

HOUSING TAX CREDIT PROGRAM

AGREEMENT AND ELECTION STATEMENT FOR
HOUSING TAX CREDITS SUBSTANTIALLY BOND-FINANCED BUILDINGS

This Agreement and Election Statement for Housing Tax Credits ("Agreement") is made as of (date), between (name of development owner)("Owner") and the Texas Department of Housing and Community Affairs ("Department), pursuant to Section 42(b)(2)(A)(ii)(II) of the Internal Revenue Code of 1986 as amended ("Code"), for the purpose of irrevocably establishing the applicable percentage, as defined in Section 42(b)(2)(A) of the Code, with respect to (name of the development)("Development"), TDHCA Development Number: (TDHCA#), which is anticipated to be eligible for housing tax credits by the pursuant to Section 42(h)(4)(B) of the Code.

WITNESSETH:

WHEREAS, the Owner is or shall be the Owner of the Development located on real property in the City of _____, County of _____, State of Texas;

WHEREAS, the Department has been designated by the Governor of the State of Texas as the housing credit agency for the State of Texas for the allocation of tax credits pursuant to Section 42 of the Code;

WHEREAS, the Owner has financed or will finance 50% or more of the aggregate basis of the building(s) and land on which such buildings are located by a tax-exempt obligation as identified in Section 42(h)(4)(A) of the Code; and

WHEREAS, Department has issued a determination dated _____, 200____, with respect to the Development, that the Development satisfies the requirements of the Department's qualified allocation plan as required by Section 42(m)(1)(D); and

WHEREAS, pursuant to Section 42(b)(2)(A)(ii)(II) of the Code, the Owner may elect to fix the applicable credit percentage that will apply to buildings in the Development as that for the month in which the tax-exempt obligations financing the building(s) are issued; and

WHEREAS, the Owner has determined to make such election;

NOW, THEREFORE, in consideration of the premises set forth:

1. The Owner irrevocably elects, pursuant to Section 42(b)(2)(A)(ii) of the Code, to fix the applicable credit percentage for the Development as the percentage prescribed by the Secretary of the Treasury for the month of _____, 200____, which is the month in which the tax-exempt bonds financing the buildings were issued.

2. The Owner hereby represents that the percentage of the aggregate basis of the land and buildings of the Development that is financed with the proceeds of obligations described in Section 42(h)(4)(A) of the Code is, or is expected to be, as follows:

Building	%	Building	%
Building	%	Building	%
Building	%	Building	%
Building	%	Building	%

(Attach Schedule to identify additional buildings if necessary).

3. The Development Owner hereby represents that:

- The Department has issued the tax-exempt bonds financing the Development; or
- An authority other than the Department has issued the tax-exempt bonds financing the Development, and the Owner is submitting to the Department as an attachment to this Agreement, a signed statement from such issuing authority that certifies the information provided in paragraphs 1 and 2 of this Agreement.

4. The Owner acknowledges that this election is irrevocable and is binding on all successor owners of the Development, and acknowledges further that in making the feasibility determination required under Section 42(m)(2)(D) of the Code, the Department may use an applicable percentage that is less but not greater than the appropriate percentage for the month elected by the Owner pursuant to this Agreement.

NOTE TO THE DEVELOPMENT OWNERS: THE OWNER MUST EXECUTE THIS AGREEMENT AND ELECTION STATEMENT AND HAVE IT NOTARIZED IN THE MONTH IDENTIFIED IN PARAGRAPH 1 AS THE MONTH IN WHICH THE BONDS WERE ISSUED.

IN WITNESS WHEREOF, the Owner has caused this Agreement to be signed by its duly authorized representative, on the day and year first written above.

OWNER:

By:

Title:

STATE OF: _____

COUNTY OF: _____

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that _____, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, being informed of the contents of such document, executed the same voluntarily. Subscribed and sworn to before me this _____ day of _____, 200__.

Notary Public in and for the State of Texas

My Commission Expires