

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**OCTOBER 11, 2018**

Presentation, discussion and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Related RD Portfolio) Series 2018 Resolution No. 19-007 and Determination Notices of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted the inducement resolution at the Board meeting of June 29, 2017, and an updated inducement resolution was adopted at the Board meeting of March 22, 2018;

**WHEREAS**, the inducement resolution included a list of nine properties that will be treated as one bond issuance, but have been underwritten by the Department as separate applications for purposes of housing tax credit determinations;

**WHEREAS**, the 4% Housing Tax Credit applications, as reflected below, were initially submitted on February 9, 2018;

**WHEREAS**, a Certificate of Reservation was issued on August 14, 2018, with a bond delivery deadline of January 11, 2019;

**WHEREAS**, pursuant to 10 TAC §10.101(b)(3) of the Uniform Multifamily Rules rehabilitation developments must meet a minimum threshold costs per unit;

**WHEREAS**, rehabilitation developments funded through USDA are required to spend a minimum of \$25,000 per unit in building costs and site work;

**WHEREAS**, one of the properties, Bay City Village (#18606) reflected approximately \$20,000 per unit in building costs and site work and the applicant explained that recent repairs were made to the property as a result of damage sustained by Hurricane Harvey in 2017;

**WHEREAS**, had those repairs not been previously made the development would have met the minimum amount required under the rule, and worth noting is that the property is part of a nine property portfolio whereby the minimum threshold costs per unit are being met on a portfolio basis which is consistent with how underwriting is evaluating for feasibility indicators;

**WHEREAS**, staff recommends a waiver of the minimum threshold amount at the application level for Bay City Village pursuant to 10 TAC §10.207 on the basis that the rehabilitation will contribute to the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income as articulated under Tex. Gov't Code §2306.001(3);

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain characteristics of a proposed development site;

**WHEREAS**, for one of the properties, Evant Tom Sawyer (#18609), the applicant disclosed the presence of an undesirable neighborhood characteristic, specifically that the elementary school in the attendance zone of the development failed to achieve a Met Standard rating based on the 2016 and 2017 Accountability Ratings by the Texas Education Agency (“TEA”);

**WHEREAS**, pursuant to the rule, for schools that have not achieved the Met Standard rating for two consecutive years, a letter from a school official with oversight of the specific school that could speak to current progress must be submitted;

**WHEREAS**, the applicant has been unable to obtain such letter from a school official;

**WHEREAS**, based on the documentation provided and discussed herein relating to the elementary school rating, staff recommends a waiver be granted of the requirement to provide the letter pursuant to 10 TAC §10.207 of the Uniform Multifamily Rules on the basis that the rehabilitation will contribute to the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income as articulated under Tex. Gov’t Code §2306.001(3) and that the development site be found eligible under 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Category 3 and deemed acceptable by Executive Award and Review Advisory Committee (“EARAC”) with the conditions noted below, after review and discussion; and

**WHEREAS**, EARAC recommends the issuance of Multifamily Housing Revenue Bonds (Related RD Portfolio) Series 2018 and the issuance of Determination Notices for the nine properties reflected below;

**NOW, therefore, it is hereby**

**RESOLVED**, that the waivers associated with 10 TAC §§10.101(b)(3) and 10.101(a)(3) of the Uniform Multifamily Rules are hereby granted and Evant Tom Sawyer (#18609) is hereby determined to be eligible pursuant to the Uniform Multifamily Rules;

**FURTHER RESOLVED**, the issuance of tax-exempt Multifamily Housing Revenue Bonds (Related RD Portfolio) Series 2018, Resolution No. 19-007 is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of Determination Notices in the amounts listed below in 4% Housing Tax Credits for each of the nine properties, subject to previous participation conditions noted below and underwriting conditions that may be applicable as found in each of the Real Estate Analysis reports posted to the Department’s website, is hereby approved in the form presented to this meeting; and

**FURTHER RESOLVED**, that if approved, staff is authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

1. THF Housing Development Corporation agrees to have a qualified third party ADA and Fair Housing accessibility specialist review all architectural plans to confirm compliance with applicable accessibility standards including but not limited to: 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 FR 29671, and as modified by 10 TAC Chapter 1, Subchapter B, HUD's Fair Housing Act Design Manual for housing designed and constructed for first occupancy after March 31, 1991, and Development Accessibility Requirements as identified in 10 TAC §10.101(8), by the time the 60-day post closing documents are submitted to the Department, and along with all applications submitted for consideration through December 31, 2018.

2. An independent third-party ADA and Fair Housing specialist(s) will conduct an inspection confirming full compliance of developments in the portfolio currently under construction (including 15241, 17151, 17157, 17158, 17159, 17161, 17604, 17605, and 17606) and for any multifamily 2018 award through the Department. Evidence of the inspections must be submitted when requesting a Final Construction Inspection from the Department. The TDHCA Housing Accessibility Checklist for Common Facilities and Dwelling Units can be utilized to fulfill this requirement and available at: <https://www.tdhca.state.tx.us/pmcomp/inspections/construction.htm>

3. During construction and continuing throughout the compliance period THF Housing Development Corporation will conduct monthly partner level calls and/or meetings to ensure timely responses to all compliance related issues including those identified during the construction process.

4. Upon request, from the Department, THF Housing Development Corporation will provide documentation that reflects the implementation of these measures.

<b>Application ID</b>	<b>Development Name</b>	<b>Recommended 4% HTC Amount</b>
18605	Bastrop Oak Grove	\$156,942
18606	Bay City Village	\$118,454
18607	Burk Village	\$102,278
18608	Elgin Meadowpark	\$78,192
18609	Evant Tom Sawyer	\$47,076
18610	Hondo Brian Place	\$118,488
18611	Hondo Gardens	\$80,082
18612	Lampasas Gardens	\$99,330

18613	Lantana Apartments	\$288,999
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**BACKGROUND**

*General Information:* The Bonds will be issued in accordance with Texas Government Code §1372 and under Texas Government Code §2306, the Department’s Enabling Statute (the “Statute”), which authorizes the Department to issue revenue bonds for its public purposes, as defined therein. The Statute provides that the Department’s revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas. Development-specific information is provided below for each of the properties. There was one Certificate of Reservation that was issued that includes all nine properties and was issued under the Priority 3 designation which does not have a prescribed restriction on the percentage of Area Median Family Income (“AMFI”) that must be served. Details on the AMFI levels each property will serve are included below.

**Bastrop Oak Grove:**

Bastrop Oak Grove includes two properties (Oak Grove I and Oak Grove II), located on adjacent parcels, at 1910 Wilson Street in Bastrop, Bastrop County, and proposes the acquisition and rehabilitation of 48 units serving the general population. The property was originally constructed in 1978 and conforms to current zoning. All of the units will be rent and income restricted at 60% AMFI and all of the units are covered by a project-based Section 8 HAP contract. The census tract (9504.00) has a median household income of \$48,871, is in the third quartile, and has a poverty rate of 10.9%. Rehabilitation costs are approximately \$28,000 per unit.

**Bay City Village:**

Bay City Village is located at 3301 Royal Street in Baytown, Harris County and proposes the acquisition and rehabilitation of 62 units serving the general population. The property was originally constructed in 1975, conforms to current zoning and received an allocation of competitive housing tax credits in 1993. All of the units will be rent and income restricted at 60% of AMFI with the exception of one employee-occupied unit. Currently, 51 of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (2530.00) has a median household income of \$57,899, is in the second quartile, and has a poverty rate of 12.1%. Rehabilitation costs are approximately \$20,000 per unit. Worth noting is the property sustained some damage from Hurricane Harvey in 2017 and the majority of those repairs have already been completed.

**Burk Village:**

Burk Village is located at 716 Park Street in Burkburnett, Wichita County and proposes the acquisition and rehabilitation of 40 units serving the general population. The property was originally constructed in 1981, conforms to current zoning and received an allocation of competitive housing tax credits in 1993. All of the units will be rent and income restricted at 60% of AMFI with the exception of one employee-occupied unit. Currently, four of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (0135.01) has a median household income of \$36,836, is in the third quartile, and has a poverty rate of 19.8%. Rehabilitation costs are approximately \$35,000 per unit.

**Elgin Meadowpark:**

Elgin Meadowpark is located at 401 N. Highway 95 in Elgin, Bastrop County and proposes the acquisition and rehabilitation of 28 units serving the general population. The property was originally constructed in 1976, conforms to current zoning and received an allocation of competitive housing tax credits in 1993. All

of the units will be rent and income restricted at 60% of AMFI. Currently, 12 of the units receive rental assistance through the USDA Section 521 Rental Assistance program. The census tract (9502.00) has a median household income of \$50,799, is in the third quartile, and has a poverty rate of 22.7%. Rehabilitation costs are approximately \$44,000 per unit.

Evant Tom Sawyer:

Evant Tom Sawyer is located at 411 Tom Sawyer Street in Evant, Coryell County and proposes the acquisition and rehabilitation of 18 units serving the general population. The property was originally constructed in 1970, conforms to current zoning and received an allocation of competitive housing tax credits in 1994. All of the units will be rent and income restricted at 60% of AMFI. Currently, all of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (0101.02) has a median household income of \$49,900, is in the second quartile, and has a poverty rate of 10.6%. Rehabilitation costs are approximately \$29,000 per unit.

*Site Analysis:* The presence of undesirable neighborhood characteristics under §10.101(a)(3) requires additional site analysis and the characteristic attributable to Evant Tom Sawyer includes the elementary school failure to achieve a Met Standard rating in 2017.

The subject development is located in the attendance zone of the Evant Elementary School which did not achieve a Met Standard rating based on the 2017 and 2016 TEA Accountability Ratings. The Evant ISD consists of the Evant Elementary and Evant High School. The applicant notes that although the elementary school has not achieved the Met Standard rating, the high school has achieved the Met Standard rating and has earned distinctions in the areas of Academic Achievement in Social Studies and Top 25 Percent Closing Performance Gaps. The elementary school missed attaining the Met Standard rating by five points on Index 3 relating to Closing Performance Gaps. A Campus Turnaround Plan was implemented in 2017 and reflected a complete reorganization of the leadership team that included a new and experienced Principal, a retired administrator to help with absences and discipline, and a Special Programs Director that were hired for the 2017-2018 school year after having a lot of turnover and staff new to the district. Moreover, the Plan also explained that individual and campus-wide professional development plans would be implemented and supported by district resources, including trainings, instructional materials, and guidance.

The applicant indicated they worked with the school, school district and TEA to obtain a letter as required under the rule but informed staff that all of the entities refused to provide a letter. The applicant explained that there are circumstances surrounding the school performance that are unique to its rural location. Specifically, Evant has a population of approximately 400 people and as previously mentioned has only one elementary school and one high school. With all of the elementary school students feeding into the high school, worth noting is that the high school has achieved the Met Standard rating for consecutive years and has also earned academic achievements. The applicant further indicated that based on their conversations with TEA, should Evant Elementary remain Improvement Required, TEA would not take action to close the school since it is the only school in town. Rather, the school would be assigned to an adjacent school district for a period of time.

Based on the extremely rural environment of the development and schools, along with statements made in the Campus Turnaround Plan, and combined with the high performance of the high school as discussed above, staff believes the circumstances are unique and recommends a waiver of the requirement to provide a letter from a school official be granted and that the site be eligible under 10 TAC §10.101(a)(3).

Hondo Brian Place:

Hondo Brian Place is located at 231 Stage Coach Drive in Hondo, Medina County and proposes the acquisition and rehabilitation of 40 units serving the general population. The property was originally constructed in 1975, conforms to current zoning and received an allocation of competitive housing tax credits in 1994. All of the units will be rent and income restricted at 60% of AMFI with the exception of one employee-occupied unit. Currently, all of the units are covered by a project based Section 8 HAP contract. The census tract (0003.00) has a median household income of \$55,650, is in the second quartile, and has a poverty rate of 16.5%. Rehabilitation costs are approximately \$34,000 per unit.

Hondo Gardens:

Hondo Gardens is located at 3100 Avenue Q in Hondo, Medina County and proposes the acquisition and rehabilitation of 32 units serving the general population. The property was originally constructed in 1981, conforms to current zoning and received an allocation of competitive housing tax credits in 1991. All of the units will be rent and income restricted at 60% of AMFI with the exception of one employee-occupied unit. Currently, 28 of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (0005.00) has a median household income of \$44,395, is in the third quartile, and has a poverty rate of 21.8%. Rehabilitation costs are approximately \$32,000 per unit.

Lampasas Gardens:

Lampasas Gardens is located at 1311 Plum Street in Lampasas, Lampasas County and proposes the acquisition and rehabilitation of 24 units serving the general population. The property was originally constructed in 1978 and conforms to current zoning. All of the units will be rent and income restricted at 60% of AMFI. Currently, all of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (9504.00) has a median household income of \$29,282, is in the fourth quartile, and has a poverty rate of 32.1%. Rehabilitation costs are approximately \$38,000 per unit.

Lantana Apartments:

Lantana Apartments includes two properties (Lantana Northridge and Lantana Southridge), located on adjacent parcels, at 2200 North Adams Street in Beeville, Bee County and proposes the acquisition and rehabilitation of 92 units serving the general population. The property was originally constructed in 1978, conforms to current zoning and each property received an allocation of competitive housing tax credits in 2004. All of the units will be rent and income restricted at 60% of AMFI. Currently, 40 of the units are covered by the USDA Section 521 Rental Assistance program. The census tract (9503.00) has a median household income of \$40,201, is in the third quartile, and has a poverty rate of 20.1%. Rehabilitation costs are approximately \$38,000 per unit.

*Organizational Structure and Previous Participation:* The entities and principals are identical for each development in the Related RD Portfolio, with the exception of the Borrower entity names, which are illustrated in Exhibit A. The applicant's portfolio is considered a Category 3 and the previous participation review was deemed acceptable by EARAC, subject to the aforementioned conditions, after review and discussion.

*Public Hearing/Public Comment:* Public hearings for the proposed developments were conducted by staff on the various dates as illustrated below, and there were no attendees at any of the hearings. A copy of each hearing transcript is included herein. The Department did not receive any letters of support or opposition regarding any of the developments, with the exception of a letter of no objection for the Burk Village development from the Burkburnett Independent School District.

<b>Application ID</b>	<b>Development Name</b>	<b>Public Hearing Date</b>
18605	Bastrop Oak Grove	April 16, 2018
18606	Bay City Village	April 5, 2018
18607	Burk Village	April 12, 2018
18608	Elgin Meadowpark	April 16, 2018
18609	Evant Tom Sawyer	April 3, 2018
18610	Hondo Brian Place	April 17, 2018
18611	Hondo Gardens	April 17, 2018
18612	Lampasas Gardens	April 3, 2018
18613	Lantana Apartments	April 17, 2018

### Summary of Financial Structure

This transaction involves a USDA Section 538 loan by Lancaster Pollard Mortgage Company. The mortgage loans will be originated by the Department and made to each Borrower on the closing date and funded with the bond proceeds. Simultaneous with the closing, a portion of the proceeds of the Section 538 loan will be deposited into the collateral account with the trustee to secure the bonds. After closing, as bond proceeds are used to pay project costs, the lender will make periodic adjustments in an equal amount to the collateral account to secure the bonds. The transaction mirrors prior Federal Housing Administration (“FHA”) 221(d)(4) multifamily transactions where the project will be 100% cash collateralized at all times, thus offering protection for the bondholders. This transaction just uses a different funding source.

Under the proposed structure, the Department will issue tax-exempt fixed rate bonds in an amount not to exceed \$20,000,000 with the specific bond amounts anticipated (there could be slight fluctuations) to be allocated to each property as reflected below. The bonds will have an interest rate not to exceed 4.00% and final maturity date of November 1, 2021 and are expected to have a AA+ rating by Standard & Poor’s. Once the rehabilitation is complete on the properties the proceeds from the Section 538 loan will be used to pay off the bonds. The Section 538 mortgage loan is anticipated to carry a 5.12% interest rate with a 40 year term and amortization. The interest rate includes a Government National Mortgage Association servicing fee and the risk premium by Lancaster Pollard.

<b>Application ID</b>	<b>Development Name</b>	<b>Bond Amount</b>
18605	Bastrop Oak Grove	\$2,910,000
18606	Bay City Village	\$2,610,000
18607	Burk Village	\$1,990,000
18608	Elgin Meadowpark	\$1,710,000
18609	Evant Tom Sawyer	\$1,010,000
18610	Hondo Brian Place	\$2,390,000
18611	Hondo Gardens	\$1,600,000
18612	Lampasas Gardens	\$1,520,000
18613	Lantana Apartments	\$4,260,000

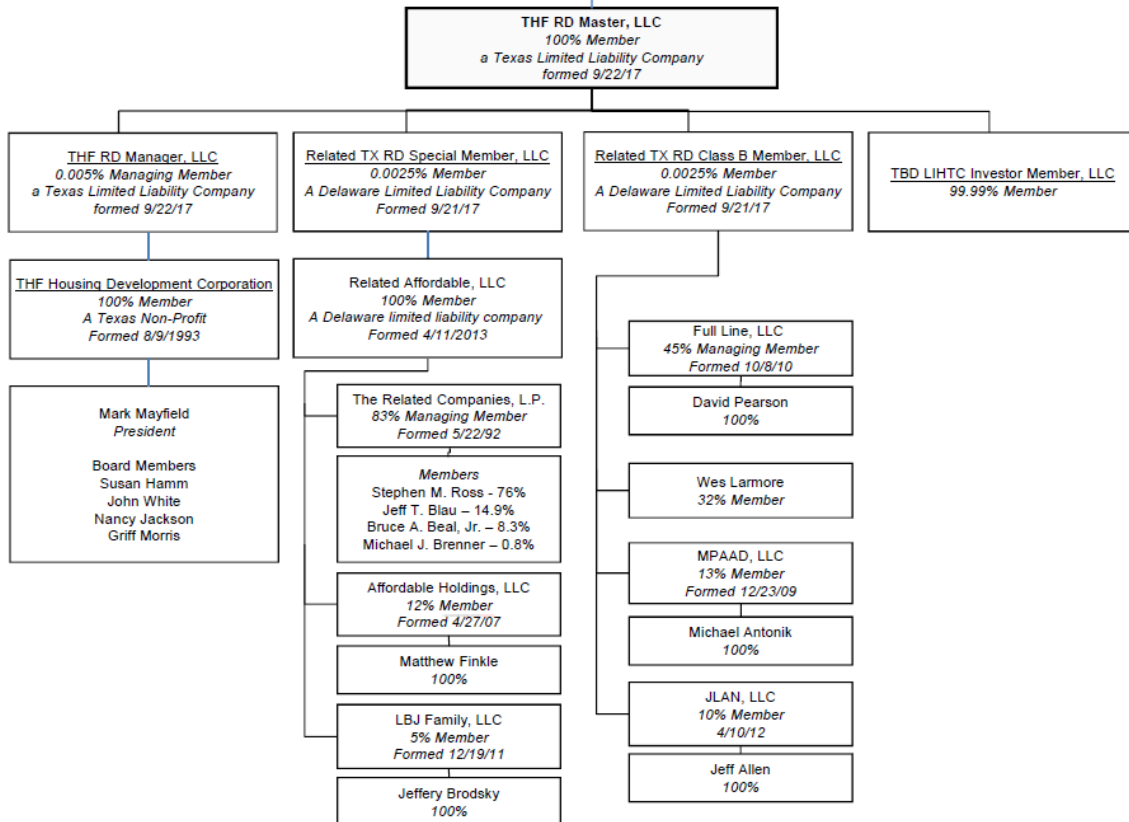
A copy of the Exhibits recommend to be approved by the Board as referenced in Resolution No. 19-007 can be found online at TDHCA’s Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

**EXHIBIT A**

<b>Application ID</b>	<b>Development Name</b>	<b>Borrower Entity Name</b>
18605	Bastrop Oak Grove	THF Bastrop Oak Grove, LLC
18606	Bay City Village	THF Bay City Village, LLC
18607	Burk Village	THF Burk Village, LLC
18608	Elgin Meadowpark	THF Elgin Meadowpark, LLC
18609	Evant Tom Sawyer	THF Evant Tom Sawyer, LLC
18610	Hondo Brian Place	THF Hondo Brian Place, LLC
18611	Hondo Gardens	THF Hondo Gardens, LLC
18612	Lampasas Gardens	THF Lampasas Gardens, LLC
18613	Lantana Apartments	THF Lantana Apartments, LLC

Owner Structure

The entities and principals are identical for each development in the Related RD Portfolio, with the exception of the Borrower entity names, please refer to the table above.





## RESOLUTION NO. 19-007

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (RELATED RD PORTFOLIO), SERIES 2018; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development, construction and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Board has determined to authorize the issuance of its Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the "Bonds") pursuant to and in accordance with the terms of the Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of obtaining funds to finance the Developments (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Bonds in the amounts described in Exhibit B to the Indenture (the "Allocated Bonds") to fund mortgage loans (the "Bond Loans") to the borrowers described in Exhibit A (each individually a "Borrower," and collectively the "Borrowers") in order to finance the cost of acquisition, equipping and rehabilitation of the qualified residential rental developments described in Exhibit A (the "Developments") located within the State and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by a resolution adopted on June 29, 2017, as such resolution was amended and restated by a resolution adopted on March 22, 2018, declared its intent to issue its revenue bonds to provide financing for the Developments; and

WHEREAS, the Borrowers have requested and received a reservation of private activity bond allocation from the State of Texas;

WHEREAS, it is anticipated that the Department and the Borrowers will execute and deliver the Loan Agreement (the “Loan Agreement”) pursuant to which (i) the Department will agree to make the Bond Loans to the Borrowers to enable the Borrowers to finance the cost of acquisition, equipping and rehabilitation of the Developments and related costs, and (ii) each Borrower will execute and deliver to the Department a promissory note (the “Note” and, collectively, the “Notes”) in an original principal amount equal to the original aggregate principal amount of the Allocated Bonds, and providing for payment of interest on such principal amount sufficient to pay the interest on the Allocated Bonds in accordance with the terms of the Loan Agreement by and between each Borrower and the Department and to pay other costs described in the Loan Agreement; and

WHEREAS, it is anticipated that the obligations of each Borrower under the Loan Agreement will be secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (the “Subordinate Mortgage”) from the Borrower for the benefit of the Department and the Trustee; and

WHEREAS, each Borrower will obtain a loan from Lancaster Pollard Mortgage Company, LLC, as lender, (the “Lender”), and the Lender will deposit a portion of the proceeds of such loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, the Board has determined that the Department, the Lender, the Trustee, each Borrower, and the Bridge Lender and the Tax Credit Investor (each as defined therein) will enter into a Loan Disbursement Procedures Agreement (the “Disbursement Agreement,” and, collectively, the “Disbursement Agreements”), setting forth certain terms and procedures related to the disbursement of the loans from the Lender to the Trustee; and

WHEREAS, in order to assure compliance with Section 103 and 142 through 150 of the Code, the Board has determined that the Department, the Trustee and the Borrowers will execute a Tax Exemption Certificate and Agreement (the “Tax Exemption Agreement”), in connection with the Bonds, pursuant to which the Department and the Borrowers will make certifications, representations and covenants relating to the treatment of the interest on the Bonds as tax exempt from gross income for federal income tax purposes; and

WHEREAS, the Board has determined that the Department, the Trustee, and each Borrower will execute a Regulatory and Land Use Restriction Agreement (the “Regulatory Agreement” and, collectively, the “Regulatory Agreements”) with respect to the Development owned by the Borrower, which will be filed of record in the real property records of the appropriate Texas county; and

WHEREAS, the Lender has agreed to permit the Bond Loans and to allow the lien of the Subordinate Mortgage in accordance with the terms of a Subordination Agreement with respect to each Subordinate Mortgage (the “Subordination Agreements”) among the Lender, the Department and each Borrower; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Bonds of an Official Statement (the “Official Statement”) and to authorize the authorized representatives of the Department to deem the Official Statement “final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final Official Statement for use in the public offering and sale of the Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond Purchase Agreement (the “Bond Purchase Agreement”) with RBC Capital Markets, LLC, as underwriter (the “Underwriter”), and the Borrowers, setting forth certain terms and conditions upon which the Underwriter

will purchase all of the Bonds from the Department and the Department will sell the Bonds to the Underwriter; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture, the Loan Agreement, the Regulatory Agreements, the Tax Exemption Agreement, the Subordination Agreements, the Disbursement Agreements, the Official Statement and the Bond Purchase Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution and (b) the Subordinate Mortgage and the Notes; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article I, to authorize the issuance of the Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Subordinate Mortgage and the Notes and the taking of such other actions as may be necessary or convenient in connection therewith;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

## ARTICLE 1

### ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department’s seal to the Bonds and to deliver the Bonds to the Attorney General of the State (the “Attorney General”) for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Bonds to or upon the order of the initial purchaser thereof pursuant to the Bond Purchase Agreement.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Bond Purchase Agreement, the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by the Chair or Vice Chair of the Board or the Executive Director of the Department of the Indenture and the Bond Purchase Agreement; provided that the interest rate on the Bonds shall not exceed 4%; (ii) the aggregate principal amount of the Bonds shall not exceed \$20,000,000; (iii) the final maturity of the Bonds shall occur not later than November 1, 2021; and (iv) the price at which the Bonds are sold to the initial purchaser thereof under the Bond Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Loan Agreement. That the form and substance of the Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Borrowers.

Section 1.5 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement relating to the Bonds are hereby approved and the

Authorized Representatives are each hereby authorized to execute the Tax Exemption Agreement and to deliver the Tax Exemption Agreement to the Borrowers and the Trustee.

Section 1.6 Approval, Execution and Delivery of the Regulatory Agreements. That the form and substance of the Regulatory Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreements, and to deliver the Regulatory Agreements to the Borrowers and the Trustee and to cause the Regulatory Agreements to be filed of record in the real property records of the appropriate Texas county.

Section 1.7 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriter and/or any other parties pursuant to the Bond Purchase Agreement is hereby approved, that the form and substance of the Bond Purchase Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Borrower, the Underwriter, and/or any other parties to the Bond Purchase Agreement, as appropriate.

Section 1.8 Acceptance of the Notes and the Subordinate Mortgages. That the form and substance of the Notes and the Subordinate Mortgages are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Notes without recourse.

Section 1.9 Approval, Execution and Delivery of the Subordination Agreements. That the form and substance of the Subordination Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Subordination Agreements, and to deliver the Subordination Agreements.

Section 1.10 Approval, Execution and Delivery of the Disbursement Agreements. That the form and substance of the Disbursement Agreements are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Disbursement Agreements, and to deliver the Disbursement Agreements

Section 1.11 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Chair and Vice Chair of the Board and the Executive Director of the Department are hereby severally authorized to deem the Official Statement "final" for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution each are authorized hereby to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Bonds; that the Authorized Representatives named in this Resolution each are authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Bond Purchase Agreement and as may be approved by the Executive Director of the Department and the Department's counsel.

Section 1.12 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department's seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.13 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.14 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit A - Developments and Borrowers
- Exhibit B - Indenture
- Exhibit C - Loan Agreement
- Exhibit D - Tax Exemption Agreement
- Exhibit E - Regulatory Agreement
- Exhibit F - Bond Purchase Agreement
- Exhibit G - Note
- Exhibit H - Subordinate Mortgage
- Exhibit I - Official Statement
- Exhibit J - Subordination Agreement
- Exhibit K - Disbursement Agreement

Section 1.15 Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership Program of the Department and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Bonds in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by the Department's Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

Section 2.4 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Bonds and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and to enter into any agreements relating thereto only to the extent permitted by the Indenture.

Section 2.5 Underwriter. That the underwriter with respect to the issuance of the Bonds will be RBC Capital Markets, LLC, or any other party identified in the Bond Purchase Agreement.

Section 2.6 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of Bond Counsel to the Department, provided such engagement is done in accordance with applicable law of the State.

Section 2.7 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Bonds and the financing of the Development are hereby ratified and confirmed.

### ARTICLE 3

#### CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Developments and the information with respect to the proposed financing of the Developments by the Department, including but not limited to the information submitted by the Borrowers, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Developments are necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Developments is a public purpose and will provide a public benefit, and

(iii) that the Developments will be undertaken within the authority granted by the Act to the housing finance division and the Borrowers.

(b) Findings with Respect to the Borrowers.

(i) that the Borrowers, by operating the Developments in accordance with the requirements of the Loan Agreement, the Tax Exemption Agreement and the Regulatory Agreements, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrowers are financially responsible, and

(iii) that the Borrowers are not, and will not enter into a contract for the Developments with, a housing developer that (A) is on the Department's debarred list, including any parts of that

list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrowers have agreed to operate the Developments in accordance with the Loan Agreement, the Tax Exemption Agreement and the Regulatory Agreements, which require, among other things, that the Developments be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Bonds to finance the Developments is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing the costs of the Developments, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Developments shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Regulatory Agreements.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Bond Loans will produce the amounts required, when combined with other available funds, to pay for the Department's costs of operation with respect to the Bonds and the Developments and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase any Bond in the secondary open market for municipal securities.

## ARTICLE 4

### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Bond shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

*[Execution page follows]*



PASSED AND APPROVED this 11th day of October, 2018.

[SEAL]

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J.B. Goodwin, Chair

ATTEST:

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James B. Eccles, Secretary

**EXHIBIT A**

**DESCRIPTION OF DEVELOPMENTS AND BORROWERS**

<b>NO.</b>	<b>PROJECT/LOCATION</b>	<b>DESCRIPTION (approximate acreage)</b>	<b>BORROWER/OWNER</b>
1	<u>Bastrop Oak Grove I and Bastrop Oak Grove II</u> 1910 Wilson Street, Bastrop, Texas 78602 (Bastrop County)	Acquisition/rehabilitation of a 48-unit multifamily housing development  (approx. 2.17 acres)	THF Bastrop Oak Grove, LLC, a Texas limited liability company
2	<u>Bay City Village</u> 3301 Royal Street Baytown, Texas 77521 (Harris County)	Acquisition/rehabilitation of a 62-unit multifamily housing development  (approx. 8.26 acres)	THF Bay City Village, LLC, a Texas limited liability company
3	<u>Burk Village</u> 716 Park Street, Burkburnett, Texas 76354 (Wichita County)	Acquisition/rehabilitation of a 40-unit multifamily housing development  (approx. 5.48 acres)	THF Burk Village, LLC, a Texas limited liability company
4	<u>Elgin Meadowpark</u> 401 N. Highway 95, Elgin, Texas 78621 (Bastrop County)	Acquisition/rehabilitation of a 28-unit multifamily housing development  (approx. 4.09 acres)	THF Elgin Meadowpark, LLC, a Texas limited liability company
5	<u>Evant Tom Sawyer</u> 411 Tom Sawyer Street, Evant, Texas 76525 (Coryell County)	Acquisition/rehabilitation of a 18-unit multifamily housing development  (approx. 3.10 acres)	THF Evant Tom Sawyer, LLC, a Texas limited liability company
6	<u>Hondo Brian Place</u>	Acquisition/rehabilitation	THF Hondo Brian Place, LLC, a

	231 Stage Coach Drive, Hondo, Texas 78861 (Medina County)	of a 40-unit multifamily housing development  (approx. 5.64 acres)	Texas limited liability company
7	<u>Hondo Gardens</u> 3100 Avenue Q, Hondo, Texas 78861 (Medina County)	Acquisition/rehabilitation of a 32-unit multifamily housing development  (approx. 3.081 acres)	THF Hondo Gardens, LLC, a Texas limited liability company
8	<u>Lampasas Gardens</u> 1311 Plum Street, Lampasas, Texas 76550 (Lampasas County)	Acquisition/rehabilitation of a 24-unit multifamily housing development  (approx. 1.75 acres)	THF Lampasas Gardens, LLC, a Texas limited liability company
9	<u>Lantana Apartments</u> 2200 N. Adams Street, Beville, Texas 78102 (Bee County)	Acquisition/rehabilitation of a 92-unit multifamily housing development  (approx. 5.0 acres)	THF Lantana Apartments, LLC, a Texas limited liability company

# 18605 Bastrop Oak Grove - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 3, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION					
Application #	18605		TDHCA Program		Request		Recommended	
Development	Bastrop Oak Grove		LIHTC (4% Credit)		\$162,095	\$156,942	\$3,270/Unit	\$0.48
City / County	Bastrop / Bastrop				Amount	Rate	Amort	Term
Region/Area	7 / Rural							Lien
Population	General							
Set-Aside	USDA							
Activity	Acquisition/Rehab	1978, 1981	Private Activity Bonds	\$2,910,000	4.00%	N/A	3 yrs	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	12	25%	40%	-	0%
2	36	75%	50%	-	0%
3	-	0%	60%	48	100%
4	-	0%	MR	-	✓
<b>TOTAL</b>	<b>48</b>	<b>100%</b>	<b>TOTAL</b>	<b>48</b>	<b>100%</b>

## PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	43.7%
Breakeven Occ.	88.0%	Breakeven Rent	\$844
Average Rent	\$911	B/E Rent Margin	\$68
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,560/unit	Controllable	\$3,117/unit

## SITE PLAN



## MARKET FEASIBILITY INDICATORS

N/A	N/A	N/A	N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	2 BR/60%	36
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	48	100% Total Units	

## DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	810 SF	Density	22.5/acre
Acquisition		\$26K/unit	\$1,261K
Building Cost	\$32.93/SF	\$27K/unit	\$1,280K
Hard Cost		\$32K/unit	\$1,548K
Total Cost		\$110K/unit	\$5,285K
Developer Fee	\$766K	(35% Deferred)	Paid Year: 6
Contractor Fee	\$217K	30% Boost	No

## REHABILITATION COSTS / UNIT

Site Work	\$2K	6%	Finishes/Fixture	\$16K	51%
Building Shell	\$6K	19%	Amenities	\$1K	2%
HVAC	\$3K	10%	Total Exterior	\$9K	30%
Appliances	\$1K	3%	Total Interior	\$21K	70%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Lancaster Pollard (New 538)	40/40	5.12%	\$3,590,000	1.23						Boston Financial	\$755,202	
Adjustment to Debt Per §10.302(c)(2)	40/40	5.12%	(\$20,000)	1.24								
USDA Rural Dev (Assumed 515)	30/50	1.00%	\$694,494	1.15						Related TX RD Developer, LLC	\$265,752	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$4,264,494</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$1,020,955</b>
											<b>TOTAL DEBT SOURCES</b>	<b>\$4,264,494</b>
											<b>TOTAL CAPITALIZATION</b>	<b>\$5,285,449</b>

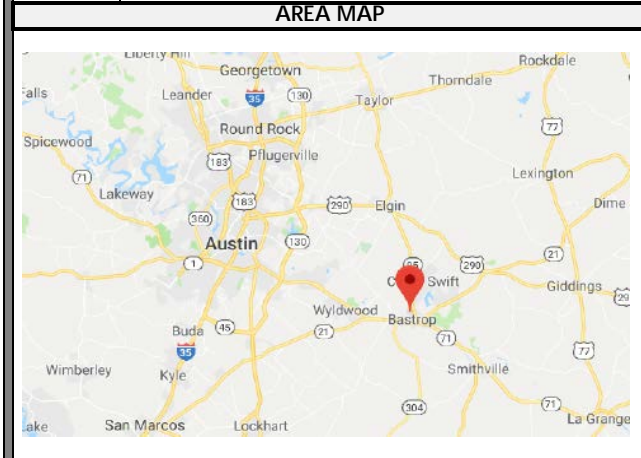
**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	71.0%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>USDA will monitor operations and can adjust rental assistance to maintain feasibility</li> <li>Average occupancy close to 100%</li> <li>Proximity to schools, medical services and potential employers</li> <li>Developer experience</li> </ul>	

WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>Project relies on full property tax exemption for feasibility</li> <li>40 year old development may have less appeal</li> <li>Potential unforeseen deferred maintenance</li> </ul>	



