT such that a foreclosure of its lien(s) shall not extinguish such rights and interests. The undersigned Lien Holder further acknowledges and agrees that the acquisition of the Development by any party by foreclosure or instrument in lieu of foreclosure shall be subject to the provisions of subsection 5(c) of this AGREEMENT, which provisions shall continue in full force and effect for a period of three (3) years from the date of such acquisition.

Executed to be effective as of the effective date of this AGREEMENT.

**Lien Holder:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this day before me the undersigned officer, personally appeared the within named \_\_\_\_\_, who acknowledged that she/he was the \_\_\_\_\_ of \_\_\_\_\_ and was authorized in such capacity to execute the above “Exhibit B – Lien Holder’s Consent” on behalf of \_\_\_\_\_ and so executed the foregoing instrument for the consideration and purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
(Notary Public Signature)

Seal:

## EXHIBIT C

### **Material Participation by a Qualified Nonprofit Organization**

Throughout the Compliance Period, a “qualified nonprofit organization” within the meaning of Section 42(h)(5)(C) of the Code shall have an ownership interest in the Development, shall materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Development and shall otherwise meet the requirements of Section 42(h)(5) of the Code. At the time of the execution of this AGREEMENT, the qualified nonprofit organization which shall own such interest and shall so materially participate in the development and operation of the Development is Click here to enter text. If not applicable, insert N/A. The Development Owner shall notify the Authority (i) of any change in the status or role of such nonprofit organization with respect to the Development and (ii) if such nonprofit organization is proposed to be replaced by a different qualified nonprofit organization.

### **Supportive Services**

Throughout the term of this AGREEMENT, unless otherwise permitted by the Authority, the Development Owner has contracted for the provision of the following special supportive services that would not be otherwise available free of charge to the occupants of the Development:

Click here to enter text. If not applicable, insert N/A.

At the time of the execution of this AGREEMENT, the organization(s) providing these services is/are:

Click here to enter text. If not applicable, insert N/A.

The Development Owner shall notify the Authority (i) of any change in the status or role of such organization(s) with respect to the Development and (ii) if such organization(s) is proposed to be replaced by a different, qualified supportive service provider.

### **Senior Development**

Throughout the term of this AGREEMENT, unless otherwise permitted by the Authority, the Development must conform to the Federal Fair Housing Act and must be a development that:

is intended for, and solely occupied by persons 62 years of age or older;

OR

- is intended and operated for occupancy by at least one person 55 years of age or older per unit, where at least 80% of the total housing units are occupied by at least one person who is 55 years of age or older; and adheres to policies and procedures which demonstrate an intent by the Development Owner to provide housing for persons 55 years of age or older;

OR

- is a development under a program by United States Department of Housing and Urban Development and is specifically designed and operated to assist elderly persons as defined by that program;

OR

- is a development under a program by United States Department of Agriculture Rural Development and is specifically designed and operated to assist elderly persons as defined by that program,;

(NOTE: The Federal Fair Housing Act requires, generally, that developments which are limited to occupancy by older persons either (i) be restricted to households in which all members are 62 years or older or (ii) to households in which at least one member is 55 years or older. See 24 C.F.R. §§ 100.300-100.304 for requirements. All developments must comply with these requirements, as applicable under Federal law, in addition to this AGREEMENT.)

**Assisted Living Facility**

Throughout the term of this AGREEMENT, unless otherwise permitted by the Authority, the Development Owner will maintain the Development as an Assisted Living Facility, licensed as such by the Arkansas Department of Human Services, as set forth in the Application.









## MODEL FINAL COST CERTIFICATION LETTER

### Independent Accountants' Report

To the Partners  
Limited Partnership  
City, State ZIP

We have audited the costs included in the accompanying Arkansas Development Finance Authority ("ADFA") Form \_\_\_\_\_. Development Costs (the "Final Cost Certification") of \_\_\_\_\_ [NAME OF LIMITED PARTNERSHIP] ("Owner") as of \_\_\_\_\_ [DATE]. The Final Cost Certification is the responsibility of the Owner and the Owner's Management. Our responsibility is to express an opinion on the Final Cost Certification based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the schedule of development costs and eligible basis are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule of development costs and eligible basis. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the schedules. We believe that our audit provides a reasonable basis for our opinion.

The accompanying Final Cost Certification has been prepared in conformity with the accounting practices prescribed by the Internal Revenue Service, under the accrual method of accounting, and in conformity with the format and qualified allocation plan rules set by ADFA, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the Final Cost Certification presents fairly, in all material respects, the actual costs of \$\_\_\_\_\_ [TOTAL DEVELOPMENT COST] and eligible basis of \$\_\_\_\_\_ [TOTAL ELIGIBLE BASIS] of the Owner for the development as of \_\_\_\_\_ [DATE], including costs attributable to the categories of General Requirements, Contractor Overhead, Contractor Profit and Developer's Fee and the eligible basis, applicable fraction and qualified basis for each building in the development, on the basis of accounting described above. The accompanying supplemental information on the Schedule of Credit Calculation is presented for purposes of additional analysis and is not a required part of the auditor's report.

In addition to auditing the Final Cost Certification, we have calculated the "per unit costs" as defined in ADFA's qualified allocation plan rules and determined the development meets the per unit cost cap as set forth therein.

This report is intended solely for the information and use of the partners and ADFA and is not intended to be and should not be used by anyone other than those specified parties.

DATE  
City, State ZIP