Exchange Application #_____

TAX CREDIT EXCHANGE PROGRAM
SUBAWARD AGREEMENT

No. 150900XXXXX

TAX CREDIT EXCHANGE PROGRAM SUBAWARD AGREEMENT (this "**Agreement**") is made and entered into on [_____], 20[_____] by and between TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas, established by Chapter 2306, Texas Government Code with a mailing address of 221 East 11th Street, P.O. Box 13941, Austin, Texas 78711-3941 (together with its successors, the "**Department**") and [_____] (together with its successors and assigns, the "**Development Owner**", with a mailing address).

RECITALS

WHEREAS, the Department has entered into a grant agreement with Treasury for a grant of funds in lieu of federal low-income housing tax credits (the "**Tax Credits**") under Section 42 of the Internal Revenue Code of 1986, as amended (the "**Code**"), pursuant to the Tax Credit Exchange Program (the "**Exchange Program**") under Sections 1404 and 1602 of the Recovery Act;

WHEREAS, the Department is a "designated State housing credit agency" within the meaning of the Recovery Act and has the authority to make subawards of Exchange Program funds (the "**Exchange Program Funds**") to eligible applicants in accordance with the Program Requirements;

WHEREAS, the Development Owner intends to acquire, develop and operate on the land described on **Exhibit A**, attached hereto and made a part hereof for all purposes (the **"Development Site"**) as a rental housing development (the Development Site together with all Improvements located or to be located thereon are collectively referred to as the **"Development"**);

WHEREAS, the Governing Board at its properly posted and duly called meeting with a quorum of members present and voting adopted by Board Resolution No. 09-047 on July 30, 2009, a policy which sets forth, among other things, the policies, rules and procedures by which the Department will implement the Exchange Program and allocate Exchange Funds to eligible applicants (the "**Exchange Program Policy**");

WHEREAS, the Department has determined that the Development Owner has been unable to obtain a commitment from an investor to purchase the Tax Credits in an amount sufficient to make the Development financially feasible after having made a Good Faith Effort to obtain equity from sources other than the Exchange Program;

WHEREAS, the Development Owner has submitted an application to the Department for the Subaward to assist in the financing of the Development as submitted in its original application for Tax Credits;

WHEREAS, the Development Owner has represented that it will use the Exchange Program Funds to finance the development of a "qualified low-income building" within the meaning of Section 42 of the Code;

WHEREAS, the Department has agreed to provide the Subaward provided that (a) the Development Owner executes and delivers the documents and instruments contemplated herein, all in form and substance satisfactory to the Department and its counsel (b) and the Development Owner continues to operate the Development in a manner consistent with Section 42 of the Code, Chapter 2306 Texas Government Code and the rules and policies established by the Department;

WHEREAS, the Department has approved the Subaward to the Development Owner in the aggregate amount outlined in **Exhibit "K"** (the "**Subaward Agreement Summary**"), and the Development Owner has agreed to accept the Subaward subject to the terms and conditions set forth herein; and

WHEREAS, the parties have agreed that some or all of the Security Instruments shall be filed in the Real Property Records of the county in which the Development Site is located.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I
DEFINITIONS

The capitalized terms used in this Agreement shall have the meanings ascribed to them in the Recitals hereto and in this Article I; provided that certain capitalized terms used and not defined herein shall have the meanings ascribed to them in Section 42 of the Code or in the relevant year Qualified Allocation Plan (Title 10 Texas Administrative Code Chapter 49 and/or 50).

"**Accountant's Opinion**" shall have the meaning attributed thereto in Section 9.1C.

"Action Plan", shall have the meaning attributed thereto in Section 4.3B.

"**Affiliate"** means an individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all general partners, members, manager, limited partners and principals with an ownership interest.

"**Agreement**" means this Tax Credit Exchange Program Subaward Agreement, including any subsequent amendments.

"**Architect**" means the Person designated in the Exchange Application and/or the Construction Contract as being engaged as the architect for the Development.

"**Asset Manager**" means the Department or its designee, and any successor thereto chosen by the Department.

"**Asset Management Fee**" means the annual fee payable for the services of the Asset Manager pursuant to Section 10.3 of this Agreement, as in effect from time to time.

"**Assignment of Construction Documents**" means the agreement by and between the Department and the Development Owner pursuant to which the Development Owner has assigned all of its rights under the Construction Documents to the Department as additional security for performance by the Development Owner of all of its obligations under this Agreement

"**Assignment of Property Management Agreement**" means the agreement by and between the Department and the Development Owner pursuant to which the Development Owner has assigned all of its rights under the property management agreement to the Department as additional security for performance by the Development Owner of all of its obligations under this Agreement.

"**Authorized Officer of the Development Owner**" means the Person(s) identified in **Exhibit J** hereof, and any other person designated in writing to the Department by an Authorized Officer of the Development Owner.

"**Budget**" means the final sources and uses for the Development as evidenced in the Department's underwriting report attached hereto as **Exhibit B**. The Budget must clearly show the total Development Costs of the Development and the total amount of Exchange Program Funds awarded to the Development.

"**Business Day**" means Monday through Friday excluding state and federal holidays.

"**Closing**" means the date all necessary documents hereunder for funding have been executed and delivered, and made available for recording if necessary.

"**Code**" means the Internal Revenue Code of 1986, as amended, and as the context may require, the Treasury Regulations promulgated thereunder, and any published rulings, procedures and notices thereunder.

"**Compliance Period**" means the compliance period described in Section 42(i)(1) of the Code, as applicable to particular building(s) in the Development.

"**Construction" or "construction"** whether upper case or lower case, refers to construction activity broadly and includes new construction and rehabilitation

"**Construction Completion Date**" means the date on which the Architect certifies that construction of the Development is substantially complete, and that the Development is ready for its intended use as evidenced by receipt of certificates of occupancy (or the jurisdictional equivalent).

"**Construction Contract**" means the Construction Contract by and between the Development Owner and the Contractor.

"**Construction Documents**" means the Construction Contract, including, without limitation, the general conditions, project manual (including general requirements and technical specifications, drawings or sketches), the Plans and Specifications, and any addenda thereto, the Construction Schedule, and any and all trade contracts pursuant to which construction of the Improvements will be accomplished, as the same may be amended from time to time, when agreed upon by the Department.

"**Contractor**" means the Person identified as such in Construction Contract.

"**Control**" (and the related terms "Controlling," Controlled by," and "under common Control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of outstanding securities, equity, or other beneficial ownership interests, by contract or otherwise.

"**Cost Certification**" means the written certification of a certified public accountant as to the itemized amounts of the construction and development costs of the Development, similar to documents submitted to the Department in order to obtain IRS Form(s) 8609 for the Development or as otherwise required by the Department. Cost Certification shall be conducted in accordance with the QAP and the Department's Cost Certification Manual, save and except the deadline for submission to the Department, which is defined in Section 7.3 of this Agreement.

"**Developer**" means the Person entering into the Development Agreement and receiving the Developer Fee, and any other Person receiving any portion of such fee, whether by subcontract or otherwise.

"**Developer Fee**" means the fee payable to the Developer pursuant to the Development Agreement and Section 4.6 of this Agreement (which fee cannot exceed the limits identified in the QAP).

"Development" has the meaning assigned to such term in the Recitals.

"**Development Agreement**" means the development agreement by and between the Development Owner and the Developer.

"**Developer Assignment, Pledge and Security Agreement**" means the agreement by and among the Department, the Development Owner and the Developer pursuant to which the Developer has pledged all of its rights under the Development Agreement pertaining to the Development to the Department as additional security for performance by the Development Owner of all of its obligations under the this Agreement.

"**Development Costs**" means the amounts set forth in the Budget required to complete the Development.

"**Development Owner Parties**" has the meaning assigned to it in Section 7.1P.

"**Development Site**" means the real property which the Development Owner owns, or will acquire, or in which the Owner has, or will acquire a ground lease acceptable to the Department, upon which the Improvements will be constructed and which is described in **Exhibit A**.

"**Disbursement Agreement**" means the Disbursement Agreement dated on or about the date of Closing executed by Lender, Development Owner and the Department setting forth, among other things, their mutual agreement regarding the manner in which the construction of the Development will proceed.

"**Draw Documents**" shall have the meaning attributed thereto in Section 4.1B.

"**Eligible Basis**" means the amount determined for each building in accordance with Section 42(d) of the Code, as of the end of the first year of the "credit period" (as such term is defined in Section 42(f)(1) of the Code) applicable to each building, including any increases for buildings located in "high cost areas" under Section 42(d)(5)(C) of the Code.

"**Eligible Costs**" means any of the line-item expenditures to be reimbursed with Exchange Program Funds and such additional expenditures as may be approved by the Asset Manager from time to time. The payment of such costs must be permissible under the Program Requirements. Eligible Costs for each residential rental building in a Development, determined at the time of Cost Certification, may not exceed 85% of such building's eligible basis.

"**Entity**" means any Person other than an individual, including general partnership, limited partnership, corporation, joint venture, trust, limited liability company, limited liability partnership, business trust, cooperative or other business association, however organized.

"**Event of Bankruptcy**" or "**Bankruptcy**" means, as to a specified Person:

(i) the entry of a decree or order for relief by a court having jurisdiction in respect of such Person in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of such Person or for any substantial part of such property, or ordering the winding-up or liquidation of such Person's affairs and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days; or

(ii) the commencement by such Person of a voluntary case under the federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of such Person or for any substantial part of his property,

or the making by him of any assignment for the benefit of creditors, or the taking of action by the Person in furtherance of any of the foregoing.

"**Event of Default**" shall have the meaning attributed thereto in Section11.1A.

"**Excess Amount**" shall have the meaning attributed thereto in Section 2.1C.

"**Excess Development Costs**" shall have the meaning attributed thereto in Section 7.2A.

"**Exchange Application**" means the application submitted by or on behalf of the Development Owner to the Department in connection with the award of the Exchange Program Funds to the Development, as amended and supplemented from time to time.

"**Exchange Program**" shall have the meaning attributed thereto in the Recitals.

"**Exchange Program Funds**" shall have the meaning attributed thereto in the Recitals.

"**Exchange Program Policy**" shall have the meaning attributed thereto in the Recitals.

"Expiration Date" means December 31, 2011, as such date may be extended in accordance with Section 4.1E.

"Extended Use Period" means the period beginning at the end of the Compliance Period and ending fifteen years thereafter.

"**Fifty Percent Construction Completion Date**" means the date on which the Architect certifies that construction of the Development is fifty-percent (50%) complete based upon the total of hard costs incurred for work completed as a percentage of total hard costs in the Construction Documents. In case of an acquisition or rehabilitation, Architect certifies that fifty-percent of costs as outlined in the budget have been incurred. For developments involving acquisitions and rehabilitation, this date can be the date when 50% of the funds are expended.

"**Fiscal Quarter**" means any of the three (3) consecutive month periods of each Fiscal Year ending on March 31, June 30, September 30 and December 31.

"**Fiscal Year**" means the twelve (12)-month period which begins on January 1 and ends on December 31 of each calendar year.

"Force Majeure" shall have the meaning attributed thereto in Section 12.13.

"General Partner" means any general partner or managing member, as applicable, of the Development Owner.

"**Good Faith Effort**" means attempts by the Development Owner to secure final financing commitments from one or more investors to purchase the Tax Credits as determined by the Department in its reasonable judgment.

"**Governmental Authority**" means the Department, HUD, the IRS or any other federal, state or local governmental agency or authority having jurisdiction over the particular matter to which reference is being made.

"**Guidelines**" means the "*Application and Terms and Conditions: Grants to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credits for 2009*" published by Treasury in May 2009, and any updates, modifications or successor guidelines thereto.

"**HUD**" means the U.S. Department of Housing and Urban Development and its successors.

"**Improvements**" means the buildings, structures, improvements, alterations and functionally related facilities now existing or hereafter constructed or placed upon the Development Site, including any future replacements and additions thereto.

"Intercreditor Agreement" means the Intercreditor Agreement executed by the Department, the Lender and/or the Development Owner.

"**Lender**" means any third party loaning funds to be secured in whole or in part by the Development.

"**Low-Income Unit**" means the units in the Development identified in the Exchange Application and/or the LURA that are to be held for occupancy by the Development Owner and occupied in such a manner as to qualify such units as "low-income units" under Section 42(i)(3) of the Code.

"LURA" means the Land Use Restriction Agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of Title 10 TAC, Chapters 49 and 50, Chapter 2306, Texas Government Code, and the requirements of the Code, §42 (§2306.6702).

"**Marketing Plan**" for the Development is further described herein under Section 9.2A of this Agreement.