**AERIAL PHOTOGRAPH(S)**



# 18606 Bay City Village - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 1, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION					
Application #	18606		TDHCA Program		Request		Recommended	
Development	Bay City Village		LIHTC (4% Credit)		\$152,626	\$118,454	\$1,911/Unit	\$0.40
City / County	Baytown / Harris				Amount	Rate	Amort	Term
Region/Area	6 / Urban							Lien
Population	General							
Set-Aside	USDA							
Activity	Acquisition/Rehab	1975-1977	Private Activity Bonds *	\$2,610,000	4.00%	N/A	3 yrs	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	18	29%	40%	-	0%
2	30	48%	50%	-	0%
3	14	23%	60%	62	100%
4	-	0%	MR	-	✓
<b>TOTAL</b>	<b>62</b>	<b>100%</b>	<b>TOTAL</b>	<b>62</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	62.1%
Breakeven Occ.	87.9%	Breakeven Rent	\$840
Average Rent	\$885	B/E Rent Margin	\$44
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$6,134/unit	Controllable	\$4,001/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

N/A			N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	2 BR/60%	30
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	55	89% Total Units	

DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	861 SF	Density	7.5/acre
Acquisition		\$19K/unit	\$1,163K
Building Cost	\$19.26/SF	\$17K/unit	\$1,028K
Hard Cost		\$21K/unit	\$1,315K
Total Cost		\$76K/unit	\$4,701K
Developer Fee	\$456K	(95% Deferred)	Paid Year: 12
Contractor Fee	\$184K	30% Boost	No

REHABILITATION COSTS / UNIT

Site Work	\$2K	11%	Finishes/Fixture	\$9K	41%
Building Shell	\$6K	26%	Amenities	\$K	2%
HVAC	\$1K	6%	Total Exterior	\$8K	43%
Appliances	\$1K	4%	Total Interior	\$11K	57%

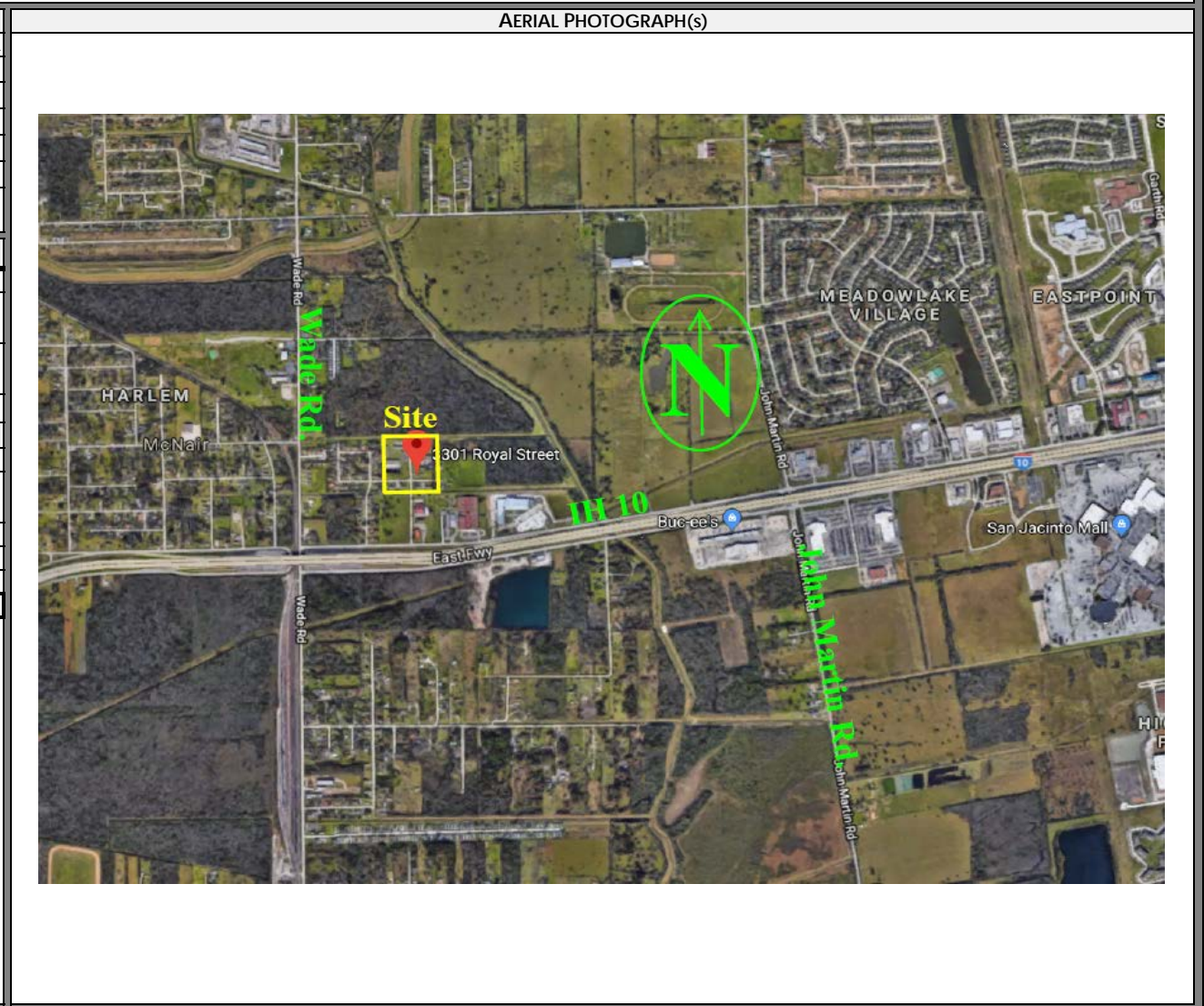
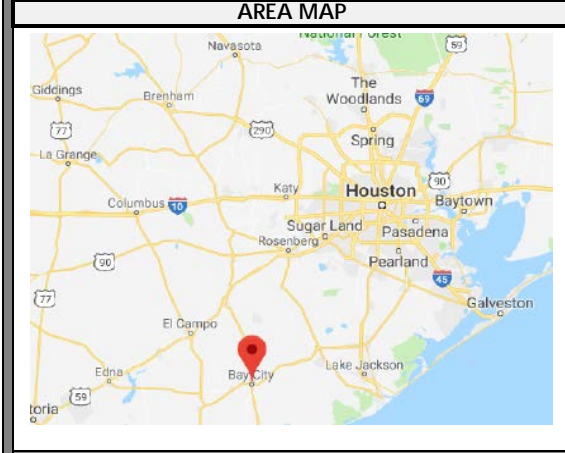
DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Lancaster Pollard (New 538)	40/40	5.12%	\$2,906,700	1.25						Boston Financial	\$473,425	
										Related TX RD Developer, LLC	\$430,768	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$904,193</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$3,797,093</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$3,797,093</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>		<b>\$4,701,286</b>

**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	108.9%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>USDA will monitor operations and can adjust rental assistance to maintain feasibility</li> <li>Proximity to schools, medical services and potential employers</li> <li>Developer experience</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>Project relies on full property tax exemption for feasibility</li> <li>43 year old development may have less appeal</li> <li>Future flooding possible</li> <li>Potential unforeseen deferred maintenance</li> </ul>	



# 18607 Burk Village - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 2, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION						
Application #	18607		TDHCA Program		Request			Recommended	
Development	Burk Village		LIHTC (4% Credit)		\$107,475	\$102,278	\$2,557/Unit	\$1.94	
City / County	Burkburnett / Wichita				Amount	Rate	Amort	Term	Lien
Region/Area	2 / Rural								
Population	General								
Set-Aside	USDA								
Activity	Acquisition/Rehab	(Built in 1981)	Private Activity Bonds	\$1,990,000	5.12%	40	40	1	

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

## TYPICAL BUILDING ELEVATION/PHOTO

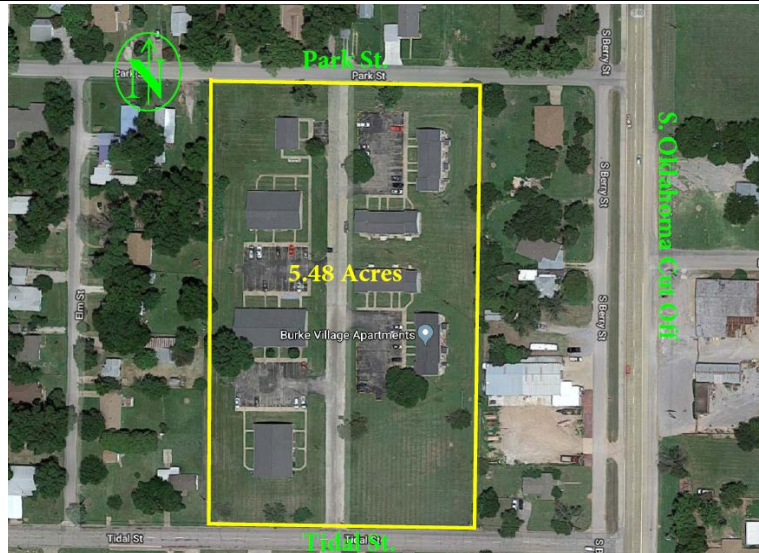


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	20	50%	40%	-	0%
2	20	50%	50%	-	0%
3	-	0%	60%	39	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>40</b>	<b>100%</b>	<b>TOTAL</b>	<b>39</b>	<b>98%</b>

## PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.29	Expense Ratio	72.0%
Breakeven Occ.	88.5%	Breakeven Rent	\$546
Average Rent	\$584	B/E Rent Margin	\$37
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,804/unit	Controllable	\$3,257/unit

## SITE PLAN



## MARKET FEASIBILITY INDICATORS

N/A	N/A		N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	1 BR/60%	20
Premiums (↑60% Rents)	N/A		
Rent Assisted Units	29	73% Total Units	

## DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	770 SF	Density	7.3/acre
Acquisition		\$17K/unit	\$690K
Building Cost	\$32.44/SF	\$25K/unit	\$999K
Hard Cost		\$32K/unit	\$1,272K
Total Cost		\$87K/unit	\$3,490K
Developer Fee	\$503K	(41% Deferred)	Paid Year: 15
Contractor Fee	\$178K	30% Boost	No

## REHABILITATION COSTS / UNIT

Site Work	\$3K	10%	Finishes/Fixture	\$13K	40%
Building Shell	\$8K	24%	Amenities	\$1K	2%
HVAC	\$3K	10%	Total Exterior	\$12K	40%
Appliances	\$1K	4%	Total Interior	\$17K	60%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Lancaster Pollard (New 538)	40/40	5.12%	\$638,900	1.81						Boston Financial	\$1,988,931	
										Related TX RD Developer, LLC	\$209,792	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$2,198,723</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$1,291,732</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,291,732</b>		<b>CASH FLOW DEBT / GRANTS</b>				<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$3,490,455</b>

**CONDITIONS**

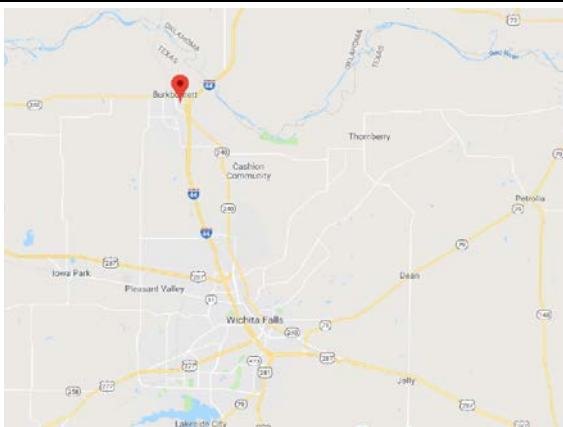
Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	48.1%

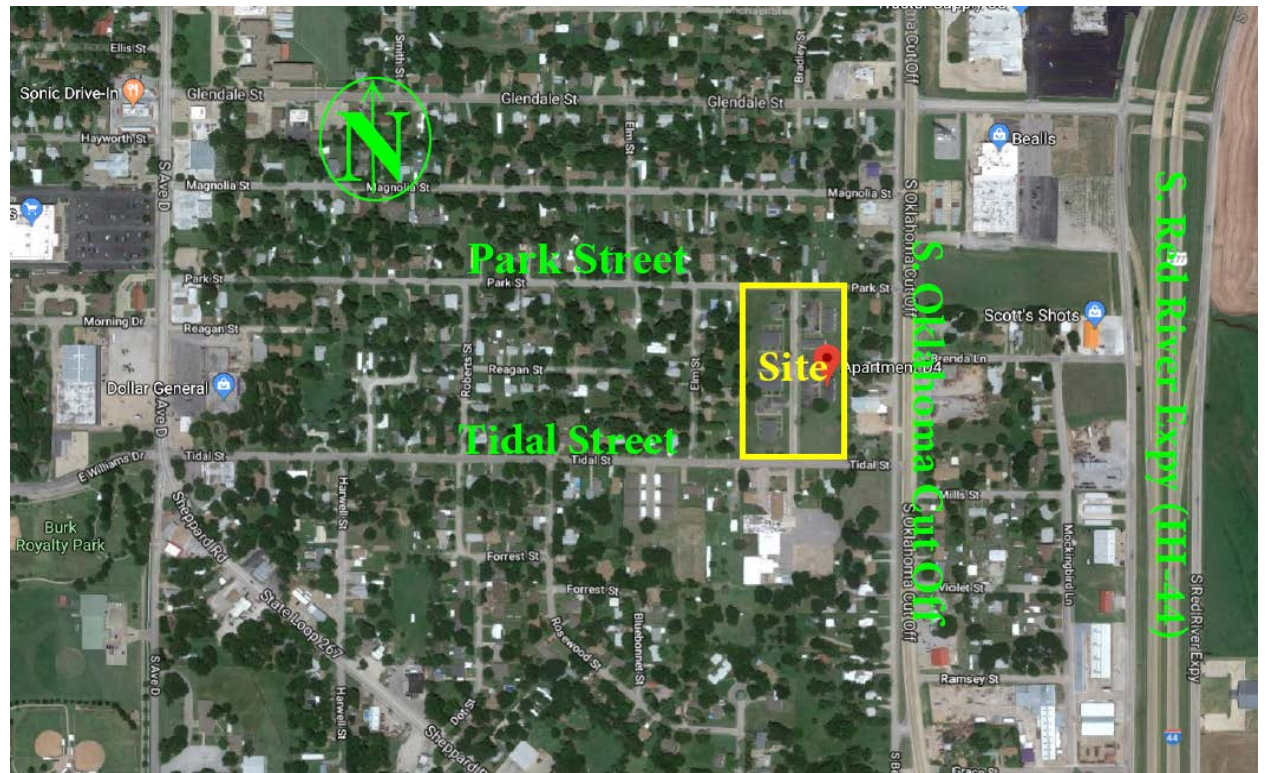
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
◦	USDA will monitor operations and can adjust rental assistance to maintain feasibility
◦	Proximity to schools, medical services and potential employers
◦	Developer experience

WEAKNESSES/RISKS	
◦	Project relies on full property tax exemption for feasibility
◦	37 year old development may have less appeal
◦	Potential unforeseen deferred maintenance

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



# 18608 Elgin Meadowpark - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 2, 2018

PROPERTY IDENTIFICATION		RECOMMENDATION					
Application #	18608	TDHCA Program		Request			
Development	Elgin Meadowpark	LIHTC (4% Credit)		\$80,501	\$78,192	\$2,793/Unit	\$1.09
City / County	Elgin / Bastrop			Amount	Rate	Amort	Term
Region/Area	7 / Rural						Lien
Population	General						
Set-Aside	USDA						
Activity	Acquisition/Rehab (Built in 1976)	Private Activity Bonds	\$1,710,000	5.12%	40	40	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	8	29%	40%	-	0%
2	20	71%	50%	-	0%
3	-	0%	60%	28	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>28</b>	<b>100%</b>	<b>TOTAL</b>	<b>28</b>	<b>100%</b>

**PRO FORMA FEASIBILITY INDICATORS**

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	55.7%
Breakeven Occ.	87.1%	Breakeven Rent	\$847
Average Rent	\$899	B/E Rent Margin	\$53
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,593/unit	Controllable	\$4,038/unit



**MARKET FEASIBILITY INDICATORS**

N/A	N/A	N/A	N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	2 BR/60%	20
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	28	100% Total Units	

**DEVELOPMENT COST SUMMARY**

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	789 SF	Density	6.8/acre
Acquisition		\$12K/unit	\$350K
Building Cost	\$34.50/SF	\$27K/unit	\$762K
Hard Cost		\$38K/unit	\$1,078K
Total Cost		\$105K/unit	\$2,936K
Developer Fee	\$382K	(54% Deferred)	Paid Year: 10
Contractor Fee	\$151K	30% Boost	No

**REHABILITATION COSTS / UNIT**

Site Work	\$7K	19%	Finishes/Fixture	\$13K	33%
Building Shell	\$13K	34%	Amenities	\$K	1%
HVAC	\$K	1%	Total Exterior	\$21K	60%
Appliances	\$1K	2%	Total Interior	\$14K	40%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lancaster Pollard (New 538)	40/40	5.12%	\$1,679,300	1.16						Boston Financial	\$854,761
										Related TX RD Developer, LLC	\$207,304
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,874,345</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$1,062,065</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$1,874,345</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$2,936,410</b>

**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	87.0%

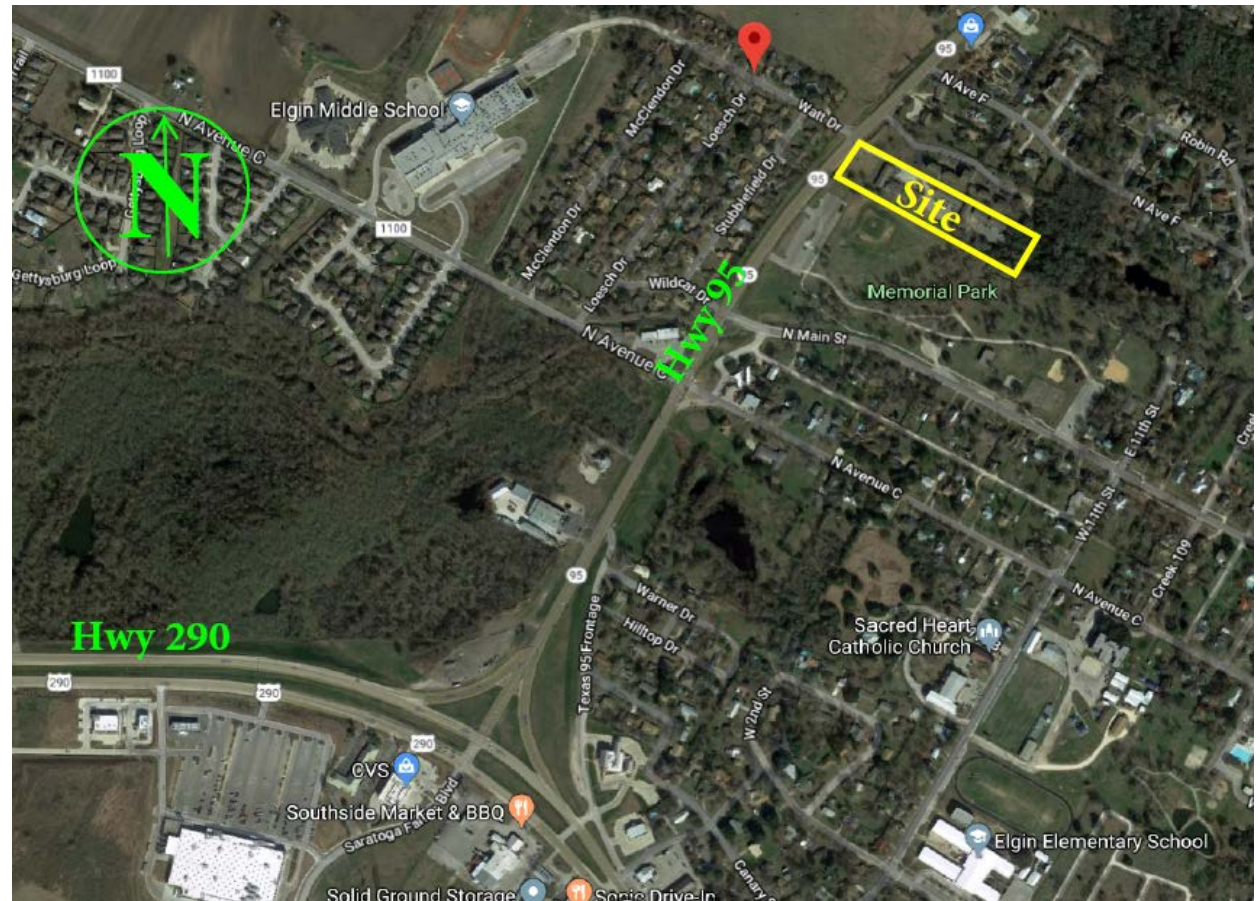
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
o	USDA will monitor operations and can adjust rental assistance to maintain feasibility
o	Average occupancy close to 100%
o	Proximity to schools, medical services and potential employers
o	Developer experience

WEAKNESSES/RISKS	
o	Project relies on full property tax exemption for feasibility
o	42 year old development may have less appeal
o	Potential unforeseen deferred maintenance

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



# 18609 Evant Tom Sawyer - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 3, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION					KEY PRINCIPAL / SPONSOR		
Application #	18609		TDHCA Program		Request		Recommended			
Development	Evant Tom Sawyer		LIHTC (4% Credit)		\$48,513	\$47,076	\$2,615/Unit	\$1.55		
City / County	Evant / Coryell				Amount	Rate	Amort	Term	Lien	
Region/Area	8 / Rural									
Population	General									
Set-Aside	General									
Activity	Acquisition/Rehab	1970 -1975	Private Activity Bonds	\$1,010,000	5.12%	40	40	1		

- Mark Mayfield / THF Housing Development Corp.
- Wes Larmore / The Related Companies, LP

Related Parties	Contractor -	Yes	Seller -	No
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## TYPICAL BUILDING ELEVATION/PHOTO

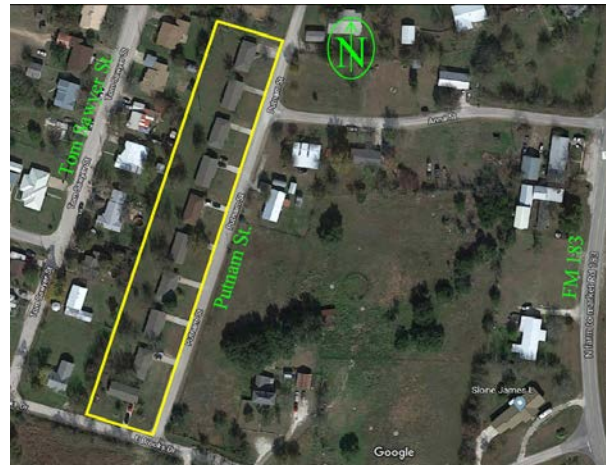
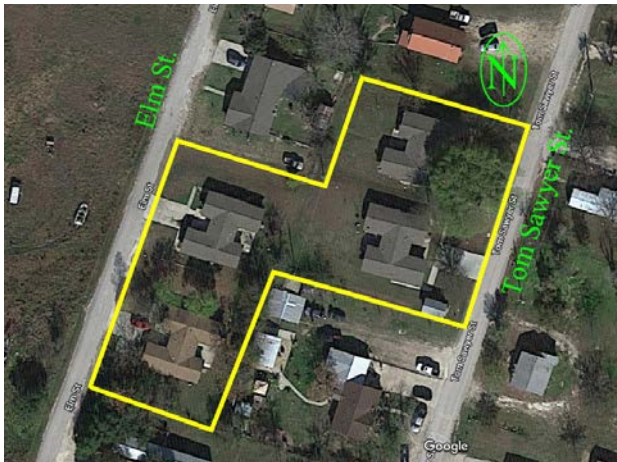


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	-	0%	40%	-	0%
2	8	44%	50%	-	0%
3	10	56%	60%	18	100%
4	-	0%	MR	-	✓
<b>TOTAL</b>	<b>18</b>	<b>100%</b>	<b>TOTAL</b>	<b>18</b>	<b>100%</b>

## PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	🟡 1.18	Expense Ratio	🟢 56.4%
Breakeven Occ.	🟢 86.2%	Breakeven Rent	\$640
Average Rent	\$687	B/E Rent Margin	🟡 \$47
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,333/unit	Controllable	\$2,746/unit

## SITE PLAN



## MARKET FEASIBILITY INDICATORS

N/A			N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	3 BR/60%	10
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	18	100% Total Units	

## DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	940 SF	Density	5.7/acre
Acquisition		\$13K/unit	\$236K
Building Cost	\$28.30/SF	\$27K/unit	\$479K
Hard Cost		\$33K/unit	\$585K
Total Cost		\$97K/unit	\$1,738K
Developer Fee	\$230K	(43% Deferred)	Paid Year: 9
Contractor Fee	\$82K	30% Boost	No

## REHABILITATION COSTS / UNIT

Site Work	\$2K	7%	Finishes/Fixture	\$15K	52%
Building Shell	\$5K	17%	Amenities	\$1K	3%
HVAC	\$5K	15%	Total Exterior	\$8K	27%
Appliances	\$1K	5%	Total Interior	\$21K	73%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Lancaster Pollard (New 538)	40/40	5.12%	\$722,700	1.31						Boston Financial	\$727,784	
										Related TX RD Developer, LLC	\$99,605	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$827,389</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$911,091</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$911,091</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>		<b>\$1,738,480</b>

**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**BOND RESERVATION / ISSUER**

Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	67.0%

**RISK PROFILE**

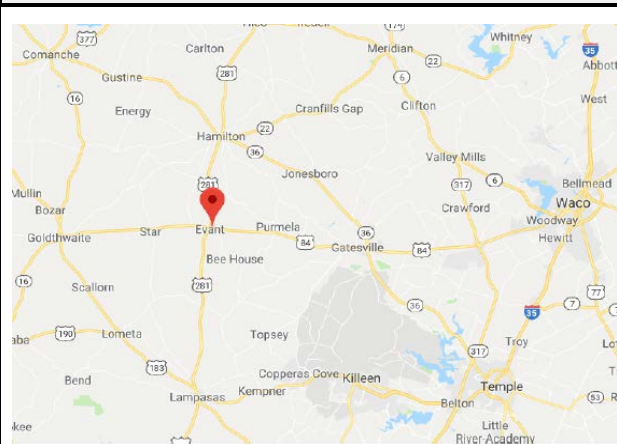
STRENGTHS/MITIGATING FACTORS

- USDA will monitor operations and can adjust rental assistance to maintain feasibility
- Proximity to schools, medical services and potential employers
- Developer experience

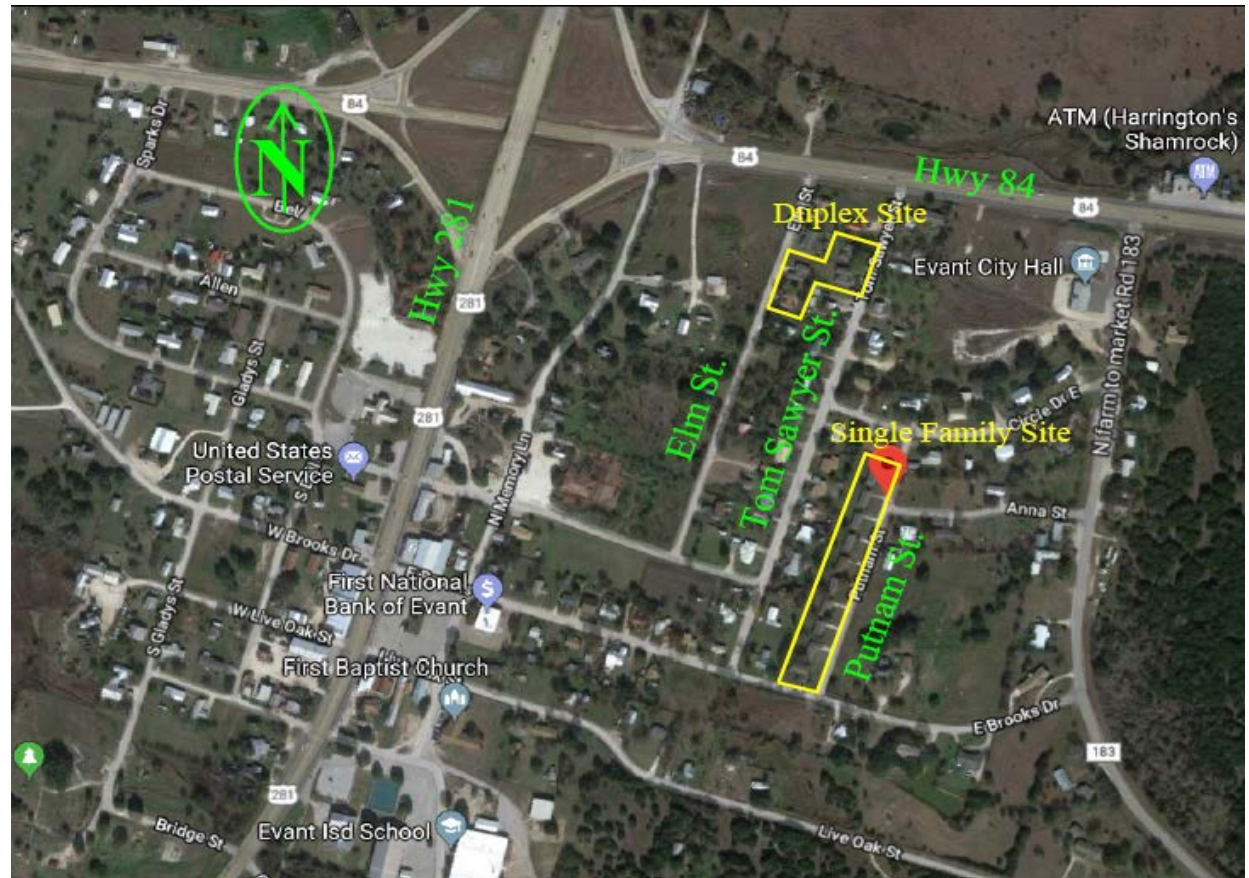
WEAKNESSES/RISKS

- Project relies on full property tax exemption for feasibility
- 48 year old development may have less appeal
- Potential unforeseen deferred maintenance

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



# 18610 Hondo Brian Place - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 3, 2018

PROPERTY IDENTIFICATION		RECOMMENDATION					
Application #	18610	TDHCA Program		Request		Recommended	
Development	Hondo Brian Place	LIHTC (4% Credit)	\$122,319	\$118,488	\$2,962/Unit	\$0.80	
City / County	Hondo / Medina		Amount	Rate	Amort	Term	Lien
Region/Area	9 / Rural						
Population	General						
Set-Aside	General						
Activity	Acquisition/Rehab (Built in 1980)	Private Activity Bonds	\$2,390,000	5.12%	40	40	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	8	20%	40%	-	0%
2	12	30%	50%	-	0%
3	20	50%	60%	-	0%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>40</b>	<b>100%</b>	<b>TOTAL</b>	<b>0</b>	<b>0%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	54.1%
Breakeven Occ.	89.3%	Breakeven Rent	\$820
Average Rent	\$873	B/E Rent Margin	\$53
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,412/unit	Controllable	\$3,873/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (30% Maximum)	N/A		
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	N/A	N/A
Premiums (±60% Rents)	N/A		
Rent Assisted Units	40	100% Total Units	

DEVELOPMENT COST SUMMARY

Costs Underwritten	TDHCA's Costs - Based on PCA		
Avg. Unit Size	880 SF	Density	7.1/acre
Acquisition		\$23K/unit	\$903K
Building Cost	\$34.09/SF	\$30K/unit	\$1,200K
Hard Cost		\$38K/unit	\$1,502K
Total Cost		\$110K/unit	\$4,385K
Developer Fee	\$583K	(81% Deferred)	Paid Year: 14
Contractor Fee	\$210K	30% Boost	No

REHABILITATION COSTS / UNIT

Site Work	\$4K	10%	Finishes/Fixture	\$21K	60%
Building Shell	\$4K	11%	Amenities	\$1K	2%
HVAC	\$5K	14%	Total Exterior	\$8K	23%
Appliances	\$1K	3%	Total Interior	\$26K	77%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Lancaster Pollard 538	40/40	5.12%	\$2,231,000	1.29						Boston Financial	\$949,308	
										Related TX RD Developer, LLC	\$475,172	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$1,424,480</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$2,960,975</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,960,975</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>		<b>\$4,385,455</b>

**CONDITIONS**

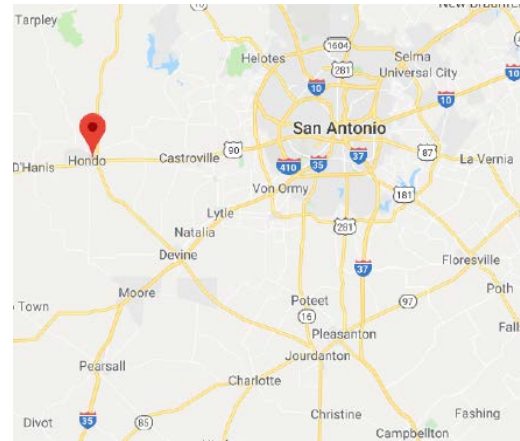
Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	87.5%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
o	Average occupancy close to 100%
o	Proximity to schools, medical services and potential employers
o	Developer experience

WEAKNESSES/RISKS	
o	Project relies on full property tax exemption for feasibility
o	37 year old development may have less appeal
o	Potential unforeseen deferred maintenance

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



# 18611 Hondo Gardens - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 4, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION					
Application #	18611		TDHCA Program	Request	Recommended			
Development	Hondo Gardens		LIHTC (4% Credit)	\$80,567	\$80,082	\$2,503/Unit	\$1.35	
City / County	Hondo / Medina			Amount	Rate	Amort	Term	Lien
Region/Area	9 / Rural							
Population	General							
Set-Aside	General							
Activity	Acquisition/Rehab	(Built in 1981)	Private Activity Bonds	\$1,600,000	4.00%	N/A	3 yrs	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	28	88%	40%	-	0%
2	4	13%	50%	-	0%
3	-	0%	60%	31	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>32</b>	<b>100%</b>	<b>TOTAL</b>	<b>31</b>	<b>97%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.15	Expense Ratio	64.0%
Breakeven Occ.	88.1%	Breakeven Rent	\$665
Average Rent	\$698	B/E Rent Margin	\$33
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,991/unit	Controllable	\$3,471/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
N/A			N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	1 BR/60%	28
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	28	88% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	745 SF	Density	10.4/acre
Acquisition		\$20K/unit	\$627K
Building Cost	\$29.40/SF	\$22K/unit	\$701K
Hard Cost		\$27K/unit	\$873K
Total Cost		\$90K/unit	\$2,883K
Developer Fee	\$387K	(48% Deferred)	Paid Year: 14
Contractor Fee	\$122K	30% Boost	No

REHABILITATION COSTS / UNIT				
Site Work	\$2K	9%	Finishes/Fixture	\$12K 45%
Building Shell	\$7K	26%	Amenities	\$K 2%
HVAC	\$1K	5%	Total Exterior	\$10K 41%
Appliances	\$1K	4%	Total Interior	\$15K 59%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lancaster Pollard (New 538)	40/40	5.12%	\$1,096,900	1.29						Boston Financial	\$1,083,445
					Reserve Funds Used for Rehab	0/0	0.00%	\$50,000	1.15	Related TX RD Developer, LLC	\$183,967
<b>TOTAL DEBT (Must Pay)</b>			<b>\$1,565,646</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$50,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$1,267,412</b>
<b>TOTAL DEBT SOURCES</b>											<b>\$1,615,646</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$2,883,058</b>

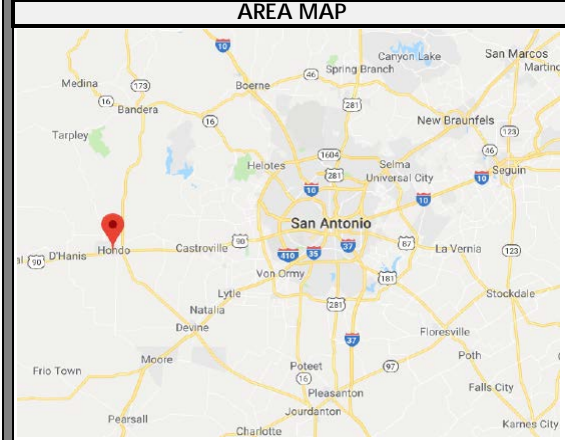
**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	73.9%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>USDA will monitor operations and can adjust rental assistance to maintain feasibility</li> <li>Average occupancy close to 100%</li> <li>Proximity to schools, medical services and potential employers</li> <li>Developer experience</li> </ul>	

WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>Project relies on full property tax exemption for feasibility</li> <li>37 year old development may have less appeal</li> <li>Potential unforeseen deferred maintenance</li> </ul>	



**AERIAL PHOTOGRAPH(S)**



# 18612 Lampasas Gardens - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 4, 2018

PROPERTY IDENTIFICATION			RECOMMENDATION					
Application #	18612		TDHCA Program		Request		Recommended	
Development	Lampasas Gardens		LIHTC (4% Credit)		\$101,417	\$99,330	\$4,139/Unit	\$1.79
City / County	Lampasas / Lampasas				Amount	Rate	Amort	Term
Region/Area	8 / Rural							Lien
Population	General							
Set-Aside	General							
Activity	Acquisition/Rehab	(Built in 1978)	Private Activity Bonds	\$1,520,000	4.00%	N/A	3 yrs	1

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>Mark Mayfield / THF Housing Development Corp.</li> <li>Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - No

## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	4	17%	40%	-	0%
2	20	83%	50%	-	0%
3	-	0%	60%	24	100%
4	-	0%	MR	-	0%
TOTAL	24	100%	TOTAL	24	100%

## PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.35	Expense Ratio	72.3%
Breakeven Occ.	88.2%	Breakeven Rent	\$566
Average Rent	\$610	B/E Rent Margin	\$44
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,074/unit	Controllable	\$3,594/unit

## SITE PLAN



## MARKET FEASIBILITY INDICATORS

N/A	N/A	N/A	N/A
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	N/A	2 BR/60%	20
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	24	100% Total Units	

## DEVELOPMENT COST SUMMARY

Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	813 SF	Density	13.7/acre
Acquisition		\$22K/unit	\$521K
Building Cost	\$35.69/SF	\$29K/unit	\$696K
Hard Cost		\$41K/unit	\$991K
Total Cost		\$111K/unit	\$2,664K
Developer Fee	\$393K	(31% Deferred)	Paid Year: 11
Contractor Fee	\$139K	30% Boost	Yes

## REHABILITATION COSTS / UNIT

Site Work	\$7K	18%	Finishes/Fixture	\$16K	43%
Building Shell	\$7K	19%	Amenities	\$2K	5%
HVAC	\$4K	11%	Total Exterior	\$16K	42%
Appliances	\$1K	4%	Total Interior	\$22K	58%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lancaster Pollard (New 538)	40/40	5.12%	\$394,500	1.85						Boston Financial	\$1,782,545
					Reserve Funds Used for Rehab	0/0	0.00%	\$14,318	1.35	Related TX RD Developer, LLC	\$120,878
<b>TOTAL DEBT (Must Pay)</b>			<b>\$745,791</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$14,318</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$1,903,423</b>
<b>TOTAL DEBT SOURCES</b>											<b>\$760,109</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$2,663,532</b>

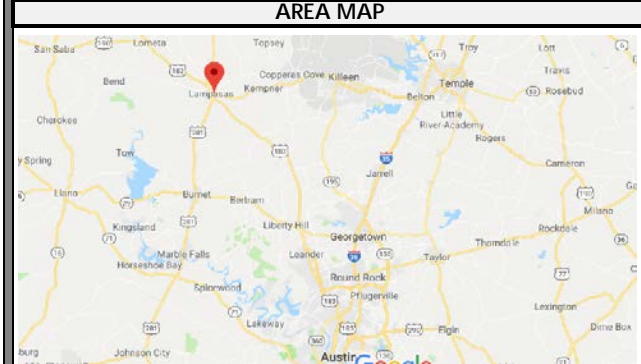
**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
o	USDA will monitor operations and can adjust rental assistance to maintain feasibility
o	Average occupancy close to 100%
o	Proximity to schools, medical services and potential employers
o	Developer experience

WEAKNESSES/RISKS	
o	Project relies on full property tax exemption for feasibility
o	40 year old development may have less appeal
o	Potential unforeseen deferred maintenance



**AERIAL PHOTOGRAPH(S)**



# 18613 Lantana Apartments - Application Summary

REAL ESTATE ANALYSIS DIVISION

October 5, 2018

PROPERTY IDENTIFICATION	
Application #	18613
Development	Lantana Apartments
City / County	Beeville / Bee
Region/Area	10 / Rural
Population	General
Set-Aside	General
Activity	Acquisition/Rehab 1974 - Northridge Unit

RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (4% Credit)	\$302,856	\$288,999	\$3,141/Unit	\$1.00		
	Amount	Rate	Amort	Term	Lien	
Private Activity Bonds	\$4,260,000	4.00%	N/A	3 yrs	1	

KEY PRINCIPAL / SPONSOR		
<ul style="list-style-type: none"> <li>• Mark Mayfield / THF Housing Development Corp.</li> <li>• Wes Larmore / The Related Companies, LP</li> </ul>		
Related Parties	Contractor - Yes	Seller - 0

## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	40	43%	40%	-	0%
2	52	57%	50%	-	0%
3	-	0%	60%	-	0%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>92</b>	<b>100%</b>	<b>TOTAL</b>	<b>0</b>	<b>0%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.16	Expense Ratio	56.0%
Breakeven Occ.	86.8%	Breakeven Rent	\$603
Average Rent	\$643	B/E Rent Margin	\$40
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,027/unit	Controllable	\$2,661/unit

## SITE PLAN



MARKET FEASIBILITY INDICATORS			
N/A			N/A
Highest Unit Capture Rate	N/A	#N/A	N/A
Dominant Unit Cap. Rate	N/A	N/A	N/A
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	92	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	660 SF	Density	18.4/acre
Acquisition		\$17K/unit	\$1,555K
Building Cost	\$43.42/SF	\$29K/unit	\$2,637K
Hard Cost		\$36K/unit	\$3,275K
Total Cost		\$89K/unit	\$8,177K
Developer Fee	\$894K	(53% Deferred)	Paid Year: 7
Contractor Fee	\$458K	30% Boost	Yes

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lancaster Pollard (New 538)	40/40	5.12%	\$3,340,000	1.36						Boston Financial	\$2,891,369
										Related TX RD Developer, LLC	\$480,526
<b>TOTAL DEBT (Must Pay)</b>			<b>\$4,804,622</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$3,371,894</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$4,804,622</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$8,176,516</b>

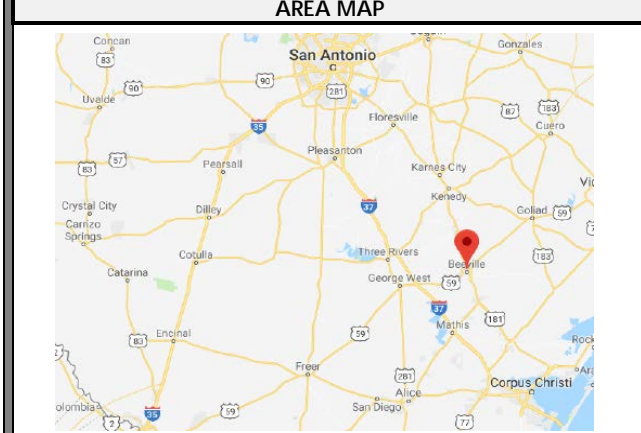
**CONDITIONS**

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	1/11/2019
Bond Amount	\$20,000,000
BRB Priority	Priority 3
Close Date	11/16/2018
Bond Structure	USDA 538 - Cash Collateralized
% Financed with Tax-Exempt Bonds	48.8%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
o	USDA will monitor operations and can adjust rental assistance to maintain feasibility
o	Average occupancy close to 100%
o	Proximity to schools, medical services and potential employers
o	Developer experience

WEAKNESSES/RISKS	
o	Project relies on full property tax exemption for feasibility
o	37 year old development may have less appeal
o	Potential unforeseen deferred maintenance



**AERIAL PHOTOGRAPH(S)**



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**TRUST INDENTURE**

between

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

and

**WILMINGTON TRUST, N.A.**

as Trustee

**\$20,000,000**

**Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018**

**Dated**

**as of**

**November 1, 2018**

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(This Index is not a part of the Indenture  
but rather is for convenience of reference only)

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## TRUST INDENTURE

**THIS TRUST INDENTURE**, dated as of November 1, 2018 (as from time to time amended, modified, or supplemented in accordance with the terms hereof, “Indenture”), is made by **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State of Texas (the “State”), and **WILMINGTON TRUST, N.A.** (together with its permitted successors and assigns, “Trustee”), a national banking association organized under the laws of the United States of America, which is duly authorized to accept trust powers under this Indenture, not in its individual or corporate capacity, but solely as trustee under the circumstances summarized in the following recitals (the capitalized terms not defined in the recitals and granting clauses being used therein as defined in Article I hereof):

(a) The Issuer is authorized, under the powers granted to the Issuer pursuant to the Act, to issue revenue bonds for the purpose, among other purposes, of financing the acquisition, construction, rehabilitation and development of residential housing, including multifamily rental housing, to persons of low and moderate income:

(b) The Borrowers (listed on the attached *Exhibit B*) have requested that the Issuer use its bond issuing authority to assist them in financing a portion of the Project Costs of the Projects (listed on the attached *Exhibit B*) by issuing the Bonds to fund a Bond Loan to each of the Borrowers:

(c) The Issuer has determined to issue and sell the Bonds in the aggregate principal amount of \$20,000,000 and to loan the proceeds to be derived from the sale thereof to the Borrowers to assist in the financing of the Projects;

(d) The Projects are separate multifamily housing facilities located in the counties in the State listed on the attached *Exhibit B*. Each Project will be owned by a Borrower that is an independent legal entity separate from each of the other Borrowers. The Borrowers are “related” through a common managing member of their respective sole member, but each Borrower has legal title only to the Project as set forth in *Exhibit B* hereto and has no ownership interest in any of any other Project;

(e) Each Bond Loan will be made separate, independent and apart from each of the other Bond Loans and the Bond Loans will not be cross-collateralized or cross-defaulted, and the proceeds of a Bond Loan made with respect to a Project shall be used by the applicable Borrower solely to pay Project Costs of that Project;

(f) The Bonds will be secured by this Indenture, and the Issuer is authorized to execute and deliver this Indenture and to do or cause to be done all acts provided or required herein to be performed on its part;

(g) All acts and conditions required to happen, exist and be performed precedent to and in the issuance of the Bonds and the execution and delivery of this Indenture have happened, exist and have been performed, or at the delivery of the Bonds will exist, will have happened and will have been performed (i) to make the Bonds, when issued, delivered and authenticated, valid obligations of the Issuer in accordance with the terms thereof and hereof and (ii) to make this

Indenture a valid, binding and legal agreement for the security of the Bonds in accordance with its terms; and

(h) The Trustee has accepted the trusts created by this Indenture, and in evidence thereof has joined in the execution hereof.

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that to secure the payment of Bond Service Charges on the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders, and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee, and to its successors in trust, and its and their assigns, all right, title and interest of the Issuer in and to (i) the Pledged Revenues, including, without limitation, all Bond Loan Payments and other amounts receivable by or on behalf of the Issuer under the Bond Loan Agreement in respect of repayment of the Bond Loans, (ii) the Special Funds, including all accounts in those funds and all moneys deposited therein and the investment earnings on such moneys, (iii) subject to the provisions of the Bond Resolution, all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which moneys in the Special Funds are invested, and (except for moneys required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security hereunder by the Issuer or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Bond Note and (v) the Bond Loan Agreement, except for (relating to all clauses (i) through (v)) the Issuer's Reserved Rights (the foregoing collectively referred to as the "Pledged Revenues"),

**TO HAVE AND TO HOLD** unto the Trustee and its successors in that trust and its and their assigns forever;

**BUT IN TRUST, NEVERTHELESS**, and subject to the provisions hereof,

A. except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,

B. for the enforcement of the payment of the principal of and interest on the Bonds, when payable, according to the true intent and meaning thereof and of this Indenture, and

C. to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that

(a) if the principal of the Bonds and the interest due or to become due thereon shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the outstanding Bonds shall have been paid and discharged in accordance with Article IX hereof, and

(b) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee, the Registrar, the Paying Agent and the Authenticating Agent all sums of money due or to become due to them in accordance with the terms and provisions hereof, then

(c) this Indenture and the rights assigned hereby shall cease, and be void, except as provided in Section 9.03 hereof with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that the Pledged Revenues assigned hereby shall be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

[Remainder of page intentionally left blank]

## ARTICLE I DEFINITIONS

### **Section 1.01. Definitions.**

In addition to the words and terms defined elsewhere in this Indenture or by reference to the Bond Loan Agreement, Regulatory Agreement or Tax Exemption Agreement, unless the context or use clearly indicates another meaning or intent:

“Act” means Chapter 2306, Texas Government Code, as amended.

“Additional Payments” means the amounts required to be paid by the Borrowers pursuant to the provisions of Section 4.2 of the Bond Loan Agreement.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Allocated Bonds” means, with respect to each Project and Borrower, the portion of the Bonds that have been allocated to the Project and Borrower, the proceeds of which are to be loaned to that Borrower pursuant to the Bond Loan Agreement with the Borrower, which allocation is set forth in *Exhibit B*. The aggregate amount of the Allocated Bonds equals the aggregate principal amount of the Bonds.

“Authenticating Agent” means the Trustee and the Registrar for the Bonds and any bank, trust company or other Person designated as an Authenticating Agent for the Bonds by or in accordance with Section 6.13 of this Indenture, each of which shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934 as amended.

“Authorized Borrowers’ Representative” means the person or persons designated to act on behalf of all of the Borrowers collectively and each Borrower individually.

“Authorized Denomination” means \$5,000 and any increment of \$1,000 in excess thereof.

“Authorized Lender Representative” means the person designated to act on behalf of the Lender.

“Authorized Officer” means the Chair or Vice Chair of the Governing Body, the Executive Director of the Issuer, the Deputy Executive Directors of the Issuer, the Director of Bond Finance and Chief Investment Officer of the Issuer, the Director of Texas Homeownership of the Issuer and the Secretary or any Assistant Secretary to the Governing Body.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“Board” means the Board of Directors of the Issuer.

“Bond Counsel” means counsel selected by the Issuer and nationally recognized as having an expertise in connection with the exclusions of interest on obligations or obligations of state and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Bond Fund” means the Bond Fund created in Section 5.01 hereof.

“Bond Loan” means each Bond Loan by the Issuer to a Borrower of a portion of the proceeds received from the sale of the Bonds to be made pursuant to a Bond Loan Agreement. “Bond Loans” means, collectively, all of such Bond Loans.

“Bond Loan Agreement” means the Loan Agreement, dated as of even date with this Indenture, between the Issuer and the Borrowers and assigned by the Issuer, except for Issuer’s Reserved Rights, to the Trustee, as amended or supplemented from time to time.

“Bond Loan Payment Cure Period” means a period of five Business Days following any Bond Loan Payment Date.

“Bond Loan Payment Date” means the fifth Business Day preceding each Bond Payment Date.

**[Trustee: Does timing work if payment on loan arrives on fifth Business Day which will be the Bond Payment Date?]**

“Bond Loan Payments” means the amounts required to be paid by each respective Borrower in repayment of the Bond Loan to such Borrower pursuant to the provisions of the Bond Note and Section 4.1 of the Bond Loan Agreement relating to the Bond Loan to such Borrower.

“Bond Note” means, with respect to the Borrowers, the promissory note of each of the Borrowers, dated as of even date with the Bonds initially issued, in the form attached to the Bond Loan Agreement for the Borrower as *Exhibit A* and totaling in the aggregate the principal amount of the Bonds, evidencing the obligation of the Borrowers to make Bond Loan Payments.

“Bond Payment Date” means each Interest Payment Date, Mandatory Tender Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, mandatory tender or optional redemption, upon acceleration or otherwise.

“Bond Resolution” means that certain Bond Resolution relating to the Projects, adopted by the Board of the Issuer on October 11, 2018.

“Bond Service Charges” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption, Mandatory Tender or acceleration.

“Bonds” means the Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 of the Issuer authorized in the Bond Resolution and Section 2.02 hereof in an amount of \$20,000,000.

“Book Entry Form” or “Book Entry System” means, with respect to the Bonds, a form or system, as applicable, under which (i) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (ii) the ownership of book entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book entry made by Persons other than the Issuer or the Trustee. The records maintained by Persons other than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book entry interests in the Bonds and Bond Service Charges thereon.

“Borrower” means, individually, each of the entities identified on *Exhibit B* hereto as a Borrower, each of which entity is entering into the Bond Loan Agreement with the Issuer in connection herewith. “Borrowers” means, collectively, all of the Borrowers.

“Borrower’s Equity Fund” means the Borrower’s Equity Fund created pursuant to Section 5.01 of this Indenture.

“Bridge Lender” means BF Related Texas, LLC, a Delaware limited liability company, in its capacity as maker of the Bridge Loan.

“Bridge Loan” means together, the equity bridge loans made from the Bridge Lender to the Borrowers.

“Business Day” means a day of the week, other than a Saturday or a Sunday, on which commercial banks located in the city in which the principal corporate trust office of the Trustee are not required or authorized to remain closed.

“Closing Date” means \_\_\_\_\_, 2018.

“Collateral Fund” means the Collateral Fund created pursuant to Section 5.01 of this Indenture.

“Completion Date” means, for each Project, the date of substantial completion of such Project evidenced by the filing of a completion certificate with respect to such Project in accordance with the requirements of Section 3.6 of the Bond Loan Agreement relating to that Project.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“Construction Period” means the period between the beginning of the acquisition and rehabilitation or construction of a Project and the Completion Date for that Project.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of November 1, 2018 between the Borrowers and the Dissemination Agent as originally executed and as it may be amended from time to time in accordance with its terms.

“Contractual Obligation” means for any Person any obligation, covenant, or condition contained in any evidence of Indebtedness or any agreement or instrument under or pursuant to which any evidence of Indebtedness has been issued, or any other material agreement, instrument



or guaranty, to which such Person is a party or by which such Person or any of its assets or properties are bound.

“Costs of Issuance Fund” means the Costs of Issuance Fund created pursuant to Section 5.01 of this Indenture.

“Depository” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in the Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in the Bonds.

“Dissemination Agent” means Wilmington Trust, N.A. acting as the dissemination agent under the Continuing Disclosure Agreement or any successor Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means the fees payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement.

“DTC” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

“DTC Participant” means any participant contracting with DTC under its book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“Eligible Funds” means, as of any date of determination, any of:

(a) the proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof by the Underwriter);

(b) the proceeds of the Senior Loan, the Bridge Loan and/or the Subordinate Loan;

(c) amounts paid by the Lender to the Trustee representing advances of the Senior Loan, whether from funds of the Lender, funds from the Lender’s warehouse line or funds derived by the Lender from the issuance and sale of GNMA Securities related to such advances;

(d) amounts drawn by the Trustee on any letter of credit including proceeds of draws received for the benefit of the Borrower;

(e) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer or any Affiliate of either the Borrower or the Issuer);

(f) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an opinion of counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrowers become a debtor in proceedings commenced under the Bankruptcy Code;

(g) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and

(h) investment income derived from the investment of the money described in (a) through (g) above.

“Eligible Investments” means any of the following obligations which mature (or are redeemable at the option of the Trustee) at such time or times as to enable disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture, to the extent the same are at the time legal for investment of the Issuer’s funds (written direction of the Issuer to invest funds shall be conclusive evidence that the directed investment is at the time a legal investment of the Issuer’s funds):

(a) Government Obligations; or

(b) to the extent permitted herein, money market mutual funds rated “AAAm” by S&P (or if S&P is not the Rating Agency or a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

Eligible Investments shall not include the following: (1) any investment with a final maturity or any agreement with a term ending later than the earlier of (i) the current Mandatory Tender Date in effect at the time of investment, (ii) the Maturity Date, or (iii) the Optional Redemption Date (except (A) obligations that provide for the optional or mandatory tender, at par, by the holder of such obligations at any time and (B) Government Obligations irrevocably deposited with the Trustee for payment of Bonds pursuant to Article IX hereof), and (2) any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

“Event of Default” means any of the events described as an Event of Default in Section 7.01 hereof or Section 7.1 of the Bond Loan Agreement.

“Expense Fund” means the Expense Fund created pursuant to Section 5.01 of this Indenture.

“Extension Payment” means the amount due, if any, to provide additional funds for the payment of Bond Service Charges in connection with the change or extension of the Mandatory Tender Date pursuant to this Indenture as determined by a cash flow projection approved in writing by the Rating Agency consisting of Eligible Funds other than the proceeds of the Bonds.

“Extraordinary Services” and “Extraordinary Expenses” mean all services rendered and all reasonable expenses properly incurred by the Trustee under this Indenture, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include services rendered or expenses incurred by the Trustee in connection with, or in contemplation of, an Event of Default.

“Fiscal Year” means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

“Force Majeure” means any of the causes, circumstances or events described as constituting Force Majeure in Section 7.1 of the Bond Loan Agreement.

“GAAP” means generally accepted accounting principles applied on a consistent basis.

“GNMA” means the Government National Mortgage Association, a U.S. government-owned corporation within the United States Department of Housing and Urban Development.

“GNMA Mortgage-Backed Securities Guide” means the GNMA Mortgage-Backed Securities Guide promulgated by GNMA, together with any and all Supplements thereto.

“GNMA Requirements” means the GNMA Mortgage-Backed Securities Guide and all applicable GNMA regulations and administrative requirements.

“GNMA Security” or “GNMA Securities” means a fully modified pass through security in the form of a construction loan certificate or a permanent loan certificate issued by an approved lender and guaranteed by GNMA as to timely payment of principal of and interest on a permanent loan certificate and as to timely payment of interest only until maturity and timely payment of principal at maturity on a construction loan certificate, pursuant to Section 306(g) of the National Housing Act of 1934, as amended, and the regulations promulgated thereunder.

“Government Obligations” means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury), and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by the United States of America.

“Holder,” “Holders,” or “Holder of a Bond” means the Person in whose name a Bond is registered on the Register.

“Indebtedness” shall mean for any Person (a) all indebtedness or other obligations of such Person for borrowed money or for the deferred purchase price of property or services, (b) all indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services, the payment or collection of which such Person has guaranteed (except by reason of endorsement for deposit or collection in the ordinary course of business) or in respect of which such Person is liable, contingently or otherwise, including, without limitation, by way of agreement to purchase, to provide funds for payment, to supply funds to or otherwise to invest in such other Person, or otherwise to assure a creditor against loss, (c) all indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien, upon or in property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness or other obligations, (d) all direct or contingent obligations of such Person in respect of letters of credit, (e) all lease obligations which have been or should be, in accordance with GAAP, capitalized on the books of such Person as lessee, and (f) guaranties of any of the foregoing; provided that Indebtedness does not include accounts payable and accrued expenses incurred in the ordinary course of business.

“Indenture” means this Trust Indenture, dated as of November 1, 2018, between the Issuer and the Trustee, as amended or supplemented from time to time.

“Independent” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in any Borrower or any Affiliate of a Borrower and in the case of an individual is not a director, trustee, officer, partner or employee of a Borrower or any Affiliate of a Borrower and in the case of an entity, does not have a partner, director, trustee, officer, partner or employee who is a director, trustee, officer or employee of any partner of a Borrower or any Affiliate of a Borrower.

“Information Services” means in accordance with then-current guidelines of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor entity or entities designated by the Securities and Exchange Commission.

“Initial Bond” means the initial Bond registered by the Comptroller and subsequently canceled and replaced by a definitive Bond pursuant to this Indenture.

“Initial Deposit Account” means the Initial Deposit Account within the Bond Fund created in Section 5.01 hereof.

“Initial Interest Rate” means \_\_\_\_%.

“Initial Mandatory Tender Date” means November 1, 2020.

“Interest Payment Account” means the Interest Payment Account within the Bond Fund created in Section 5.01 hereof.

“Interest Payment Date” means (a) each May 1 and November 1, commencing May 1, 2019, (b) each Redemption Date and (c) each Mandatory Tender Date.

“Interest Rate” means the Initial Interest Rate to, but not including, the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

“Interest Rate for Advances” means the rate of twelve percent per annum (12%) or the rate per annum which is two percent plus that interest rate announced by the Trustee in its lending capacity as a bank as its “Prime Rate” or its “Base Rate,” whichever is greater and lawfully chargeable, in whole or in part.

“Investor Member” means BF Related Texas, LLC, a Delaware limited liability company and its permitted successors and assigns which is the investor member of the applicable sole member of the Borrower.

“Issuer” means the Texas Department of Housing and Community Affairs, a public and official agency of the State, its successors and assigns.

“Issuer Administration Fee” means the fee payable annually in advance to the Issuer on each November 1, in the amount of .10% per annum of the aggregate principal amount of Bonds Outstanding at the inception of each payment period. On the Closing Date, the Borrower will pay the Issuer Administration Fee in advance to the Issuer for the period from the Closing Date to October 31, 2020. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), payable solely from funds provided by the Borrower, all payments of the Issuer Administration Fee due on or after November 1, 2020.

“Issuer Compliance Fee” means the fee payable annually in advance to the Issuer on each November 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual Issuer Compliance Fee shall be paid on the Closing Date. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), solely from funds provided by the Borrower, all payments of the Issuer Compliance Fee due on or after November 1, 2021. The Issuer Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“Issuer Fees” means, collectively, the Issuer Administration Fee and the Issuer Compliance Fee.

“Lender” means Lancaster Pollard Mortgage Company, LLC, a Delaware limited liability company, its successors and assigns, or Rural Housing Service, an agency of the United States Department of Agriculture, its successors and assigns.

“Lien” means any mortgage, deed of trust, lien, charge, security interest or encumbrance of any kind upon, or pledge of, any property, whether now owned or hereafter acquired, and includes the acquisition of, or agreement to acquire, any property subject to any conditional sale agreement or other title retention agreement, including a lease on terms tantamount thereto or on terms otherwise substantially equivalent to a purchase.

“Local Time” means Central time (daylight or standard, as applicable), in Travis County, Texas.

“Mandatory Tender Date” means the Initial Mandatory Tender Date and if the Bonds outstanding are remarketed pursuant to Article IV for a remarketing period that does not extend to the final maturity of the Bonds, any subsequent mandatory tender date.

“Maturity Date” means November 1, 2021.

“Maximum Rate” shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Bonds under State law pursuant to Chapter 1204 of the Texas Government Code.

“Mortgage” means a deed of trust securing each Senior Loan, as the same may be amended or modified from time to time.

“Notice Address” means:

To the Issuer: Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, Texas 78711  
Attention: Manager of Multifamily Bonds  
Telephone: (512) 475-3344  
Facsimile: (512) 475-1895

To the Trustee: Wilmington Trust, National Association  
15950 North Dallas Parkway, Suite 550  
Dallas, TX 75248  
Attention: Chuck Hicks  
Vice President-CCTS  
Telephone: (972) 383-3152  
Facsimile: (972) 385-0844

To the Borrowers: Texas Housing Foundation  
1110 Broadway  
Marble Falls, TX 78654-5504  
Attention: Mark Mayfield  
Telephone: (830) 693-4521  
Facsimile: (830) 693-5128

With a copy to: Related Affordable  
60 Columbus Circle, 18th Floor  
New York, NY 10023  
Attn: Matthew Finkle

With a copy to: Levitt & Boccio, LLP  
423 West 55th Street, 8th Floor  
New York, NY 10019  
Attention: David S. Boccio, Esq.

With a copy to: The Law Office of Dominic Audino  
One Arboretum Plaza  
9442 N. Capital of Texas Highway, Suite 500  
Austin, TX 78759  
Attention: Dominic Audino  
Telephone: (512) 251-5004  
Facsimile: (512) 252-2820

To the Remarketing Agent: RBC Capital Markets, LLC  
100 2<sup>nd</sup> Avenue, Suite 800  
St. Petersburg, FL 33701  
Attention: Helen Feinberg

To the Lender: Lancaster Pollard Mortgage Company, LLC  
  
Attention: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_  
Facsimile: ( ) \_\_\_\_\_

With a copy to:  
  
Attention: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_  
Facsimile: ( ) \_\_\_\_\_

To the Rating Agency: S&P Global Ratings  
55 Water Street, 38th Floor  
New York, NY 10041  
Attention: Public Finance Surveillance Group  
Email: Pubfin\_housing@spglobal.com

If to Investor Member: BF Related Texas, LLC  
c/o Boston Financial Investment Management, LP  
101 Arch Street, Suite 1300  
Boston, MA 02110  
Attention: Asset Management  
Telephone: (800) 782-7890  
Facsimile: (617) 439-4805

or such additional or different address, notice of which is given under Section 13.03 hereof.

“Opinion of Bond Counsel” means an opinion of Bond Counsel or of other counsel designated by the Issuer and nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Optional Redemption Date” means \_\_\_\_\_, 20\_\_.

“Ordinary Services” and “Ordinary Expenses” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to this Indenture. Without limiting the generality of this definition, Ordinary Services and Ordinary Expenses shall include, without limitation, services provided to the Trustee in connection with the redemption of Bonds as provided in Article IV of this Indenture and in connection with any meetings of Holders of the Bonds as provided in Article XII of this Indenture.

“Outstanding Bonds,” “Bonds outstanding” or “outstanding” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under this Indenture, except:

(a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;

(b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee or any Paying Agents on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);

(c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of this Indenture; and

(d) Bonds in lieu of which others have been authenticated under Section 3.06 of this Indenture.

“Paying Agent” means any bank or trust company designated as a Paying Agent by or in accordance with Section 6.12 of this Indenture.

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Plans and Specifications” means for each Project, the plans and specifications describing the Project as now prepared and as they may be changed as herein provided from time to time.

“Pledged Revenues” means (a) the Bond Loan Payments, (b) all other moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Bond Loans, including without limitation, all moneys and investments in the Bond Fund, (c) any moneys and investments in the Project Fund and the Collateral Fund, and (d) all income and profit from the investment of



the foregoing moneys, excluding in each case amounts related to the Issuer's Reserved Rights. The term "Pledged Revenues" does not include any moneys or investments in the Rebate Fund.

"Predecessor Bond" of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under Section 3.06 of this Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 3.06, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

"Principal Payment Account" means the Principal Payment Account within the Bond Fund created in Section 5.01 hereof.

"Project" means, individually, the acquisition, rehabilitation and equipping by a Borrower of the property described in *Exhibit B* and associated with that Borrower. "Projects" means, collectively, all of such properties described in *Exhibit B*.

"Project Costs" means:

(a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, rehabilitation, installation, improving, equipping or financing of a Project, including costs incurred in respect of a Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the Construction Period with respect to a Project;

(c) Taxes, assessments and other governmental charges in respect of a Project that may become due and payable during the Construction Period;

(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to a Project;

(e) Subject to the Bond Loan Agreement, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee, the Registrar and any Paying Agent properly incurred under this Indenture that may become due and payable during the Construction Period;

(f) Any other costs, expenses, fees and charges properly chargeable to the capital account for a Project for the cost of acquisition, construction, rehabilitation, installation, improving, equipping or financing of the Project;

(g) Payment of interest on the Bonds during the Construction Period; and

(h) Payments to the Rebate Fund.

“Project Fund” means the Project Fund created in Section 5.01 hereof.

“Rating Agency” means S&P Global Ratings (“S&P”), Moody’s Investors Service (“Moody’s”) or any other nationally recognized municipal securities rating agency.

“Rebate Fund” means the Rebate Fund created in Section 5.01 hereof.

“Redemption Date” means any date hereunder on which the Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds, or (c) pursuant to Sections 4.01 and 4.02 hereof.

“Register” means the books kept and maintained by the Registrar for registration and transfer of Bonds pursuant to Section 3.05 hereof.

“Registrar” means the Trustee, until a successor Registrar shall have become such pursuant to applicable provisions of this Indenture; each Registrar shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934.

“Regular Record Date” means, the close of business on the 15th day of the calendar month next preceding an Interest Payment Date applicable to that Bond.

“Regulatory Agreement” means, collectively, each Regulatory and Land Use Restriction Agreement dated as of November 1, 2018, between the Issuer, a Borrower and the Trustee with respect to each Project.

“Remarketing Agent” means initially RBC Capital Markets, LLC, and any successor Remarketing Agent that may be appointed by the Issuer.

“Remarketing Notice Parties” means the Authorized Borrowers’ Representative, the Issuer, the Trustee, the Remarketing Agent, and the Rating Agency.

“Remarketing Rate” means the interest rate or rates established pursuant to Article IV and borne by the Bonds then Outstanding from and including the Mandatory Tender Date to a new Mandatory Tender Date or the Maturity Date, as applicable, determined pursuant to Section 4.03 hereof; provided that the Remarketing Rate shall never exceed the Maximum Rate.

“Reserved Rights” of the Issuer means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to Section 4.02 of the Bond Loan Agreement, including the Issuer’s Fees; (c) all rights of the Issuer to receive any Rebate Amount (as defined in the Tax Exemption Agreement) required to be rebated to the United States of America under the Code in connection with the Bonds, as described in the Tax Exemption Agreement; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent hereunder and under the Bond Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Bond Loan Agreement, in the Tax Exemption Agreement and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set

forth in this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, or the Subordinate Mortgage, as applicable, regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act, this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, the Subordinate Mortgage or the Note, (4) no liability of the Issuer to third parties, and (5) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of this Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, Subordinate Mortgage and the Note; (h) any and all limitations of the Issuer's liability and the Issuer's disclaimers of warranties set forth in this Indenture, the Regulatory Agreement, the Tax Exemption Agreement or the Bond Loan Agreement, and the Issuer's right to inspect and audit the books, records and permits of the Borrower and the Project.

“RHS” means the Rural Housing Service, an agency of the United States Department of Agriculture.

“RHS Requirements” means all applicable RHS regulations and administrative guidelines.

“Section 538 Projects Pool” means the Projects receiving funding under the Senior Loan as indicated by an asterisk on Exhibit B hereto.

“Senior Loan” means proceeds from one or more loans made for any Project under the RHS department of the USDA Section 538 Guaranteed Rural Rental Housing Loan Program.

“Senior Loan Documents” means the documents executed by each Borrower with respect to the making of the Senior Loan.

“Special Funds” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund, and any accounts therein, all as created in this Indenture.

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“State” means the State of Texas.

“Subordinate Loan” means proceeds from one or more loans made for any Project under the RHS department of the USDA Section 515 Program.

“Subordinate Mortgage” means the Subordinate Multifamily Leasehold Deed of Trust, Security Agreement and Fixture Filing dated as of November 1, 2018 from the Borrower for the benefit of the Issuer as security for the Borrower's obligations under the Bond Loan Agreement.

“Supplemental Indenture” means any indenture supplemental to this Indenture entered into between the Issuer and the Trustee in accordance with Article VIII hereof.

“Tax Exemption Agreement” means that certain Tax Exemption Certificate and Agreement, among the Issuer, each Borrower and the Trustee dated as of the date hereof, as in

effect on the Closing Date and as it may thereafter be amended or supplemented, or restated in accordance with its terms.

“Trustee” means Wilmington Trust, N.A., until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“Underwriter” means RBC Capital Markets, LLC.

“Unredeemed Bonds” means Bonds tendered or deemed tendered upon mandatory tender but not redeemed.