"Material Change Order" means a change order to the Budget, construction contract or any of the other Construction Documents in connection with the construction of the Improvements that would result in an overall increase or decrease in excess of five percent (5%) in development cost, reflected in the Budget.

"Minimum Set-Aside Test" means the set-aside test described in Section 42(g)(1) of the Code selected by the Development Owner with respect to the Award of Tax Credits to the Development pursuant to the Tax Credit Allocation, as specified in the Application.

"**Mortgage**" means any mortgage, mortgage deed, deed of trust, deed to secure debt or any similar security instrument, as amended, restated, modified or supplemented from time to time on the Development, or any portion thereof, given by the Development Owner to any

Lender to secure any indebtedness, together with any other documents pertaining to said indebtedness, which were required by the lender as a condition to making a Mortgage Loan.

"**Mortgage Loans**" means the loans listed on **Exhibit I**, or any replacements or substitutes thereof, as approved by the Department in its reasonable discretion pursuant to the terms of this Agreement.

"**Mortgage Loan Documents**" means the documents governing, securing and/or evidencing the Mortgage Loans.

"**Person**" means any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so admits; and, unless the context otherwise requires, the singular shall include the plural, and the masculine gender shall include the feminine and the neuter and vice versa.

"**Plans and Specifications**" means the plans and specifications for the construction of the Development, including, without limitation, specifications for materials, and all amendments and modifications thereof.

"**Program Requirements**" means the Exchange Program Policy and any and all requirements for receiving and maintaining a Subaward of Exchange Program Funds as set forth in Sections 1404 and 1602 of the Recovery Act, the Guidelines, and any other rules, regulations, guidelines or notices published by the IRS or Treasury from time to time with respect to the Exchange Program that are applicable to the Development.

"**Property Management Agreement**" means the agreement between the Development Owner and the Property Manager providing for property management services to the Development, as amended and/or replaced from time to time.

."**Property Management Fee**" means the fee payable to the Property Manager pursuant to the terms of the Property Management Agreement.

"**Property Manager**" means any Person acting as Property Manager under the Property Management Agreement.

"QAP" means the "**Qualified Allocation Plan and Rules with Amendments**" in effect for the State for the year in which the Tax Credits were awarded to the Development Owner with respect to the Development as published in Title 10 of the Texas Administrative Code.

"**Qualified Tenants**" means tenants whom at the time of their initial occupancy of the Development, satisfy the income limits applicable under the Minimum Set-Aside Test under executed leases with terms of not less than six (6) months at rentals meeting the requirements of the Rent Restriction Test.

"**Recapture Event**" shall have the meaning attributed thereto in Section 6.1.

"**Recapture Mortgage**" means the Mortgage executed by the Development Owner to the Department to secure the obligation of the Development Owner to repay all or a portion of the Subaward in accordance with the terms of this Agreement.

"**Recovery Act**" means the American Recovery and Reinvestment Act of 2009, as amended from time to time.

"**Rent Restriction Test**" means the test described in Section 42(g)(2) of the Code whereby the gross rent charged to tenants of the Low-Income Units in the Development may not exceed thirty percent (30%) of the applicable qualifying income levels based upon the Minimum Set-Aside Test.

"**Required Placed In-Service Date**" (also, "**Placed In-Service Date**") means the date by which at least one unit in each building in the Development that must be Low-Income Units, and be ready and available for occupancy in accordance with State and local laws, which date shall not be later than the date outlined in **Exhibit K**.

"**Required Percentage**" means the minimum percentage of units in the Development that must be Low-Income Units, which shall be the greater of the Minimum Set-Aside and the Subaward Fraction.

"**Security Instruments**" includes any and all of the following if applicable to this award, (i) the Collateral, (ii) any Assignments, Pledges and Security Agreements (iii) the Assignment of Property Management Agreement, (iv) the Assignment of Construction Documents, (v) the Option Agreement by and among the Department, the Development Owner and the Developer pursuant to which the Department has been granted certain rights to acquire limited direct ownership as provided under this Agreement and the Option Agreement, (vi) the LURA, (vii) the Recapture Mortgage, (viii) the Intercreditor Agreement, (ix) and any and all other documents, instruments, and writings whereby the Developer, the Development Owner, and/or any Affiliate grants the Department any rights, liens, charges, security interests, ownership interests, Mortgages, pledges, hypothecations, or other rights, legally or beneficially, collaterally or directly, to provide for the protection of the Department against any failure to adhere to the Program Requirements.

"**State**" means the State of Texas.

"**Subaward**" means the Subaward of Exchange Program Funds in the aggregate amount to be made by the Department to the Development Owner to assist in the financing of the Construction of the Development pursuant to all of the terms and conditions of this Agreement.

"**Subaward Fraction**" means the lesser of (i) the fraction obtained by dividing the amount of the Subaward, once fully disbursed, into the aggregate Eligible Basis of the Development, and (ii) the "applicable fraction" set forth in the LURA.

"**Tax Credit Allocation**" means the allocation of Tax Credits to the Development Owner with respect to the Development pursuant to the QAP, which allocation was exchanged by the Department for Exchange Program Funds.

"**Tax Credits**" means federal low-income housing tax credits under Section 42 of the Code.

"**Tenant Income Certification**" means a tenant's initial Tax Credit certification, including the tenant income certification/certificate of resident eligibility, all sources used in verifying income and assets (including, but not limited to, third party verification, checking and savings accounts, pay stubs, verification of assets, etc.), a copy of one completed lease signed and dated for each building in the Development, and a copy of the first and last page of each resident lease for each Low-Income Unit in the Development, showing the start date of the lease and signature of the resident(s) and Development Owner.

"**Treasury**" means the United States Department of the Treasury, including the United States of America acting through the Treasury.

"**Treasury Regulations**" means the temporary and final regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Uniform Application**" means the 2009 Uniform Application promulgated and utilized by the Department for funding of certain multifamily housing finance programs.

ARTICLE II
GRANT OF EXCHANGE PROGRAM FUNDS

Section 2.1 Subaward

A. The Department shall make the Subaward to the Development Owner pursuant to the terms and conditions of this Agreement. In no event shall the aggregate amount of funds advanced pursuant to this Agreement exceed the lesser of the amount outlined in **Exhibit K** or the amount determined by the Department to be necessary for the financial feasibility of the Development and its viability as a qualified low-income housing project throughout the Compliance Period and the Extended Use Period. The Subaward is conditioned on the Closing.

B. The Development Owner shall receive the Subaward and use the proceeds thereof to pay Eligible Costs incurred by the Development Owner in connection with the Construction of the Development. The funding of the Subaward (and any portion thereof) is expressly conditioned upon the Development Owner complying with all of the Program Requirements and the terms of this Agreement.

C. If, at the time of Cost Certification, the Department shall determine that (i) the amount of the Subaward is more than the amount necessary for the financial feasibility of the Development and its viability as a qualified low-income housing project throughout the Compliance Period, or (ii) the total amount of the Subaward exceeds 85% of the aggregate Eligible Basis of the Development as determined by the Department in accordance with Section 42 of the Code (the "Excess Amount"), the Department shall provide the Development Owner with written notice thereof and the Development Owner shall pay, in immediately available

funds within thirty (30) Business Days from the date of such notice, an amount equal to the Excess Amount. In addition to the foregoing, the Department may take any other remedial action it deems necessary or advisable to fulfill its program obligations to Treasury or otherwise carryout the principal purposes of the Exchange Program. The Development Owner may appeal the determination and repayment of such Excess Amount in accordance with the appeal process outlined in 10 TAC §1.7, or successor regulations.

D. The Department acknowledges that it has entered into a grant agreement with Treasury for a grant of Exchange Program Funds sufficient to fulfill its obligations under this Agreement and the other Tax Credit Exchange Program Subaward Agreements that the Department has entered into, or hereafter enters into, with other development owners, including without limitation, the Department's obligation to fund the Subaward in accordance with the terms of this Agreement; provided, however, the Development Owner acknowledges that each disbursement of the proceeds thereof is contingent upon the disbursement of sufficient Exchange Program Funds by Treasury to the Department for reimbursement of Eligible Costs incurred by the Development Owner with respect to the Development. If the Department fails to receive adequate Exchange Program Funds from Treasury, or if the Department is on notice that delivery of the Exchange Program Funds will be materially delayed, the Department shall notify the Development Owner in writing within a reasonable period of time and shall not be liable for failure to make payments under this Agreement.

Section 2.2 Term

A. This Agreement shall be effective upon its execution and delivery and shall remain in full force and effect until the expiration of the Compliance Period and the Extended Use Period, unless earlier terminated in accordance with the terms hereof.

ARTICLE III
INITIAL DISBURSEMENT OF EXCHANGE PROGRAM FUNDS

Section 3.1 Due Diligence and Final Acceptance Requirements

A. Prior to the release of any Exchange Funds under this Agreement and not more than 60 days after the date of Closing, Development Owner shall provide any and all evidence of satisfaction of all outstanding award conditions including, without limitation, the items described on **Exhibit C** of this Agreement.

Section 3.2 Other Conditions Prior to Release of Funds

A. Prior to the initial release of Exchange Funds under this Agreement, the Development Owner shall perform the items described below.

B. The Development Owner shall execute and deliver this Agreement and all other required documents to the Department.

C. The Development Owner shall execute, record if applicable, and deliver all Security Instruments prior to funding. If the documents were recorded, a copy of such recorded document must also be submitted to the Department showing the recorders stamp.

D. The Development Owner shall provide a copy of any partnership or other agreements that confer upon the Department any right, in consultation with other secured parties, to replace the General Partner or approve the new General Partner if replaced by a third party whether under any other agreement or otherwise.

E. The Developer and the Development Owner shall execute and deliver the Security Instruments to which they are a party to the Department. Upon request of the Development Owner, the Department shall subordinate the Security Instruments to such of the Mortgage Loans as the Department determines necessary or advisable to permit the financing of the Development.

F. The Development Owner shall timely complete the "Quarterly Progress Report" in the form attached hereto as **Exhibit H** and deliver such report to the Department throughout the required period.

G. The Development Owner shall have paid any applicable fees due to the Department with respect to the Tax Credit Allocation.

H. The Development Owner shall have provided evidence satisfactory to the Department that construction will commence prior to the required construction commencement date outlined in **Exhibit K.**

I. To the extent necessary to fund interim development costs, the Development Owner shall provide a binding construction loan commitment in the amount and for the term deemed appropriate by the Department.

J. If any disbursement of Exchange Program Funds is requested upon the Closing, the Development Owner shall complete a closing Draw Request and provide such back-up documentation as may be reasonably required by the Department to support the Draw Request.

ARTICLE IV
DISBURSEMENTS OF EXCHANGE PROGRAM FUNDS

Section 4.1 Request for Exchange Program Funds from Treasury

A. The Department shall use the Exchange Program Funds it receives from Treasury which have been subawarded to the Development Owner to reimburse the Development Owner for costs incurred in connection with the development of the Development to the extent such costs are properly submitted to the Department in accordance with the procedures set forth in this Article IV and all other terms and conditions of this Agreement. The Development Owner may not request a disbursement of Exchange Program Funds from the Department until such funds are needed to pay costs of the Development. Accordingly, the amount of each Draw Request must be limited to the amount of money needed to pay costs actually incurred by the Development Owner at the time of the Draw Request and may not include amounts for prospective or future needs, or placed into escrow accounts or advanced in lump sums to the Development Owner.

B. Draw Requests shall be submitted for approval to the Asset Manager together with the completed and signed documents listed in **Exhibit D**, each in form and substance reasonably satisfactory to the Asset Manager (the "**Draw Documents**"). The Asset Manager may withhold any draw pending completion of a site inspection as deemed necessary by the Asset Manager or the Department to ensure that construction progress is being made in accordance with the Construction Documents.

C. The Department shall submit a request for Exchange Program Funds to the Treasury in an amount equal to the approved amount of the current Draw Request (not to exceed, in the aggregate, the amount of the Subaward) within five (5) Business Days of the later to occur of (i) approval of the draw request by Asset Manager or (ii) receipt by the Asset Manager of all of the completed and signed Draw Documents.

D. The Development Owner shall cooperate with the Asset Manager in obtaining and providing any additional documentation that may be required by the Treasury to approve the request for Exchange Program Funds.

E. The Development Owner acknowledges and agrees that no Exchange Program Funds may be disbursed after the Expiration Date; *provided*, *however*, that the Expiration Date may be extended in the discretion of the Department if, and only to the extent that, the expiration date for funding subawards of Exchange Program Funds set forth in Section 1602(d) of the Recovery Act is extended beyond December 31, 2011. All Draw Requests shall be submitted to the Asset Manager at least sixty (60) Business Days prior to the Expiration Date.