“USDA” means the United States Department of Agriculture.

**Section 1.02. Interpretation.**

Any reference herein to the Issuer, to the Board or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the laws of the State, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee, the Registrar, any Paying Agent, any Authenticating Agent or a Borrower under this Indenture, the Bond Resolution, the Bonds, the Bond Loan Agreement, the Bond Note, the Tax Exemption Agreement or the Regulatory Agreement or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Bond Service Charges in the amount and manner, at the times, and from the sources provided in the Bond Resolution and this Indenture, except as permitted herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder,” “hereinafter” and similar terms refer to this Indenture; and the term “hereafter” means after, and the term “heretofore” means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**Section 1.03. Captions and Headings.**

The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

[End of Article I]

**ARTICLE II**  
**AUTHORIZATION AND TERMS OF BONDS**

**Section 2.01. Authorized Amount of Bonds.**

No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total authorized principal amount of Bonds which shall be issued under the provisions of this Indenture is \$20,000,000.

**Section 2.02. Issuance of Bonds.**

The Issuer has agreed to issue, sell and deliver \$20,000,000 principal amount of Bonds and shall loan the proceeds thereof to the Borrowers to finance the Projects. The Bonds shall be designated "Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018" shall be issuable only in fully registered form, substantially as set forth in *Exhibit A* to this Indenture and shall be numbered in such manner as determined by the Trustee in order to distinguish each Bond from any other Bond, except for the Initial Bond which shall be numbered I-1; shall be in Authorized Denominations; shall be dated the Closing Date; and shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date of delivery.

The Bonds shall mature on the Maturity Date and shall bear interest from their date on the principal amount outstanding at the Interest Rate, payable on each Interest Payment Date, calculated on the basis of a 360-day year consisting of twelve 30-day months.

**Section 2.03. Authorization of Bonds; Sale and Delivery of the Bonds.**

Upon the execution and delivery hereof, the Issuer shall execute the Bonds and deliver them to the Trustee, and the Trustee shall authenticate or cause the authentication of the Bonds and deliver them to such purchaser or purchasers as shall be directed by the Issuer, provided, that there shall be previous thereto or simultaneous therewith filed with the Trustee the following:

- (a) a copy, certified by the Secretary of the Issuer, of all resolutions adopted and proceedings had by the Issuer authorizing the issuance and delivery of the Bonds, including the Bond Resolution;
- (b) a letter of instructions of the Issuer directing the Trustee to authenticate and deliver the Bonds against receipt of the purchase price therefor;
- (c) original executed counterparts of this Indenture, the Bond Loan Agreement, the Tax Exemption Agreement and the Regulatory Agreement;
- (d) an opinion of Bond Counsel in form and content acceptable to the Issuer and the Underwriter; and
- (e) an opinion of counsel for the Borrowers in form and content acceptable to the Issuer, Bond Counsel and the Underwriter.

(f) Evidence that the Bonds have received a rating of “AA+” from the Rating Agency.

**Section 2.04. Limited Obligations.**

THE OBLIGATIONS OF THE ISSUER WITH RESPECT TO THE BONDS ARE NOT GENERAL OR SPECIAL OBLIGATIONS OF THE ISSUER BUT ARE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE BY THE ISSUER SOLELY FROM THE PLEDGED REVENUES. THE BONDS SHALL NOT BE A DEBT OF THE STATE, THE ISSUER OR OF ANY OTHER POLITICAL SUBDIVISION OF THE STATE, AND NONE OF THE STATE, THE ISSUER OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE SHALL BE LIABLE FOR THE PAYMENT OF THE BONDS. THE FAITH AND CREDIT OF THE STATE OR OF ANY POLITICAL SUBDIVISION OF THE STATE ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

No provision, covenant, or agreement contained in this Indenture or the Bonds, or any obligation herein or therein imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose a liability upon the Issuer (except from the Pledged Revenues), or upon any of its officers, employees, or agents, or constitute a charge upon the Issuer’s general credit; provided that nothing contained herein or in the Act impairs the rights of the Trustee to enforce the covenants made for the security of the Bonds as provided herein and in the Act. Any recourse for a cause of action under this Indenture or the Bonds shall be payable solely from the Pledged Revenues. It is recognized that notwithstanding any other provision of this Indenture, none of the Borrowers, the Trustee or any holder of the Bonds shall look to the Issuer for damages suffered by the Borrower, the Trustee or such owner as a result of the failure of the Issuer to perform any covenant, undertaking or obligation under this Indenture, the Bond Loan Agreement, the Bonds or any of the other documents referred to herein, or as a result of the incorrectness of any representation made by the Issuer in any of such documents, or for any other reason.

[End of Article II]

**ARTICLE III  
TERMS OF BONDS GENERALLY**

**Section 3.01. Form of Bonds.**

The Bonds, the certificate of authentication and the form of assignment shall be in the respective forms thereof set forth in *Exhibit A* to this Indenture.

The Initial Bond, which shall be numbered I-1 and payable to the Underwriter and registered by the Comptroller, shall be identical to the form of Bond attached as Exhibit A, except that the second-to-last paragraph of the Initial Bond shall read as follows:

“This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Indenture unless the Comptroller’s Registration Certificate hereon has been executed by an authorized representative of the Texas Comptroller of Public Accounts by manual signature.”

In lieu of the authentication certificate of the Trustee, the Initial Bond shall contain the following certificate:

**“REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS**

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
THE STATE OF TEXAS	§	

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Texas Comptroller of Public Accounts.

Witness my signature and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts of the  
State of Texas

(SEAL)”

The provisions of Exhibit A may be rearranged or re-ordered for purposes of the Initial Bond.

All Bonds, unless a Supplemental Indenture shall have been executed and delivered pursuant to Section 8.02 hereof, shall be in fully registered form, and, except as provided in Section

3.05 hereof, the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

The Bonds shall be negotiable instruments in accordance with the Act, and shall express the purpose for which they are issued and any other statements or legends which may be required by law. Each Bond shall be of a single maturity, unless the Trustee shall approve the authentication and delivery of a Bond of more than one maturity.

**Section 3.02.      Execution and Authentication of Bonds.**

Unless otherwise provided in the Bond Resolution or Supplemental Indenture, each Bond shall be signed by the Chair or Vice Chair of the Issuer and attested to by the Secretary or Assistant Secretary of the Issuer in their official capacities (provided that any or all of those signatures may be facsimiles). In case any officer whose signature or a facsimile of whose signature shall appear on any Bond shall cease to be that officer before the issuance of the Bond, his signature or the facsimile thereof nevertheless shall be valid and sufficient for all purposes, the same as if he had remained in office until that time. Any Bond may be executed on behalf of the Issuer by an officer who, on the date of execution is the proper officer, although on the date of the Bond that person was not the proper officer.

No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Indenture unless and until a registration certificate of the Comptroller or a certificate of authentication, substantially in the form set forth in *Exhibit A* to this Indenture, has been signed by the Trustee or by any Authenticating Agent on behalf of the Trustee. The authentication by the Trustee or by an Authenticating Agent upon any Bond shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered hereunder and is entitled to the security and benefit of this Indenture. The certificate of the Trustee or an Authenticating Agent may be executed by any person authorized by the Trustee or Authenticating Agent, but it shall not be necessary that the same authorized person sign the certificates of authentication on all of the Bonds.

**Section 3.03.      Source of Payment of Bonds.**

(i) The Bonds and the interest thereon shall be limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from the Pledged Revenues, including but not limited to moneys and investments in the Special Funds, (ii) the payment of Bond Service Charges on the Bonds shall be secured by the assignment of the Pledged Revenues hereunder and by this Indenture, and (iii) payments due on the Bonds also shall be secured by the Bond Note. The Bonds are not and never shall become general or special obligations of the Issuer.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against the Issuer, any past, present or future member of its governing body, its officers, attorneys, accountants, financial advisors, agents or staff, or the officers, attorneys, accountants, financial advisors, agents or staff of any successor public entity, as such, either directly or through the Issuer or any successor public entity, under any rule of law or penalty



or otherwise, and all such liability of the Issuer, any member of its governing body and its officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of the Bonds, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of any of the Bonds.

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THIS INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR ANY SUCH AGENCY, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.**

**Section 3.04. Payment and Ownership of Bonds.**

Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee or any Paying Agent. Subject to the provisions of Section 3.09 of this Indenture, (i) the principal of any Bond shall be payable when due to a Holder upon presentation and surrender of such Bond at the designated corporate trust office of the Trustee or at the office, designated by the Trustee, of any Paying Agent, and (ii) interest on any Bond shall be paid on each Interest Payment Date by check or draft which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

If and to the extent, however, that the Issuer shall fail to make payment or provision for payment of interest on any Bond on any Interest Payment Date, that interest shall cease to be payable to the Person who was the Holder of that Bond (or of one or more Predecessor Bonds) as of the applicable Regular Record Date. In that event, except as provided below in this Section, when moneys become available for payment of the interest, (x) the Trustee shall, pursuant to Section 7.06(d), establish a Special Record Date for the payment of that interest which shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (y) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first-

class mail, postage prepaid, to each Holder at its address as it appears on the Register not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds (or their respective Predecessor Bonds) at the close of business on the Special Record Date.

Subject to the foregoing, each Bond delivered under this Indenture upon transfer thereof, or in exchange for or in replacement of any other Bond, shall carry the rights to interest accrued and unpaid, and to accrue on that Bond, or which were carried by that Bond.

Except as provided in this Section and the first paragraph of Section 3.06 hereof, (i) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (ii) payment of or on account of the Bond Service Charges on any Bond shall be made only to or upon the order of that Holder or its duly authorized attorney in the manner permitted by this Indenture, and (iii) neither the Issuer, the Trustee, the Registrar nor any Paying Agent or Authenticating Agent shall, to the extent permitted by law, be affected by notice to the contrary. All of those payments shall be valid and effective to satisfy and discharge the liability upon that Bond, including without limitation, the interest thereon, to the extent of the amount or amounts so paid.

### **Section 3.05. Registration, Transfer and Exchange of Bonds.**

The Trustee shall cause the Bond Register to be kept for the registration of Bonds and the registration of transfers of Bonds. The registration of any Bond may be transferred only upon an assignment duly executed by the registered holder or his duly authorized representative in such form as shall be satisfactory to the Trustee, and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for registration of transfer, the Issuer shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of the same series and of Authorized Denomination or Denominations and for the amount of such Bond or Bonds so surrendered.

Any Bond may be exchanged at the designated office of the Trustee, for a new Bond or Bonds of an Authorized Denomination and for the aggregate amount of, and of the same series as, such Bond then remaining Outstanding.

In all cases in which the registration of Bonds shall be transferred or Bonds shall be exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange, and all such taxes, fees or charges shall be Ordinary Expenses payable as scheduled pursuant to Section 6.03 hereof. The Trustee shall not be required to transfer or exchange any Bond after notice calling such Bond for redemption has been mailed.

The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and premium and interest on any such Bond shall be made only to or upon the order of the holder thereof, or its legal representative, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums to be paid.

**Section 3.06. Mutilated, Lost, Wrongfully Taken or Destroyed Bonds.**

If any Bond is mutilated, lost, wrongfully taken or destroyed, in the absence of written notice to the Issuer or the Registrar that a lost, wrongfully taken or destroyed Bond has been acquired by a bona fide purchaser, the Issuer shall execute, and the Registrar shall authenticate and deliver, a new Bond of like date, maturity and denomination as the Bond mutilated, lost, wrongfully taken or destroyed; provided, that (i) in the case of any mutilated Bond, the mutilated Bond first shall be surrendered to the Registrar, and (ii) in the case of any lost, wrongfully taken or destroyed Bond, there first shall be furnished to the Registrar evidence of the loss, wrongful taking or destruction satisfactory to the Registrar, together with indemnity satisfactory to the Authorized Borrowers' Representative, the Trustee, the Registrar and the Authorized Official.

If any lost, wrongfully taken or destroyed Bond shall have matured, instead of issuing a new Bond, the Authorized Borrowers' Representative may direct the Trustee to pay that Bond without surrender thereof upon the furnishing of satisfactory evidence and indemnity as in the case of issuance of a new Bond. The Issuer, the Registrar and the Trustee may charge the Holder of a mutilated, lost, wrongfully taken or destroyed Bond their reasonable fees and expenses in connection with their actions pursuant to this Section.

Every new Bond issued pursuant to this Section by reason of any Bond being mutilated, lost, wrongfully taken or destroyed (i) shall constitute, to the extent of the outstanding principal amount of the Bond lost, mutilated, taken or destroyed, an additional contractual obligation of the Issuer, regardless of whether the mutilated, lost, wrongfully taken or destroyed Bond shall be enforceable at any time by anyone and (ii) shall be entitled to all of the benefits of this Indenture equally and proportionately with any and all other Bonds issued and outstanding hereunder.

All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, wrongfully taken or destroyed Bonds and, to the extent permitted by law, shall preclude any and all other rights and remedies with respect to the replacement or payment of negotiable instruments or other investment securities without their surrender, notwithstanding any law or statute to the contrary now existing or enacted hereafter.

**Section 3.07. Cancellation of Bonds.**

Any Bond surrendered pursuant to this Article for the purpose of payment or retirement or for exchange, replacement or transfer shall be cancelled upon presentation and surrender thereof to the Registrar, the Trustee or any Paying Agent or Authenticating Agent. Any Bond cancelled by the Trustee or a Paying Agent or Authenticating Agent shall be transmitted promptly to the Registrar by the Trustee, Paying Agent or Authenticating Agent.

The Issuer, or the Borrowers on behalf of the Issuer, may deliver at any time to the Registrar for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Borrowers may have acquired in any manner whatsoever. All Bonds so delivered shall be cancelled promptly by the Registrar. Certification of the surrender and cancellation shall be made to the Issuer and the Trustee by the Registrar at least once each calendar year. Unless otherwise directed by the Issuer, cancelled Bonds shall be retained and stored by the Registrar for a period

of four years after their cancellation. Those cancelled Bonds shall be destroyed by the Registrar by shredding or incineration at that time or at any earlier time directed by the Issuer. Upon request, the Registrar shall provide certificates describing the destruction of cancelled Bonds to the Issuer and the Trustee. The costs of such storage, shredding, incineration and certification shall constitute Ordinary Expenses payable as scheduled pursuant to Section 6.03 hereof.

**Section 3.08. Special Agreement with Holders.**

Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the written approval of the Borrowers, the Trustee may enter into an agreement with any Holder providing for making all payments to that Holder of principal of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrowers; provided, that payment in any event shall be made to the Person in whose name a Bond shall be registered on the Register, with respect to payment of principal, on the date such principal is due, and, with respect to the payment of interest, as of the applicable Regular Record Date or Special Record Date, as the case may be.

The Trustee will furnish a copy of any such agreement, certified to be correct by an officer of the Trustee, to the Registrar, the Issuer and the Borrowers. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

**Section 3.09. Book-Entry Only System.**

Notwithstanding any provision of this Indenture to the contrary, the Issuer may direct that all Bonds issued hereunder shall be initially issued in a Book Entry System, registered in the name of a Depository or its nominee as registered owner of the Bonds, and held in the custody of that Depository. Unless otherwise requested by a Depository, a single certificate will be issued and delivered to the Depository for each maturity of Bonds. Beneficial owners of Bonds in a Book Entry System will not receive physical delivery of Bond certificates except as provided hereinafter. For so long as a Depository shall continue to serve as securities depository for the Bonds as provided herein, all transfers of beneficial ownership interests will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Bonds is to receive, hold or deliver any Bond certificate; provided; that, if a Depository fails or refuses to act as securities depository for the Bonds, the Issuer shall take the actions necessary to provide for the issuance of Bond certificates to the Holders of such Bonds.

With respect to Bonds registered in the name of a Depository, the Issuer, the Borrowers and the Trustee shall have no responsibility or obligation to any participant therein or to any Person on whose behalf any participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, neither the Issuer, the Borrowers nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Depository or any participant therein or any other Person, other than a registered owner of the Bonds, as shown on the registration books, or (ii) any notice with respect to the Bonds or (iii) the payment to any participant in the Depository or any other Person, other than a registered owner of the Bonds, as shown in the

registration books, of any amount with respect to principal of or interest on or purchase price of the Bonds.

Replacement Bonds may be issued directly to beneficial owners of Bonds other than a Depository, or its nominee, but only in the event that (i) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (ii) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and beneficial owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (iii) the Issuer has determined (which determination is conclusive as to the Depository and the beneficial owners of the Bonds) that the interests of the beneficial owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrowers shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrowers fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrowers, at the Borrowers' expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the beneficial owners of the Bonds. In the event that the Issuer makes the determination noted in (ii) or (iii) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination), and has made provisions to notify the beneficial owners of Bonds of such determination by mailing an appropriate notice to the Depository, it and the Borrowers shall cause to be issued replacement Bonds in certificate form to beneficial owners of the Bonds as shown on the records of the Depository provided to the Issuer.

Upon the written consent of one hundred percent (100%) of the beneficial owners of the Bonds, the Trustee shall withdraw the Bonds from any Depository and authenticate and deliver Bonds fully registered to the assignees of that Depository or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the persons requesting such withdrawal, authentication and delivery; otherwise such withdrawal, authentication and delivery shall be at the cost and expense of the Borrowers.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (i) the requirements in this Indenture of holding, delivering or transferring Bonds shall be deemed modified to require the appropriate Person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of this Indenture to the contrary.

The Trustee and the Issuer shall enter into any letter of representation with a Depository to implement the Book Entry System of Bond registration described above.

[End of Article III]

**ARTICLE IV  
REDEMPTION AND TENDER OF BONDS**

**Section 4.01. Redemption of Bonds; Purchase in Lieu of Redemption.**

(a) The Bonds are subject to optional redemption prior to their maturity, at the direction of the Authorized Borrowers' Representative, either in whole or in part on any date on or after the later to occur of (i) the date that the Projects all have been placed in service, as certified in writing by the Borrowers to the Trustee, and (ii) the Optional Redemption Date at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

(b) The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in Section 4.04(a) have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

(c) At least thirty (30) days but not more than sixty (60) days before the Redemption Date, whether such redemption shall be in whole or in part, the Trustee shall cause a notice of such redemption, signed by the Trustee, to be mailed, postage prepaid, to all Holders of the Bonds to be redeemed at their addresses as they appear on the registration books maintained by the Trustee, but failure to mail any such notice to one or more Owners or any defect in such notice shall not affect the validity of the proceedings for such redemption with respect to any other Owner.

(d) Any notice of redemption may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the Redemption Date of moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Bond shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and premium, if any, and interest on such Bonds are not received by the Trustee on or prior to the Redemption Date, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

(e) At the election of the Borrower, upon a redemption in whole of the Bonds, by written notice to the Trustee given not less than five (5) Business Days in advance of such Redemption Date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and shall

be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain Outstanding and shall be registered to or upon the direction of the Borrower.

(f) The Trustee shall pay the redemption price of Bonds, or the purchase price from Bonds deemed to be tendered pursuant to subsection (e), from the following sources in the following priority: (i) amounts on deposit in the Collateral Fund and the Initial Deposit Account and the Interest Payment Account of the Bond Fund, to the extent not needed to reimburse the Lender for any advances of Senior Loan proceeds and (ii) any other Eligible Funds available or made available for such purpose at the direction of the Authorized Borrower Representative.

**Section 4.02. Mandatory Tender.**

(a) The Bonds are subject to mandatory tender in whole and not in part on the Mandatory Tender Date and shall be purchased at a price equal to 100 percent of the principal amount of such Bonds, plus accrued interest, if any to the Mandatory Tender Date, and without premium. No later than 10:00 a.m., Eastern time, on the Mandatory Tender Date, the Holders shall deliver the Bonds to the Trustee. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Eastern time on the Mandatory Tender Date, in the following priority; (i) amounts representing proceeds of remarketed Bonds received pursuant to Section 4.05(c) hereof, to pay the principal amount, plus accrued interest, of Unredeemed Bonds tendered or deemed tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds other than Unredeemed Bonds tendered or deemed tendered for purchase, (iii) amounts on deposit in the Initial Deposit Account of the Bond Fund to pay the accrued interest, if any, on Bonds other than Unredeemed Bonds tendered or deemed tendered for purchase and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Authorized Borrowers' Representative.

(b) Not less than 30 days before the Mandatory Tender Date, the Trustee shall give written notice of tender and remarketing to the Holders by first class mail, postage prepaid, at their respective addresses appearing on the Bond Register. The notice shall state the Mandatory Tender Date and that:

(1) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date and must be tendered for purchase on the Mandatory Tender Date;

(2) all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date;

(3) Holders will not have the right to elect to retain their Bonds and any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date; and

(4) the address of the office of the Trustee at which Holders should deliver their Bonds for purchase on the Mandatory Tender Date.

If notice is given as stated in this subsection, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the remarketing or the validity of the proceedings for the remarketing of the Bonds.

**Section 4.03. Duties of Remarketing Agent.**

The Remarketing Agent shall do the following in connection with the remarketing of the Bonds:

(a) Unless otherwise directed in writing by the Authorized Officer, not less than 10 days before the Mandatory Tender Date, the Remarketing Agent shall offer for sale and use its best efforts to sell Unredeemed Bonds on the Mandatory Tender Date at a price equal to 100 percent of the principal amount of such Unredeemed Bonds plus accrued interest, if any.

(b) Establishment of Interest Rate In Connection With Remarketing of Unredeemed Bonds.

(1) Establishment of Interest Rate. From and after the Mandatory Tender Date, the Unredeemed Bonds shall bear interest at the Remarketing Rate determined pursuant to this subsection. Any Remarketing Rate determined by the Remarketing Agent and taking effect pursuant to this Indenture shall be conclusive and binding for the purposes of this Indenture upon the Trustee, the Issuer, the Borrowers, and the Holders.

(2) Determination of Remarketing Rate. The Remarketing Agent shall determine the Remarketing Rate on or before the Mandatory Tender Date to be effective to a new Mandatory Tender Date selected by the Borrowers with the consent of the Remarketing Agent or the Maturity Date, as applicable. The Remarketing Rate shall be the minimum rate of interest necessary, in the professional judgment of the Remarketing Agent, taking into consideration prevailing market conditions, to enable the Remarketing Agent to remarket all of the Bonds outstanding on a new Mandatory Tender Date at par for the period beginning on the Mandatory Tender Date and ending on or before the Mandatory Tender Date of the Bonds or the Maturity Date, as applicable, plus an additional amount, if any, equal to the additional interest due on the Bonds for such period (after accounting for any remaining funds in the Initial Deposit Account) which amount shall be deposited by the Trustee into the Initial Deposit Account.

(3) Notice. Immediately upon determining the Remarketing Rate, the Remarketing Agent shall give notice to the other Remarketing Notice Parties. In no event shall the Remarketing Agent give its notice later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate.



**Section 4.04. Conditions Precedent to Remarketing of Bonds and Notice.**

(a) Conditions Precedent to Remarketing of Unredeemed Bonds. The remarketing of the Unredeemed Bonds on the Mandatory Tender Date is subject to the satisfaction of each of the following conditions precedent not less than four Business Days before the Mandatory Tender Date:

(1) The Trustee has received notice from the Remarketing Agent that all of the Unredeemed Bonds have been remarketed and that the proceeds from the remarketing are expected to be available to the Trustee on the Mandatory Tender Date and deposited into the Bond Fund in an amount equal to the principal amount of the Unredeemed Bonds.

(2) The Trustee has received written notice from the Issuer that the Issuer has approved as to form and substance any disclosure document or offering materials which, in the opinion of counsel to the Issuer and the Remarketing Agent, are necessary to be used in connection with the remarketing of the Unredeemed Bonds.

(3) The Trustee has received written notice from the Remarketing Agent that the Remarketing Agent has received written confirmation from the Rating Agency that the then current rating assigned to the Unredeemed Bonds will continue to be effective on the Mandatory Tender Date.

(4) The Trustee has received an opinion of Bond Counsel to the effect that the remarketing of the Unredeemed Bonds will not adversely affect the excludability of interest on the Unredeemed Bonds from gross income for federal income tax purposes.

(5) The Trustee has received an amount necessary to cover negative arbitrage, if any, in connection with remarketed Bonds as determined by the Remarketing Agent, through the earlier of the Mandatory Tender Date or the Maturity Date.

(b) Notice of Satisfaction of Conditions Precedent. If the conditions set out in subsection (a) are satisfied, the Trustee shall immediately give notice to the other Remarketing Notice Parties stating that (i) all conditions precedent to the remarketing of the Unredeemed Bonds have been satisfied and (ii) the remarketing and settlement of the Unredeemed Bonds is expected to occur on the Mandatory Tender Date.

(c) Remarketing Costs. The costs of remarketing of the Unredeemed Bonds shall be paid by the Borrowers.

**Section 4.05. Remarketing of Bonds.**

(a) Delivery of Bonds by Holder for Purchase. Each Holder must deliver its Bonds to the Trustee for purchase not later than 10:00 a.m., Eastern time, on the Mandatory Tender Date. Unredeemed Bonds received by the Trustee shall be held by the Trustee in trust for the tendering Holders pending receipt of funds for the payment of such Unredeemed Bonds.

(b) Untendered Bond. Any Bond which is not tendered on the Mandatory Tender Date (an “Untendered Bond”) will be deemed to have been tendered to the Trustee as of such Mandatory

Tender Date, and, from and after such Mandatory Tender Date shall cease to bear interest and no longer will be considered to be outstanding. In the event of a failure by owners to deliver Bonds on the Mandatory Tender Date, such Holders will not be entitled to any payment (including any interest to accrue from and after the Mandatory Tender Date) other than the purchase price for such Untendered Bond, and any Untendered Bond will no longer be entitled to the benefits of this Indenture, except for the purpose of payment of the purchase price for such Untendered Bond.

(c) Delivery of Purchase Price of Remarketed Bonds. The Remarketing Agent shall give notice to the Remarketing Notice Parties no fewer than four (4) days prior to the Mandatory Tender Date specifying the names, addresses and taxpayer identification numbers of the purchasers of, and the principal amount and denominations of, such Unredeemed Bonds, if any, for which it has found purchasers. The Remarketing Agent shall instruct such purchasers to deliver to the Trustee, no later than 11:00 a.m., Eastern time, on the Mandatory Tender Date, in immediately available funds, remarketing proceeds to the extent the Unredeemed Bonds have been successfully remarketed (plus an additional amount, if any, equal to the additional interest due on the Bonds for such period (after accounting for any remaining funds in the Initial Deposit Account) which amount shall be deposited by the Trustee into the Initial Deposit Account). Upon receipt by the Trustee of such amount from such purchasers, the Trustee shall transfer the registered ownership of the Unredeemed Bonds to the respective new purchasers and deliver such Unredeemed Bonds to such purchasers. Moneys deposited with the Trustee for the purchase of Unredeemed Bonds shall be held in trust in the Bond Fund and shall be paid to the tendering Holder upon presentation of its Bonds at the designated office of the Trustee.

(d) Notice of Remarketing to Holders of Untendered Bonds. The Trustee shall promptly give notice by registered or “certified first class” mail, postage prepaid, to each Holder of Bonds whose Bonds are deemed to have been purchased stating that interest on such Bonds ceased to accrue on the date of purchase and that moneys representing the purchase price of such Bonds are available against delivery of such Bonds at the designated office of the Trustee.

**Section 4.06. Cancellation of Bonds.**

The Trustee shall immediately cancel those Bonds the tender price of which is paid from amounts other than proceeds derived from the remarketing of the Bonds.

[End of Article IV]

**ARTICLE V  
PROVISIONS AS TO FUNDS,  
PAYMENTS, PROJECTS AND AGREEMENT**

**Section 5.01. Creation of Funds; Allocation of Bond Proceeds.**

(a) The funds and accounts described in this Section, designated as indicated are created by this Section 5.01 in this Indenture. Each Fund is to be maintained in the custody of the Trustee as a separate bank account (except when invested in Eligible Investments). The funds and accounts are:

- (1) the Bond Fund designated “Bond Fund,” and the “Interest Payment Account,” “Principal Payment Account,” and the “Initial Deposit Account” therein;
- (2) the Project Fund designated “Project Fund;” and
- (3) the Collateral Fund designated “Collateral Fund”; and
- (4) the Rebate Fund designated “Rebate Fund”; and
- (5) the Costs of Issuance Fund designated “Costs of Issuance Fund”; and
- (6) the Expense Fund designated “Expense Fund”; and
- (7) the Borrower’s Equity Fund designated “Borrower’s Equity Fund” and the “Eligible Funds Account” and the “Non-Eligible Funds Account” therein.

(b) The proceeds of the sale of the Bonds (including without limitation, the premium, if any) shall be allocated, deposited or delivered by the Trustee on the Closing Date

- (1) to the Project Fund, the amount of \$ \_\_\_\_\_; and
- (2) to the Initial Deposit Account of the Bond Fund, the amount of \$ \_\_\_\_\_.

(c) On the Closing Date, the Trustee shall deposit \$ \_\_\_\_\_, of funds which are not Eligible Funds, received by or on behalf of the Borrowers, to the Costs of Issuance Fund,

(d) On the Closing Date, the Trustee shall deposit \$ \_\_\_\_\_, of Eligible Funds as follows:

- (1) to the Initial Deposit Account of the Bond Fund, the amount of \$ \_\_\_\_\_;
- (2) to the Eligible Funds Account of the Borrower’s Equity Fund, the amount of \$ \_\_\_\_\_; and
- (3) to the Collateral Fund, the amount of \$ \_\_\_\_\_.

**Section 5.02. Application of Bond Loan Payments.**

So long as there are any Outstanding Bonds, any payments by the Borrowers pursuant to the Bond Note and the Bond Loan Agreement shall be paid on each Bond Loan Payment Date directly to the Trustee, and deposited as follows: (1) into the Interest Payment Account, at least the amount necessary to pay the interest on the Bonds on the next succeeding Interest Payment Date; and (2) into the Principal Payment Account, at least the amount necessary to pay the principal due on the Bonds on the next succeeding Interest Payment Date.

**Section 5.03. Disbursements from and Records of Project Fund.**

When the Trustee receives a request for disbursement from the Project Fund in accordance with the provisions of Section 3.4 of the Bond Loan Agreement, the Trustee shall confirm that Eligible Funds are on deposit in the Collateral Fund in an amount equal to or greater than the sum of (a) the amount set forth in the request for disbursement and (b) all prior disbursements. Upon confirmation of the above, the Trustee shall thereafter disburse funds to pay Project Costs in the amount requested from the Project Fund, to the extent the corresponding deposit to the Collateral Fund was made by the Lender; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is hereby authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund at original cost plus accrued interest (if applicable), in the amount specified in the request for disbursement, to the Collateral Fund, and (ii) transfer a like amount of Collateral Payments on deposit in the Collateral Fund to the Project Fund.

Payments from the Project Fund shall be paid by wire transfer to the applicable party. If the deposit to the Collateral Fund is deposited by noon, then the wire transfer shall occur no later than the close of business on the Business Day the day the deposit is made. If the deposit to the Collateral Fund is deposited after noon Eastern time, then the wire transfer shall occur no later than 10:00 a.m. Eastern time on the Business Day following the day the deposit is made.

Notwithstanding anything in this section to the contrary, the Trustee shall hereby be permitted to transfer funds from the Project Fund directly to the Collateral Fund upon the request of the Authorized Borrowers' Representative substantially in the form attached hereto as *Exhibit C*, which shall be consecutively numbered.

The Trustee shall cause to be kept and maintained adequate records pertaining to the amounts deposited to the Project Fund, the investment thereof and all disbursements therefrom as herein provided. After a Project has been completed and a completion certificate for such Project is filed as provided in Section 5.14 hereof, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with respect to that Project with the Issuer, the Authorized Borrowers' Representative, the Lender and the Investor Member.

Upon the occurrence and continuance of an Event of Default hereunder because of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to Section 7.03 hereof, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

**Section 5.04. Collateral Fund.**

Eligible Funds shall be deposited from time to time in the Collateral Fund in such amounts and at such times as may be necessary to allow the Trustee to transfer funds from the Project Fund upon the Trustee's receipt of a request for disbursement. The Collateral Fund shall only be used and applied for, and irrevocably committed to, the payment of (i) the Bond Service Charges on the Bonds which are due and payable on any Interest Payment Date and the Maturity Date and (ii) the Bond Services Charges on the Bonds as and when due at any other Bond Payment Date.

**Section 5.05. Bond Fund.**

There shall be deposited in the Bond Fund (and credited to appropriate accounts therein), from the proceeds of the sale of the Bonds, any accrued interest paid by the Holder.

The Bond Fund (and accounts therein for which provision is made in this Indenture or in the Bond Loan Agreement) and the moneys and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges, as they become due and at stated maturity, or upon acceleration, all as provided herein and in the Bond Loan Agreement.

The Trustee shall transmit to the Paying Agent from moneys on deposit in the Bond Fund, amounts sufficient to make timely payments of Bond Service Charges on the Bonds. To the extent that the amount needed by the Paying Agent is not sufficiently predictable, the Trustee may make any credit arrangements with the Paying Agent which will permit those payments to be made. The Issuer authorizes and directs the Trustee to cause withdrawal of moneys from the Bond Fund which are available for the purpose of paying, and are sufficient to pay, the Bond Service Charges on the Bonds as they become due and payable, for the purposes of paying or transferring moneys to the Paying Agent which are necessary to pay the Bond Service Charges. Amounts credited to or on deposit in the Initial Deposit Account shall be transferred to the Interest Payment Account of the Bond Fund on each Bond Loan Payment Date in order to provide for the payment of the Bond Service Charges on the next succeeding Bond Payment Date.

In the event that amounts on deposit in the Interest Payment Account and Principal Payment Account of the Bond Fund on any Bond Loan Payment Date are insufficient to make the payment of Bond Service Charges due on the next succeeding Bond Payment Date, the Trustee shall transfer funds in the following order to the applicable account of the Bond Fund and use such funds, together with amounts then on deposit in the Bond Fund, to pay the Bond Service Charges due on the next succeeding Bond Payment Date:

- (1) first, from amounts on deposit in the Initial Deposit Account of the Bond Fund;
- (2) second, from amounts on deposit in the Interest Payment Account of the Bond Fund;
- (3) third, from amounts on deposit in the Collateral Fund; and
- (4) fourth, from amounts on deposit in the Project Fund.

**Section 5.06. Investment of Special Funds and Rebate Fund.**

Except as otherwise set forth in this Section, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrowers' Representative. At no time shall the Authorized Borrowers' Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Bond Fund shall mature or be redeemable at the times and in the amounts necessary to provide moneys to pay Bond Service Charges on the Bonds. Each investment of moneys in a Project Fund shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Project Fund, including on each Interest Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an Authenticating Agent or a Paying Agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable hereunder to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Interest Payment Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Interest Payment Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Bond Fund from which the investment was made. Notwithstanding the foregoing, any moneys held under this Indenture without the written direction of the Authorized Borrowers' Representative shall be invested in Eligible Investments.

**Section 5.07. Costs of Issuance Fund.**

Amounts on deposit in the Costs of Issuance Fund shall be used by the Trustee to pay costs of issuance as directed by the Authorized Borrowers' Representative utilizing the requisition form attached hereto as *Exhibit D*. Any amounts remaining on deposit in the Costs of Issuance Fund six (6) months after the Closing Date shall be returned to or used at the direction of the Authorized Borrowers' Representative.

**Section 5.08. Expense Fund.**

Amounts on deposit in the Expense Fund shall be used by the Trustee to pay the Issuer's Fee and Ordinary Expenses. Any amounts remaining on deposit in the Expense Fund on the Maturity Date, or such earlier date on which the Bonds are no longer outstanding, shall be returned to or used at the direction of the Authorized Borrowers' Representative.

**Section 5.09. Borrower's Equity Fund.**

Amounts transmitted to the Trustee for deposit into the Borrower's Equity Fund shall be deposited in the Non-Eligible Funds Account of Borrower's Equity Fund; provided, however, such amounts may be deposited in the Eligible Fund Account of the Borrower's Equity Fund if such

funds are identified as Eligible Funds by the depositor or the Authorized Borrower Representative. Thereafter, such amounts shall be held, transferred or transmitted per the written instructions of the Authorized Borrowers' Representative utilizing the requisition form attached hereto as *Exhibit E*. Additionally, to the extent set forth in the requisition form amounts in the Borrower's Equity Fund that constitute Eligible Funds may be transferred to the Collateral Fund at such times as may be necessary to allow the Trustee to transfer funds from the Project Fund upon the Trustee's receipt of a request for disbursement.

**Section 5.10. Nonpresentment of Bonds.**

In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay the principal and interest accrued thereon to such date shall have been made available to the Trustee for the benefit of the owner thereof, the Trustee shall hold such principal and interest accrued thereon to such date without liability to the Holder for further interest thereon, for the benefit of the Bondholder, for a period of two years from the date such Bonds shall have become due, either at maturity or upon earlier redemption.

**Section 5.11. Repayment to the Borrowers from the Bond Fund.**

On any Mandatory Tender Date, any amounts in the Bond Fund in excess of the amount necessary to cover any negative arbitrage (assuming 0.00% interest earnings on all deposits) shall, upon written instruction to the Trustee from the Borrowers, be paid to or at the direction of the Borrowers in their pro rata share. Any amounts remaining in the Bond Fund (i) after all of the outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture, and (ii) after payment of all fees, charges and expenses of the Issuer, the Trustee, the Registrar and any Paying Agents or Authenticating Agents and of all other amounts required to be paid under this Indenture, the Bond Loan Agreement, the Tax Exemption Agreement and the Regulatory Agreement, shall be paid to the Authorized Borrowers' Representative to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the outstanding Bonds.

**Section 5.12. Rebate Fund.**

Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

The Trustee shall comply with the provisions of the Tax Exemption Agreement and the Regulatory Agreement. Without limiting the generality of the foregoing, the Trustee shall furnish to the Issuer, the Authorized Borrowers' Representative and the Investor Member all information reasonably requested by the Authorized Borrowers' Representative with respect to the Bonds and investments of the Funds and accounts maintained by the Trustee hereunder. The Trustee shall make deposits to and disbursements from the Rebate Fund (including rebate payments to the United States required to be made by the Tax Exemption Agreement and the Regulatory Agreement), as well as investments of the amounts therein, in accordance with the written directions received from the Authorized Borrowers' Representative and the Investor Member pursuant to the Tax Exemption Agreement and the Regulatory Agreement. Anything in Article 11

hereof to the contrary notwithstanding, the provisions of the Tax Exemption Agreement and the Regulatory Agreement may be superseded or amended by an amendment or supplement to the Tax Exemption Agreement and Regulatory Agreement effected in accordance with the terms thereof.

**Section 5.13.     Valuation.**

For the purpose of determining the amount on deposit to the credit of any Fund or Account, the value of obligations in which money in such Fund or Account shall have been invested shall be computed at the then market value thereof.

The Eligible Investments shall be valued by the Trustee at any time requested by the Authorized Borrowers' Representative on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Eligible Investments more than once in any calendar month.

**Section 5.14.     Completion of the Projects.**

The completion of a Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of a Completion Certificate required by Section 3.6 of the Bond Loan Agreement with respect to such Project. As soon as practicable after the filing with the Trustee of the Completion Certificate for all Projects, any balance of the Allocated Bonds for a particular Project remaining in the Project Fund (other than the amounts retained by the Trustee as described in a Completion Certificate) shall be deposited or applied in accordance with the direction of the Authorized Borrowers' Representative pursuant to Section 3.4 of the Bond Loan Agreement.

[End of Article V]



**ARTICLE VI**  
**THE TRUSTEE, REGISTRAR, PAYING AGENTS**  
**AND AUTHENTICATING AGENTS**

**Section 6.01. Trustee's Acceptance and Responsibilities.**

The Trustee accepts the trusts imposed upon it by this Indenture, and agrees to observe and perform those trusts, but only upon and subject to the terms and conditions set forth in this Article, to all of which the parties hereto and the Holders agree.

(a) Prior to the occurrence of a default or an Event of Default (as defined in Section 7.01 hereof) of which the Trustee has been notified, as provided in paragraph (f) of Section 6.02 hereof, or of which by that paragraph the Trustee is deemed to have notice, and after the cure or waiver of all defaults or Events of Default which may have occurred,

(i) the Trustee undertakes to perform only those duties and obligations which are set forth specifically in this Indenture, and no duties or obligations shall be implied to the Trustee;

(ii) in the absence of bad faith on its part, the Trustee may rely conclusively, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are required specifically to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

(b) In case a default or an Event of Default has occurred and is continuing hereunder (of which the Trustee has been notified, or is deemed to have notice), the Trustee shall exercise those rights and powers vested in it by this Indenture and shall use the same degree of care and skill in their exercise, as a prudent corporate trust company would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) this Subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in subparagraph (a)(i) of this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in subparagraph (a)(ii) of this Section;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by any one of its officers, unless it shall be established that the Trustee was grossly negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the

Holders of not less than a majority in principal amount of the Bonds then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds in its sole discretion for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 6.01.

**Section 6.02. Certain Rights and Obligations of the Trustee.**

Except as otherwise provided in Section 6.01 hereof:

(a) The Trustee (i) may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees (but shall be answerable therefor only in accordance with the standard specified above), (ii) shall be entitled to the advice of counsel concerning all matters of trusts hereof and duties hereunder, and (iii) may pay reasonable compensation in all cases to all of those attorneys, agents, receivers and employees reasonably employed by it in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action taken or omitted to be taken in good faith in reliance upon that opinion or advice.

(b) Except for its certificate of authentication on the Bonds, the Trustee shall not be responsible for:

- (i) any recital in this Indenture or in the Bonds,
- (ii) the validity, priority, recording, re-recording, filing or re-filing of this Indenture or any Supplemental Indenture or the Regulatory Agreement,
- (iii) any instrument or document of further assurance or collateral assignment,
- (iv) any financing statements, amendments thereto or continuation statements,
- (v) insurance of the Projects or collection of insurance moneys,
- (vi) the validity of the execution by the Issuer of this Indenture, any Supplemental Indenture or instruments or documents of further assurance,

(vii) the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby,

(viii) the value of or title to the Projects, or

(ix) the maintenance of the security hereof,

except that, in the event that the Trustee enters into possession of a part or all of a Project pursuant to any provision of the Regulatory Agreement or any other instrument or document collateral thereto, the Trustee shall use due diligence in preserving that property. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, agreements or obligations on the part of the Issuer or the Borrowers under the Bond Loan Agreement except as set forth hereinafter; but the Trustee may require of the Issuer or the Borrowers full information and advice as to the observance or performance of those covenants, agreements and obligations. Except as otherwise provided in Section 7.04 hereof, the Trustee shall have no obligation to observe or perform any of the duties of the Issuer under the Bond Loan Agreement.

(c) The Trustee shall not be accountable for the application by any Borrower or any other Person of the proceeds of any Bonds authenticated or delivered hereunder.

(d) The Trustee shall be protected, in the absence of bad faith on its part, in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document or any electronic transmission reasonably believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request, authority or consent of any Person who is the Holder of any Bonds at the time of making the request or giving the authority or consent, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact for which the Issuer or any Borrower may be responsible or as to the sufficiency or validity of any instrument, document, report, paper or proceeding, the Trustee, in the absence of bad faith on its part, shall be entitled to rely upon a certificate signed on behalf of the Issuer or the Borrower, as appropriate, by an authorized officer or representative thereof as sufficient evidence of the facts recited therein. Prior to the occurrence of a default or Event of Default hereunder of which the Trustee has been notified, as provided in paragraph (f) of this Section, or of which by that paragraph the Trustee is deemed to have notice, the Trustee may accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient; provided, that the Trustee in its discretion may require and obtain any further evidence which it deems to be necessary or advisable; and, provided further, that the Trustee shall not be bound to secure any such further evidence.

(f) The Trustee shall not be required to take notice, and shall not be deemed to have notice, of any default or Event of Default hereunder, except Events of Default described in paragraphs (a) and (b) of Section 7.01 hereof, unless the Trustee shall be notified specifically of the default or Event of Default in a written instrument or document

delivered to it by the Issuer or by the Holders of at least 25% of the aggregate principal amount of Bonds then outstanding. In the absence of delivery of a notice satisfying those requirements, the Trustee may assume conclusively that there is no default or Event of Default, except as noted above.

(g) At any reasonable time, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives (i) may inspect and copy fully all books, papers and records of the Issuer pertaining to the Projects and the Bonds, and (ii) may make any memoranda from and in regard thereto as the Trustee may desire.

(h) The Trustee shall not be required to give any bond or surety with respect to the execution of these trusts and powers or otherwise in respect of the premises.

(i) Notwithstanding anything contained elsewhere in this Indenture, the Trustee may demand any showings, certificates, reports, opinions, appraisals and other information, and any corporate action and evidence thereof, in addition to that required by the terms hereof, as a condition to the authentication of any Bonds or the taking of any action whatsoever within the purview of this Indenture, if the Trustee deems it to be desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds or the right of any Person to the taking of any other action by the Trustee; provided, that the Trustee shall not be required to make that demand.

(j) Before taking action hereunder pursuant to Section 6.04 or Article VII hereof (with the exception of any action required to be taken under Section 7.02 hereof), the Trustee may require that a satisfactory indemnity bond be furnished to it for the reimbursement of all expenses which it may incur and to protect it against all liability by reason of any action so taken, except liability which is adjudicated to have resulted from its gross negligence, misconduct or willful default. The Trustee may take action without that indemnity, and in that case, the Borrowers shall reimburse the Trustee for all of the Trustee's expenses pursuant to Section 6.03 hereof.

(k) Unless otherwise provided herein, all moneys received by the Trustee under this Indenture shall be held in trust for the purposes for which those moneys were received, until those moneys are used, applied or invested as provided herein; provided, that those moneys need not be segregated from other moneys, except to the extent required by this Indenture or by law. The Trustee shall not have any liability for interest on any moneys received hereunder, except to the extent expressly provided herein.

(l) Any resolution by the Board, and any opinions, certificates and other instruments and documents for which provision is made in this Indenture, may be accepted by the Trustee, in the absence of bad faith on its part, as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

(m) The Trustee shall be entitled to file proofs of claim in bankruptcy. Trustee fees and expenses are intended to constitute administrative expenses in bankruptcy.

(n) The duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture. No implied covenants or obligations shall be read into this Indenture against the Trustee. Notwithstanding any provision herein, the Trustee shall not have a duty to or obligation to the Borrowers except as may be expressly set forth in this Indenture. Any permissive right of the Trustee to take the actions permitted by this Indenture shall not be construed as an obligation or duty to do so.

(o) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising or caused, directly or indirectly by circumstances beyond its reasonable control including, without limitation, acts of God; earthquakes; fire; flood; hurricanes or other storms wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, communications services; accidents; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under any such circumstances.

(p) Notwithstanding anything contained herein to the contrary, upon the occurrence and continuance of an Event of Default, before taking any action which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement relating to the environment, the Trustee may require that a satisfactory indemnity bond, indemnity or environmental impairment insurance be furnished for the payment or reimbursement of all costs and expenses to which it may be put (including reasonable attorney's fees, costs and expenses) and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and costs and expenses which may result from such foreclosure or other action (including reasonable attorney's fees, costs and expenses).

(q) Except for information provided the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any Official Statement, other offering document or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the offering of the Bonds.

(r) Any direction, notice, certificate, request or other correspondence to the Trustee pursuant to this Trust Agreement shall be made in writing and delivered to the Trustee, provided that delivery may be made by electronic means to the extent permitted by Section 13.03.

**Section 6.03. Fees, Charges and Expenses of Trustee, Registrar, Paying Agents and Authenticating Agents.**

The Trustee, the Registrar and any Paying Agents or Authenticating Agents shall be entitled to payment or reimbursement by the Borrowers, as provided in the Bond Loan Agreement,

for customary fees for their respective Ordinary Services rendered hereunder and for all advances, counsel fees and other Ordinary Expenses reasonably and necessarily paid or incurred by them in connection with the provision of Ordinary Services. For purposes hereof, fees for Ordinary Services provided for by their respective standard fee schedule shall be considered customary. In the event that it should become necessary for any of them to perform Extraordinary Services, they shall be entitled to customary extra compensation therefor and to reimbursement for reasonable and necessary Extraordinary Expenses incurred in connection therewith. Unless and until such time as the Trustee resigns or is replaced, and a successor Trustee is appointed pursuant to Section 6.09 hereunder, the Trustee shall continue to perform its duties hereunder notwithstanding the Borrowers failure to timely pay such fees.

Without creating a default or an Event of Default hereunder, however, the Borrowers may contest in good faith the necessity for any Extraordinary Service and Extraordinary Expense and the amount of any fee, charge or expense except Ordinary Expenses.

The Trustee, the Registrar and any Paying Agents or Authenticating Agents shall not be entitled to compensation or reimbursement for Extraordinary Services or Extraordinary Expenses occasioned by their negligence or willful misconduct. The customary fees for their respective Ordinary Services and charges of the foregoing shall be entitled to payment and reimbursement only from (i) the Additional Payments made by the Borrowers pursuant to the Bond Loan Agreement, or (ii) from other moneys available therefor. Any amounts payable to the Trustee, the Registrar or any Paying Agent or Authenticating Agent pursuant to this Section 6.03 shall be payable upon demand and shall bear interest from the date of demand therefor at the Interest Rate for Advances.

**Section 6.04. Intervention by Trustee.**

The Trustee may intervene on behalf of the Holders, and shall intervene if requested to do so in writing by the Holders of at least 25% of the aggregate principal amount of Bonds then outstanding, in any judicial proceeding to which the Issuer or any Borrower is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of Holders of the Bonds. The rights and obligations of the Trustee under this Section are subject to the approval of that intervention by a court of competent jurisdiction. The Trustee may require that a satisfactory indemnity bond be provided to it in accordance with Sections 6.01 and 6.02 hereof before it takes action hereunder.

**Section 6.05. Successor Trustee.**

Anything herein to the contrary notwithstanding,

(a) any corporation or association (i) into which the Trustee may be converted or merged, (ii) with which the Trustee or any successor to it may be consolidated, or (iii) to which it may sell or transfer its corporate trust assets and corporate trust business as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, merger, consolidation, sale or transfer, ipso facto, shall be and become successor Trustee hereunder and shall be vested with all of the title to the Pledged Revenues hereunder; and

(b) that corporation or association shall be vested further, as was its predecessor, with each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

Any successor Trustee, however, (i) shall be a trust company or a bank having the powers of a trust company, (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, and (iv) shall have a reported capital, surplus and retained earnings of not less than \$75,000,000.

In the event that any successor Trustee assumes office as provided in this Section 6.05, the successor shall provide notice thereof to the Issuer, the Lender and the Authorized Borrowers' Representative.

**Section 6.06. Appointment of Co-Trustee.**

It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including without limitation, the laws of the State) denying or restricting the right of banks or trust companies to transact business as trustees in that jurisdiction. It is recognized that, (a) if there is litigation under this Indenture or other instruments or documents relating to the Bonds or a Project, and in particular, in case of the enforcement hereof or thereof upon a default or an Event of Default, or (b) if the Trustee should deem that, by reason of any present or future law of any jurisdiction, it may not (i) exercise any of the powers, rights or remedies granted herein to the Trustee, (ii) hold title to the properties, in trust, as granted herein, or (iii) take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an individual or additional institution as a Co-Trustee, provided that the Co-Trustee so appointed shall be acceptable to the Issuer. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an individual or additional institution as a Co-Trustee, each and every trust, property, remedy, power, right, duty, obligation, discretion, privilege, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, vested in or conveyed to the Trustee shall be exercisable by, vest in and be conveyed to that Co-Trustee, but only to the extent necessary for it to be so vested and conveyed and to enable that Co-Trustee to exercise it. Every covenant, agreement and obligation necessary to the exercise thereof by that Co-Trustee shall run to and be enforceable by it.

Should any instrument or document in writing from the Issuer reasonably be required by the Co-Trustee so appointed by the Trustee for vesting and conveying more fully and certainly in and to that Co-Trustee those trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens, that instrument or document shall be executed, acknowledged and delivered, but not prepared, by the Issuer. In case any Co-Trustee or a successor to it shall die, become incapable of acting, resign or be removed, all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles,

interests and liens of the Co-Trustee shall be exercised by, vest in and be conveyed to the Trustee, to the extent permitted by law, until the appointment of a successor to the Co-Trustee.

**Section 6.07. Resignation by the Trustee.**

The Trustee may resign at any time from the trusts created hereby by giving written notice of the resignation to the Issuer, the Authorized Borrowers' Representative, the Investor Member, the Registrar, any Paying Agents and Authenticating Agents, and by mailing written notice of the resignation to the Holders as their names and addresses appear on the Register at the close of business fifteen days prior to the mailing. The resignation shall take effect upon the appointment of a successor Trustee as provided for in Section 6.09 of this Indenture or an order of a court of competent jurisdiction allowing the Trustee to resign.

**Section 6.08. Removal of the Trustee.**

The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Issuer, the Registrar, any Paying Agents and Authenticating Agents, the Authorized Borrowers' Representative and the Investor Members, and signed by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by the Issuer or the Holders of not less than 25% in aggregate principal amount of the Bonds then outstanding under this Indenture.

The removal of the Trustee under this Section 6.08 shall take effect upon the appointment of a successor Trustee as provided for in Section 6.09 of this Indenture.

**Section 6.09. Appointment of Successor Trustee.**

If (i) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (ii) the Trustee shall be taken under the control of any public officer or officers, or (iii) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer, provided, that if a successor Trustee is not so appointed within ten days after (a) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 6.07 and 6.08 hereof, respectively, or (b) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, the Holder of any Bond outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.



Every successor Trustee appointed pursuant to this Section (i) shall be a trust company or a bank having the powers of a trust company (ii) shall be in good standing within the State, (iii) shall be duly authorized to exercise trust powers within the State, (iv) shall have a reported capital, surplus and retained earnings of not less than \$75,000,000, and (v) shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Authorized Borrowers' Representative an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Authorized Borrowers' Representative, and payment of all fees and expenses owed to it, the predecessor Trustee (i) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

In the event of a change in the Trustee, the predecessor Trustee shall cease to be custodian of any moneys which it may hold pursuant to this Indenture and shall cease to be Registrar, Authenticating Agent and a Paying Agent for any of the Bonds, to the extent it served in any of those capacities.

**Section 6.10. Adoption of Authentication.**

In case any of the Bonds shall have been authenticated, but shall not have been delivered, any successor Trustee, Registrar or Authenticating Agent may adopt the certificate of authentication of any predecessor Trustee, Registrar or Authenticating Agent and may deliver those Bonds so authenticated as provided herein. In case any Bonds shall not have been authenticated, any successor Trustee, Registrar or Authenticating Agent may authenticate those Bonds in its own name as successor Trustee. In all cases, the certificate of authentication shall have the same force and effect as provided in the Bonds or in this Indenture with respect to the certificate of authentication of the predecessor Trustee, Registrar or Authenticating Agent.

**Section 6.11. Registrars.**

(a) Succession. Anything herein to the contrary notwithstanding, any corporation or association (i) into which a Registrar may be converted or merged, (ii) with which a Registrar or any successor to it may be consolidated, or (iii) to which it may sell or transfer its assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion,

merger, consolidation, sale or transfer, ipso facto, shall be and become successor Registrar to that Registrar hereunder and shall be vested with each and every power, right, duty, obligation, discretion and privilege expressed or intended by this Indenture to be exercised by or vested in the predecessor Registrar, without the execution or filing of any instrument or document or any further act on the part of any of the parties hereto.

(b) Resignation. A Registrar may resign at any time by giving written notice of its resignation to the Issuer, the Authorized Borrowers' Representative, the Trustee and to each Paying Agent and Authenticating Agent for the Bonds, at least 60 days before the resignation is to take effect. The resignation shall take effect immediately, however, upon the appointment of a successor Registrar, if the successor Registrar is appointed and accepts that appointment before the time stated in the notice.

(c) Removal. The Registrar may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Registrar, with copies thereof mailed to the Issuer, the Trustee and the Authorized Borrowers' Representative, and signed by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

(d) Appointment of Successors. If (i) a Registrar shall resign, shall be removed, shall be dissolved, or shall become otherwise completely incapable of acting hereunder, (ii) a Registrar shall be taken under the control of any public officer or officers, (iii) a receiver shall be appointed for a Registrar by a court, or (iv) a Registrar shall have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws or commence a proceeding under any federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismitted and unstayed for ninety days, then a successor Registrar shall be appointed by the Trustee, with the written consent of the Authorized Borrowers' Representative; provided, that if a successor Registrar is not so appointed within ten days after (a) a notice of resignation or an instrument or document of removal is received by the Trustee, as provided above, or (b) the Registrar is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, if the Trustee shall not have appointed a successor Registrar, the Holders of a majority in aggregate principal amount of Bonds then outstanding may designate a successor Registrar by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders.

Every successor Registrar appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer, the Trustee and the Borrowers, an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of its predecessor. Upon the written request of its successor, the Issuer or the Borrowers, a predecessor Registrar (i) shall execute and deliver an instrument or document transferring to its successor all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of it as predecessor Registrar hereunder, and (ii) shall take any other action necessary to duly assign, transfer and deliver to its successor all property

and records (including without limitation, the Register and any cancelled Bonds) held by it as Registrar. Should any instrument or document in writing from the Issuer be requested by any successor Registrar for vesting and conveying more fully and certainly in and to that successor the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests vested or conveyed or intended to be vested or conveyed hereby in or to a predecessor Registrar, the Issuer shall execute, acknowledge and deliver that instrument or document.

The Trustee shall cause the Authorized Borrowers' Representative to pay pursuant to Section 4.2 of the Bond Loan Agreement, to any Registrar customary compensation for its services from time to time, as authorized in Section 6.03 hereof. The provisions of Sections 3.05, 3.06, 3.07 and 6.02(d) hereof shall be applicable to the Registrar.

**Section 6.12. Designation and Succession of Paying Agents.**

The Trustee shall be a Paying Agent for the Bonds, and, with the consent of the Authorized Borrowers' Representative, the Trustee may appoint a Paying Agent or Agents with power to act on its behalf and subject to its direction in the payment of Bond Service Charges on the Bonds. It is the responsibility of the Trustee to establish the duties and responsibilities of any Paying Agent for the purposes of this Indenture, to the extent not specified herein.

Any corporation or association with or into which any Paying Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which any Paying Agent shall be a party, or any corporation or association succeeding to the trust business of any Paying Agent, shall be the successor of that Paying Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Paying Agent or that successor corporation or association.

Any Paying Agent may at any time resign by giving written notice of resignation to the Trustee, to the Registrar and to the Authorized Borrowers' Representative. The Trustee may at any time terminate the agency of any Paying Agent by giving written notice of termination to such Paying Agent, to the Registrar and to the Borrowers. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Paying Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Paying Agent. The Trustee shall give written notice of appointment of a successor Paying Agent to the Authorized Borrowers' Representative, the Issuer and the Registrar and shall mail, within ten days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrowers to pay pursuant to Section 4.2 of the Bond Loan Agreement, to any Paying Agent from time to time customary compensation as authorized in Section 6.03 hereof for its services.

The provisions of Sections 3.05 and 3.07 and Subsection 6.02(d) shall be applicable to any Paying Agent.

**Section 6.13. Designation and Succession of Authenticating Agents.**

With the consent of the Issuer, the Trustee may appoint an Authenticating Agent or Agents, in addition to the Registrar, with power to act on its behalf and subject to its direction in the authentication and delivery of Bonds in connection with transfers and exchanges under Sections 3.06 and 4.02 hereof. For all purposes of this Indenture, the authentication and delivery of Bonds by an Authenticating Agent pursuant to this Section shall be deemed to be authentication and delivery of those Bonds “by the Trustee.”

Any corporation or association with or into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation or association succeeding to the trust business of any Authenticating Agent, shall be the successor of that Authenticating Agent hereunder, if that successor corporation or association is otherwise eligible hereunder, without the execution or filing of any paper or any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee, the Issuer, the Registrar, the Authorized Borrowers’ Representative and the Investor Member. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent, the Issuer, to the Registrar, the Authorized Borrowers’ Representative and the Investor Member. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee may appoint a successor Authenticating Agent. The Trustee shall give written notice of appointment of a successor Authenticating Agent to the Authorized Borrowers’ Representative, the Investor Member, the Issuer and the Registrar and shall mail, within ten days after that appointment, notice thereof to all Holders as their names and addresses appear on the Register on the date of that appointment.

The Trustee shall cause the Borrowers to pay pursuant to Section 4.2 of the Bond Loan Agreement, to any Authenticating Agent from time to time customary compensation for its services.

The provisions of Section 3.05 and Subsections 6.02(b), (c), (d), (h) and (i) shall be applicable to any Authenticating Agent.

**Section 6.14. Dealing in Bonds.**

The Trustee, a Registrar, a Paying Agent and an Authenticating Agent, their Affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it or they would have hereunder if the Trustee, the Registrar, Paying Agents or Authenticating Agents did not serve in those capacities.

**Section 6.15. Representations, Agreement and Covenants of Trustee.**

The Trustee hereby represents that it is a bank duly organized and validly existing under the laws of the United States of America, in good standing and duly authorized to exercise

corporate trust powers, and that it has an unimpaired reported capital, surplus and retained earnings of not less than \$75,000,000. The Trustee covenants that it will take such action, if any, as is necessary to remain in good standing and duly authorized to exercise corporate trust powers in the State, and that it will maintain an unimpaired reported capital, surplus and retained earnings of not less than \$75,000,000. The Trustee accepts and agrees to observe and perform the duties and obligations of the Trustee to which reference is made in any other instrument or document providing security for any of the Bonds.

**Section 6.16. Interpleader.**

In the event of a dispute between any of the parties hereto with respect to the disposition of any funds held by the Trustee hereunder, or the Trustee receives conflicting demands made upon the Trustee with respect to the Trustee's duties hereunder or any other document related to the Bonds, the Trustee shall be entitled to file a suit in interpleader in a court of competent jurisdiction seeking to require the parties to interplead and litigate in such court their several claims and rights among themselves. Upon the filing of such a suit and the deposit of the applicable funds to such court, the Trustee will *ipso facto* be fully released and discharged from all obligations to further perform any and all duties imposed hereunder or any other document related to the Bonds regarding such matter and/or such funds that are the subject of such interpleader suit. In the event that the Trustee remains as Trustee under this Indenture and receives a court order, directive or other request regarding the interpleader suit, the Trustee shall be entitled to rely upon such instruction without incurring any obligation or liability and the parties hereto release, hold harmless and indemnify the Trustee for any obligation or liability for so relying on such court instruction.

**Section 6.17. Survival of Certain Provisions.**

The provisions of Sections 6.01 through 6.16 of this Indenture shall survive the release, discharge and satisfaction of this Indenture.

**Section 6.18. Compliance with Texas Government Code.**

The Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Indenture, the Loan Agreement the Regulatory Agreement and the Tax Exemption Agreement, and such representation is hereby incorporated by reference into each of the documents referenced herein. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Trustee understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

The Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained

by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Trustee and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Trustee understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Trustee and exists to make a profit.

[End of Article VI]

**ARTICLE VII  
DEFAULT PROVISIONS AND REMEDIES  
OF TRUSTEE AND HOLDERS**

**Section 7.01. Defaults; Events of Default.**

The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default hereunder:

(a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;

(b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, upon acceleration or otherwise;

(c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer and the Authorized Borrowers' Representative specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding; and

(d) The occurrence and continuance of an Event of Default as defined in Section 7.1 of the Bond Loan Agreement.

The term "default" or "failure" as used in this Article means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in this Indenture or in the Bonds, or (ii) a default or failure by the Borrowers under the Bond Loan Agreement, exclusive of any period of grace or notice required to constitute an Event of Default, as provided above or in the Bond Loan Agreement.

**Section 7.02. Notice of Default.**

If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by registered or certified mail, to the Issuer, the Authorized Borrowers' Representative, the Investor Member, the Lender, the Registrar or any Paying Agent and Authenticating Agent, within five days after the Trustee has notice of the Event of Default pursuant to Section 6.02(f) of this Indenture. If an Event of Default occurs of which the Trustee has notice pursuant to this Indenture, the Trustee shall give written notice thereof, within thirty days after the Trustee's receipt of notice of its occurrence, to the Holders of all Bonds then outstanding as shown by the Register at the close of business fifteen days prior to the mailing of that notice.

The Investor Member and the Lender shall each be entitled to cure any Event of Default hereunder within the time frame provided to the Borrowers hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Member or

Lender shall be deemed to be a cure by a Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 7.03. Acceleration.**

Upon the occurrence of an Event of Default described in Section 7.01(a) and (b), the Trustee may declare, and upon the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding the Trustee shall declare, by a notice in writing delivered to the Issuer and the Authorized Borrowers' Representative, the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence of any Event of Default other than those described in Section 7.01(a) and (b), the Trustee may, with the written consent of all Holders of Bonds then outstanding, declare by a notice in writing delivered to the Issuer and the Authorized Borrowers' Representative, the principal of all Bonds then outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement hereunder (after an opportunity for hearing by the Issuer and the Borrowers),

(a) all sums payable hereunder, including the Issuer's Fee and the Trustee's fees and expenses (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee or Paying Agents, and

(b) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

**Section 7.04. Other Remedies; Rights of Holders.**

With or without taking action under Section 7.03 hereof, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under this Indenture, the Bond Loan Agreement, the Tax Exemption Agreement the Regulatory Agreement or the Bond Note or any other instrument providing security, directly or indirectly, for the Bonds.



If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do by the Holders of at least 25% in aggregate principal amount of Bonds outstanding, the Trustee (subject to the provisions of Sections 6.01 and 6.02 and particularly subparagraph 6.01(c)(iv) and Subsection 6.02 (j) of those Sections), shall exercise any rights and powers conferred by this Section and by Section 7.03 hereof.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by this Indenture is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given hereunder or otherwise to the Trustee or to the Holders now or hereafter existing.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any default or Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Bond Loan Agreement (except for the Issuer's Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Bond Loan Agreement. In exercising any remedy, right or power thereunder or hereunder, the Trustee shall take such action as may be directed by the requisite percentage of the Holders of the Bonds then outstanding, applying the standards described in Sections 6.01 and 6.02 hereof.

**Section 7.05. Right of Holders to Direct Proceedings.**

Anything to the contrary in this Indenture notwithstanding, the Holders of a majority in aggregate principal amount of Bonds then outstanding shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture or any other proceedings hereunder; provided, that (i) any direction shall not be other than in accordance with the provisions of law and of this Indenture, and (ii) the Trustee shall be indemnified as provided in Sections 6.01 and 6.02.

**Section 7.06. Application of Moneys.**

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of moneys and to all fees of the Trustee for Ordinary and Extraordinary Expenses pursuant to any right given or action taken under the provisions of this Article or the provisions of the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or Bond Note (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under this Article VII), all moneys received by the Trustee, shall be applied as follows, subject to Section 3.04 hereof and any provision made pursuant to Section 5.10 hereof:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of those moneys shall be deposited in the Bond Fund and shall be applied:

First – To the payment of the Issuer’s Fee;

Second – To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Third – To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to this Article, all of those moneys shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to this Article, and if that declaration thereafter shall have been rescinded and annulled under the provisions of Section 7.03 or 7.10 hereof, subject to the provisions of paragraph (b) of this Section in the event that the principal of all of the Bonds shall become due and payable later, the moneys shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of Article III.

(d) Whenever moneys are to be applied pursuant to the provisions of this Section, those moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future.

Whenever the Trustee shall direct the application of those moneys, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the moneys are available therefor. The Trustee shall give notice of the deposit with it of any moneys and of the fixing of that date, all consistent with the requirements of Section 3.04 hereof for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

**Section 7.07. Remedies Vested in Trustee.**

All rights of action (including without limitation, the right to appear on behalf of the Issuer and the Holders of the Bonds in any bankruptcy or insolvency proceeding and to file proof of claims in any such proceeding) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders as plaintiffs or defendants. Any recovery of judgment shall be for the benefit of the Holders of the Outstanding Bonds, subject to the provisions of this Indenture.

**Section 7.08. Rights and Remedies of Holders.**

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of this Indenture, for the execution of any trust hereof, or for the exercise of any other remedy hereunder, unless:

- (a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in paragraph (f) of Section 6.02 hereof, or of which it is deemed to have notice under that paragraph,
- (b) the Holders of at least 25% in aggregate principal amount of Bonds then outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in Sections 6.01 and 6.02 hereof, and
- (c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted herein or to institute the suit, action or proceeding in its own name.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of this Indenture by its or their action, or to enforce, except in the manner provided herein, any remedy, right or power hereunder. Any suit, action or

proceedings shall be instituted, had and maintained in the manner provided herein for the benefit of the Holders of all Bonds then outstanding. Nothing in this Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

**Section 7.09. Termination of Proceedings.**

In case the Trustee shall have proceeded to enforce any remedy, right or power under this Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

**Section 7.10. Waivers of Events of Default.**

The Trustee shall waive any Event of Default hereunder and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds upon the written request of the Holders of:

- (a) at least a majority in aggregate principal amount of all Bonds then outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or
- (b) at least 25% in aggregate principal amount of all Bonds then outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) of Section 7.01 hereof or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts provided in Section 7.03 hereof for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

[End of Article VII]

**ARTICLE VIII  
SUPPLEMENTAL INDENTURES**

**Section 8.01. Supplemental Indentures Generally.**

The Issuer and the Trustee may enter into indentures supplemental to this Indenture, as provided in this Article and pursuant to the other provisions therefor in this Indenture. The Trustee

shall deliver copies of all Supplemental Indentures to the Authorized Borrowers' Representative and the Investor Member.

**Section 8.02. Supplemental Indentures Not Requiring Consent of Holders.**

Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into indentures supplemental to this Indenture which shall not, in the opinion of the Issuer and the Trustee, be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

(a) To cure any ambiguity, inconsistency or formal defect or omission in this Indenture;

(b) To grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;

(c) To assign additional revenues under this Indenture;

(d) To accept additional security and instruments and documents of further assurance with respect to the Projects;

(e) To add to the covenants, agreements and obligations of the Issuer under this Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in this Indenture;

(f) To evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under this Indenture, the Bond Loan Agreement and the Bonds;

(g) To permit the Trustee to comply with any obligations imposed upon it by law;

(h) To specify further the duties and responsibilities of, and to define further the relationship among, the Trustee, the Registrar and any Authenticating Agents or Paying Agents;

(i) To achieve compliance of this Indenture with any applicable federal securities or tax law;

(j) To make amendments to the provisions hereof relating to arbitrage matters under Section 148 of the Code, if, in the Opinion of Bond Counsel, those amendments would not adversely affect the excludability of the interest on the Bonds outstanding from gross income for federal income tax purposes which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee, without its consent, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; and

(k) To permit any other amendment which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders.

The provisions of Subsections 8.02(i) and (k) shall not be deemed to constitute a waiver by the Trustee, the Registrar, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to this Indenture or the Bonds.