F. The Department will not make any payments to the Development Owner for costs that:

(i) are prohibited under Program Requirements;

(ii) are not in accordance with the terms of this Agreement;

(iii) were requested and/or incurred after termination of this Agreement;

(iv) were requested during the occurrence and continuation of an Event of Default; or

(v) were requested and/or incurred less than sixty (60) Business Days prior to the Expiration Date.

G. Upon prior written notice to the Development Owner, the Department is authorized to make modifications to the disbursement procedures and Disbursement Agreement set forth herein to establish additional requirements for payment of the Subaward to the Development Owner as may be necessary or advisable for compliance with all Program Requirements.

H. The closing conditions set forth in Sections 3.1 and 3.2 shall be a pre-condition to any disbursement of funds pursuant to this Agreement.

Section 4.2 Disbursements of Exchange Program Funds to Development Owner

A. In a timely manner after the receipt of the Exchange Program Funds by the Department from Treasury, the Department shall disburse such funds to the Development Owner. Such funds shall be disbursed in accordance with the Disbursement Agreement.

B. The Disbursement Agreement shall provide the guidance for and shall take into account all applicable state payment laws, including but not limited to Chapters 403, 2107 and 2252 of the Texas Government Code, and any applicable federal payment laws.

C. The Department will not disburse any Exchange Funds to the Development Owner unless the Development Owner is current on submission of each and every required report including any required reporting under the Recovery Act as described in this Agreement.

Section 4.3 Draw Requests and Change Orders

A. The Development Owner expects to submit Draw Requests to the Asset Manager for disbursements of Exchange Program Funds on a monthly basis, or less frequently as necessary. Subject to the terms of the Disbursement Agreement, any expenditure which, when added to any prior expenditure, exceeds the Budget or any line item specified in the Budget, shall require the approval of the Asset Manager, which approval shall not be unreasonably withheld.

B. The Development Owner shall obtain the prior written consent of the Department for any Material Change Order, regardless of whether any proposed disbursement of Exchange Program Funds would be affected by such Material Change Order. As a pre-condition to the Department's consent to any Material Change Order, the Development Owner shall submit to the Department (with a copy to the Asset Manager) a description of the curative actions to be taken by the Developer and the Contractor to accelerate construction progress and/or align the sources and uses of funds for the Development notwithstanding such Material Change Order (the "**Action Plan**"). The Action Plan shall be in form and substance reasonably satisfactory to the Department and shall be signed by the Developer and the Development Owner as evidence of their intent to implement or cause to be implemented the Action Plan as described. Failure of the Development Owner to submit and/or cause implementation of an Action Plan reasonably acceptable to the Department shall entitle the Department to suspend making disbursements of Exchange Program Funds under this Agreement until such time as an acceptable Action Plan has been received and implementation thereof has commenced.

C. The Department will not approve any Material Change Order which would, in the reasonable determination of the Department, (i) cause the Development to fail to meet the Required In-Service Date, (ii) be in violation of state or federal law, or (iii) prevent the Subaward from being fully disbursed in a timely manner to the Development Owner in accordance with the requirements and procedures set forth herein by the Expiration Date.

Section 4.4 Construction Meetings; Monitoring

A. The Asset Manager shall have the right to participate in construction progress meetings and monitor the Development's construction until the Construction Completion Date in accordance with the terms of the Disbursement Agreement.

Section 4.5 Development Expenditures

A. The proceeds of the Subaward must be used to pay costs that have been incurred. The Asset Manager shall determine the Development Owner's compliance with this requirement based upon a review of the draw documents. The Department may establish such additional limitations on the expenditure of Exchange Program Funds as it determines are necessary to ensure compliance with Program Requirements.

B. In the event that the Department determines that the proceeds of the Subaward have been used to pay non-incurred costs, the Department shall provide the Development Owner with written notice thereof and the Development Owner shall pay to the Department, in immediately available funds within twenty (20) Business Days from the date of said notice, an amount equal to that portion of the Subaward used to pay non-incurred costs.

Section 4.6 Developer Fee Payments

A. The Developer shall be entitled to receive the Developer Fee in an amount set forth in the Budget, not to exceed the limits identified in the QAP.

B. Up to seventy-five percent (75%) of the Developer Fee may be disbursed in accordance with the percentage of construction completion of the Development. The balance of the Developer Fee may be paid upon the later to occur of (i) the Department's receipt and acceptance of Cost Certification in form and substance satisfactory to the Department, or (ii) the reasonable determination by the Department that there are sufficient sources of funds available after payment of all other Development Costs to pay the balance of the Developer Fee (unless, in each case, the Development Agreement or the Mortgage Loan Documents provide for later payment).

ARTICLE V
COVENANTS AND RESTRICTIONS

Section 5.1 Land Use Restriction Agreement (LURA)

A. The Development Owner and the Department shall enter into the LURA substantially in the form attached hereto as **Exhibit E** and deliver a copy executed and acknowledged by Development Owner to Closing in a recordable form. The terms and conditions of the LURA are incorporated herein by reference.

Section 5.2 Compliance with Program Requirements

A. The Development Owner will comply with all of the Program Requirements applicable to the Development throughout the Compliance Period and the Extended Use Period.

B. The Development Owner will comply with all of the requirements of Section 42 of the Code and Texas Government Code Chapter 2306 to the extent necessary to receive and maintain a subaward of Exchange Program Funds.

C. The Development Owner will maintain the Required Percentage throughout the Compliance Period and the Extended Use Period.

D. The Development Owner will comply with the income and rent restrictions and maintain the "applicable fraction" as set forth in the LURA throughout the term of the LURA.

E. No later than the date outlined in **Exhibit K** of this Agreement, the Development Owner shall have a basis in the Development that is no less than ten percent (10%) of its "reasonably expected basis in such project" as of the Required Placed In-Service Date for purposes of Section 42(h)(1)(E)(ii) of the Code. The Department will ascertain and require documentation of compliance with this requirement in the same fashion as it does with respect to projects receiving carryover allocations of Tax Credits.

F. Each building in the Development which is required to contain Low-Income Units will be placed in service by the Required Placed In-Service Date.

G. The Development will become a "qualified low-income housing project" (as defined in Section 42(g)(1) of the Code).

Section 5.3 Covenants Regarding Sale or Assignment of Development, Contracts or Interests

A. Other than in connection with the Mortgage Loans, the Development Owner shall not sell, lease, encumber (other than by residential or commercial leases in the ordinary course of business), transfer or otherwise dispose of any material portion of the Development, without the prior written consent of the Department, which consent shall not be unreasonably withheld. Any such transfer shall be subject to the requirements set forth in the QAP and the Department's rules.

B. The Development Owner shall execute and deliver the Option Agreement in the form provided by the Department.

C. The Development Owner shall not, without the prior written consent of the Department, permit any material change in the ownership interests in the Development Owner, which consent shall not be unreasonably withheld. Any such transfer shall be subject to the requirements set forth in the QAP and the Department's rules.

D. Without the prior written consent of the Department, which consent shall not be unreasonably withheld, the Development Owner shall not:

(i) designate a new Property Manager;

(ii) designate a new Contractor;

(iii) designate a new Developer; or

(iii) make any assignment of, or material change in, the Property Management Agreement, the Development Agreement or the Construction Contract.

E. The Development Owner shall ensure that the following rights of the Department are included in the Mortgage Loan Documents and the Development Owner's organizational documents:

(i) The Department shall have the right to replace the General Partner and/or Property Manager of the Development in the event that there is an Event of Default or the Development becomes in Material Non-Compliance as such term is defined in 10 TAC Chapter 60.

(ii) The Department shall have the right to approve any new General Partner and/or Property Manager selected by Development Owner, the Lender, and/or the other partners of the Development Owner, which approval shall not be unreasonably withheld.

F. The Department shall, in any partnership agreement or limited liability company management agreement, be allowed to (i) replace, in consultation with the other partners, the General Partner, (ii) approve the selection of a new General Partner and to (iii) have an Option to purchase of up to 20% of the partnership interests in the event of the sale of the Development as this Option shall be evidenced in writing in a separate Option Agreement provided by the Department.

Section 5.4 Miscellaneous Covenants

A. The Development Owner shall deliver to the Department and the Asset Manager a copy of any state and federal filings, and notices of change in ownership that is required to be delivered to the Securities and Exchange Commission.

ARTICLE VI
RECAPTURE

Section 6.1 Recapture Event

A. A "**Recapture Event**" shall be deemed to occur if, at any time prior to the end of the Compliance Period, any one or more of the following events shall occur and remain uncured as provided in Section 6.4 below;

(i) the Development Owner does not comply with section 5.2E or Section 5.2F.of this Agreement;

(ii) the percentage of Low-Income Units in the Development falls below the Minimum Set-Aside;

(iii) the Development ceases to be a "qualified low-income housing project" (as defined in Section 42(g)(1) of the Code);

(iv) 100% of the Exchange Program Funds available or advanced to the Development Owner have not been expended by the later of either, December 31, 2011, or a date approved by the Treasury;

(v) Exchange Program Funds have been determined by the Department or the Treasury to have been expended for non-Eligible Costs in violation of Program Requirements and have not been repaid in accordance with the terms of this Agreement;

(vi) If under the then current rules for Tax Credit properties under 10 TAC Chapter 60 the Department sends notice to the IRS that the Development is no longer participating in the program; or

B. If a Recapture Event shall occur, the applicable portion of the Subaward disbursed to the Development Owner shall be subject to "recapture" in the amounts set forth below (the "**Recapture Amount**").

(i) If the Recapture Event arises under Section 6.1A(ii), (iii) or (vi) above, after allowing any permitted period for cure of correction, the Recapture Amount shall be equal to the full amount of the Subaward, less 6.67% for each full calendar year of the Compliance Period in which a Recapture Event has not occurred; provided, however, that if the Development Owner restores (a) the percentage of Low-Income Units to the Required Percentage and/or (b) the Development as a "qualified low-income housing project," as applicable, the Recapture Event and any Recapture Amount shall be waived by the Department with respect to subsequent years in the Compliance Period in which the Development is in compliance, provided that such waiver is permitted under the Program Requirements.

(ii) If the Recapture Event arises under Section 6.1A(i) above, the Recapture Amount shall be an amount equal to the amount of the Exchange Program Funds actually disbursed to the Development Owner under the terms of this Agreement.

(iii) If the Recapture Event arises under Section 6.1A(iv) or (v) above, the Recapture Amount shall be an amount equal to the amount of the Subaward determined by the Department, in its reasonable discretion, not to have been expended by December 31, 2011 or to have been expended for non-Eligible Costs in violation of Program Requirements, as applicable.

C. In the event of any Recapture Event set forth above, the Recapture Amount shall include any interest or penalties that accrue in accordance with the Program Requirements.

D. If a Recapture Event occurs, in addition to the Recapture Amount, the Development Owner shall pay to the Department upon demand an amount equal to the reasonable out-of-pocket costs and fees reasonably incurred by the Department in connection with the Recapture Event.

Section 6.2 Enforcement

A. The Recapture Amount shall be due and payable to the General Fund of Treasury and shall be deemed a debt owed to the Treasury, enforceable against any assets of the Development Owner by Treasury. Such debt shall be secured and enforceable by the lien of the Recapture Mortgage in favor of the Treasury, which lien may be enforced by the Department on behalf of the Treasury; provided, however, that upon any foreclosure of the lien of the Recapture Mortgage, the Department may bid the lien amount on behalf of the Treasury and may take title to the Development in its own name, to be held for the benefit of the Treasury, subject to the terms of any senior Mortgage Loan Documents and the Intercreditor Agreement.

B. The Recapture Mortgage imposed hereunder shall be filed and recorded in the real property records of the county in which the Development is situated, as designated by the laws of the State.

C. Unless another date is specifically fixed by law, the amount due shall be reduced to judgment and filed in the property Real Property Records of the county in which the Development is located and shall continue in force until the Recapture Amount is paid to the Department in full.

D. If the Department determines it to be in the best interests of current and prospective occupants of the Low-Income Units of the Development, and if permitted under the Program Requirements, the Department may delay foreclosure or other enforcement of any Recapture Mortgage or obligation until the end of the Compliance Period.

E. The Department may defer the enforcement of remedies upon the occurrence of a Recapture Event until the end of the Compliance Period, if it determines that the Lender is taking appropriate measures to correct the circumstances giving rise to the Recapture Event.