**Section 8.03. Supplemental Indentures Requiring Consent of Holders.**

Exclusive of Supplemental Indentures to which reference is made in Section 8.02 hereof and subject to the terms, provisions and limitations contained in this Section, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time outstanding, evidenced as provided in this Indenture, and with the consent of the Borrowers if required by Section 8.04 hereof, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of this Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in this Section or Section 8.02 hereof shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on such Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Trustee is requested to execute and deliver any Supplemental Indenture requiring the consent of the Holders as described in this Section, then the Trustee shall, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by Section 8.04 hereof, receipt of the consent of the Authorized Borrowers' Representative and the Investor Member to the proposed execution and delivery of the Supplemental Indenture, cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this Section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this Section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

If the Trustee shall receive within a period of not exceeding one year following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in

aggregate principal amount of the Bonds then outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds outstanding shall have consented to the Supplemental Indenture, as provided in this Section, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

**Section 8.04. Consent of Borrowers and Lender.**

Anything contained herein to the contrary notwithstanding, a Supplemental Indenture executed and delivered in accordance with this Article VIII which affects any rights or obligations of the Borrowers or the Lender shall not become effective unless and until the Authorized Borrowers' Representative, the Investor Member and the Lender shall have consented in writing to the execution and delivery of that Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture and a copy of the proposed Supplemental Indenture to be mailed to the Authorized Borrowers' Representative, the Investor Member and the Lender, as provided in Section 13.03 hereof, (i) at least 30 days (unless waived by the Borrowers, the Investor Member and the Lender) before the date of the proposed execution and delivery in the case of a Supplemental Indenture to which reference is made in Section 8.02 hereof, and (ii) at least 30 days (unless waived by the Authorized Borrowers' Representative, the Investor Member and the Lender) before the giving of the notice of the proposed execution and delivery in the case of a Supplemental Indenture for which provision is made in Section 8.03 hereof.

**Section 8.05. Authorization to Trustee; Effect of Supplement.**

The Trustee is authorized to join with the Issuer in the execution and delivery of any Supplemental Indenture in accordance with this Article and to make the further agreements and stipulations which may be contained therein. Thereafter,

- (a) that Supplemental Indenture shall form a part of this Indenture;
- (b) all terms and conditions contained in that Supplemental Indenture as to any provision authorized to be contained therein shall be deemed to be a part of the terms and conditions of this Indenture for any and all purposes;
- (c) this Indenture shall be deemed to be modified and amended in accordance with the Supplemental Indenture; and
- (d) the respective rights, duties and obligations under this Indenture of the Issuer, the Borrowers, the Trustee, the Registrar, the Paying Agents, the Authenticating Agents and all Holders of Bonds then outstanding shall be determined, exercised and enforced hereunder in a manner which is subject in all respects to those modifications and amendments made by the Supplemental Indenture.

Express reference to any executed and delivered Supplemental Indenture may be made in the text of any Bonds issued thereafter, if that reference is deemed necessary or desirable by the Trustee or the Issuer. A copy of any Supplemental Indenture for which provision is made in this Article, except a Supplemental Indenture described in clause (g) of Section 8.02 hereof, shall be mailed by the Trustee to the Registrar, each Authenticating Agent and Paying Agent. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

**Section 8.06. Opinion of Counsel.**

The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (i) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (ii) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article. That counsel may be counsel for the Issuer or the Borrowers.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee and the Issuer an Opinion of Bond Counsel to the effect that such Supplemental Indenture will not cause the interest on the Bonds outstanding to be includable in gross income of the Holders for federal income tax purposes.

**Section 8.07. Modification by Unanimous Consent.**

Notwithstanding anything contained elsewhere in this Indenture, the rights and obligations of the Issuer and of the Holders, and the terms and provisions of the Bonds and this Indenture or any Supplemental Indenture, may be modified or altered in any respect (a) with the consent of (i) the Issuer, (ii) the Holders of all of the Bonds then outstanding, (iii) the Authorized Borrowers' Representative; (iv) the Investor Member; and (v) if such modification or alteration contains provisions adverse to the Trustee, the Trustee and (b) if there shall have been delivered to the



Trustee and the Issuer an Opinion of Bond Counsel to the effect that such modification or alteration will not cause the interest on the Bonds outstanding to be included in gross income of the Holders for federal income tax purposes.

[End of Article VIII]

**ARTICLE IX  
DEFEASANCE**

**Section 9.01. Release of Indenture.**

If (i) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Service Charges due or to become due thereon, and (ii) provision also shall be made for the payment of all other sums payable hereunder, including the Trustee's fees and expenses, or under the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement and the Bond Note, then this Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and the covenants, agreements and obligations of the Issuer hereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of Section 9.03 hereof if applicable,

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer, and

(b) the Trustee and any other Paying Agents shall assign and deliver to the Issuer any property subject at the time to the lien of this Indenture which then may be in their possession, except amounts in the Bond Fund required (a) to be paid to the Borrowers under Section 5.08 hereof, or (b) to be held by the Trustee and the Paying Agents under Section 5.09 hereof or otherwise for the payment of Bond Service Charges.

**Section 9.02. Payment and Discharge of Bonds.**

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of this Indenture, including without limitation, Section 9.01 hereof, if:

(a) the Trustee as paying agent and any Paying Agents shall have received, in trust for and irrevocably committed thereto, sufficient moneys, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America which are certified by an Independent firm acceptable to the Trustee to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so irrevocably committed, except as provided herein),

for the payment of all Bond Service Charges on those Bonds at their maturity; provided however, in the case of clause (b), the Trustee and the Issuer must receive an Opinion of Bond Counsel to

the effect that the receipt, use and investment of the obligations will not adversely affect the excludability of the interest on the Bonds outstanding from gross income for federal income tax purposes.

Any moneys held by the Trustee in accordance with the provisions of this Section may be invested by the Trustee only in noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which moneys will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 5.08 hereof for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 9.02, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged and shall set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 9.02.

**Section 9.03. Survival of Certain Provisions.**

Notwithstanding the foregoing, any provisions of the Bond Resolution and this Indenture which relate to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, the storage and shredding of cancelled Bonds, non-presentment of Bonds, the holding of moneys in trust, and repayments to the Borrowers from the Bond Fund, the rebate of moneys to the United States in accordance with Section 5.09 hereof, and the rights and duties of the Trustee and the Registrar in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee, the Registrar, the Authenticating Agents, Paying Agents and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article shall survive the release, discharge and satisfaction of this Indenture. The obligations of the Borrowers to pay the Trustee its fees and expenses hereunder shall survive the release, discharge and satisfaction of this Indenture.

[End of Article IX]

**ARTICLE X  
COVENANTS AND AGREEMENTS  
OF THE ISSUER**

**Section 10.01. Covenants and Agreements of the Issuer.**

In addition to any other covenants and agreements of the Issuer contained in the Bond Loan Agreement, this Indenture or the Bond Resolution, the Issuer further covenants and agrees with the Holders and the Trustee as follows:

(a) Payment of Bond Service Charges. The Issuer will pay all Bond Service Charges, or cause them to be paid, solely from the sources provided herein and, to the extent within its control, on the dates, at the places and in the manner provided in this Indenture.

(b) Pledged Revenues and Assignment of Pledged Revenues. The Issuer will not assign the Pledged Revenues or create or authorize to be created any debt, lien or charge thereon, other than the assignment thereof under this Indenture.

(c) Recordings and Filings. At the expense of the Borrowers, the Trustee will cause this Indenture, and any related instruments or documents relating to the assignment made by it under this Indenture to secure the Bonds, to be recorded and filed in the manner and in the places which may be required by law in order to preserve and protect fully the security of the Holders and the rights of the Trustee hereunder.

(d) Inspection of Project Books. All books, instruments and documents in the Issuer's possession relating to the Projects and the Pledged Revenues shall be open to inspection and copying at all times during the Issuer's regular business hours by any accountants or other agents of the Trustee, the Authorized Borrowers' Representative and the Investor Member.

(e) Register. At reasonable times and under reasonable regulations established by the Registrar, the Register may be inspected and copied (at the expense of the person making such copies) by the Authorized Borrowers' Representative, the Investor Member, the Trustee, by Holders of 25% or more in principal amount of the Bonds then outstanding, or a designated representative thereof.

(f) Rights and Enforcement of the Bond Loan Agreement. The Trustee may enforce, in its name or in the name of the Issuer, all rights of the Issuer for and on behalf of the Holders, except for Issuer's Reserved Rights, and may enforce all covenants, Bond Loan Agreement and obligations of the Borrowers under and pursuant to the Bond Loan Agreement, regardless of whether the Issuer is in default in the pursuit or enforcement of those rights, covenants, agreements or obligations. The Issuer, however, will do all things and take all actions on its part necessary to comply with covenants, agreements, obligations, duties and responsibilities on its part to be observed or performed under the Bond Loan Agreement, and will take all actions within its authority to keep the Bond Loan Agreement in effect in accordance with the terms thereof.

(g) Issuer Not to Adversely Affect Excludability From Gross Income of Interest on Bonds. The Issuer covenants that it (i) will take, or require to be taken, all actions of which it has knowledge that may be required of the Issuer for the interest on the Bonds to be and remain excludable from gross income for federal income tax purposes, and (ii) will not take or authorize to be taken any actions of which it has knowledge that would adversely affect the excludability of the interest on the Bonds from gross income for federal income tax purposes under the provisions of the Code.

(h) Patriot Act. The Issuer covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to satisfy the requirements of the USA Patriot Act as described in Section 13.13 of this Indenture.

**Section 10.02. Observance and Performance of Covenants, Agreements, Issuer and Actions.**

The Issuer will observe and perform faithfully at all times all covenants, agreements, authority, actions, undertakings, stipulations and provisions to be observed or performed on its part under the Bond Loan Agreement, this Indenture, the Bond Resolution, the Tax Exemption Agreement, the Regulatory Agreement and the Bonds which are executed, authenticated and delivered under this Indenture, and under all proceedings of its Board pertaining thereto.

The Issuer represents and warrants that

(a) It is duly authorized by the Constitution and laws of the State, including particularly and without limitation the Act, to issue the Bonds, to execute and deliver this Indenture, the Bond Loan Agreement and the Tax Exemption Agreement, and the Regulatory Agreement and to provide the security for payment of the Bond Service Charges in the manner and to the extent set forth in this Indenture.

(b) All actions required on its part to be performed for the issuance, sale and delivery of the Bonds and for the execution and delivery of this Indenture and the Bond Loan Agreement have been taken duly and effectively.

(c) The Bonds will be valid and enforceable limited obligations of the Issuer according to their terms.

[End of Article X]

**ARTICLE XI**  
**AMENDMENTS TO BOND LOAN AGREEMENT, AGREEMENTS**  
**AS TO TAX EXEMPTION CERTIFICATE, REGULATORY AGREEMENT**  
**AND BOND NOTE**

**Section 11.01. Amendments Not Requiring Consent of Holders.**

Without the consent of or notice to the Holders, the Issuer, a Borrower, the Investor Member and the Trustee may consent to any amendment, change or modification of a Bond Loan Agreement, Tax Exemption Agreement, Regulatory Agreement or the Bond Note relating to that Borrower as may be required (i) by the provisions of the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or this Indenture, (ii) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Bond Loan Agreement, the Tax Exemption Certificate, the Regulatory Agreement or the Bond Note, (iii) in connection with an amendment or to effect any purpose for which there could be an amendment of this Indenture pursuant to Section 8.02 hereof, or (iv) in connection with any other change therein which is not to the prejudice of the Trustee or the Holders of the Bonds, in the judgment of the Trustee, applying the standards described in Sections 6.01 and 6.02 hereof.

**Section 11.02. Amendments Requiring Consent of Holders.**

Except for the amendments, changes or modifications contemplated in Section 11.01 hereof, neither the Issuer nor the Trustee shall consent to

(a) any amendment, change or modification of the Bond Loan Agreement or the Bond Note which would change the amount or time as of which Bond Loan Payments are required to be paid, without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note without the giving of notice as provided in this Section of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such amendment, change or modification.

The consent of the Holders shall be obtained as provided in Section 8.03 hereof with respect to Supplemental Indentures.

If the Issuer or the Authorized Borrowers' Representative shall request at any time the consent of the Trustee to any proposed amendment, change or modification of a Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note contemplated in subparagraphs (a) or (b) of this Section, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by Section 8.03 hereof with respect

to notice of Supplemental Indentures. The notice shall set forth briefly the nature of the proposed amendment, change or modification and shall state that copies of the instrument or document embodying it are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

**Section 11.03. Opinion of Bond Counsel.**

Before the Issuer and the Trustee shall consent to any amendment, change or modification of any of the documents described in Sections 11.01 and 11.02, there shall be delivered to the Trustee and the Issuer an Opinion of Bond Counsel to the effect that such amendment, change or modification will not adversely affect the excludability of the interest on the Bonds from gross income for federal income tax purposes.

[End of Article XI]

**ARTICLE XII  
MEETINGS OF HOLDERS**

**Section 12.01. Purposes of Meetings.**

A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article XII, to take any action (i) authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Bonds, (ii) under any provision of this Indenture or (iii) authorized or permitted by law.

**Section 12.02. Call of Meetings.**

The Trustee may (but shall not be obligated to) call at any time a meeting of Holders pursuant to Section 12.01 to be held at any reasonable time and place the Trustee shall determine. Notice of such meeting, setting forth the time, place and generally the subject thereof, shall be mailed by first-class mail, postage prepaid, not fewer than 15 nor more than 90 days prior to the date of the meeting to the Holders at their addresses as they appear on the Register on the fifteenth day preceding such mailing, which fifteenth day, preceding the mailing, shall be the record date for the meeting.

At any time, the Issuer or the Borrowers, or the Holders of at least 25% in aggregate principal amount of the Bonds then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth the purpose of the meeting, and the Trustee shall not have mailed the notice of the meeting within 20 days after receipt of the request, then the Issuer, the Authorized Borrowers' Representative, the Investor Member or the Holders of Bonds in the amount above specified may determine the time and the place of the meeting and may call the meeting to take any action authorized in Section 12.01, by mailing notice thereof as provided above.

Any meetings of Holders shall be valid without notice, if the Holders of all Bonds then outstanding are present in person or by proxy, or if notice is waived before or after the meeting by the Holders of all Bonds outstanding who were not so present at the meeting, and if the Issuer, the Borrowers and the Trustee are either present by duly authorized representatives or have waived notice, before or after the meeting.

**Section 12.03. Voting.**

To be entitled to vote at any meeting of Holders, a Person shall (a) be a Holder of one or more outstanding Bonds as of the record date for the meeting as determined above, or (b) be a person appointed by an instrument or document in writing as proxy by a Person who is a Holder as of the record date for the meeting, of one or more outstanding Bonds. Each Holder or proxy shall be entitled to one vote for each \$100,000 principal amount of Bonds held or represented by it.

The vote upon any resolution submitted to any meeting of Holders shall be by written ballots on which shall be subscribed the signatures of the Holders of Bonds or of their representatives by proxy and the identifying number or numbers of the Bonds held or represented by them.



**Section 12.04. Meetings.**

Notwithstanding any other provisions of this Indenture, the Trustee may make any reasonable regulations which it may deem to be advisable for meetings of Holders, with regard to

- (a) proof of the holding of Bonds and of the appointment of proxies,
- (b) the appointment and duties of inspectors of votes,
- (c) recordation of the proceedings of those meetings,
- (d) the execution, submission and examination of proxies and other evidence of the right to vote, and
- (e) any other matters concerning the conduct, adjournment or reconvening of meetings which it may think fit.

The Trustee shall appoint a temporary chair of the meeting by an instrument or document in writing, unless the meeting shall have been called by the Issuer, the Borrowers or by the Holders, as provided in Section 12.02, in which case the Issuer, the Borrowers or the Holders calling the meeting, as the case may be, shall appoint a temporary chair in like manner. A permanent chair and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in principal amount of the Bonds represented at the meeting and entitled to vote.

The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at the meeting and their counsel, any representatives of the Trustee or Registrar and their counsel, any representatives of the Issuer and its counsel and any representatives of the Borrowers and its counsel.

**Section 12.05. Miscellaneous.**

Nothing contained in this Article XII shall be deemed or construed to authorize or permit any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Bonds by reason of any call of a meeting of Holders or any rights conferred expressly or impliedly hereunder to make a call.

[End Article XII]

**ARTICLE XIII  
MISCELLANEOUS**

**Section 13.01. Limitation of Rights.**

With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Registrar, the Authenticating Agents, the Paying Agents, the Borrowers, the Investor Member and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Registrar, the Paying Agents, the Authenticating Agents, the Borrowers, the Investor Member and the Holders of the Bonds, as provided herein.

**Section 13.02. Severability.**

In case any section or provision of this Indenture, or any covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, or any application thereof, is held to be illegal or invalid for any reason, or is inoperable at any time, that illegality, invalidity or inoperability shall not affect the remainder thereof or any other section or provision of this Indenture or any other covenant, agreement, stipulation, obligation, act or action, or part thereof, made, assumed, entered into or taken under this Indenture, all of which shall be construed and enforced at the time as if the illegal, invalid or inoperable portion were not contained therein.

Any illegality, invalidity or inoperability shall not affect any legal, valid and operable section, provision, covenant, agreements, stipulation, obligation, act, action, part or application, all of which shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law from time to time.

**Section 13.03. Notices.**

Except as provided in Section 7.02 hereof, it shall be sufficient service or giving of any notice, request, complaint, demand or other instrument or document, if it is duly mailed by first-class mail, postage pre-paid, or is forwarded by overnight courier service, delivery charges pre-paid. Notices to the Issuer, the Authorized Borrowers' Representative, the Investor Member, the Lender (and its counsel), the Rating Agency and the Trustee shall be delivered to their respective Notice Address. Notices, certificates, requests or other communications may be given to the Trustee by electronic transmission, but only if the Trustee, the Issuer and the Borrowers' Representative have entered into an agreement satisfactory to the Trustee permitting such means of correspondence.

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Issuer, the Trustee, the Authorized Borrowers' Representative, the Lender and the Investor Member, to one or both of the others also shall be given to the others. Any notice given pursuant to Sections 6.09, 6.13, 7.02, 7.03, 8.02, 8.03, 9.02 and 11.02 shall be

simultaneously given to the Rating Agency. The foregoing parties may designate, by written notice given hereunder, any further or different addresses to which any subsequent notice, request, complaint, demand or other instrument or document shall be sent. The Trustee shall designate, by written notice to the Issuer, the Lender, the Authorized Borrowers' Representative and the Investor Member, the addresses to which notices or copies thereof shall be sent to the Registrar, the Authenticating Agents and the Paying Agents. In addition to the foregoing, the Trustee hereby agrees to send written notice to the Rating Agency upon the occurrence of any of the following events: (1) any change in the Trustee; (2) any amendment to the documents; or (3) any mandatory tender, redemption, defeasance or acceleration of the Bonds.

In connection with any notice mailed pursuant to the provisions of this Indenture, a certificate of the Trustee, the Issuer, the Registrar, the Authenticating Agents, the Authorized Borrowers' Representative, the Investor Member or the Holders of the Bonds, whichever or whoever mailed that notice, that the notice was so mailed shall be conclusive evidence of the proper mailing of the notice.

**Section 13.04. Suspension of Mail and Courier Service.**

If because of the suspension of delivery of first-class mail or of delivery by overnight courier services, or for any other reason, the Trustee shall be unable to mail by the required class of mail or forward by overnight courier service any notice required to be given by the provisions of this Indenture, the Trustee shall give such notice in such other manner as in the judgment of the Trustee shall most effectively approximate the required mailing or forwarding thereof, and the giving of that notice in that manner for all purposes of this Indenture shall be deemed to be in compliance with the requirement of this Section. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice by the delivery service.

**Section 13.05. Payments Due on Saturdays, Sundays and Holidays.**

If any Interest Payment Date or a date of maturity of the principal of any Bonds is a Saturday, Sunday or a day on which (i) the Trustee is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by the Trustee or any Paying Agent on that date, but that payment may be made on the next succeeding business day on which the Trustee and the Paying Agent are open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity, and no interest shall accrue for the period after that date, or (ii) a Paying Agent is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest and principal need not be made by that Paying Agent on that date, but that payment may be made on the next succeeding business day on which that Paying Agent is open for business with the same force and effect as if that payment were made on the Interest Payment Date or date of maturity and no interest shall accrue for the period after that date; provided, that if the Trustee is open for business on the applicable Interest Payment Date or date of maturity, it shall make any payment required hereunder with respect to payment of interest on outstanding Bonds and payment of principal of the Bonds

presented to it for payment, regardless of whether any Paying Agent shall be open for business or closed on the applicable Interest Payment Date or date of maturity.

**Section 13.06. Instruments of Holders.**

Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, required under this Indenture to be executed by any Holder may be in any number of concurrent writings of similar tenor and may be executed by that Holder in person or by an agent or attorney appointed in writing. Proof of (i) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (ii) the execution of any writing appointing any agent or attorney, and (iii) the ownership of Bonds, shall be sufficient for any of the purposes of this Indenture, if made in the following manner, and if so made, shall be conclusive in favor of the Trustee with regard to any action taken thereunder, namely:

(a) The fact and date of the execution by any person of any writing may be proved by the certificate of any officer in any jurisdiction, who has power by law to take acknowledgments within that jurisdiction, that the person signing the writing acknowledged that execution before that officer, or by affidavit of any witness to that execution; and

(b) The fact of ownership of Bonds shall be proved by the Register maintained by the Registrar.

Nothing contained herein shall be construed to limit the Trustee to the foregoing proof, and the Trustee may accept any other evidence of the matters stated therein which it deems to be sufficient. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, of the Holder of any Bond shall bind every future Holder of the same Bond, with respect to anything done or suffered to be done by the Issuer, the Borrowers, the Trustee, the Registrar or any Paying Agent or Authenticating Agent pursuant to that writing.

**Section 13.07. Priority of this Indenture.**

This Indenture shall be superior to any liens which may be placed upon the Pledged Revenues or any other funds or accounts created pursuant to this Indenture.

**Section 13.08. Extent of Covenants; No Personal Liability.**

All covenants, stipulations, obligations and agreements of the Issuer contained in this Indenture are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and permitted by the Constitution of the State. No covenant, stipulation, obligation or agreement of the Issuer contained in this Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Board in other than that person's official capacity. Neither the members of the Board nor any official executing the Bonds, this Indenture, the Bond Loan Agreement or any amendment or supplement hereto or thereto shall be liable personally on

the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution hereof or thereof.

**Section 13.09. Binding Effect.**

This Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Trustee and their respective successors and assigns, subject, however, to the limitations contained herein.

**Section 13.10. Counterparts.**

This Indenture may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

**Section 13.11. Governing Law.**

This Indenture and the Bonds shall be deemed to be contracts made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**Section 13.12. Security Advice Waiver.**

The Issuer acknowledges that regulations of the Comptroller of the Currency grant the Borrowers the right to receive brokerage confirmations of the security transactions as they occur. The Borrowers specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions.

**Section 13.13. Patriot Act.**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a Trust or other legal entity the Trustee will request documentation to verify its formation and existence as a legal entity. The Trustee may also request financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

**Section 13.14. RHS and GNMA Requirements to Control.**

(a) To the extent there is any conflict, inconsistency or ambiguity between or among the provisions of this Indenture and the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool or the Senior Loan Documents, then in such event the RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or Senior Loan Documents will be deemed to be controlling and any such ambiguity or inconsistency will be resolved in favor of and pursuant to the RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or the provisions of the Senior Loan Documents.

(b) Notwithstanding anything to the contrary contained herein, the enforcement of this Indenture shall not result in any claim against a Project, Senior Loan proceeds, any reserve or deposit made with the Lender or with another person or entity required by RHS in connection with the Senior Loan transactions, or against rents or other income from the Project other than available “surplus cash” as defined in the Senior Loan Documents available for distribution to the Borrower under the Senior Loan Documents. Nothing contained in this subsection, however, shall prevent or preclude the Trustee, to the extent expressly permitted by the provisions of this Indenture, (i) from using funds on deposit in the Bond Fund to make payments to Holders and/or (ii) to use funds on deposit in the Project Fund to make payments to or on behalf of the Lender.

(c) If this Indenture contains any provision requiring the Issuer, a Borrower, the Trustee or any other party to the transaction to take any action necessary to preserve the tax-exemption of interest on the Bonds, or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents.

(d) Notwithstanding any provision of this Indenture to the contrary, the parties hereto acknowledge and agree that all of their respective rights and powers to any assets or properties of the Borrowers are subordinate and subject to the liens created by the mortgages securing the Senior Loans, together with any and all amounts from time to time secured thereby, and interest thereon, and to all of the terms and provisions of the mortgages securing the Senior Loans, and any and all other documents executed by the Borrowers as required by RHS or GNMA in connection therewith.

**Section 13.15. Waiver of Attorneys’ Fees.**

The parties hereby agree that each party’s obligations hereunder to pay attorneys’ fees and expenses of another party, or to reimburse another party for such fees and expenses, shall extend only to such reasonable fees and expenses as are actually incurred by such other party.

[End of Article XIII]

**IN WITNESS WHEREOF**, the Issuer and the Trustee have caused this Trust Indenture to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**

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

(SEAL)

ATTEST:

\_\_\_\_\_  
Secretary/Assistant Secretary

**WILMINGTON TRUST, N.A.**, as Trustee and  
Registrar of the Bonds

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**BOND FORM**

NOTICE: Unless this certificate is presented by an authorized representative of The Depository Trust Company to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

**REGISTERED  
NO. \_\_\_\_\_**

**\$20,000,000**

**United States of America  
State of Texas**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
MULTIFAMILY HOUSING REVENUE BONDS  
(Related RD Portfolio),  
Series 2018**

**MATURITY DATE:  
November 1, 2021**

**DATED AS OF  
November \_\_, 2018**

**CUSIP:  
\_\_\_\_\_**

**REGISTERED OWNER: Cede & Co.**

**PRINCIPAL AMOUNT: [AMOUNT SPELL-OUT]**

**INITIAL INTEREST RATE: \_\_\_%**

**INITIAL MANDATORY TENDER DATE: November 1, 2020**

Texas Department of Housing and Community Affairs (“Issuer”), a public and official agency of the State, for value received, promises to pay to the Registered Owner specified above or registered assigns, but solely from the sources and in the manner referred to herein, the Principal Amount specified above on the Maturity Date specified above (subject to optional and mandatory tender set forth herein), and to pay from those sources interest thereon on (a) each May 1 and November 1, commencing May 1, 2019, (b) each Redemption Date and (c) each Mandatory Tender Date (the “Interest Payment Date”) until the principal amount is paid or duly provided for. This Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date of delivery. From the Dated Date set forth above to but not including the Initial Mandatory Tender Date set forth above, this Bond shall bear interest at the Initial Interest Rate set forth above. Thereafter, this Bond shall bear interest at the Remarketing Rate determined as provided in the Indenture.



The principal of this Bond is payable upon presentation and surrender hereof at the designated corporate trust office of the trustee, presently Wilmington Trust, N.A. (“Trustee”). Interest is payable on each Interest Payment Date by check or draft mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (“Holder”) at the close of business on the 15th day of the calendar month next preceding that Interest Payment Date (“Regular Record Date”) on the registration books for this issue maintained by the Trustee, as Registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than ten days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

This Bond is a limited obligation of the Issuer and the Bond Service Charges thereon are payable equally and ratably solely from the Pledged Revenues, including but not limited to moneys and investments in the Special Funds, (ii) the payment of Bond Service Charges on this Bond is secured by the assignment of the Pledged Revenues under the Indenture, and (iii) payments due on this Bond also are secured by the Bond Note. The Bonds are not and never shall become general obligations of the Issuer.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against the Issuer, any past, present or future member of its governing body, its officers, attorneys, accountants, financial advisors, agents or staff, or the officers, attorneys, accountants, financial advisors, agents or staff of any successor public entity, as such, either directly or through the Issuer or any successor public entity, under any rule of law or penalty or otherwise, and all such liability of the Issuer, any member of its governing body and its officers, attorneys, accountants, financial advisors, agents and staff is hereby, and by the acceptance of this Bond, expressly waived and released as a condition of, and in consideration for, the execution of this Indenture and the issuance of any of this Bond.

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THIS BOND NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THIS BOND AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF OR A PLEDGE**

**OR A GRANT OF THE FAITH AND CREDIT OF THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR ANY SUCH AGENCY, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND. THE ISSUER HAS NO TAXING POWER.**

This Bond is one of a duly authorized issue of Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (“Bonds”), issuable under the Trust Indenture dated as of November 1, 2018 (“Indenture”), between the Issuer and the Trustee, aggregating in principal amount \$20,000,000 and issued for the purpose of making Bond Loans (individually a “Bond Loan,” and, collectively, the “Bond Loans”) to the Borrowers described therein (individually a “Borrower,” and, collectively the “Borrowers”) to pay a portion of the costs of acquiring, rehabilitating, equipping and improving the Projects defined in the Loan Agreement dated as of even date with the Indenture (“Bond Loan Agreement”), between the Issuer and the Borrowers. The Bonds are special obligations of the Issuer, issued or to be issued under and are to be secured and entitled equally and ratably to the protection given by the Indenture. The Bonds are issued pursuant to, under authority of and in compliance with the laws of the State of Texas, including Chapter 2306 of the Texas Government Code, as amended (“Act”), and a resolution duly enacted by the Board of Directors of the Issuer.

The Bonds are subject to optional redemption prior to their maturity, at direction of the Authorized Borrowers’ Representative, either in whole or in part on any date on or after the later to occur of (i) the date that the Projects are placed in service, as certified in writing by the Borrower to the Trustee, and (ii) the Optional Redemption Date (as defined in the Indenture) at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption, under the terms set forth in the Indenture.

The Bonds are subject to mandatory tender prior to their stated maturity on the Initial Mandatory Tender Date, as set forth in the Indenture. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the tender date. Commencing on such date, this Bond shall bear interest at the Remarketing Rate, determined as provided in the Indenture.

Reference is made to the Indenture for a more complete description of the Projects, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

Pursuant to each Bond Loan Agreement, the Borrower thereunder has executed and delivered to the Trustee such Borrower’s promissory Bond Note dated of even date herewith (“Bond Note”). The Borrowers are required by the Bond Loan Agreement and the Bond Note to

make payments to the Trustee in the amounts and at the times necessary to pay the principal of and interest (“Bond Service Charges”) on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer’s right, title and interest in and to the Bond Loan Agreement, except for Issuer’s Reserved Rights as defined in the Bond Loan Agreement.

Copies of the Indenture, the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement and the Bond Note are on file in the principal corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Pledged Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Bond Loan Agreement and the Bond Note in repayment of the Bond Loan and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Pledged Revenues. The Bonds are not secured by an obligation or pledge of any moneys raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer. The Issuer has no taxing power.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Agency of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Bonds (“book entry interests”) having no right to receive from the Agency Bonds in the form of physical securities or certificates. Ownership of book entry interests in the Bonds shall be shown by book entry on the system maintained and operated by DTC, its participants (“Participants”) and certain persons acting through the Participants, and transfers of ownership of book entry interests shall be made only by that book entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of book entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository (as defined in the Indenture) or to another nominee of a Depository, without further action by the Issuer and otherwise at the expense of the Borrowers.

If any Depository determines not to continue to act as a Depository for the Bonds for use in a book entry system, the Issuer may attempt to have established a securities depository/book entry system relationship with another qualified Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of book entry interests by the then Depository, shall permit withdrawal of the Bonds from the Depository, and authenticate and deliver Bond certificates in fully registered form (in denominations of \$5,000, or any integral multiple of \$1,000 in excess thereof) to the assignees of the Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrowers).

The Indenture permits certain amendments or supplements to the Indenture, the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement and the Bond Note not prejudicial to the Holders to be made without the consent of or notice to the Holders, and certain other amendments or supplements thereto to be made with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding.

The Holder of each Bond has only those remedies provided in the Indenture.

The Bonds shall not constitute the personal obligation, either jointly or severally, of the members of the Board or of any other officer of the Issuer.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in the time, form and manner as required by law and that this Bond and the issue of which it forms a part does not exceed or violate any constitutional or statutory limitation.

This Bond shall not be entitled to any security or benefit under the Indenture or be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed.

IN WITNESS OF THE ABOVE, the Issuer has caused this Bond to be to be executed and delivered by duly authorized officers thereof as of the day and year first written above.

**IN WITNESS WHEREOF**, Texas Department of Housing and Community Affairs has caused this Bond to be executed with the manual or facsimile signature of its Chair and its corporate seal to be impressed hereon and attested by its Secretary/Assistant Secretary.

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**

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

[SEAL]

Attest:

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

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds described in the within-mentioned Indenture.

Date of Registration and Authentication: \_\_\_\_\_

**WILMINGTON TRUST, N.A.,**  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer that Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

\_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature guarantee shall be made by a guarantor institution participating in the Securities Transfer Agent Medallion Program or in such other guarantee program acceptable to the Registrar.

Please insert social security number or other tax identification number of transferee

\_\_\_\_\_  
\_\_\_\_\_

Unless this certificate is presented by an authorized representative of The Depository Trust Company (55 Water Street, New York, New York) to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

**EXHIBIT B**

**DESCRIPTION OF PROJECTS, BORROWERS AND BOND LOANS**

**[Borrower insert information regarding approximate acreage and project cost.]**

<b>NO.</b>	<b>PROJECT/LOCATION</b>	<b>DESCRIPTION (approximate acreage)</b>	<b>BORROWER/OWNER</b>	<b>PROJECT COST</b>	<b>ALLOCATED BONDS</b>
1	<u>Bastrop Oak Grove I and Bastrop Oak Grove II</u> 1910 Wilson Street, Bastrop, Texas 78602 (Bastrop County)	Acquisition/rehabilitation of a 48-unit multifamily housing development	THF Bastrop Oak Grove, LLC, a Texas limited liability company		\$2,910,000
2	<u>Bay City Village</u> 3301 Royal Street Baytown, Texas 77521 (Harris County)	Acquisition/rehabilitation of a 62-unit multifamily housing development	THF Bay City Village, LLC, a Texas limited liability company		\$2,610,000
3	<u>Burk Village</u> 716 Park Street, Burkburnett, Texas 76360 (Wichita County)	Acquisition/rehabilitation of a 40-unit multifamily housing development	THF Burk Village, LLC, a Texas limited liability company		\$1,990,000
4	<u>Elgin Meadowpark</u> 401 N. Highway 95, Elgin, Texas 78602 (Bastrop County)	Acquisition/rehabilitation of a 28-unit multifamily housing development	THF Elgin Meadowpark, LLC, a Texas limited liability company		\$1,710,000
5	<u>Evant Tom Sawyer</u> 411 Tom Sawyer Street, Evant, Texas 76525 (Coryell County)	Acquisition/rehabilitation of a 18-unit multifamily housing development	THF Evant Tom Sawyer, LLC, a Texas limited liability company		\$1,010,000
6	<u>Hondo Brian Place</u> 231 Stage Coach Drive, Hondo, Texas 78861 (Medina County)	Acquisition/rehabilitation of a 40-unit multifamily housing development	THF Hondo Brian Place, LLC, a Texas limited liability company		\$2,390,000
7	<u>Hondo Gardens</u> 3100 Avenue Q, Hondo, Texas 78861 (Medina County)	Acquisition/rehabilitation of a 32-unit multifamily housing development	THF Hondo Gardens, LLC, a Texas limited liability company		\$1,600,000



8	<u>Lampasas Gardens</u> 1311 Plum Street, Lampasas, Texas 76550 (Lampasas County)	Acquisition/rehabilitation of a 24-unit multifamily housing development	THF Lampasas Gardens, LLC, a Texas limited liability company		\$1,520,000
9	<u>Lantana Apartments</u> 2200 N. Adams Street, Beeville, Texas 78102 (Bee County)	Acquisition/rehabilitation of a 92-unit multifamily housing development	THF Lantana Apartments, LLC, a Texas limited liability company		\$4,260,000
				\$	.00
					\$20,000,000.00

## EXHIBIT C

### **BORROWER'S CERTIFICATE TO TRUSTEE** **FOR REALLOCATION FROM PROJECT FUND**

STATEMENT NO. \_\_\_\_\_ REQUESTING REALLOCATION AND TRANSFER OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 3.4(E) OF THE LOAN AGREEMENT DATED AS OF NOVEMBER 1, 2018 BETWEEN TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS AND BORROWERS, AS DESCRIBED BELOW.