F. To the extent permitted under applicable law, the Intercreditor Agreement and the Mortgage Loan Documents governing any liens that are senior to the Recapture Mortgage, the Department may utilize any and all reasonable means and efforts to recapture funds under the Recapture Mortgage up to and including foreclosure and taking ownership of the Development.

Section 6.3 Notice of Recapture Event

The Department or the Asset Manager, as applicable, shall provide the Development Owner and the Developer with written notice in accordance with Section 12.1 of any Recapture Event or of any circumstances which, with the passage of time, would give rise to a Recapture Event, of which, in either event, it shall become aware. Upon the giving of any such notice to the Development Owner, the Developer and the Lender, the Department or the Asset Manager, as applicable, shall also provide copies of any such notice(s) to the Lender. The failure of the

Department or the Asset Manager, as applicable, to provide notice as herein required shall not relieve the Development Owner of any obligation hereunder or the LURA, or prevent the occurrence of a Recapture Event, nor shall it serve to relieve the Development Owner of any of the consequences thereof.

Section 6.4 Right to Cure

The Development Owner shall have the right to cure a Recapture Event within a reasonable period of time after the Development Owner and the Lender have received Notice of the circumstances giving rise to such Recapture Event or after the Development Owner would have become aware of the circumstances giving rise to such Recapture Event had the Development Owner exercised reasonable diligence with respect thereto. The Department, acting in good faith and using reasonable judgment, shall have the right to determine what constitutes "a reasonable period of time" and whether a cure has been properly and timely effected for purposes of this Section, except to the extent that such determinations are governed by or otherwise prescribed or delimited by Program Requirements. Any cure made or tendered by the Developer or any Lender shall be accepted or rejected on the same basis as a cure made directly by the Development Owner, to the extent not inconsistent with Program Requirements.

Section 6.5 Preservation of Rights and Remedies

Any action under this Article VI will not limit or deprive the Department or Treasury from exercising any other rights and remedies that they have under law or equity, or any rights and remedies provided herein with respect to Events of Default.

Section 6.6 Third-Party Rights

A. Treasury shall be deemed a third-party beneficiary of this Article VI.

ARTICLE VII
REPRESENTATIONS AND WARRANTIES

Section 7.1 Representations and Warranties of the Development Owner

A. The Development Owner hereby represents and warrants to the Department that the following are true as of the date hereof and will be true on the due date of each disbursement of Exchange Program Funds, and, as applicable, will be true throughout the Compliance Period and the Extended Use Period, where applicable:

B. The Development Owner is duly organized to conduct business and validly existing under the laws of the state of its organization, is qualified to conduct its business in the State, and has full power and authority to perform its obligations under this Agreement, and has, at a minimum, a registered agent on record in the State.

C. No litigation, demand, investigation, claim or proceeding against the Development Owner or any other litigation or proceeding directly affecting the Development is pending or, to the best knowledge of the Development Owner, threatened, before any court, administrative agency or other Governmental Authority that would, if adversely determined,

have a material adverse effect on the Development Owner or the construction, use and operation of the Development.

D. No default by the Development Owner or any Affiliate thereof under any contractual relationship with the Development has occurred or is continuing (nor has there occurred any continuing event which, with the giving of notice or the passage of time or both, would constitute such a default in any material respect) or under any of the Mortgage Loan Documents for the Development or other documents or instruments governing the development, use, occupancy and operation of the Development.

E. All material building, zoning, health, safety, business, and other applicable certificates, permits and licenses necessary to permit the construction, use, occupancy and operation of the Development have been or will, at the time required, be obtained and maintained (other than, prior to completion of construction of the Development or a specified portion thereof, such as are issuable only upon completion of construction or such specified portion thereof); and the Development Owner has not received any notice and has no knowledge of any violation with respect to the Development of any law, rule, regulation, order or decree of any Governmental Authority having jurisdiction which would have a material adverse effect on the Development or the construction, use or occupancy thereof, except for violations which have been cured or can be cured within any applicable cure period, and are in the process of being cured, and notices or citations which have been withdrawn or set aside by the issuing agency or by an order of a court of competent jurisdiction.

F. The Development Owner has, or will have a fee interest in the Development and, with respect to the Development Site, either a fee interest or a long term ground lease for a period of not less than forty-five (45)-years, and has good and indefeasible title thereto, free and clear of any liens, charges or encumbrances other than the Mortgages, encumbrances the Development Owner is permitted to create under the terms of this Agreement, encumbrances set forth in any title commitment or title policy for the Development Site, and mechanics' or other liens that have been bonded against (or as to which other cash equivalent security has been provided) in such a manner as to preclude the holder of such lien from having any recourse to the Development or the Development Owner for payment of any debt secured thereby.

G. No Event of Default has occurred and is continuing.

H. No Event of Bankruptcy has occurred as to the Development Owner or the Developer.

I. The sources of funds available to the Development Owner are sufficient to enable the Development Owner to complete construction of the Development in accordance with the Plans and Specifications.

J. In the event that the Development Owner will be financing the acquisition of the Development Site, the Department may not, under the requirements applicable to the Exchange Program, provide such financing. Therefore, prior to the first Draw Request for Exchange Program Funds the Development Owner must certify that it has acquired the Development Site

with funds from another source. Thereafter, the Department will provide funding as requested up to the total amount of the Subaward.

K. Each of the representations and disclosures made by the Development Owner to the Department in the application(s) for Tax Credits and/or Exchange Program Funds is true and correct as of the date hereof, or in the case of changed circumstances, such change has been presented to and approved by the Department in writing. Each of the covenants, agreements and conditions contained in such applications have been duly performed or satisfied by the Development Owner to the extent that performance or satisfaction is required on or prior to the date hereof, and the Development Owner has no reason to believe that the covenants, agreements, and conditions required to be performed or satisfied after the date hereof will not be performed or satisfied in a timely manner.

L. The LURA, which constitutes an "extended low-income housing commitment" as defined in Section 42(h)(6) of the Code, will be in effect as of the end of each taxable year in which the buildings in the Development are placed in service.

M. The Development as planned will constitute "residential rental property" within the meaning of Section 1.103-8(b)(4) of the Treasury Regulations.

N. No federal appropriated funds have been paid or will be paid, by or on behalf of the Development Owner, to any Person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and/or the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

O. No funds have been paid for influencing or attempting to influence an office or employee of a Member of Congress in connection with a federal contract, grant, loan and/or cooperative agreement benefiting the Development Owner. To the best knowledge of the Development Owner, the Development Owner has complied with all restrictions, certifications and disclosure requirements contained in the Byrd amendment to the fiscal 1990 appropriations measures for the United States Department of the Interior (P.L. 101-121) and with any guidelines and rules issued by any federal Entity in connection therewith, if applicable.

P. Neither the Development Owner nor any of its partners, members, officers, directors, or employees, nor, to the best knowledge of the Development Owner, any contractor or agent of the Development Owner nor any Affiliate of the Development Owner, nor any Person who or which directly or indirectly owns or Controls the Development Owner or any of its or their constituent Entities, nor any Person who or which directly or indirectly owns or Controls any Affiliate of the Development Owner or any of its constituent Entities, nor any Person who or which directly or indirectly holds a substantial (i.e., ten percent (10%) or more) equity interest in the Development Owner or in any of its constituent Entities or in any Affiliate of the Development Owner or any of its or their constituent Entities (collectively, "**Development Owner Parties**"), is a Barred Person or has ever been a Barred Person (as hereinafter defined). "Barred Person" means any Person with whom a U.S. Person is barred

from transacting business under U.S. law, including but not limited to (i) Persons identified as specially designated terrorists, narcotics traffickers, or blocked persons by the U.S. Government on the "Specially Designated Nationals and Blocked Persons List" maintained by the U.S. Treasury Department; and (ii) Persons that are citizens of or organized or domiciled or resident in countries subject to U.S. economic embargo restrictions and thereby barred from transactions with U.S. Persons. "U.S. Person" means a Person, that is a citizen of or organized or domiciled or resident in the United States. "Owned or controlled" and variations thereof mean a direct or indirect interest in the entity in question, including but not limited to voting or non-voting equity, partnership, joint venture and other arrangements, and specifically including but not limited to (1) all members of limited liability companies, (2) all shareholders owning ten percent (10%) or more of the outstanding shares of corporations, measured on an aggregate and/or class-by-class basis, (3) all general partners of limited partnerships and general partnerships, (4) all limited partners owning twenty-five percent (25%) or more of the outstanding limited partnership interests in limited partnerships, (5) all trustees and settlors of trusts, and (6) all beneficiaries owning twenty-five percent (25%) or more of the beneficial interests in trusts.

Q. Neither any General Partner nor any other Development Owner Party nor any of the Development Owner's property is or has ever been subject to or a party to or bound by any agreement or other arrangement with any Barred Person.

R. The Development Owner and all other applicable Development Owner Parties have not engaged and shall not engage in any act or omission that would violate anti-money-laundering laws, including but not limited to 18 USC § 1956; have complied or will comply with requirements for instituting an anti-money laundering compliance program required under 31 USC § 5318(h) and applicable to all "financial institutions" as defined in 31 USC § 5312(a)(2); and have instituted or will institute policies and procedures and use commercially reasonable due diligence to identify and report Suspicious Transactions to relevant U.S. Government officials. "Suspicious Transactions" that may require reporting include, but are not limited to, (i) individual or related transactions in which a third-party provides payment in U.S. or foreign currency in excess of $10,000 that may require reporting under 31 USC § 5331 and 26 USC § 6050I; (ii) any transaction where the Development Owner or any Development Owner Party knows, suspects, or has reason to know that the transaction (A) is for an illegal purpose, including but not limited to money laundering; (B) is otherwise an attempt to disguise funds derived from illegal activity or evade reporting requirements under U.S. law; or (C) is suspicious because the transaction appears to serve no business or lawful purpose.

Section 7.2 Covenants

The Development Owner unconditionally covenants and warrants that:

A. The Development Owner shall cause the Construction Completion Date to occur within twenty-four (24) months from the date of Closing, but in no event later than the Required Placed In-Service Date. The Development Owner shall satisfy all construction-related requirements of the Mortgage Loans, including any requirement related to completion of the Development. The Development Owner shall pay all costs to complete construction of the Development in accordance with the Plans and Specifications when and as incurred, regardless

of whether such costs exceed the amounts anticipated for such items in the Budget or the sources otherwise available to pay such costs (in either such event, said costs being referred to as "**Excess Development Costs**"). The Development Owner shall pay any Excess Development Costs by the earliest of (i) the date required to avoid a default or penalties under the Mortgage Loans, (ii) the date required to keep all sources of funding for the Development "in balance," (iii) the date required to keep all expenses without a specific maturity date paid on a sixty (60)-day current basis, or (iv) such earlier date as may be set forth in this Agreement.

B. As of the date of Closing, all reserves and accounts required to be maintained by the Development Owner under the terms of this Agreement are currently funded (or will be funded at the time(s) required) up to the specified levels.

C. Construction of the Development will commence prior to the date outlined in **Exhibit K** ,the Fifty Percent Construction Completion Date will occur within eight (8) months from Closing, and the Construction Completion Date will occur within (24) twenty-four months from Closing, but in no event later than the Required In-Service Date.

D. The Development Owner will Construct and operate the Development in accordance with the terms of the LURA.

E. If the Development Site is comprised of multiple parcels, either (a) all such parcels are contiguous (that is their boundaries meet at one or more points), except for the interposition of a road, street, stream or similar boundary, or (b) 100% of the units will be Low-Income Units.

F. All utilities are, or will be, available to the Development, including sanitary and storm sewers, water, gas (if applicable) and electricity.

G. The Development will continue to be owned and operated by the Development Owner through the Compliance Period and the Extended Use Period or, if later, the date (if any) through which the Development Owner is required to own and operate the Development pursuant to any of the documents governing the use and operation of the Development, unless the Department consents to a change of ownership in accordance with its rules and procedures.

H. The Development will be operated so that it will meet (and an appropriate election has been or will be made with respect to) the Minimum Set-Aside Test as of the dates established by Section 42(g)(3) of the Code and at all times thereafter through the end of the Compliance Period and the Extended Use Period.

I. The Development Owner will comply with all applicable provisions of Texas Government Code Chapter 2306 and its supplementing rules.

J. The Development will, at all time throughout the Compliance and Extended Use Periods, comply with the LURA.

K. The Development Owner will follow applicable Program Requirements and Section 42 of the Code with respect to obtaining annual reports from tenants of Low-Income Units of the Development concerning their incomes and family sizes. Except to the extent

permitted by Section 42(g)(2)(E) of the Code, the gross rents (as adjusted in accordance with Section 42(g)(2)(B) of the Code) charged for each of the Low-Income Units will not, at any time during the Compliance Period and the Extended Use Period, exceed 30% of the income limitation applicable to the tenants of each such unit for purposes of the Minimum Set-Aside Test and Section 7.2I above.

L. The Development will be operated so that the number of units as specified in the LURA will qualify as Low-Income Units at all times during the Compliance Period and the Extended Use Period, which is the "applicable fraction" required for purposes of the LURA. The proration of units required to comply as Low Income Units is outlined in **Exhibit K**.

M. None of the Low-Income Units will be occupied entirely by "students" (as defined in the Code).

N. All services provided to tenants will be consistent with the LURA and, will be optional if not free to the residents (i.e., payment for the service will not be required as a condition of occupancy) and there will be no charges for services that are not optional (i.e., mandatory services) will be provided, or if so provided, the charges for any such services shall be included in determining compliance with the applicable rent restriction for purposes of Section 7.1I.

O. Tenants for the units will be screened and selected from a pool of eligible tenants based on uniformly applied tenant selection criteria that are commonly employed by other property owners in determining tenant eligibility in projects similar to the Development, and:

(i) no preferences or discrimination will be employed in selecting tenants that violates or is inconsistent with federal housing policy governing nondiscrimination as determined under HUD rules and regulations;

(ii) units in the Development will be available for use by the general public within the meaning of Section 1.42-9 of the Treasury Regulations and Section 42(g)(9) of the Code; and

(iii) The units will be rented on a non-transient basis except in accordance with the Code and Revenue Procedure 2007-54.

P. The tenant facilities of the Development included in Eligible Basis will be available to all tenants on a comparable basis without separate fees.

Q. At least one unit in each building in the Development will be ready and available for occupancy in accordance with State and local laws on or before the Required In-Service Date.

R. The LURA, which constitutes an "extended low-income housing commitment" as defined in Section 42(h)(6) of the Code, will be in effect as of the end of each taxable year in which the buildings in the Development are placed in service.

S. The Development Owner will develop and operate the Development in accordance with (i) the applicable provisions of Section 42 of the Code, (ii) the terms of this Agreement, (iii) the Program Requirements, (iv) all applicable federal, state, and local statutes, rules and regulations with respect to the Development including, without limitation, the Fair Housing Act (42 U.S.C. 3601, et seq.), as amended, and (v) all applicable requirements of any Governmental Authority having jurisdiction over the Development.

T. In the event the Federal Drug Free Workplace Act of 1988 and the regulations promulgated thereunder, including without limitation, 54 CFR 4956 (1989), as amended such Act and regulations are applicable, the Development Owner has complied with and will continue to comply with such Act.

U. The Development Owner and each other Development Owner Party will prevent, and have instituted or will institute (and will update from time to time to correspond to changes in circumstances and changes in applicable laws and regulations) policies and procedures to prevent, any circumstance or event described in Section 7.2K and Section 7.2L above.

V. From the Closing Date until the termination of the LURA, the Development Owner shall maintain insurance coverage (from an insurance carrier rated within at least the top three rating categories of the relevant rating agency) in amounts sufficient to assure the ongoing ability of the Development Owner to perform it duties under the terms and conditions established by the LURA or the full repayment of the Subaward including, but not limited to if other coverage is needed to provide such assurances: Builders Risk/Construction Insurance, Casualty Loss Insurance, Flood Insurance (if applicable), Business/Rent Loss Insurance and Liability Insurance (including personal injury, bodily insurance, death, accident and property damage). Borrower shall cause its insurance carrier to give the Department a copy of the existing policy and provide 30 day notice prior to cancellation, termination, or failure to renew the policy. In the event of cancellation for failure to pay premiums the insurance carrier should agree to provide 10 day notice to the Department. Development Owner hereby provides the right for Department to directly contact its insurance carrier about the coverage and policies in place without imposing any obligation or liability on the Department. Department shall be listed as an additional insured on any and all policies purchased on the Development. In the event of an insured event occurring, the first priority is to maintain the Development in its original condition to perform all functions required under the LURA. Should that not be possible, proceeds will be distributed based on the Intercreditor Agreement and any subordination agreement in place at the time of the insured event.

Section 7.3 Cost Certification

A. The Development Owner shall provide a full accounting of funds expended under the terms of this Agreement as part of Cost Certification on the earlier of January 13, 2012 or sixty (60) days of Construction Completion. In addition to the remedies available to the Department under Section 11.2 of this Agreement with respect to an Event of Default, failure of the Development Owner to provide a full accounting in accordance with the QAP and the Department's Cost Certification Procedures Manual shall be sufficient reason for the Department to make the Development Owner or its Affiliates ineligible to apply for assistance under TDHCA programs or subject to penalty in accordance with TDHCA rules. The

Development Owner, in providing such accounting, represents and warrants to and covenants with the Department that the entirety of Exchange Funds disbursed hereunder have been for items that are Eligible Costs and that if any Exchange Funds were disbursed for items other than Eligible Costs, they will be returned in accordance with this Agreement.

ARTICLE VIII
RESERVE ACCOUNTS

Section 8.1 Replacement Reserve

A. The Development Owner shall establish a reserve account in a manner and with an Entity approved by the Department for capital replacements, which account shall be funded consistent with the Budget as outlined in **Exhibit B** and/or Texas Government Code Sections 2306.185 and 2306.186 with the regard to the amount per unit per year (or such greater amount as may be required by any Lender) commencing on the Construction Completion Date. Withdrawals from such reserve shall be utilized solely to fund capital repairs and improvements deemed necessary by the Development Owner. Any withdrawal of funds from the replacement reserve which would cause the aggregate withdrawals in any one calendar quarter to exceed $10,000 shall be subject to the prior written consent of the Asset Manager.

Section 8.2 Operating Lease-Up Reserve

The Development Owner shall establish a reserve account in a manner and with an Entity approved by the Department for operating deficits in an amount equivalent to six months of stabilized operational expenses and debt service payments. Such funds must be funded with the lesser of fifty percent (50%) of the gross rental income during lease-up or the net operating cash during lease-up. This reserve shall be maintained as a segregated account in the name of the Development Owner. Withdrawals from such reserve account shall be allowed as approved by the Department to fund cash deficits prior to stabilization. Once six months of continuous stabilized occupancy (90% physical) has been achieved withdrawals from this fund may be made by the Development Owner without consent of the Department.

Section 8.3 Special Reserve Account

In the event that any net cash flow is generated by the Development in any given Fiscal Year during the Compliance Period or the Extended Use Period, then after assuring that the reserves required by Sections 8.1 and 8.2 are fully funded, the participation percentage of such net cash flow shall be placed in a special reserve account to assist residents to provide assistance with expenses associated with their tenancy. Resident expenses that may be paid from such special reserve account include application costs, security deposits or utilities for any unit leased to residents with incomes at or below 50% of the area median family income, or other purposes as approved by the Department. The level of special reserve account participation is outlined in

Exhibit K. The Department shall have prior approval rights for any disbursement of funds from such account, which approval shall not be unreasonably withheld.

Section 8.4 Funding of Reserve Accounts

The reserve accounts required hereunder except for the Replacement Reserve account outlined in Section 8.1, shall not be funded with Exchange Program Funds; provided, however, that to the extent that amounts have been disbursed to the Development Owner or the Developer in payment of fees or for reimbursements of previously paid expenditures, such amounts may be used to fund reserve accounts as permitted by the Department and unless otherwise prohibited by Program Requirements. In any event, the reserve accounts required hereunder shall not be considered an eligible cost for basis calculation in determining the eligible amount of Exchange Program Funds

ARTICLE IX
BOOKS AND REPORTING

Section 9.1 Financial Status Reports

A. The Development Owner shall maintain or cause to be maintained for the term of this Agreement a complete and accurate set of books and supporting documentation of transactions with respect to the conduct of the Development Owner's business. The Department and its duly authorized representatives (including its Asset Manager) shall have the right to examine the books of the Development Owner and all other records and information concerning the operation of the Development from time to time with reasonable prior notice during regular business hours provided that such examination shall not unreasonably disrupt or interfere with the Development Owner's business or operations.

B. Beginning with the first Fiscal Quarter after the later of Closing or the Construction Completion Date, the Development Owner shall send to the Asset Manager no later than fifteen (15) Business Days following the close of each Fiscal Quarter the following information (which need not be audited): (i) a balance sheet as of the end of the applicable Fiscal Quarter, (ii) a statement of income for the applicable Fiscal Quarter, (iii) a statement of cash flow, (iv) a quarterly financial summary in a form attached hereto as **Exhibit G**; (collectively, the "**Quarterly Financial Status Reports**"). If the Quarterly Financial Status Reports are not delivered to the Asset Manager when due hereunder, then the Development Owner shall be obligated to pay to the Department or its duly authorized representatives (as the agent and representative of the Department) an amount equal to $100 per day for each day after the due date until such Quarterly Financial Status Reports are delivered. Failure to deliver the Quarterly Financial Status Reports when due hereunder may also result in the suspension of any disbursements of Exchange Program Funds hereunder and/or give rise to a Recapture Event, unless waived by the Department.

C. The Development Owner shall prepare or cause to be prepared balance sheets as of the end of each Fiscal Year and financial statements for such Fiscal Year which are accompanied by the opinion of a third-party accountant that said balance sheets and statements have been prepared in accordance with generally accepted accounting principles applied

consistently with prior periods, identifying any matters to which such accountant takes exception and stating, to the extent practicable, the effect of each such exception on such financial statements (the "**Accountant's Opinion**"). As a note to such financial statements, the Development Owner shall prepare (or shall cause to be prepared) a schedule of all loans to the Development Owner, setting forth the purpose(s) for which the proceeds of such loan were applied by the Development Owner and such schedule will be reviewed by the third-party accountant. The Development Owner shall transmit to the Asset Manager a copy of the final financial statements (with the Accountant's Opinion) within thirty (30) calendar days from completion of the audit, but in no event later than the first Business Day following one hundred fifty (150) calendar days after the end of each such Fiscal Year. If the final financial statements (with the Accountant's Opinion) are not delivered to the Asset Manager when due hereunder, then the Development Owner shall be obligated to pay to the Department or its duly authorized representatives (as the agent and representative of the Department) an amount equal to $100 per day for each day after the due date until such statements are delivered, unless waived by the Department.

D. The Development Owner shall prepare and furnish to the Asset Manager an estimate of the profits and losses of the Development Owner for federal income tax purposes for the current Fiscal Year not later than September 30 of each year.

E. The Development Owner shall submit to the Department or its duly authorized representatives any other reports and information that the Department reasonably deems necessary to comply with Section 1602 of the Recovery Act and Program Requirements, as the same may be amended from time to time.

F. In the event that the Development Owner fails to submit to the Department or its duly authorized representatives in a timely and satisfactory manner any report required by this Agreement, the Department may, in its sole discretion, withhold any or all payments otherwise due or requested by the Development Owner hereunder until such time as the Development Owner fully cures or performs any and all delinquent reporting obligations.

Section 9.2 Compliance Monitoring Reports

A. No later than six (6) months before initial occupancy of the dwelling units is scheduled to begin, the Development Owner shall supply the Asset Manager with a management and marketing plan (the "**Marketing Plan**") for the Development. The Marketing Plan will describe (i) the level of on-site staff to be employed at the Development, with a brief job description for each person, (ii) the type, frequency, media, approximate cost, and timetable, of advertising for the Development, (iii) a brief survey of properties in the vicinity which may be perceived as comparable, and their current rents, and (iv) a timetable of pre-opening marketing activities as well as expected lease-up. The Marketing Plan must be acceptable to the Asset Manager, which acceptance may not be unreasonably withheld.

B. Until such time as one hundred percent (100%) of the Low-Income Units in the Development have been leased and occupied by Qualified Tenants, the Development Owner shall supply the Asset Manager with the following items:

(i) monthly leasing reports, showing the number of applications taken away by prospective tenants, the number submitted, the number being evaluated and the number accepted since the date of the last report;

(ii) a monthly Section 42 Compliance Form in the form attached hereto as **Exhibit F**;

(iii) as soon as they become available, Tenant Income Certification files for the initial tenants in the first five (5) Low-Income Units in the Development; and

(iv) upon completion of lease-up of the Low-Income Units in the Development, Tenant Income Certification files for all initial tenants in all the Low-Income Units in the Development.

Thereafter, the Development Owner shall supply the Asset Manager, within ten (10) business days after the end of each Fiscal Quarter, a Section 42 Compliance Form in the form attached hereto as **Exhibit F**.