Pursuant to Section 3.4(e) of the Loan Agreement (“Agreement”) between **Texas Department of Housing and Community Affairs** (“Issuer”) and **BORROWERS**, each as set forth on the attached *Exhibit A*, each a Texas limited liability company (each, “Borrower” and collectively, “Borrowers”) dated as of November 1, 2018, the undersigned Authorized Borrowers’ Representative hereby requests and authorizes **WILMINGTON TRUST, N.A.**, as trustee (“Trustee”), as depository of Project Fund created and defined by the Trust Indenture, dated as of November 1, 2018, between the Issuer and the Trustee (“Indenture”) to transfer out of the moneys deposited in Project Fund the aggregate sum of \$ \_\_\_\_\_ to the Collateral Fund immediately upon the receipt of this completed request. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Indenture.

To induce the Trustee to transfer funds in the Project Fund to the Collateral Fund as set forth above, the undersigned Authorized Borrowers’ Representative represents, warrants and certifies to the Issuer, the Lender, the Investor Member and the Trustee:

- (a) Each item for which such reallocation and transfer is requested hereunder is presently due and payable, has been properly incurred by the Borrower in connection with the Project being financed with the proceeds of the Loan, or is a reimbursable Project Cost properly chargeable against the Loan and none of those items has formed the basis for any reallocation and transfer heretofore made from said Project Fund.
- (b) Each such item is or was necessary in connection with the acquisition, construction, rehabilitation, installation, improving, equipping or financing of the Project, as defined in the Agreement.
- (c) The costs specified in the Reallocation Schedule attached hereto, when added to all previous reallocations or disbursements under the Loan, do not exceed the aggregate principal amount of the Loan (or the aggregate principal amount of the Allocated Bonds).
- (d) The costs specified in the Reallocation Schedule attached hereto, when added to all previous reallocations or disbursements under the Loan, will result in at least 95% of the aggregate amount of all reallocations or disbursements having been used to pay or reimburse the Borrower for amounts which are Project Costs.
- (e) To the knowledge of the undersigned, there is no current or existing event of default pursuant to the terms of the Agreement, the Tax Exemption Agreement or the

Regulatory Agreement and no event exist which by notice or passage of time or both would constitute an event of default under any of the foregoing documents.

(f) No representation or warranty of the Borrower contained in the Agreement, the Tax Exemption Agreement or the Regulatory Agreement is materially incorrect or inaccurate, except as the Borrower has set forth in writing, and there has been no event of default under the terms of any of those documents and which is continuing and no event shall exist which by notice, passage of time or both would constitute an event of default under any of those documents.

(g) This statement and all exhibits hereto, including the Reallocation Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto.

This statement constitutes the approval of the Borrower of the reallocation and transfer hereby requested and authorized.

This \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

**[BORROWER]**  
a Texas limited liability company

REALLOCATION SCHEDULE 1 TO STATEMENT NO. \_\_\_\_\_ REQUESTING AND AUTHORIZING REALLOCATION AND TRANSFER OF FUNDS FROM PROJECT FUND PURSUANT TO SECTION 3.4 OF THE LOAN AGREEMENT DATED AS OF November 1, 2018 BETWEEN THE ISSUER AND THE BORROWERS.

PROJECT	PAYEE	AMOUNT	PURPOSE
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**EXHIBIT D**

**REQUISITION**  
(Costs of Issuance Fund)

Wilmington Trust, N.A.  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248  
Attention: Chuck Hicks

Re: \$20,000,000 Texas Department of Housing and Community Affairs Multifamily  
Housing Revenue Bonds (Related RD Portfolio), Series 2018

Ladies and Gentlemen:

Pursuant to Section 5.07 of the Indenture (as defined below), you are requested to disburse funds from the Costs of Issuance Fund in the amount(s), to the person(s) and for the purpose(s) set forth in this Requisition and the Indenture. The terms used in this Requisition and not otherwise defined herein shall have the meanings given to those terms in the Trust Indenture (the "Indenture"), dated as of November 1, 2018, by and between Texas Department of Housing and Community Affairs and Wilmington Trust, N.A., as Trustee, securing the above-referenced Bonds.

1. REQUISITION NO.: \_\_\_\_\_
2. PAYMENT DUE TO: [SEE ATTACHED SCHEDULE I]
3. AMOUNT TO BE DISBURSED: \$ \_\_\_\_\_ [SEE ATTACHED SCHEDULE I]
4. The amount requested to be disbursed pursuant to this Requisition will be used to pay costs of issuance detailed in Schedule I attached to this Requisition.

DATE OF REQUISITION: \_\_\_\_\_, 201\_

**[BORROWER]**  
a Texas limited liability company

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

Its: \_\_\_\_\_  
Manager

By: \_\_\_\_\_  
\_\_\_\_\_, Manager

**EXHIBIT E**  
**REQUISITION**  
(Borrower's Equity Fund)

Wilmington Trust, N.A.  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248  
Attention: Chuck Hicks

Re: \$20,000,000 Texas Department of Housing and Community Affairs Multifamily  
Housing Revenue Bonds (Hallmark Project) Series 2018

Ladies and Gentlemen:

Pursuant to Section 5.09 of the Indenture (as defined below), you are requested to disburse funds from the Borrower's Equity Fund in the amount(s), to the person(s) and for the purpose(s) set forth in this Requisition and the Indenture. The terms used in this Requisition and not otherwise defined herein shall have the meanings given to those terms in the Trust Indenture (the "Indenture"), dated as of November 1, 2018, by and between Texas Department of Housing and Community Affairs and Wilmington Trust, N.A., as Trustee, securing the above-referenced Bonds.

1. REQUISITION NO.: \_\_\_\_\_
2. (A) TRANSFER TO COLLATERAL FUND: \$\_\_\_\_\_ (ONLY FROM THE ELIGIBLE FUNDS ACCOUNT OF THE BORROWER'S EQUITY FUND)  
  
(B) PAYMENT DUE TO: [SEE ATTACHED SCHEDULE I]
3. AMOUNT TO BE DISBURSED PURSUANT TO 2(B) ABOVE: \$\_\_\_\_\_ [SEE ATTACHED SCHEDULE I]

DATE OF REQUISITION: \_\_\_\_\_, 201\_

**[BORROWER]**  
a Texas limited liability company

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

Its: \_\_\_\_\_  
Manager

By: \_\_\_\_\_  
\_\_\_\_\_, Manager

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**LOAN AGREEMENT**

between

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS and**

**BORROWERS,**

each as set forth on the attached *Exhibit E*

**\$20,000,000**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**MULTIFAMILY HOUSING REVENUE BONDS**

**(Related RD Portfolio),**

**Series 2018**

**Dated**

**as of**

**November 1, 2018**

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(This Index is not a part of the Agreement  
but rather is for convenience of reference only.)

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT** made and entered into as of November 1, 2018 (“Agreement”), between **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (“Issuer”), a public body corporate and politic duly created, organized and existing under the laws of the State of Texas (the “State”), and the **BORROWERS**, each as set forth on the attached *Exhibit E*, each a limited liability company (each a “Borrower” and collectively the “Borrowers”), under the following circumstances summarized in the following recitals (the capitalized terms not defined in the recitals being used therein as defined in Article I hereof):

A. Pursuant to the Act, the Issuer has determined to issue, sell and deliver its Bonds and to loan the proceeds derived from the sale of the Allocated Bonds to the Borrowers to assist in the financing of the Projects to be undertaken by the Borrowers.

B. The Borrowers and the Issuer each have full right and lawful authority to enter into this Agreement and to perform and observe the provisions hereof on their respective parts to be performed and observed.

**NOW THEREFORE**, in consideration of the premises and the mutual representations and agreements hereinafter contained, the Issuer and the Borrowers agree as follows (provided that any obligation of the Issuer created by or arising out of this Agreement shall never constitute a general debt of the Issuer or give rise to any pecuniary liability of the Issuer but shall be payable solely out of Pledged Revenues):

[Remainder of page intentionally left blank]

## **ARTICLE I DEFINITIONS**

### **Section 1.1 Use of Defined Terms.**

In addition to the words and terms defined elsewhere in this Agreement, the words and terms in this Agreement shall have the meanings set forth in the Trust Indenture (“Indenture”), dated as of the date of this Agreement between the Issuer and Wilmington Trust, N.A., as trustee (“Trustee”). For purposes of this Agreement the term “Project” or “Projects” shall mean the Projects for the Borrowers as more specifically described on Exhibit B to the Indenture.

### **Section 1.2 Interpretation.**

Any reference herein to the Issuer, to the Board or to any member or officer of either includes entities or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or lawfully performing their functions.

Any reference to a section or provision or chapter of the Act, as amended or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this provision, if it constitutes in any way an impairment of the rights or obligations of the Issuer, the Holders, the Trustee or the Borrowers under this Agreement.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Agreement; and the term “hereafter” means after, and the term “heretofore” means before, the date of delivery of the Bonds. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

### **Section 1.3 Captions and Headings.**

The captions and headings in this Agreement are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

[End of Article I]

**ARTICLE II  
REPRESENTATIONS AND COVENANTS**

**Section 2.1 Representations of the Issuer.**

The Issuer represents that: (a) it is a public and official agency of the State duly created, organized and existing under the laws of the State; (b) it has duly accomplished all conditions necessary to be accomplished by it prior to the issuance and delivery of the Bonds and the execution and delivery of this Agreement, the Indenture, the Tax Exemption Agreement and the Regulatory Agreement; (c) it is not in violation of or in conflict with any provisions of the laws of the State that would impair its ability to carry out its obligations contained in this Agreement, the Indenture, the Tax Exemption Agreement and the Regulatory Agreement; (d) it has the legal right and is empowered to enter into the transactions contemplated by this Agreement, the Indenture, the Tax Exemption Agreement and the Regulatory Agreement; (e) it has duly authorized the execution, delivery and performance of this Agreement, the Indenture, the Tax Exemption Agreement, and the Regulatory Agreement; and (f) it will do all things in its power in order to maintain its existence or assure the assumption of its obligations under this Agreement, the Indenture, the Tax Exemption Agreement and the Regulatory Agreement by any successor public body.

**Section 2.2 Representations and Covenants of the Borrowers.**

The Borrowers, with respect to itself and its Project only, represent and covenant that:

(a) Each Borrower is a limited liability company duly formed and in full force and effect under the laws of the State and qualified to do business under the laws of the State.

(b) Each Borrower has full power and authority to execute, deliver and perform this Agreement, the Bond Note, the Tax Exemption Agreement and the Regulatory Agreement and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance do not, and will not, violate any provision of law applicable to the Borrower and do not, and will not, conflict with or result in a default under any agreement or instrument to which the Borrower is a party or by which it is bound. This Agreement, the Bond Note, the Tax Exemption Agreement and the Regulatory Agreement have, by proper action, been duly authorized, executed and delivered by the Borrower and all steps necessary have been taken to constitute this Agreement, the Tax Exemption Agreement and the Regulatory Agreement valid and binding obligations of the Borrower.

(c) The provision of the financial accommodation to be made available to it under this Agreement and the commitments therefor made by the Issuer have induced the Borrower to undertake the transactions contemplated by this Agreement.

(d) Each Borrower presently intends to use or operate its Project in a manner consistent with the Act and in accordance with the Tax Exemption Agreement and the Regulatory Agreement and knows of no reason why the applicable Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to

resume that operation or accomplish an alternate use by the Borrowers or others approved by the Issuer which will be consistent with the Act, the Tax Exemption Agreement and the Regulatory Agreement.

(e) The applicable Project will be completed in accordance with the Plans and Specifications in all material respects and the portion of the Projects funded with the proceeds of the Bonds will constitute a qualified residential rental project within the meaning of Section 142(d) of the Code and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable Governmental regulations and as to be consistent with the Act.

(f) At least 95% of the net proceeds (as defined in Section 150 of the Code) of the Allocated Bonds will be used to provide qualified residential rental projects (as defined in Section 142(d) of the Code), and the applicable Borrower will not request or authorize any disbursement pursuant to Section 3.4 hereof, which, if paid, would result in less than 95% of the net proceeds of the Allocated Bonds being so used.

(g) The proceeds of the Allocated Bonds shall be used or deemed used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code, and (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code and that for the greatest number of buildings the proceeds of the Allocated Bonds shall be deemed allocated on a pro rata basis to each building in the applicable Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Allocated Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code; provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its members and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any person, including without limitation, the Borrower, the members of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or Event of Default under this Agreement or the Indenture.

The Borrowers acknowledge that the representations and covenants herein made by the Borrowers have been expressly and specifically relied upon by the Issuer in determining to make the Bond Loan to the Borrowers and the Bond Loan would not have been made but for such representations and covenants.

[End of Article II]

**ARTICLE III  
ACQUISITION AND RENOVATION OF THE PROJECTS;  
ISSUANCE OF THE BONDS**

**Section 3.1 Acquisition and Renovation.**

Each Borrower (a) has acquired or is in the process of acquiring, its Project and shall construct or rehabilitate, install, improve and equip such Project with all reasonable dispatch and in substantial accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition, construction, rehabilitation, installation, improvement and equipping from funds made available therefor in accordance with this Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition, construction, rehabilitation, installation, improvement and equipping of such Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the respective Projects are those of the Borrowers and any contracts made by the Borrowers with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrowers on the Projects are made or done by the Borrowers in their own behalf and not as agent or contractor for the Issuer. Each Borrower agrees that it will compensate all workers employed in the construction and improvement of its Project as required by law.

**Section 3.2 Plans and Specifications.**

The Borrower may revise the Plans and Specifications with respect to its Project from time to time, provided that no revision shall be made which would change the use of the Project to a purpose other than purposes permitted by the Act, the Tax Exemption Agreement and the Regulatory Agreement. At or prior to the execution and delivery of this Agreement, the Borrower shall provide to the Issuer evidence acceptable to the Issuer, in its sole discretion, of the availability of all financing contemplated by the plan of financing for the Project including, without limitation (and without regard to whether the immediate availability of such financing is a condition to undertaking the Project) the equity portion of the financing and all other public and private financing and any interim or bridge financing to be provided in anticipation of the closing of any of the foregoing aspects of the financing therefor. Any material changes in the plan of financing shall be communicated promptly to the Issuer. Copies of all documents evidencing that financing, and the security therefor, all in form reasonably acceptable to the Issuer, shall have been provided to the Issuer.

**Section 3.3 Issuance of the Bonds; Application of Proceeds.**

To provide funds to make the Bond Loan for purposes of assisting in paying the Project Costs, the Issuer will issue, sell and deliver the Bonds to the Underwriter. The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest and will mature as set forth therein. The Borrowers hereby approve the terms and conditions of the Indenture and the Bonds, and of the terms and conditions under which the Bonds will be issued, sold and delivered.

The proceeds from the sale of the Allocated Bonds shall be used to fund the Bond Loan to the applicable Borrowers and paid over to the Trustee for the benefit of the Borrowers and the Holders of the Bonds. The proceeds of the Bonds, including the Allocated Bonds, shall be deposited in the **[Expense Fund and the Project Fund]** in the respective amounts set forth in Section 5.01 of the Indenture. Pending disbursement pursuant to Section 3.4 hereof, the proceeds of the Allocated Bonds deposited in the Project Fund, together with any investment earnings thereon, shall constitute a part of the Trust Estate assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

**Section 3.4 Disbursements of Proceeds of the Allocated Bonds from the Project Fund.**

(a) Subject to the provisions below and so long as no Event of Default hereunder has occurred and is continuing for which the principal amount of the Bonds has been declared to be immediately due and payable pursuant to Section 7.2 hereof and Section 7.03 of the Indenture, disbursements of proceeds of the Allocated Bonds from the Project Fund shall be made only to pay Project Costs.

(b) Any disbursements from the Project Fund shall be made by the Trustee only as permitted pursuant to Section 5.03 of the Indenture and upon the written requisition of the Authorized Borrowers' Representative substantially in the form attached hereto as **Exhibit B**, which shall be consecutively numbered. Such requisition shall be approved by a Lender, if the corresponding funds for deposit to the Collateral Fund derive from a Lender.

(c) Any moneys in the Project Fund remaining after the Trustee's receipt of a Completion Certificate with respect to all Projects and payment, or provision for payment, in full of the Project Costs for all Projects shall, at the direction of the Authorized Borrowers' Representative, be promptly paid into the Bond Fund for payment of Bond Service Charges.

(d) Notwithstanding anything in this section to the contrary, the Trustee shall hereby be permitted to transfer funds from the designated subaccount of the Project Fund directly to the Collateral Fund upon the request of the Authorized Borrowers' Representative substantially in the form attached to the Indenture as Exhibit C, which shall be consecutively numbered.

(e) Notwithstanding any provision of this Agreement or any provisions of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that funds in the Collateral Fund plus funds in the Project Fund is or will be at least equal to the then-outstanding amount of the Bonds.

**Section 3.5 Borrowers Required to Pay Costs in Event Project Fund Insufficient.**

If moneys in the Project Fund derived from the Allocated Bonds are not sufficient to pay all Project Costs, each Borrower, nonetheless, will complete its Project in substantial accordance with the Plans and Specifications and shall pay all such additional Project Costs from its own funds. Notwithstanding the foregoing, only the Borrower that owns the Project with respect to which there are such additional Project Costs shall be responsible for the payment of such additional Project Costs from its own funds. The Borrowers shall pay or cause to be paid all costs of issuing the Bonds in excess of the amount permitted by paragraph (g) of Section 2.2 hereof. The



Borrowers shall not be entitled to any reimbursement for any such additional Project Costs or payment of issuance costs from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of the Bond Loan Payments.

**Section 3.6 Completion Date.**

Each Borrower shall notify the Issuer and the Trustee of the Completion Date of its Project by the delivery of a Completion Certificate with respect to such Project signed by the Authorized Borrowers' Representative substantially in the form of *Exhibit C* attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a) through (d) of the Completion Certificate. The Borrower shall notify the Trustee upon filing the final Completion Certificate for the Projects.

**Section 3.7 Investment of Fund Moneys.**

At the written request of the Authorized Borrowers' Representative, any moneys held as part of the Bond Fund, the Project Fund, the Collateral Fund and the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in the Indenture. The Issuer (to the extent within its control) and the Borrowers hereby covenant that they will restrict that investment and reinvestment and the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds or subsequent intentional acts, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. No provision of this Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with arbitrage regulations.

The Borrowers shall provide the Issuer with, and the Issuer may base its certifications as authorized by the Bond Resolution on, a certificate of an appropriate officer, employee or agent of or consultant to the Borrowers for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrowers on the date of delivery of and payment for the Bonds regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

Notwithstanding the foregoing, monies in the Project Fund, Acquisition Fund and Bond Fund can only be invested in accordance with the Tax Exemption Agreement, and, in particular Section 12 of the Tax Exemption Agreement.

**Section 3.8 Rebate Fund.**

The Borrowers agree to make such payments to the Trustee as are required of it under Section 5.12 of the Indenture and Section 14 of the Tax Exemption Agreement. The obligation of the Borrowers to make such payments shall remain in effect and be binding upon the Borrowers notwithstanding the release and discharge of the Indenture. Notwithstanding the foregoing, each Borrower is only responsible for its pro rata portion of the fees and expenses of an independent certified public accounting firm or qualified rebate specialist.

[End of Article III]

**ARTICLE IV**  
**BOND LOAN BY ISSUER; REPAYMENT OF THE BOND LOAN;**  
**BOND LOAN PAYMENTS AND ADDITIONAL PAYMENTS**

**Section 4.1 Bond Loan Repayment; Delivery of Bond Note.**

Upon the terms and conditions of this Agreement, the Issuer will make the Bond Loan to the Borrowers. In consideration of and in repayment of the Bond Loan, the Borrowers shall deliver or cause to be delivered to the Trustee on or before each Bond Loan Payment Date, Bond Loan Payments, equal to the amount necessary to pay Bond Service Charges on the Allocated Bonds due on the next Bond Payment Date. Each Borrower is only responsible for its pro rata portion of the Bond Loan Payments and Bond Service Charges. All such Bond Loan Payments shall be paid to the Trustee in accordance with the terms of the Bond Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Agreement.

The Borrowers shall be entitled to a credit against the Bond Loan Payments required to be made hereunder, on any date, equal to the amounts, if any, allocated to the Borrowers from amounts transferred by the Trustee from the Initial Deposit Account, the Project Fund or the Collateral Fund on such date for the payment of Bond Service Charges.

To secure the Borrowers' performance of their obligations under this Agreement, the Borrowers shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Bond Note, the Tax Exemption Agreement, the Subordinate Mortgage and the Regulatory Agreement.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (i) the Bond Note shall be deemed fully paid, the obligations of the Borrowers shall be terminated, and the Bond Note shall be surrendered by the Trustee to the Borrowers, and shall be canceled by the Borrowers, or (ii) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Bond Note shall be surrendered by the Trustee to the Borrowers for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrowers are entitled to a credit under express terms of this Agreement or the Bond Note, all payments on the Bond Note shall be in the full amount required thereunder.

The Borrowers and the Issuer each acknowledge that neither the Borrowers nor the Issuer has any interest in the Bond Fund or the Collateral Fund and any moneys deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Holders.

**Section 4.2 Additional Payments.**

The Borrowers shall pay as Additional Payments hereunder the following:

(a) To the Issuer or the Trustee, as the case may be, whether or not an Event of Default has occurred hereunder, as payment for or reimbursement or prepayment of any and all out-of-pocket costs, expenses, and liabilities (i) incurred or paid by the Issuer, the

Issuer Servicer or the Trustee, as the case may be, in satisfaction of any obligations of the Borrowers hereunder not performed by the Borrowers in accordance with the provisions hereof, or (ii) incurred as a result of a request by the Borrowers or of a requirement of this Agreement or the Indenture and not otherwise required to be paid by the Borrowers under this Agreement, or (iii) incurred in the defense of any action or proceeding with respect to the Projects or this Agreement, or in enforcing this Agreement, or arising out of or based upon any other document related to the issuance of the Bonds; and

(b) To the applicable party, the Ordinary Services and Ordinary Expenses and Extraordinary Services and Extraordinary Expenses of the Trustee as trustee, registrar, authenticating agent and paying agent, and of any other paying agent, authenticating agent, and registrar on the Bonds under the Indenture, all as provided in the Indenture, as and when the same become due; provided that the Borrowers may, without creating an Event of Default hereunder, contest in good faith the necessity for any Extraordinary Services and Extraordinary Expenses and the amount of any such Ordinary Services, Ordinary Expenses, Extraordinary Services or Extraordinary Expenses; provided that fees for Ordinary Services provided for by the respective letter agreements agreed to by the Borrowers and the Trustee, the Registrar, and any Paying Agents and Authenticating Agents, respectively, shall be considered to be customary.

(c) All amounts required under Section 4.04 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrowers agree to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing.

(d) To the Dissemination Agent, the Dissemination Agent Fee, as well as any other costs and expenses in order to provide for compliance with the term of the Continuing Disclosure Agreement.

(e) To the Remarketing Agent, the Remarketing Agent fee and any Remarketing Expenses.

Upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section by any such party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section are not paid upon such demand, such Additional Payments shall bear interest from the date of such payment or the incurrence thereof at the Interest Rate for Advances until the amount due shall have been fully paid. Notwithstanding anything to the contrary in this Section, each Borrower is solely responsible for its pro rata portion of the Additional Payments using the percentage as set forth in *Exhibit D* hereto.

### **Section 4.3 Place of Payments.**

The Borrowers shall cause the Lender to make all collateral payments directly to the Trustee at its designated corporate trust office. The Borrowers shall make all Bond Loan Payments

directly to the Trustee at its designated corporate trust office. Additional Payments shall be made directly to the person or entity to whom or to which they are due.

**Section 4.4 Obligations Unconditional.**

The obligations of the Borrowers to make their pro rata portion of the Bond Loan Payments, Additional Payments and any payments required of the Borrowers under Sections 5.12 and 6.03 of the Indenture shall be absolute and unconditional, and the Borrowers shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrowers may have or assert against the Issuer, the Trustee or any other Person; provided that the Borrowers may contest or dispute the amount of any such obligation arising under Section 6.03 of the Indenture so long as such dispute or contest does not result in an Event of Default under the Indenture.

**Section 4.5 Assignment of Agreement and Trust Estate.**

To secure the payment of Bond Service Charges, the Issuer shall assign to the Trustee, by the Indenture, its rights under and interest in this Agreement (except for the Issuer's Reserved Rights) and the Bond Note. The Borrowers hereby agree and consent to those assignments. The Issuer shall not attempt to further assign, transfer or convey its interest in the Trust Estate or this Agreement or create any pledge or Lien of any form or nature with respect to the Trust Estate or Bond Loan Payments hereunder. The Trustee shall be a third party beneficiary to this Agreement.

[End of Article IV]

**ARTICLE V**  
**ADDITIONAL AGREEMENTS AND COVENANTS**

**Section 5.1 Right of Inspection.**

At all reasonable times and upon reasonable notice, the Borrowers shall allow any duly authorized representative of the Issuer or the Trustee to visit and inspect its Project (subject to the rights of tenants), to examine and make copies of and from its books of record and account, and to discuss its affairs, finances, and accounts with its officers, and shall furnish to the Issuer and the Trustee any information reasonably required regarding its business affairs and financial condition within a reasonable time, in each case after receipt of written request therefor.

**Section 5.2 Borrowers to Maintain their Existence; Sales of Assets or Mergers.**

Each Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided, that it may do so if the surviving, resulting or transferee entity is other than a Borrower, the surviving, resulting or transfer entity assumes in writing all of the obligations of a Borrower under this Agreement, the Tax Exemption Agreement and the Regulatory Agreement and the surviving, resulting or transfer entity has a net worth equal to or greater than that of the applicable Borrower immediately prior to such consolidation, merger, sale or transfer. A Borrower shall not permit one or more other entities to consolidate with or merge into it, without the prior written consent of the Issuer; or take any action or allow any action to be taken to terminate the existence of a Borrower except as provided herein. Nothing herein contained shall limit the rights of (i) any direct or indirect owners of interests in a Borrower to (a) transfer, convey, sell or otherwise dispose (a "Transfer") of its ownership interests to any Affiliate, or in connection with any estate planning, or by operation of law, or (b) make Transfers among and between themselves, or (ii) a Borrower to make Transfers as otherwise permitted by (or subject to the terms and conditions set forth in) the Regulatory Agreement.

Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Issuer, Lender or Trustee, (a) the transfer by any investor member in the sole member of a Borrower of its interest in the sole member of a Borrower in accordance with the terms of the organizational documents under which a Borrower was created and is existing ("Charter"), (b) the removal of the managing member of the sole member of a Borrower in accordance with its organizational documents and the replacement thereof, (c) the transfer of ownership interests in the managing member of the sole member of a Borrower, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of any investor member in the sole member of the Borrower to the managing member of the sole member of the Borrower or any of its affiliates, (e) the transfer of ownership interest in the sole member of the Borrower (f) the transfer of the interest of the sole member of a Borrower to an affiliate of one or more members of the sole member of such Borrower, and (g) any amendment to a Borrower's organizational documents to memorialize the transfers or removal described above.

### **Section 5.3 Indemnification.**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY COVENANTS AND AGREES AS FOLLOWS: TO PROTECT, INDEMNIFY AND SAVE THE ISSUER AND ITS GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE PROJECT INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) THE WORK DONE ON THE PROJECT OR THE OPERATION OF THE PROJECT DURING THE TERM OF THIS LOAN AGREEMENT OR (II) ANY BREACH OR DEFAULT ON THE PART OF THE BORROWER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS LOAN AGREEMENT, OR (III) THE PROJECT OR ANY PART THEREOF, OR (IV) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE PROJECT EXCLUDING THE PAYMENT OF THE PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON THE BONDS, OR (V) ANY LIABILITY, VIOLATION OF LAW, ORDINANCE OR REGULATION AFFECTING THE PROJECT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE ISSUER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE BORROWER SHALL DEFEND THE ISSUER OR ANY OF ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE; PROVIDED, HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS LOAN AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN CONNECTION WITH THE ISSUANCE OF THE BONDS, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT, AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; THE PERFORMANCE OF ANY ACT REQUIRED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS LOAN AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE BORROWER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS LOAN AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE PROJECT OR THE FINANCING OF THE

PROJECT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THE INDENTURE, THIS LOAN AGREEMENT, THE TAX EXEMPTION AGREEMENT, THE REGULATORY AGREEMENT AND ALL OTHER INSTRUMENTS AND DOCUMENTS REQUIRED TO CLOSE THE TRANSACTION; NEVERTHELESS, IF THE ISSUER OR ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE BORROWER SHALL INDEMNIFY AND HOLD THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON TIMELY NOTICE FROM THE ISSUER THE BORROWER SHALL DEFEND THE ISSUER AND ITS RESPECTIVE GOVERNING BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COMPETENT COUNSEL SATISFACTORY TO THE ISSUER AND THE BORROWER SHALL PAY THE ISSUER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE ISSUER; PROVIDED HOWEVER, THAT THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE BORROWER.

NOTWITHSTANDING ANY PROVISION OF THIS LOAN AGREEMENT TO THE CONTRARY, THE ISSUER SHALL BE INDEMNIFIED BY THE BORROWER WITH RESPECT TO LIABILITIES ARISING FROM THE ISSUER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE ISSUER'S OWN BAD FAITH, FRAUD OR WILLFUL MISCONDUCT.

Notwithstanding the foregoing, any payments required to be made by the Borrowers pursuant to this Section 5.3 shall be a limited obligation of each Borrower and each Borrower shall only be responsible for its *pro rata* portion of any such payments using the percentages set forth in *Exhibit D* hereto.

**Section 5.4 Borrowers Not to Adversely Affect Excludability from Gross Income of Interest on Bonds.**

Each of the Borrowers hereby represents that it has taken or caused to be taken, and covenant that it will take or cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, for the interest on the Bonds to be and to remain excludable from gross income for federal income tax purposes, and represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such exclusion under the provisions of the Code.

Each of the Borrowers (including any “related person” thereto within the meaning of Section 147(a)(2) of the Code) covenants that it will not, pursuant to any arrangement, formal or

informal, purchase Bonds in an amount related to the amount of the Bond Loans funded pursuant to this Agreement.

### **Section 5.5 Affirmative Covenants.**

Unless the Issuer and the Trustee shall otherwise consent in writing:

(a) Maintenance of Properties. Each Borrower shall maintain and preserve in good working order and condition, ordinary wear and tear and casualty loss excepted, all of its properties which are necessary or useful in the proper conduct of its business, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to said properties. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

(b) Keeping of Records and Books of Account. Each Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with GAAP or indicating deviations therefrom, reflecting all financial transactions. The Borrowers shall deliver to the Trustee annually by June 30 its year-end financial statements accompanied by a written statement of the Borrower's independent public accountants that in making the examination necessary for certification of such financial statements, nothing has come to its attention that would lead them to believe that the Borrower has violated any of the terms, covenants or provisions of this Agreement insofar as it relates to accounting matters.

(c) Payment of Taxes, Etc. Each Borrower shall promptly pay and discharge: or cause to be paid or discharged, all taxes, assessments, fees, and other Governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a Lien upon its properties; any Indebtedness heretofore or hereafter incurred by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any Lien existing at any time upon any of its properties; provided, however, that a Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b) the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby.

(d) Insurance. Each Borrower shall at all times maintain, or cause to be maintained, insurance of such types and in such amounts as required by the Lender.

(e) Notice of Material Litigation. Each Borrower shall promptly notify the Trustee in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it may hereafter become a party or be subject to which may involve any material risk of any material judgment or liability (unless fully covered



by insurance) or which may otherwise result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the respective Borrower or which may materially impair the ability of the respective Borrower to perform this Agreement, the Tax Exemption Agreement the Regulatory Agreement, or any other agreement or instrument herein or therein contemplated.

(f) Notice of Default. In the event that any Event of Default occurs under this Agreement, the respective Borrower shall give prompt notice in writing of such happening to the Trustee.

(g) Performance of Contracts, Etc. Except to the extent contested in good faith, each Borrower shall perform according to and shall comply with all of its Contractual Obligations and all Requirements of Law if nonperformance thereof would materially and adversely affect the business or credit of the Borrowers on an individual basis or would materially impair the ability of the Borrower to perform this Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note or any other agreement or instrument herein or therein contemplated.

(h) Notice of Other Matters. Each Borrower shall promptly notify the Trustee in writing of any of the following events:

Any material change with respect to the business, assets, liabilities, financial condition, results of operations or business prospects of such Borrower other than changes in the ordinary course of business the effects of which have not been materially adverse.

A default by such Borrower, in any material respect under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

(i) Environmental Matters. Each Borrower will take and continue to take prompt action to remedy (or comply with applicable o&m plan) all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems with respect to its Project, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

(j) Non-discrimination. Each Borrower will not and will require each contractor, subcontractor and commercial tenant of its Project to covenant that it will not discriminate by reason of race, creed, color, handicap, national origin or sex in the employment of any Person employed by it in connection with its Project or working in or on its Project. Each Borrower will require each manager of its Project to covenant that in the leasing of its Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

(k) Patriot Act. Each Borrower covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to comply with the requirements of the USA Patriot Act as described in Section 13.13 of the Indenture.

**Section 5.6 Additional Indebtedness.**

So long as no Event of Default hereunder shall have occurred and be continuing, the Borrowers shall be permitted to incur any Indebtedness for any Project Cost or other obligation or payment due under this Agreement, the Indenture, the Tax Exemption Agreement or the Regulatory Agreement.

**Section 5.7 Nature of Business.**

Each Borrower hereby covenants and agrees that it will not change the general character of its business as conducted at the date hereof, or engage in any type of business not reasonably related to its business as normally conducted.

**Section 5.8 Continuing Disclosure.**

Each Borrower hereby covenants and agrees that it will comply with and carryout all of its obligations under the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement or Indenture, failure of the Borrowers to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder or under the Indenture or a default with respect to the Bonds.

**Section 5.9 Compliance with Texas Government Code.**

Each Borrower hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent the Loan Agreement, the applicable Regulatory Agreement, the Tax Exemption Agreement, the Subordination Agreement, and the Bond Purchase Agreement dated November \_\_, 2018, among RBC Capital Markets LLC, as underwriter, the Issuer and the Borrowers (the “Purchase Agreement”) is a contract for goods or services, will not boycott Israel during the term of the Loan Agreement, the applicable Regulatory Agreement, the Tax Exemption Agreement, the Subordination Agreement, and the Purchase Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Each Borrower represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Borrower and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

[End of Article V]

**ARTICLE VI  
PREPAYMENT AND REMARKETING**

**Section 6.1 Optional Prepayment.**

The Bond Loan is subject to optional prepayment by the Borrowers according to the terms and conditions set forth in Section 4.01 of the Indenture for the redemption of the Bonds.

**Section 6.2 Remarketing of Bonds.**

The Borrowers are hereby granted the right to (a) give notice of a remarketing of the Bonds in the manner and to the extent set forth in the Indenture and (b) designate the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in the Indenture.

**Section 6.3 Borrowers' Obligations Upon Tender of Bonds.**

If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available for the purpose of paying the purchase price of such Bond pursuant to the Indenture, the Borrowers will cause to be paid to the Trustee as set forth in the Indenture an amount equal to the amount by which the purchase price of all Bonds tendered and not remarketed exceed the amount otherwise available pursuant to the Indenture. Notwithstanding the foregoing, each Borrower shall only be responsible to its pro rata of such obligation.