C. The Development Owner shall submit to the Asset Manager any other compliance reports that the Department reasonably deems necessary to comply with Program Requirements.

D. The Department reserves the right to carryout regular and periodic field inspections to ensure compliance with Program Requirements and the requirements of this Agreement.

Section 9.3 Quarterly Progress Reports

No later than five (5) Business Days following the end of each calendar quarter, commencing with the date hereof, the Development Owner shall complete the "Quarterly Progress Report" in the form attached hereto as **Exhibit H** and submit such report to the Department.

ARTICLE X
ASSET MANAGEMENT

Section 10.1 Appointment of Asset Manager

A. The Department shall be the initial Asset Manger of the Development, unless a third party Asset Manager has been designated by the Department upon the execution of this Agreement.

B. The Department may appoint in writing a third-party Asset Manager to perform its Asset Management duties hereunder by giving written notice to the Development Owner.

Section 10.2 Asset Management Duties

A. The Development Owner will be subject to Asset Management oversight, which may include the following:

(i) review the use of the proceeds of the Subaward to ensure such proceeds are being spent in accordance with the requirements of this Agreement, in particular and without limitation, Article IV hereof, and with Program Requirements;

(ii) review and report to the Department no less than quarterly on the progress of construction of the Development, its compliance with the Construction Schedule, the Plans and Specifications, and the Budget, and any Change Orders, changes to anticipated sources and uses, or other matters which, in the judgment of the Asset Manager, may adversely affect the ability of the Development Owner to complete construction of the Development;

(iii) review all financial status reports required to be delivered pursuant to Article IX of this Agreement;

(iv) review all compliance monitoring reports required to be delivered pursuant to Section 9.2 of this Agreement; and

(v) review reports required to be delivered pursuant to Article IX of this Agreement and consult with the Development Owner as to such measures as may be necessary or desirable to remedy any unfavorable compliance or financial circumstances concerning the Development.

B. The Asset Manager may, and upon the direction of and following consultation with the Department shall, take such of the following actions with respect to the Development as it and/or the Department shall reasonably deem advisable:

(i) declare that an Event of Default has occurred hereunder, specifying the nature of said Event of Default;

(ii) exercise any of the remedies provided to the Department pursuant to this Agreement with respect to an Event of Default;

(iii) recommend (I) that further disbursements of Exchange Program Funds be delayed, suspended or terminated, (II) that the Developer, the Property Manager, the Contractor or any other party providing services to the Development Owner be replaced, (III) any appropriate measures to assure that the Fifty Percent Construction Completion Date and the Construction Completion Date can each be achieved within the applicable time period and available resources, or (IV) such measures as may be needed to address instances of noncompliance with Program Requirements, the LURA, or the requirements of this Agreement; and

(iv) declare that a Recapture Event has occurred or that circumstances exist which may give rise to a Recapture Event, together with making such suggestions for remediation as the Asset Manager deems appropriate.

Section 10.3 Asset Management Fee

A. In consideration of the services and obligations of the Asset Manager hereunder, the Development Owner hereby agrees to pay to the Department an annual fee (the "Asset Management Fee") reasonably adjusted from time to time by the Department. The Asset Management Fee shall be an operating expense of the Development Owner and must be included in the annual pro forma operating budgets for the Development. The Asset Management Fee may be changed by the Department on thirty (30) days' prior written notice if necessary to cover any projected or actual increase in costs to the Department attributable to the performance of its asset management duties hereunder.

B. The Asset Management Fee shall be payable annually commencing May 1, 2010 and due and payable every January 30th thereafter, or such other date as may be specified by the Department. Upon receipt of an invoice for the amount of Asset Management Fees (which may be quarterly or annually), the Development Owner shall have until the first Business Day following thirty (30) calendar days to remit payment to the Department.

ARTICLE XI
DEFAULT; TERMINATION

Section 11.1 Default

A. Any of the following events shall constitute an "**Event of Default**" under this Agreement:

(i) a breach by the Development Owner of any of its representations or warranties contained in this Agreement or in the performance of any of its obligations under this Agreement, in either event that (a) has or might reasonably be expected to have a material adverse impact on the operation of the Development, and (b) is not cured the first Business Day following thirty (30) calendar days (in the case of a monetary default) or the first Business Day following sixty (60) calendar days (in the case of a non-monetary default) following notice of such breach or default from the Asset Manager to the Development Owner and Developer *provided*, *however*, that if a non-monetary default cannot reasonably be cured by the first Business Day following sixty (60) calendar days and the Development Owner commences a cure within twenty (20) Business Days and proceeds in good faith to effect such cure thereafter, the cure period with respect to such breach or default shall be extended to a date no later than the latest permissible date for correction of the applicable breach under the Program Requirements without causing a Recapture Event; or

(ii) the commencement of non-judicial foreclosure proceedings with respect to any Mortgage, which have not been withdrawn or dismissed by the first Business Day following thirty (30) calendar days from the date of such commencement or the commencement of any judicial foreclosure proceeding;

(iii) a violation of any law, regulation or order applicable to the Development Owner or the Development that has or might reasonably be expected to have a material adverse impact on the operation of the Development and is not cured within the applicable cure period, if any, provided in such law, regulation, or order, or prior to such adverse impact;

(iv) a default has occurred under the LURA, which is not cured within the time period for cure as provided therein; or

(v) gross negligence, fraud, willful misconduct, misappropriation of funds, or criminal activity by the Development Owner or any Affiliate of the Development Owner providing services to or in connection with the Development Owner; or

(vi) the Construction Completion Date has been delayed by more than sixty (60) calendar days, and such is not due to Force Majeure, and the Development Owner has failed to submit an acceptable Action Plan to the Department in accordance with Section 4.3;

(vii) the Fifty Percent Construction Completion Date does not occur within eight (8) months of Closing, or such later time as may be approved by Department, and such is not due to Force Majeure;

(viii) Cost Certification does not occur within sixty (60) days from the Construction Completion Date;

(ix) repeated or prolonged failure to provide reports required by Article IX;

(x) a Recapture Event shall occur and the Recapture Amount due in connection therewith shall remain unpaid for a period of ten (10) Business Days after notice thereof from the Department or Treasury, unless a later date is specified in such notice or this Agreement; or

(xi) the Development Owner violates the covenants contained in Section 5.3 hereof.

(xii) if the Developer or Development Owner mortgages, hypothecates, grants lien upon, permits the placing of a lien upon, grants a security interest in or otherwise encumbers the Property or any portion thereof without the prior written consent of the Department.

Section 11.2 Remedies on Default

A. Subject to the terms and provisions of the Intercreditor Agreement, the Department shall have the right to exercise any of the following remedies during the existence of an Event of Default:

(i) temporarily suspend making payments of the Subaward under this Agreement pending correction of the Event of Default by the Development Owner;

(ii) cease making any further payments under this Agreement;

(iii) terminate this Agreement;

(iv) require that the Developer, the Property Manager, the Contractor or any other Person providing services to the Development Owner be replaced by another contractor chosen by the Development Owner and acceptable to the Department;

(v) removal of the General Partner of the Development Owner and provide for the Department or its designee, to act in its stead, pending appointment of a replacement General Partner under the organizational documents of the Development Owner;

(vi) draw upon and apply any escrows and/or reserve accounts in accordance with their terms;

(vii) exercise any rights it may have under the Recapture Mortgage (in the event of a default under Section 11.1(x) above) and the Security Instruments, including foreclosure of the liens thereunder;

(viii) deny to the Development Owner and the principals of the Development Owner the right to participate in programs of the Department or impose penalties in accordance with the Department's rules; and

(ix) exercise any other rights and remedies that may be available under law or in equity.

B. In addition to the remedies described in Section 11.2A above, the Development Owner shall, upon demand by the Department during the existence of an Event of Default, repay any amount of Exchange Program Funds previously disbursed to the Development Owner under the terms of this Agreement.

C. The Department may defer the enforcement of remedies upon the occurrence of an Event of Default for such period as it determines appropriate, if it determines that the Lender, the Developer, the Development Owner, and/or any Affiliate thereof, is taking appropriate measures to correct the circumstances giving rise to the Event of Default.

D. The Board may, in its sole and absolute discretion, and within the limits of federal and State law, waive any one or more rights, remedies or requirements under this Agreement if it finds that waiver is appropriate to fulfill the purposes and policies of Chapter 2306 of the Texas Government Code, or for good cause as determined by the Board.

E. Each right and remedy provided in this Agreement is distinct from all other rights or remedies under this Agreement, the Recapture Mortgage, the Security Agreements, or the LURA, or otherwise afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

Section 11.3 Third-Party Rights to Notice and Cure

A. The Department shall provide the Developer and the Lender with copies of any written notice of default provided to the Development Owner pursuant to the terms of this Article XI. The Department hereby agrees that any cure of any default made or tendered by the Developer or a Lender shall be deemed to be a cure by the Development Owner and shall be accepted or rejected on the same basis as if such cure were made or tendered by the Development Owner. All terms of this Agreement shall be subject to the terms and provisions of the Intercreditor Agreement.

Section 11.4 Enforcement of Provisions

A. The Development Owner acknowledges that one of the primary purposes for requiring compliance with the provisions of this Agreement is to assure compliance by the Development and Development Owner with Section 42 of the Code and the other Program Requirements. In consideration for receiving the Exchange Program Funds, the Development Owner hereby agrees and consents that the Department, the State and/or the United States of

America shall be entitled to enforce specific performance by the Development Owner (and its successors and assigns) of its obligations under this Agreement in any tribunal in the State for any and all breaches of the conditions and restrictions hereof or material representations made by the Development Owner at any time in addition to all other remedies expressly provided in this Agreement and/or by law or in equity.

ARTICLE XII
GENERAL PROVISIONS

Section 12.1 Notices

Except as otherwise specifically provided herein, all notices, demands or other communications hereunder shall be in writing and shall be deemed to have been given (i) five (5) Business Days after being deposited in the United States mail and sent by certified or registered mail, postage prepaid, (ii) one (1) Business Day after being delivered to a nationally recognized overnight delivery service, (iii) on the day sent by telecopy or other facsimile transmission, answerback requested and received, or (iv) on the day delivered personally, in each case, to the parties at the addresses set forth below or at such other addresses as such parties may designate by notice to each other:

(i) If to the Department, at:

Texas Department of Housing and Community Affairs
PO BOX 13941, Austin, Texas 78711-3941
221 East 11th St., Austin, Texas 78701
Attention: Teresa A. Shell, Housing Tax Credit Exchange Administrator

(ii) If to the Development Owner, at[_____ _____] with copies to[_____].

(iii) If to the Developer, at [_____ _____] with copies to[_____ _____].

(iv) If to the Lenders pursuant to Section 6.3 or 11.3, at the address shown on Exhibit I.

Any of the above-listed Persons may, by ten (10) days prior written notice to all other such Persons and Entities, revise the place to which notice may be directed. Until the full ten (10) day

period has elapsed and the notice of change has actually been sent and received, the locations set forth in the Summary or the most recent in effect locations shall be presumptively correct.

Section 12.2 Rules of Construction

Unless the context clearly indicates to the contrary, the following rules apply to the construction of this Agreement:

(i) Words importing the singular number include the plural number and words importing the plural number include the singular number;

(ii) Words of the masculine gender include correlative words of the feminine and neuter genders, and vice-versa;

(iii) The table of contents and the headings or captions used in this Agreement are for convenience of reference and do not constitute a part of this Agreement, nor affect its meaning, construction, or effect;

(iv) Words importing persons include any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, unincorporated organization, or government or agency or political subdivision thereof;

(v) Any reference in this Agreement to a particular "Article," "Section," or other subdivision shall be to such Article, Section, or subdivision of this Agreement unless the context shall otherwise require;

(vi) Each reference in this Agreement to an agreement or contract shall include all amendments, modifications, and supplements to such agreement or contract unless the context shall otherwise require; and

(vii) When any reference is made in this document or any of the schedules or exhibits attached hereto to the Agreement, it shall mean this Agreement, together with all other schedules and exhibits attached hereto, as though one document.

Section 12.3 Binding Provisions

The covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the heirs, legal representatives, successors and assignees of the respective parties hereto, except in each case as expressly provided to the contrary in this Agreement.

Section 12.4 American Recovery and Reinvestment Act of 2009 and State Requirements

The following criteria are required and will be followed:

(i) Requirement to Post Notice of Whistleblower Rights and Remedies: Any employer receiving funds under this Agreement shall post notice of the rights and remedies afforded whistleblowers under Section 1553 of the Recovery Act.

(ii) Requirement for Fixed-Price Contracting: To the maximum extent possible, subcontracts funded under this Agreement shall be awarded as fixed-price contracts through the use of competitive procedures. Development Owner shall post a summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures on the federal website established pursuant to Section 1526 of the Recovery Act.

(iii) Prohibited Use of Funds: Development Owner shall not use any of the funds made available under this Agreement for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, as outlined in Section 1604 of the Recovery Act.

(iv) Legal Use of Funds Certification: Development Owner hereby certifies, as a condition to receiving funds from the Department under this Agreement in accordance with Executive Order RP72, that the Exchange Program Funds will be used in accordance with State and federal laws.

(v) Job Postings on WORKINTEXAS.COM: Development Owner must post their Agreement-related job opportunities on the Workintexas.com website.

(vi) Designated Development Owner Contacts: Pursuant to State policy, Development Owner shall designate, in writing, at the time it executes this Agreement, one or more responsible and qualified individuals as points of contact with the Department to maintain a flow of current information relating to the receipt, deployment, management and use of funds received under this Agreement. Such individuals shall be the Authorized Officers designated on **Exhibit J**.

(vii) Posting of Procurement Opportunities: In addition to following any applicable State or local procurement laws, Development Owner shall timely provide the Department with an electronic version of any notice of procurement opportunity for posting on the Department's website in accordance with Department policy.

(viii) Development Owner shall track all funds under this Agreement and their projected statuses separately from all other funds and comply with State and federal reporting requirements in accordance with Executive Order RP72.

(ix) Development Owner agrees to execute and deliver to the Department any and all documents, instruments, and writings that the Department may reasonably request in order to comply with the terms of the federal grant agreement between the Department and Treasury, including, but not limited to, federal reporting requirements.

Section 12.5 Assignments

This Agreement and the proceeds of the Subaward may not be assigned, pledged, hypothecated, transferred, mortgaged or otherwise conveyed to any Person or Entity without the prior written consent of the Department and the Development Owner.

Section 12.6 Absence of Rights in Third Parties

No provision of this Agreement shall be construed in any manner so as to create any rights in Persons or Entities that are not a party to this Agreement other than Treasury as contemplated in Article VI hereof. The provisions of this Agreement shall be interpreted solely to define specific duties and responsibilities between the Development Owner, the Department, and the Asset Manager (as agent and representative of the Department), and shall not provide any basis for claims of any other Person or Entity other than Treasury.

Section 12.7 Applicable Law

Except as required by federal law, this Agreement shall be construed and enforced in accordance with the internal laws of the State of Texas.

Section 12.8 Counterparts

A. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all the parties hereto. Any counterpart of this Agreement, which has attached to it separate signature pages which together contain the signatures of all the parties hereto or is executed by an attorney-in-fact on behalf of some or all of the parties, shall for all purposes be deemed a fully executed instrument.

Section 12.9 Survival

All representations, warranties, and indemnifications contained herein shall survive the termination of this Agreement.

Section 12.10 Separability of Provisions; Rights and Remedies; Consistency with Program Requirements

A. Each provision of this Agreement shall be considered separable and if for any reason any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid. Any portion hereof found to be illegal or invalid shall be deemed deleted *ab initio* and all other provisions shall remain in full force and effect and construed so as most nearly to effectuate the intent of the parties.

B. Unless otherwise specifically provided herein, the rights and remedies of any of the parties hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provisions hereof. Each of the parties confirms that damages at law may be an inadequate remedy for breach or threat of breach of any provisions hereof. The respective rights and obligations hereunder shall be

enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other parties for a breach or threat of breach of any provision hereof, it being the intention by this paragraph to make clear that under this Agreement the respective rights and obligations of the parties shall be enforceable in equity as well as at law or otherwise.

C. The provisions of this Agreement are intended to implement the Exchange Program in accordance with the Program Requirements and with Section 42 of the Code as applicable to the Exchange Program, and shall be interpreted consistently therewith. In the event of any conflict between the provisions of this Agreement and the Program Requirements, the Program Requirements shall govern, and to the extent necessary, the inconsistent provisions of this Agreement shall be without effect.

Section 12.11 Independent Contractor; Indemnification

A. It is expressly understood and agreed by the parties hereto that the Department is contracting with the Development Owner as an independent contractor, and that Development Owner, as such, agrees to hold harmless and to indemnify the Department and its officers, agents and employees from and against any and all claims, demands and causes of action of every kind and nature which may be asserted by any third-party in connection with, arising out of, or in any way incident to the services performed by the Development Owner under this Agreement.

Section 12.12 Non-Discrimination

A. The Development Owner shall ensure that no person shall on the grounds of race, color, religions, sex, handicap, familial status, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds provided under this Agreement.

Section 12.13 Force Majeure

A. Performance under this contract interrupted by an event of Force Majeure will not constitute an Event of Default. Force Majeure means an event of catastrophic weather conditions or other extraordinary elements of nature or acts of God; or acts of war (declared or undeclared); acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; or quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities where the non-performing Party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each of the Parties has executed this Agreement as of the date first written above.

DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official department of the State of Texas

By: _____

Name: _____

Title: _____

Department Address: 221 E. 11th Street, Austin, Texas 78701

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20 .

_____
Notary Public in and for the State of Texas

DEVELOPMENT OWNER: _____

Signature: _____

By: _____
[Name], [Title]

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20 .

_____
Notary Public in and for the State of Texas

DEVELOPER: _____
(For purposes of Section 4.6)

Signature: _____

By: _____
[Name], [Title]

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20 .

_____
Notary Public in and for the State of Texas

Exhibit A

DESCRIPTION OF DEVELOPMENT SITE

[attached behind]

Exhibit B

DEVELOPMENT BUDGET

[Insert TDHCA Underwriting Report]

Exhibit C

DUE DILIGENCE AND CLOSING REQUIREMENTS

The following items must be provided to the Department at least thirty (30) days in advance of Closing, in order to facilitate the Department's preparation of Closing documents. Copies should be provided to the Department staff member(s) identified as the closing agent for the transaction and to the escrow agent at the title company, to the extent noted. Items must be submitted to the Department via the FTP electronic system, unless otherwise impermissible.

A. Final construction loan approval, as evidenced by a valid commitment from the construction lender or such other evidence as may be permitted by the Department.

B. Updates and changes from the initial Tax Credit application, which are not otherwise included in the Exchange Application. This includes any changes resulting from an increase or decrease in the aggregate Development Costs and financing committed for the Development. Any such updates or conditions shall be submitted to the Department using the forms in the 2009 Uniform Application (or any supplements thereto) including, without limitation, the following:

(i) Activity Overview [Vol. 1, Tab 1, Part A];

(ii) Rent Schedule [Vol. 1, Tab 2, Parts B &C];

(iii) Annual Operating Expenses [Vol. 1, Tab 2, Part D];

(iv) 30-Year Operating Proforma [Vol. 1, Tab 2, Part D];

(v) Development Cost Schedule [Vol. 1, Tab 3, Part A];

(vi) Offsite Cost Breakdown [Vol. 1, Tab 3, Part B];

(vii) Site Work Costs [Vol. 1, Tab 3, Part C];

(viii) Summary of Sources and Uses of Costs [Vol. 1, Tab 4, Part A] Note: This must be consistent with the fully executed Notice of Acceptance to Return Credits and Request Exchange Funds in Connection with the Section 1602 Tax Credit Exchange Program;

(ix) Financing Participants [Vol. 1, Tab 4, Part B], Financing Narrative, executed grant/subsidy, and updated construction loan commitment;

(x) Previous Participation Exhibits [Vol. 1, Tab 5, Parts A-E];

(xi) Tax Assessor valuation and tax rates by taxing jurisdiction;

(xii) Evidence of Site Control;

(xiii) Acquisition and/or Rehabilitation Information [Vol. 3, Tab 6]; and

(xiv) Updated Property Condition Assessment meeting the requirements of 10 TAC § 1.36 (if applicable).

C. Owner/Contractor Agreement (executed or in substantially final form)

D. Owner/Architect Agreement (executed or in substantially final form)

E. Texas Identification Number (TIN – AP-152), Vendor Direct Deposit Authorization (74-176) and TDHCA Housing Contract System Access Request Form

F. Resolutions of Development Owner, indicating authority to obtain the Exchange Program Funds and parties authorized to execute the Closing documents.

G. Evidence of any changes to the zoning since the initial Tax Credit application.

H. Updated evidence of proof of utilities available to the Development Site.

I. Any updates to the Phase I Environmental Site Assessment previously submitted to the Department, and if necessary, an updated reliance letter.

J. An updated organizational chart for the Development Owner or Developer, to the extent ownership of such Entities (including percentage of ownership therein) has changed from the organizational chart included in the initial Tax Credit application.

K. Updated title commitment for owner's policy of title insurance, with copies of exceptions. (Note: The Department should receive a copy of such title commitment each time it is updated prior to Closing.)

L. Updated survey for the Development Site, with certification to the Department. The updated survey must include floodplain designation and, if the Development Site is improved, must include all improvements. A full-sized copy and PDF version should be submitted to the Department. (Note. The Department should receive a copy of any updates to the survey each time it is updated prior to Closing.)

M. To the extent the Development Owner has closed any financing for the Development prior to Closing (other than financing that will be paid off at Closing), copies of executed versions of such financing documents.

N. Evidence of the Good Faith Effort.

The following items must be provided to the Department prior to or concurrent with Closing. Copies should be provided to the Department staff member(s) identified as the closing agent for the transaction and to the escrow agent at the title company, to the extent noted. Items must be submitted to the Department via the FTP electronic system, unless otherwise impermissible or so noted.

A. Executed copy of Owner/Contractor Agreement (if not previously provided)

B. Owner/Architect Agreement (if not previously provided)

C. Final Plans and Specifications.

D. Copies of the final building permits authorizing commencement of construction or a "will issue" letter.

E. An Officer's Certificate of the Development Owner, including certified copies of the organizational documents of the Development Owner as in effect on the date of Closing and incumbency.

F. Evidence of Department approval of any change in ownership in the Development Owner or Developer (including percentage of ownership therein), to the extent required.

G. Pro forma owner's policy of title insurance, showing the lien to be imposed by the Recapture Mortgage.

H. Final plat for the Development Site, to the extent applicable.

I. Copies of all other financing documents for the Development, in substantially final form.

J. Evidence in form reasonably satisfactory to the Department that all other financing parties have accepted the terms and conditions of this Agreement.

K. Executed copies of the Security Instruments, Option Agreement, Recapture Mortgage, LURA, Intercreditor Agreement and Disbursement Agreement (Note: These documents are not to be submitted electronically. Documents must be submitted with an original, notarized signature. If the document is to be recorded a certified copy of such recorded document is to be submitted to the Department).

L. Copy of Amended and Restated Limited Partnership Agreement or Limited Liability Company Operating Agreement as required in Section 5.3F of this Agreement.

L. Evidence of insurance in the form of Certificates of Insurance, referencing the Development Owner or the Development, including contact information for the broker or agent, and listing the Department as an additional insured or certificate holder, as follows:

Prior to or during construction:

(i) Commercial general liability insurance for the Development Owner, listing the Department as an additional insured, in an amount equal to the greater of $1,000,000 or the amount of the Subaward.

(ii) For the Architect, evidence of errors and omissions insurance, in amounts acceptable to the Department.

(iii) General Contractor's commercial general liability, builder's risk, and workers compensation insurance (must be non-reporting type), in amounts acceptable to the Department.

Following the Construction Completion Date:

(i) Commercial general liability insurance for the Development Owner, listing the Department as an additional insured, in an amount equal to the greater of $1,000,000 or the amount of the Subaward.

(ii) Rental interruption insurance in an amount not less than the equivalent of six (6) months' gross rental income.

(iii) Property and casualty insurance, issued on a replacement cost basis, and insuring the full replacement cost of the Development.

(iv) Special hazard or floodplain insurance, as applicable.

(v) For the Property Manager, evidence of commercial general liability insurance and fidelity bond, in amounts acceptable to the Department.

All insurance is to be furnished through a company with a rating of at least "A-" by Standard & Poor's Insurance Solvency Review and/or at least "A, XI" by Best's Insurance Guide.

M. Special Provisions. [Real Estate Analysis Underwriting Conditions Inserted Here]

Exhibit D

DRAW DOCUMENTS

All draws will be processed electronically through the TDHCA Contract System. All draws will be processed by TDHCA and electronically relayed to the Texas Comptroller of Public Accounts Office for disbursement. The Development Owner must have the following items completed prior to being able to request funds:

1. Application for Texas Identification Number (TIN) – Texas Comptroller of Public Accounts: http://www.window.state.tx.us/taxinfo/taxforms/ap-152.pdf - complete and upload to the FTP account

2. Vendor Direct Deposit Authorization Form – Texas Comptroller of Public Accounts: http://www.window.state.tx.us/taxinfo/taxforms/74-176.pdf - complete, upload to the FTP account and submit original signature to TDHCA

3. TDHCA Contract System Access Request Form (Required in order to access requisition system):http://www.tdhca.state.tx.us/home-division/forms/docs/0201-contract_Sys_Access.doc - complete and upload to FTP account

An executed requisition form and back-up documentation must be attached electronically to each draw request within the TDHCA Contract System. Such requisition form will be provided by the Department.

Exhibit E

LAND USE RESTRICTION AGREEMENT

[attached behind]

Exhibit F

SECTION 42 COMPLIANCE FORM

(As found at http://www.tdhca.state.tx.us/pmcdocs/03-FHSR-B-USR-040326.pdf)

Exhibit G

QUARTERLY FINANCIAL SUMMARY

Development Name ....._____
Was this property occupied during the last fiscal quarter?.... Yes No

Explanation/Comment:_____
_____

RENT

Unit Type	Set Aside	Units	Bed Rooms	Baths	Square Feet	Rental Rate	Tenant Utilities	Gross Total

INCOME

Secondary Income....._____
Average secondary income per unit per month ....._____
Describe secondary income ....._____
_____
Non-tenant income....._____
Other non-rental income ....._____
Describe non-rental income ....._____
_____
Vacancy and collection loss....._____
Rental concessions....._____
Loss from non-income units ....._____
Employee unit discounts....._____

EFFECTIVE GROSS INCOME ....._____
POTENTIAL GROSS INCOME....._____
POTENTIAL GROSS RENTAL INCOME ....._____

EXPENSE

Accounting .....
Advertising .....
Legal and consulting .....
Leased equipment .....
Postage and office supplies .....
Telephone .....
License, meetings, dues .....
Other office expenses .....
Miscellaneous .....
Describe .....

Total General and Administrative Expenses..... $0

Management fees .....
Percent of effective gross income .....
Total Management fees .....

Management .....
Maintenance .....
Other .....
Describe .....

Total Payroll, Payroll Tax and Employee Benefits $0

Elevator .....
Exterminating .....
Grounds .....
Make-ready .....
Repairs .....
Pool .....
Other .....
Describe .....

Total Repairs and Maintenance $0

Electrical .....
Natural gas .....
Other fuel (heat/water) .....
Garbage/trash .....
Water and sewer .....
Other .....
Describe .....

Total Utilities $0

Annual property insurance premiums (all types) .....

Rate per net rentable square foot .....
Real property tax .....
Assessed value .....
Tax rate per 100 dollars of assessment .....

Personal property tax .....
Describe .....
Reserve for replacements .....
Reserve per unit per month .....
Cable TV .....
Support services contract fees .....
Compliance fees .....
Security fees .....
Other .....
Describe .....

Total Other Expenses $0

TOTAL EXPENSES $0

Debt service .....
Debt coverage ratio .....
Capital improvements .....

Cash Flow .....

Submission Information

Submitted by .....
Signature .....
Date .....
Title .....

Exhibit H

QUARTERLY PROGRESS REPORT

Under Section 1602 of the American Recovery and Reinvestment Act of 2009 (Section 1602), state housing credit agencies are eligible to receive Section 1602 Payments to States for Low-Income Housing Projects in Lieu of Low-Income Housing Credit Allocation for 2009. The state housing credit agency uses the funds to make subawards. The Section 1602 program temporarily fills the gap left by a diminished demand for low-income housing tax credits. The payments result in the creation and retention of jobs and in an increase in the affordable housing supply.

The Recovery Act encourages accountability and transparency in the use of funds. This quarterly progress report is required. To complete the quarterly progress report, enter information for each subaward and submit the report to teresa.shell@tdhca.state.tx.us and lisa.fehr@tdhca.state.tx.us within 5 business days after the end of each quarter. The report is cumulative. Quarters end on March 31, June 30, September 30 and December 31.

The following definitions are to used to complete the report:

Date of subaward – date on which the state agency executed a legally binding written agreement with the entity receiving a subaward.

Amount of subaward – dollar amount (rounded to the nearest dollar) of the subaward.

Amount of subaward – dollar amount (rounded to the nearest dollar) of the subaward.

Recipient entity EIN – nine digit employee identification number of subawardee. Format: xx-xxxxxxx. If subawardee does not have an EIN, do not enter a social security number.

Name of project – name by which the housing development is commonly known.

BIN – one or more building identification numbers. If the building has low income housing tax credits, use the same number or numbers.

Brief description of project – narrative summary of the project's characteristics, such as information about the building design, occupants, energy efficiency, location, amenities, purpose, any unique features.

Project completion status – condition of the development at the time of subaward. Choose from: NB for not begun, ST for stalled, UC for under construction, CN for completed not occupied, CO for completed and occupied.
Project city/county – name of city in which the development is located; or name of county in which the development is located, if the development is in an unincorporated area.

Project state – name of state in which the development is located.

Project zip code – zip code in which the development is located.

Number of construction jobs to be created or retained – estimated number of full-time equivalent jobs directly involved in constructing or rehabilitating the development. Direct jobs are those created or retained in the project, not by suppliers who make the materials used in the project.

Number of non-construction jobs to be created or retained - estimated number of full-time equivalent jobs directly involved in operating the housing. Direct jobs are those created or retained in the project, not by suppliers who make the materials used in the project.

Number of total housing units newly constructed – number of housing units to be built at the site as a result of the subaward.

Number of total housing units rehabilitated – number of housing units to be rehabilitated at the site as a result of the subaward.

Number of low-income housing units newly constructed – of the housing units to be built at the site, the number to be occupied by qualified low-income families or individuals.

Number of low-income housing units rehabilitated - of the housing units to be rehabilitated at the site, the number to be occupied by qualified low-income families or individuals.

QUARTERLY PROGRESS REPORT	
Reporting Contact Name	
Title	
Contact Phone Number	
Contact Email	
Date	
Name of Recipient Entity (Development Owner):	
Name of Project:	
BIN:	
Recipient Entity EIN	
Amount of Subaward:	
Date of Subaward:	
Brief Description of Development:	
Location of Development (City, County, State and Zip Code):	
Project Completion Status	
Number of Construction Jobs to be Created or Retained:	
Number of Non-Construction Jobs Created or Retained:	
Number of Non-Construction Jobs Retained:	
Number of Total Housing Units Newly Constructed:	
Number of Total Housing Units Rehabilitated:	
Number of Low-Income Housing Units Newly Constructed:	
Number of Low-Income Housing Units Rehabilitated:	

OWNER

_____

_____

By: _____

[Name], [Title]

Exhibit I

MORTGAGE LOANS

Mortgage Lender Name _____

Contact Name: _____

Mailing Address: _____

City, State, Zip Code: _____

Email: _____

Phone: _____ Fax: _____

Amount: _____ Interest Rate: _____

Annual Payment: _____ Term: _____

Other: _____

Mortgage Lender Name _____

Contact Name: _____

Mailing Address: _____

City, State, Zip Code: _____

Email: _____

Phone: _____ Fax: _____

Amount: _____ Interest Rate: _____

Annual Payment: _____ Term: _____

Other: _____

Exhibit J

AUTHORIZED OFFICERS OF OWNER

NAME	**TITLE**	**SPECIMEN SIGNATURE**

Exhibit K

SUBAWARD AGREEMENT SUMMARY

Name of Development Owner _____

Development Address

Street: _____

City, State, Zip Code: _____

Contact Information for Development Owner

Name: _____

Mailing Address: _____

City, State, Zip Code: _____

Email: _____

Phone: _____

Fax: _____

Contact Information for Development Owner Document Copies

Name: _____

Mailing Address: _____

City, State, Zip Code: _____

Email: _____

Phone: _____

Fax: _____

Tax Credit Exchange Award Pool

- ☐ 2007
- ☐ 2008
- ☐ 2009

Initials _____

2007 and 2008 Award Pool

Closing .....March 31, 2010

Commencement of Substantial Construction .....May 31, 2010

Documentation of 10% Test .....May 31, 2010

50% construction completion within 8 months of Closing.....No later than November 30, 2010

Placed In-Service Date .....March 31, 2011

2009 Award Pool

Closing .....March 31, 2010

Documentation of 10% Test .....June 30,2010

Commencement of Substantial Construction .....December 1, 2010

50% construction completion within 8 months of Closing.....No later than November 30, 2010

Placed In-Service Date .....December 31, 2011

Qualified Non-Profit Organization ..... ☐Yes ☐No

This Subaward is being made pursuant to the Department's set-aside for "qualified nonprofit organizations" within the meaning of Section 42(h)(5)(C) of the Code. Throughout the Compliance Period applicable to the Development under the Code and the Declaration, such a qualified nonprofit organization shall own an interest in the Development, have "control" of the Development pursuant to Section 49.7(b)(1) of the QAP, and shall materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Development. The qualified nonprofit organization designated to meet such obligation with

respect to the Development is_____. As of the date hereof, and based on representations, covenants, warranties of the Owner and other information previously submitted to the Department by the Owner, the Department has determined such nonprofit organization not to be "affiliated with or controlled by a for-profit organization" for purposes of Section 42(h)(5)(C)(ii) of the Code. In the event that any such representations, covenants, warranties and/or information is determined to have been false, materially misstated or materially misleading when made, or if subsequent events render such representations, covenants, warranties and/or information false or misleading in any material way, then the Department, at its option, may determine the issue of control with respect to Section 42(h)(5)(C)(ii), and such determination shall be grounds for cancellation of this Subaward and any and all such other action as the Department may deem appropriate.

Initials _____

At-risk Development ..... ☐ Yes ☐ No

Rural Development ..... ☐ Yes ☐ No

Proration of units that must qualify as LIH during Compliance and Extended Use Period

Total Number of Units .....
Affordability percentage 0.00%
Total Number of Low Income Units .....

Credit Price Ceiling Selection:

Base – 0% of 30% AMGI units ..... ☐ $0.77
10% - additional 30% AMGI units ..... ☐ $0.81
20% - additional 30% AMGI units ..... ☐ $0.85

Tax Credit Exchange Award Amount .....

Cannot exceed 85% of the amount of a building's Eligible Basis as determined at the end of the first year of the credit period (as defined in Section 42(f)(1) of the Internal Revenue Code) and, also for this purpose, Eligible Basis includes any increase for buildings located in high cost areas under Section 42(d)(5)(B).

Special Reserve Account Participation Percentage (based on additional 30% AMGI units):

Selection:	*Net Cash Flow Contribution Percentage:*
Base - 0% of 30% AMGI units	20%
10% - additional 30% AMGI units	15%
20% - additional 30% AMGI units	10%

Source of Tax Credit Exchange
☐ Sec.42(h) of the Code
☐ Disaster Credits under Sec. 1400N
☐ Other _____

Asset Management Fee (Per unit, per year) .....

Type of Development
☐ New Construction
☐ Rehabilitation

Target Population
☐ Families
☐ Seniors
☐ Other _____

Building Identification Numbers (BINs) TX#: _____ through TX #: _____

Initials _____

Exhibit L

CERTIFICATION REGARDING LOBBYING FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certified, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any Person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any Person for influencing or attempting to influence an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

   The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any Person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signed: _____ DATE: _____

Name: _____

Title: _____

Exhibit M

APPLICABLE LEGAL REQUIREMENTS

The Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR part 100; Executive Order II063, as amended by Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1958-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR, Part 107

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR, Part 1; Executive Order 11063, as amended by Executive Order 12259, and 24 CFR part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"

The Age Discrimination Act of 1975 (42 U.S.C. 610107) and implementing regulations at 24 CFR, Part 146, "Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance", and the prohibitions against discrimination against handicapped individuals under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR, Part 8; Executive Order 11246 (3 CFR 1964-65, Comp., p. 339) (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR, Chapter 60

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., Section 794) and implementing regulations at 24 CFR Part 8, "Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development"

> *Note: For new construction developments and developments undergoing substantial rehabilitation, five percent of the units must be accessible to persons with mobility impairments and two percent must be accessible to persons with hearing or vision impairments (See 24 CFR 8.22). Substantial rehabilitation for a multifamily rental development is defined in 24 CFR 8.23 as a development with 15 or more units for which the alterations would equal more than seventy-five percent (75%) of the replacement cost of the facility. For developments in which the rehabilitation is not substantial, the Section 504 provisions are applicable only to the maximum extent feasible. (See 24 CFR 8.23).*

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Exhibits