[End of Article VI]

**ARTICLE VII**  
**EVENTS OF DEFAULT AND REMEDIES**

**Section 7.1 Events of Default.**

Each of the following shall be an Event of Default with respect to a Borrower:

(a) The Borrower shall fail to pay its pro rata portion of any Bond Loan Payment on or prior to the date on which that Bond Loan Payment is due and payable or within the Bond Loan Payment Cure Period;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Agreement and the shall continue such failure for a period of thirty (30) days after written notice thereof shall have been given to the Borrowers by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within one hundred eighty (180) days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against them under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within one hundred eighty (180) days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for one hundred eighty (180) days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of one hundred eighty (180) days;

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or with the purchase of the Bonds with respect to the Borrower or its Project shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an “Event of Default” as defined in the Indenture, the Tax Exemption Agreement and the Regulatory Agreement with respect to the Borrower or its Project.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrowers are unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrowers shall not be deemed in default during the continuance of such inability. However, the Borrowers shall promptly give notice to the Trustee, the Lender and the Issuer of the existence of an event of Force Majeure and shall use commercially

reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term “Force Majeure” shall mean, without limitation, the following:

(i) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

## **Section 7.2 Remedies on Default**

Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to Section 7.03 of the Indenture, the Trustee shall declare all Bond Loan Payments from the defaulted Borrower to be immediately due and payable together with any other amounts payable by the defaulted Borrower under this Agreement and the Bond Note whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in this Agreement against the defaulted Borrower and the Project and other collateral owned by the defaulted Borrower;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrowers pertaining to the Projects; or

(d) The Issuer or the Trustee may pursue all remedies now or hereafter existing at law or in equity against the defaulted Borrower and its assets to collect all amounts then due and thereafter to become due under this Agreement, the Tax Exemption Agreement, the Bond Note and the Regulatory Agreement with respect to the defaulted Borrower or the Bond Loan to the Defaulted Borrower or to enforce the performance and observance of any other obligation or agreement of the defaulted Borrower under those instruments.

Notwithstanding the foregoing, the Issuer shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer at no cost or expense to the Issuer. Any amounts collected as Bond Loan Payments or applicable to Bond Loan Payments and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 5.08 of the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this Section are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

**Section 7.3 No Remedy Exclusive.**

No remedy conferred upon or reserved to the Issuer or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, the Tax Exemption Agreement, the Regulatory Agreement, or the Bond Note, or now or hereafter existing at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than any notice required by law or for which express provision is made herein.

**Section 7.4 Agreement to Pay Attorneys' Fees and Expenses.**

If an Event of Default should occur and the Issuer or the Trustee should incur expenses, including attorneys' fees, in connection with the enforcement of this Agreement, the Bond Note, the Tax Exemption Agreement or the Regulatory Agreement or the collection of sums due thereunder, the Borrowers shall reimburse the Issuer and the Trustee, as applicable, for the expenses so incurred upon demand. Notwithstanding the foregoing, each Borrower shall only be responsible for its pro rata portion of such fees and expenses using the percentages set forth in *Exhibit D* hereto.

**Section 7.5 No Waiver.**

No failure by the Issuer or the Trustee to insist upon the strict performance by the Borrowers of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the Borrowers to observe or comply with any provision hereof.

**Section 7.6 Notice of Default.**

The Borrowers shall notify the Trustee immediately if they become aware of the occurrence of any Event of Default hereunder or of any fact, condition or event which, with the giving of notice or passage of time or both, would become an Event of Default.

**Section 7.7 Investor Member's and Lender's Cure Rights.**

The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Lender or the Investor Member shall be deemed to be cure by the Borrowers, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrowers.

[End of Article VII]



**ARTICLE VIII  
MISCELLANEOUS**

**Section 8.1 Term of Agreement.**

This Agreement shall be and remain in full force and effect from the date of delivery of the Bonds to the Holder until such time as all of the Bonds shall have been fully paid (or provision made for such payment) pursuant to the Indenture and all other sums payable by the Borrowers under this Agreement and the Bond Note shall have been paid, except for obligations of the Borrowers under Sections 3.8, 4.2, 5.3 and 5.5 hereof, which shall survive any termination of this Agreement.

**Section 8.2 Amounts Remaining in Funds.**

Any amounts remaining in the Bond Fund, the Project Fund and any other special funds or accounts created under this Agreement or the Indenture after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Agreement, the Bond Note, the Tax Exemption Agreement and the Indenture have been paid, shall be paid to the Borrowers to the extent that those moneys are in excess of the amounts necessary to effect the payment and discharge of the outstanding Bonds.

**Section 8.3 Notices.**

All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed to be sufficiently given when mailed by registered or certified mail, postage prepaid, or forwarded by overnight courier service, delivery charges prepaid, and addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate, request or other communication given hereunder to the Issuer, the Borrowers, the Lender (and its counsel which shall be the same as set forth in the Indenture), the Investor Member, the Issuer or the Trustee shall also be given to the others. The Borrowers, the Investor Member, the Issuer, and the Trustee, by written notice given hereunder, may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Notices, certificates, requests or other communications may be given to the Trustee by electronic transmission, but only if the Trustee, the Issuer and the Authorized Borrowers' Representative have entered into an agreement satisfactory to the Trustee permitting such means of correspondence.

**Section 8.4 Extent of Covenants of the Issuer; No Personal Liability.**

All covenants, obligations and agreements of the Issuer contained in this Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Board in other than his official capacity, and neither the members of the Board nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by

reason of the issuance thereof or by reason of the covenants, obligations or agreements of the Issuer contained in this Agreement or in the Indenture.

**Section 8.5 Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding in accordance with its terms upon the Issuer, the Borrowers and their respective permitted successors and assigns provided that this Agreement may not be assigned by the Borrowers (except in connection with a sale or transfer of assets pursuant to Section 5.2 hereof) and may not be assigned by the Issuer except to the Trustee pursuant to the Indenture or as otherwise may be necessary to enforce or secure payment of Bond Service Charges. This Agreement may be enforced only by the parties, their assignees and others who may, by law, stand in their respective places.

**Section 8.6 Amendments and Supplements.**

Except as otherwise expressly provided in this Agreement or the Indenture, subsequent to the issuance of the Bonds and prior to all conditions provided for in the Indenture for release of the Indenture having been met, this Agreement, the Tax Exemption Agreement, the Regulatory Agreement and the Bond Note may not be effectively amended, changed, modified, altered or terminated except in accordance with the provisions of Article XI of the Indenture, as applicable.

**Section 8.7 Execution Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

**Section 8.8 Severability.**

If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court to be invalid or unenforceable, that determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

**Section 8.9 Governing Law.**

This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

**Section 8.10 Non-Recourse Obligations.**

Notwithstanding anything to the contrary set forth herein, in the Bond Note and in any other document delivered in connection herewith excluding the Guaranties, it is hereby expressly agreed and understood that the obligations of Borrowers hereunder, under the Bond Note and under every document executed and delivered in connection herewith, are non-recourse to the Borrowers and any member, partner, officer, director or employee of the Borrowers (each, "Related Party")

or to any asset of the Borrowers or any Related Party other than the Trust Estate and any income derived therefrom. In furtherance thereof, the Issuer and the Trustee shall be entitled to look solely and exclusively to the Trust Estate and any income derived therefrom for the payment and other obligations of Borrowers hereunder, under the Bond Note and all evidences of indebtedness secured hereby, and shall not seek a personal judgment against the Borrowers or any member, partner, officer, director, member or stockholder of the Borrowers, provided that nothing herein shall relieve the Borrowers or any such Related Party from liability for any of the following:

(a) fraud or material misrepresentation by a Related Party against the Issuer or the Holder; or

(b) gross negligence, willful misconduct or intentional torts of a Related Party relating to the Projects or the revenues therefrom.

**Section 8.11 RHS and GNMA Requirements to Control.**

(a) To the extent there is any conflict, inconsistency or ambiguity between or among the provisions of this Agreement and the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool or the Senior Loan Documents, then in such event the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents will be deemed to be controlling and any such ambiguity or inconsistency will be resolved in favor of and pursuant to the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents.

(b) Notwithstanding anything to the contrary contained herein, the enforcement of this Agreement shall not result in any claim against the Projects, Senior Loan proceeds, any reserve or deposit made with the Lender or with another person or entity required by RHS in connection with the Senior Loan transaction, or against rents or other income from the Projects other than available “surplus cash” as defined in the Senior Loan Documents available for distribution to the Borrowers under the Senior Loan Documents. Nothing contained in this subsection, however, shall prevent or preclude the Trustee from using funds on deposit in the Bond Fund to make payments to Bondholders as and to the extent expressly permitted by the provisions of this Agreement and the Indenture and/or to use funds on deposit in the Project Fund to make payments to or on behalf of the Lender.

(c) If this Agreement contains any provision requiring the Lender, the Issuer, the Borrowers or the Trustee or any other party to the transaction to take any action necessary to preserve the tax exemption of interest on the Bonds, or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool or the terms of any of the Senior Loan Documents.

(d) Notwithstanding any provision of this Agreement to the contrary, the parties hereto acknowledge and agree that all of their respective rights and powers to any assets or properties of the Borrowers are subordinate and subject to the liens created by the Mortgages, together with any and all amounts from time to time secured thereby, and interest thereon, and to all of the terms and

provisions of the Mortgages, and any and all other documents executed by the Borrowers as required by RHS or GNMA in connection therewith.

[End of Article VIII]

**IN WITNESS WHEREOF**, the Issuer and the Borrowers have caused this Agreement to be duly executed in their respective names, all as of the date hereinbefore written.

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**

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

(SEAL)

ATTEST:

\_\_\_\_\_  
Secretary/Assistant Secretary

**IN WITNESS WHEREOF**, each of the Borrowers listed below has executed this Loan Agreement by the signature of Mark Mayfield, President of THF Housing Development Corporation, a Texas Non-Profit Corporation, the sole member of each of the Borrowers, all as of the date first written hereinabove. This Loan Agreement is being executed for the convenience of the parties as one instrument, but shall act as a separate Loan Agreement between each of the Borrowers and the Issuer, as though nine separate Loan Agreements had been drafted and executed by each of the Borrowers. Notwithstanding anything herein to the contrary, the parties agree that this Loan Agreement binds each Borrower, independent of the other Borrowers, and the Borrowers each intentionally waive any defense(s) that could be raised relating to the execution of a single Loan Agreement, rather than nine separate Agreements.

**BORROWERS:**

Each a Texas limited liability company

**Bastrop Oak Grove**

THF Bastrop Oak Grove, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Bay City Village**

THF Bay City Village, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Burk Village**

THF Burk Village, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Elgin Meadowpark**

THF Elgin Meadowpark, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Evant Tom Sawyer**

THF Evant Tom Sawyer, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President



**Hondo Brian**

THF Hondo Brian Place, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Hondo Gardens**

THF Hondo Gardens, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Lampasas Gardens**

THF Lampasas Gardens, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Lantana Apartments**

THF Lantana Apartments, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

## EXHIBIT A

### FORM OF BOND NOTE

This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Trust Indenture and the Loan Agreement referred to herein.

[\$NOTE AMOUNT]

[CLOSING DATE]

[BORROWER], a Texas limited liability company (“Borrower”), for value received, promises to pay in installments to **WILMINGTON TRUST, N.A.**, as trustee (“Trustee”) under the Indenture hereinafter referred to, the principal sum of

[NOTE AMOUNT SPELL-OUT]

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate of [BOND INTEREST RATE]% per annum, to but not including the Mandatory Tender Date (as defined in the Indenture defined herein), and at the Remarketing Rate (as defined in the Indenture defined herein) from and after the Mandatory Tender Date until the payment of such principal sum has been made or provided for. The Principal Amount stated above shall be paid on or before the fifth Business Day (as defined in the Indenture defined herein) immediately preceding the Maturity Date (as defined in the Indenture defined herein). Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on the fifth Business Day next preceding each May 1 and November 1, commencing May 1, 2019 (“Interest Payment Dates”).

This Note has been executed and delivered by the Borrower to the Trustee pursuant to a certain Loan Agreement (“Agreement”) dated as of November 1, 2018, between Texas Department of Housing and Community Affairs (“Issuer”) and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement and the Indenture, as defined below.

Under the Agreement, the Issuer has loaned the Borrower a portion of the proceeds received from the sale of the Issuer’s \$20,000,000 Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018, dated of even date herewith (“Bonds”) allocated to the Borrower (“Allocated Bonds”) to assist in the financing of the Project owned by the Borrower, and the Borrower has agreed to repay such loan by making payments (“Bond Loan Payments”) at the times and in the amounts set forth in this Note for application to the payment of Bond Service Charges on the Allocated Bonds as and when due. The Allocated Bonds are in the same principal amount as this Note. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (“Indenture”), dated as of November 1, 2018, between the Issuer and the Trustee.

To provide funds to pay the principal of and interest on the Allocated Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on the 5th Business Day immediately preceding each Interest Payment Date in an amount equal to the Bond Service Charges on the Allocated Bonds payable on the next succeeding

Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Allocated Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Bond Loan Payments in Federal Reserve funds on the fifth Business Day immediately preceding any other date on which any Bond Service Charges on the Allocated Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges. Notwithstanding the foregoing, the obligation for the Borrower is only its pro rata portion of the Bond Loan Payments and Bond Service Charges as set forth in *Exhibit D* to the Agreement.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Service Charges on the Allocated Bonds from moneys other than Bond Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Allocated Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Bond Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund and allocated to the Allocated Bonds. Subject to the foregoing, all Bond Loan Payments shall be in the full amount required hereunder.

All Bond Loan Payments shall be made to the Trustee at its designated corporate trust office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Bond Loan Payments shall be used by the Trustee to pay the Bond Service Charges on the Allocated Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other person.

This Note is subject to optional prepayment by the Borrower according to the same terms and conditions of the Bonds set forth in Section 4.01 of the Indenture.

Whenever an Event of Default under Section 7.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 7.03 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower and its members to the extent set forth in Section 8.10 of the Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

**[BORROWER'S SIGNATURE BLOCK]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT B**

**REQUISITION  
(Project Fund)**

Wilmington Trust, N.A.  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248  
Attention: Chuck Hicks

Re: \$20,000,000 Texas Department of Housing and Community Affairs Multifamily  
Housing Revenue Bonds (Related RD Portfolio), Series 2018

Ladies and Gentlemen:

Pursuant to Section 5.03 of the Indenture (as defined below), you are requested to disburse funds from the Project Fund in the amount(s), to the person(s) and for the purpose(s) set forth in this Requisition and the Indenture. The terms used in this Requisition and not otherwise defined herein shall have the meanings given to those terms in the Trust Indenture (the "Indenture"), dated as of November 1, 2018, by and between Texas Department of Housing and Community Affairs and Wilmington Trust, N.A., as Trustee, securing the above-referenced Bonds.

1. REQUISITION NO.: \_\_\_\_\_
2. PAYMENT DUE TO: [SEE ATTACHED SCHEDULE I]
3. AMOUNT TO BE DISBURSED: \$\_\_\_\_\_ [SEE ATTACHED SCHEDULE I]
4. The amount requested to be disbursed pursuant to this Requisition will be used to pay Project Costs detailed in Schedule I attached to this Requisition.
5. With respect to a disbursement from the Project Fund, the undersigned certifies that:
  - (a) the amounts included in 3 above were made or incurred or financed and were necessary for the Project related to the undersigned Borrower (the "Borrower Project") and were made or incurred in accordance with the construction contracts, plans and specifications heretofore in effect;
  - (b) the amount paid or to be paid, as set forth in this Requisition, represents a part of the funds due and payable for Project Costs of the Borrower Project, such funds were not paid in advance of the time, if any, fixed for payment and such funds are due in accordance with the terms of any contracts applicable to the Borrower Project and in accordance with usual and customary practice under existing conditions;
  - (c) the expenditures for which amounts are requisitioned represent proper charges against the Project Fund, have not been included in any previous requisition, have been properly recorded on the books of the Borrower and are set forth in Schedule I, with paid invoices attached for any sums for which reimbursement is requested;

(d) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the Borrower for its funds actually advanced for Project Costs of the Borrower Project and do not represent a reimbursement to the Borrower for working capital;

(e) the amount remaining in the Project Fund representing proceeds allocated to the Borrower will, after payment of the amount requested by this Requisition, be sufficient to pay the Project Costs to complete the Borrower Project substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect;

(f) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Indenture, the Loan Agreement, the Regulatory Agreements, and the Tax Exemption Agreement, relating to the Bonds;

(g) the full amount of each disbursement will be applied to pay or to reimburse the Borrower for the payment of Project Costs of the Borrower Project and that, after taking into account the proposed disbursement,

(A) at least 95% of the proceeds of the Net Proceeds (as defined in the Tax Exemption Agreement) of the Allocated Bonds will be used for Qualified Project Costs (as defined in the Tax Exemption Agreement); and

(B) less than 25% of the Net Proceeds (as defined in the Tax Exemption Agreement) of the Allocated Bonds will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land;

(h) the Borrower is not in default under or in violation of the Loan Agreement, the Regulatory Agreements or the Tax Exemption Agreement and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Loan Agreement, the Regulatory Agreements, the Tax Exemption Agreement or any other document relating to the Bonds; and

(i) no amounts being requisitioned by this Requisition will be used to pay or reimburse any costs of issuance incurred in connection with the issuance of the Bonds.

6. The Borrower has on file copies of invoices or bills of sale covering all items for which payment is being requested.

[Remainder of page intentionally left blank]

DATE OF REQUISITION: \_\_\_\_\_, 201\_

**[BORROWER'S SIGNATURE BLOCK]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



APPROVED (without any representation or warranty) BY:

LANCASTER POLLARD MORTGAGE COMPANY, LLC, A DELAWARE LIMITED LIABILITY COMPANY OR RURAL HOUSING SERVICE, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, as Senior Lender

By: \_\_\_\_\_  
Authorized Loan Servicer Representative

Date: \_\_\_\_\_, 201\_]

**SCHEDULE I**  
**to Requisition Certificate**  
**(Project Fund)**

	Item:	Amount:
	See Attached	

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (Related RD Portfolio), Series 2018 – Schedule I to Requisition Certificate #\_\_ (Project Fund)

Borrower	Property	Item	Total Amount (\$)
THF Bastrop Oak Grove, LLC	Bastrop Oak Grove I and Bastrop Oak Grove II		\$2,910,000
THF Bay City Village, LLC	Bay City Village		\$2,610,000
THF Burk Village, LLC	Burk Village		\$1,990,000
THF Elgin Meadowpark, LLC	Elgin Meadowpark		\$1,710,000
THF Evant Tom Sawyer, LLC	Evant Tom Sawyer		\$1,010,000
THF Hondo Brian Place, LLC	Hondo Brian Place		\$2,390,000
THF Hondo Gardens, LLC	Hondo Gardens		\$1,600,000
THF Lampasas Gardens, LLC	Lampasas Gardens		\$1,520,000
THF Lantana Apartments, LLC	Lantana Apartments		\$4,260,000

**EXHIBIT C**

**\$20,000,000**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
MULTIFAMILY HOUSING REVENUE BONDS  
(RELATED RD PORTFOLIO),  
SERIES 2018**

\_\_\_\_\_ **Project**

**COMPLETION CERTIFICATE**

To:

**Wilmington Trust, N.A.**  
15950 North Dallas Parkway, Suite 550  
Dallas, Texas 75248  
Attention: Chuck Hicks

**Texas Department of Housing and Community Affairs**  
P.O. Box 13941  
Austin, Texas 78711  
Attention: Manager of Multifamily Bonds

**Lancaster Pollard Mortgage Company, LLC**

\_\_\_\_\_  
\_\_\_\_\_  
**Attention:** \_\_\_\_\_

Pursuant to Section 3.6 of the Loan Agreement (“Agreement”) between **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (“Issuer”) and **BORROWERS**, each a limited liability company (individually, a “Borrower” and collectively, the “Borrowers”), dated as of November 1, 2018, and relating to the captioned Bonds, the undersigned Authorized Borrowers’ Representative hereby certifies to that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned in the Agreement):

(a) The Project owned by **[INSERT APPLICABLE BORROWER]** was substantially completed and available and suitable for use as multifamily housing on \_\_\_\_\_.

(b) All other facilities necessary in connection with such Project have been acquired, constructed, equipped and improved,

(c) The acquisition, rehabilitating, equipping and improvement of such Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.

(d) Except as provided in subsection (e) of this Certificate, all costs of the acquisition and installation of such Project due on or after the date of this Certificate and now payable have been paid.

(e) The Trustee shall retain \$ \_\_\_\_\_ in the Project Fund for the payment of costs of such Project not yet due or for liabilities which the Borrower referenced in (a) above is contesting or which otherwise should be retained, for the following reasons:

(f) The Trustee shall transfer \_\_\_\_\_ from Project Fund to Collateral Fund.

(g) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Authorized Borrowers' Representative has set his or her hand as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

Authorized Borrowers' Representative

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**EXHIBIT D**

**BORROWERS' PRO RATA PORTION**

THF Bastrop Oak Grove, LLC  
THF Bay City Village, LLC  
THF Burk Village, LLC  
THF Elgin Meadowpark, LLC  
THF Evant Tom Sawyer, LLC  
THF Hondo Brian Place, LLC  
THF Hondo Gardens, LLC  
THF Lampasas Gardens, LLC  
THF Lantana Apartments, LLC

100.00%

**EXHIBIT E**

**LIST OF BORROWERS**

each a Texas limited liability company

THF Bastrop Oak Grove, LLC

THF Bay City Village, LLC

THF Burk Village, LLC

THF Elgin Meadowpark, LLC

THF Evant Tom Sawyer, LLC

THF Hondo Brian Place, LLC

THF Hondo Gardens, LLC

THF Lampasas Gardens, LLC

THF Lantana Apartments, LLC



**TAX EXEMPTION CERTIFICATE AND AGREEMENT**

Dated as of

November 1, 2018

among

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,**  
as Issuer

and

**WILMINGTON TRUST, N.A.,**  
as Trustee

and

**BORROWERS,**  
each as set forth on the attached Exhibit [ ]

regarding

**\$20,000,000**

**Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds (Related RD Portfolio),  
Series 2018**

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## TAX EXEMPTION CERTIFICATE AND AGREEMENT

THIS TAX EXEMPTION CERTIFICATE AND AGREEMENT (this “Agreement”) dated as of November 1, 2018, but effective as of the Closing Date (as defined in the Indenture described below) is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State (as defined herein), **WILMINGTON TRUST, N.A.**, a national banking association organized and existing under the laws of the United States of America, as Trustee under the hereinafter defined Indenture (together with any successor Trustee under the Indenture described below and their respective successors and assigns, the “Trustee”), and the **BORROWERS**, each as set forth on the attached Exhibit E, each a limited liability company (each, a “Borrower” and collectively, the “Borrower”) and is entered into in connection with the issuance of the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”) being issued in the original principal amount of \$20,000,000. The representations of facts and circumstances and the covenants made herein are made in part for purposes of fulfilling the requirements set forth in section 1.148-2(b)(2) of the Regulations (as defined herein).

### RECITALS

WHEREAS, the Governing Board of the Issuer has determined to authorize the issuance of the Bonds pursuant to and in accordance with the terms of an Indenture (as defined herein) by and among the Issuer and the Trustee for the purpose of obtaining funds to finance the Projects (as defined herein), all under and in accordance with the Constitution and laws of the State (as defined herein); and

WHEREAS, the Issuer desires to use the Proceeds (as defined herein) of the Bonds to fund mortgage loans to the Borrowers (i.e., the Bond Loans, as defined herein) upon the terms and conditions set forth in the Bond Loan Agreement (as defined herein) in order to finance the cost of acquisition, rehabilitation and equipping of the Projects; and

WHEREAS, the Issuer and the Borrowers desire that interest on the Bonds be excludable from gross income for federal income tax purposes under the Code (as defined herein); and

WHEREAS, the purpose of executing this Agreement is to set forth various facts, certifications, covenants, representations, and warranties regarding the Bonds and the Projects and to establish the expectations of the Issuer, the Borrowers, and the Trustee as to future events regarding the Bonds, the Projects, and the use and investment of Proceeds of the Bonds.

NOW THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby certify, covenant, represent, and agree on behalf of the Issuer, the Borrowers, and the Trustee (but not in their individual capacities), respectively, as follows:

1. Definitions. Each capitalized term used in this Agreement has the meaning ascribed to such term below or has the meaning or is the amount, as the case may be, specified for such term in this Agreement or in Exhibits to this Agreement and for all purposes hereof has the

meaning or is in the amount therein specified. All capitalized terms used but not defined herein, to the extent that such terms are defined in the Indenture, the Bond Loan Agreement, or the Regulatory Agreements for all purposes hereof have the meanings therein specified. All such terms defined in the Code or Regulations that are not defined herein will for all purposes hereof have the same meanings as given to those terms in the Code and Regulations unless the context clearly requires otherwise.

**“Allocated Bonds”** means, with respect to each Project and Borrower, the portion of the Bonds that have been allocated to the Project and Borrower, the proceeds of which are to be loaned to that Borrower pursuant to the Bond Loan Agreement with the Borrower, which allocation is set forth in Exhibit B of the Indenture. The aggregate amount of the Allocated Bonds equals the aggregate principal amount of the Bonds.

**“Bond Counsel”** means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially shall mean Bracewell LLP.

**“Bond Fund”** means the “Bond Fund” established pursuant to the Indenture, with the “Interest Payment Account,” “the Principal Payment Account,” and the “Initial Deposit Account” therein.

**“Bond Year”** means each one-year period that ends on the day selected by the Borrowers in a certificate provided to the Issuer and the Trustee. The first and last bond years may be short periods. If no day is selected by the Borrowers before the earlier of the final Maturity Date of the Bonds or the date that is five years after the Issue Date of the Bonds, a bond year will end on each anniversary of the Issue Date of the Bonds and on the final Maturity Date of the Bonds.

**“Bond Loan”** means each mortgage loan made by the Issuer to a Borrower of a portion of the Sale Proceeds pursuant to the Bond Loan Agreement. Such loans are collectively referred to as the “Bond Loans.”

**“Bond Loan Agreement”** means the Loan Agreement among the Issuer, the Trustee, and the Borrowers, dated as of November 1, 2018.

**“Code”** means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference is deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

**“Collateral Fund”** means the “Collateral Fund” established pursuant to the Indenture.

**“Computation Date”** means each Installment Computation Date and the Final Computation Date.

**“Costs of Issuance”** means costs to the extent incurred in connection with, and allocable to, the issuance of an issuance of obligations within the meaning of section 147(g) of the Code. For example, Costs of Issuance include the following costs, but only to the extent incurred in

connection with, and allocable to, the borrowing: underwriters' spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than qualified guarantees; and similar costs.

**“Costs of Issuance Fund”** means the “Costs of Issuance Fund” established pursuant to the Indenture.

**“Eligible Investments”** has the meaning set forth in the Indenture.

**“Favorable Opinion of Bond Counsel”** means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Bonds under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient thereof).

**“Final Computation Date”** means the date on which the final payment in full of the Bonds is made.

**“Financial Advisor”** means George K. Baum & Company.

**“Form 8038”** means IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

**“Gross Proceeds”** means any Proceeds and any Replacement Proceeds.

**“Indenture”** means the Indenture by and between the Issuer and the Trustee, dated as of November 1, 2018.

**“Inducement Date”** means June 29, 2017, as updated on March 22, 2018.

**“Installment Computation Date”** means the last day of the fifth Bond Year and each succeeding fifth Bond Year.

**“Investment Proceeds”** has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from investing Proceeds.

**“Investment Securities”** means the [securities purchased on the open market and provided by the Investment Provider][the State and Local Government Securities purchased with the Proceeds of the Bonds] .

**“IRS”** means the Internal Revenue Service.

**“Issue Date”** means, with respect to an issue of obligations, the first date on which an issuer receives the purchase price in exchange for delivery of the evidence of indebtedness representing any obligation.

**“Issue Price”** has the meaning ascribed to it in section 1.148-1(f) of the Regulations.

**“Maturity Date”** means [\_\_\_\_\_].

**“Median Gross Income for the Area”** means, with respect to each Project, the median income for the households in the area which includes the standard metropolitan statistical area in which such Project is located, as determined from time to time by the Secretary of HUD, under Section 8 of the Housing Act (or if such program is terminated, median income determined under the program in effect immediately before such termination), in each case as adjusted for family size.

**“Minor Portion”** means that portion of the Gross Proceeds of the Bonds that does not exceed in the aggregate \$100,000.

**“Net Proceeds”** means Sale Proceeds, less the portion of any Sale Proceeds invested in a reasonably required reserve or replacement fund.

**“Nonpurpose Investment”** means any “investment property,” within the meaning of section 148(b) of the Code, that is not a purpose investment acquired to carry out the governmental purpose of the Bonds.

**“Other Funds”** means the “Expense Fund” and the “Borrower’s Equity Fund” and the accounts therein, each established pursuant to the Indenture.

**“Original Issue Discount”** means the excess of the Stated Redemption Price at Maturity over the Issue Price.

**“Original Issue Premium”** means the excess of the Issue Price over the Stated Redemption Price at Maturity.

**“Placed in Service”** has the meaning set forth in section 1.150-2(c) of the Regulations and means the date on which, based on all the facts and circumstances, (a) a facility reaches a degree of completion that will permit its operation at substantially its design level, and (b) a facility is, in fact, in operation at such level.

**“Pre-Issuance Accrued Interest”** has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means amounts representing interest that accrued on an obligation for a period not greater than one year before its Issue Date but only if those amounts are paid within one year after the Issue Date.

**“Preliminary Expenditures”** are described in section 1.150-2(f)(2) of the Regulations and include architectural, engineering, surveying, soil testing, reimbursement bond issuance and similar costs that are incurred prior to commencement of acquisition, rehabilitation of a project,

but do not include land acquisition, site preparation and similar costs incident to the commencement of rehabilitation.

**“Proceeds”** has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, means any Sale Proceeds and Investment Proceeds.

**“Project”** means, individually, the acquisition, rehabilitation and equipping by a Borrower of the property described in Exhibit B to the Indenture and associated with that Borrower. **“Projects”** means, collectively, all of such properties described in Exhibit B to the Indenture.

**“Project Costs”** means, with respect to each Project, to the extent authorized by the Act and the Code, any and all costs incurred by the Borrower associated with that Project with respect to the acquisition, rehabilitation, and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the Issue Date of the Bonds, including, without limitation, costs for site preparation, the planning of housing and improvements, the removal or demolition of existing structures, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors’ and Borrower’s overhead and supervisor’s fees and costs directly allocable to the Project, and administrative and other expenses necessary or incident to the Project and the financing thereof.

**“Project Fund”** means the “Project Fund” established pursuant to the Indenture.

**“Qualified Administrative Costs”** are those costs of issuing, carrying or repaying the Bonds, and any underwriter’s discount. Qualified Administrative Costs do not include the costs of issuing, carrying or repaying the Bond Loan.

**“Qualified Project Costs”** means, with respect to each Project, the Project Costs that meet the following requirements:

(a) The costs are chargeable to a capital account with respect to such Project for federal income tax purposes, or would be so chargeable either with a proper election by the Borrower associated with such Project, or but for the proper election by such Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Allocated Bonds during, and fees for a “qualified guarantee” (within the meaning of section 1.148-4 of the Regulations) attributable to the period of, the rehabilitation of such Project will constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs.

(b) If any portion of such Project is being constructed by the Borrower associated with such Project or a Related Person (whether as a general contractor or a subcontractor) to such Borrower, such costs include only (i) the actual out-of-pocket costs incurred by such Borrower or such Related Person in constructing such Project (or any portion thereof), (ii) any reasonable fees for supervisory services actually rendered by such Borrower or such Related Person (but excluding any profit component) and (iii) any overhead expenses incurred by such Borrower or such Related Person that are directly attributable to the work performed on such Project and do not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of

section 1504 of the Code) participating in the rehabilitation of such Project or payments received by such Related Person due to early completion of such Project (or any portion thereof).

(c) The costs are not Costs of Issuance.

(d) (i) The costs were paid no earlier than 60 days prior to the Inducement Date and (ii) the reimbursement allocation is made no later than 18 months after the later of (A) the date the expenditure was paid and (B) the date such Project is Placed in Service or abandoned, but in no event more than three years after the original expenditure is paid; provided that such limitations do not apply to any amount that, when aggregated with similar amounts for all of the Projects, is not in excess of \$100,000 or to Preliminary Expenditures that do not exceed 20 percent of the Sale Proceeds of the Bonds.

**“Qualified Project Period”** means, with respect to each Project, the period beginning on the first day on which 10 percent of the Units of such Project are occupied (which date may be the Closing Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units of such Project are occupied (which date may be the Closing Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to such Project (i.e. the Allocated Bonds for such Project) is outstanding for federal income tax purposes or, (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

**“Qualifying Tenant”** means a tenant whose Annual Income is 60 percent or less of Median Gross Income for the Area, as determined under sections 142(d)(2)(B) and (E) of the Code. If all the occupants of a Unit are students (as defined under section 152(f)(2) of the Code), no one of whom is entitled to file a joint return under section 6013 of the Code, such occupants are not Qualifying Tenants, unless such students meet the qualifications under section 42(i)(3)(D) of the Code.

**“Rebate Amount”** has the meaning set forth in in section 1.148-3(b) of the Regulations and, generally, means the excess, as of any date, of the future value of all receipts on Nonpurpose Investments over the future value of all payments on Nonpurpose Investments all as determined in accordance with section 1.148-3 of the Regulations.

**“Rebate Analyst”** means a Person that is (a) qualified and experienced in the calculation of rebate payments under section 148 of the Code, (b) chosen by the Borrower, and (c) engaged for the purpose of determining the amount of required deposits, if any, to the Rebate Fund.

**“Rebate Fund”** means the “Rebate Fund” established pursuant to the Indenture.

**“Regulations”** means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

**“Regulatory Agreement”** means each Regulatory and Land Use Restriction Agreement, among the Issuer, the Trustee, and a Borrower, dated as of November 1, 2018, entered into with



respect to each Project. Such agreements are collectively referred to as the “Regulatory Agreements.”

“**Related Party**” means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to a person that is not a governmental unit or a 501(c)(3) organization, a Related Person.

“**Related Person**” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“**Replacement Proceeds**” has the meaning set forth in section 1.148-1(c) of the Regulations and, generally, consist of amounts that have a sufficiently direct nexus to an issue of obligations or the governmental purpose of an issue of obligations to conclude that the amounts would have been used for that governmental purpose if the Proceeds were not used or to be used for that governmental purpose.

“**Sale Proceeds**” has the meaning set forth in section 1.148-1(b) of the Regulations and, generally, consist of any amounts actually or constructively received from the sale (or other disposition) of any obligation, including amounts used to pay underwriters’ discount or compensation and accrued interest other than Pre-Issuance Accrued Interest. Sale Proceeds also include amounts derived from the sale of a right that is associated with any obligation and that is described in section 1.148-4(b)(4) of the Regulations.

“**State**” means the State of Texas.

“**Stated Redemption Price at Maturity**” means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate and payable unconditionally at fixed periodic intervals of one year or less during the entire term of the debt instrument).

“**Underwriter**” means RBC Capital Markets, LLC.

“**Unit**” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation; provided that, a residential accommodation will not fail to be treated as a “Unit” merely because it is a single-room occupancy unit (within the meaning of section 42 of the Code).

“**Weighted Average Maturity**” means the sum of the products of the Issue Price and the number of years to maturity (taking into account mandatory redemptions) of an obligation, divided by the aggregate Sale Proceeds of such obligation.

“**Yield**” on (a) an issue of obligations has the meaning set forth in section 1.148-4 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments of principal, interest and fees for qualified guarantees to be paid on the obligation produces an amount equal to the Issue Price of such issue and (b) any investment has the meaning

set forth in section 1.148-5 of the Regulations and, generally, is the discount rate that when used in computing the present value of all payments to be received on the investment produces an amount equal to all payments for the investment.

“***Yield Reduction Payments***” means amounts paid in accordance with section 1.148-5(c) of the Regulations that are treated as payments that reduce the Yield on an investment.

“***40-60 Test***” means the requirement set forth in section 142(d)(1)(B) of the Code providing that 40 percent or more of Units in each Project be occupied by individuals whose income is 60 percent or less of the Median Gross Income for the Area.

## 2. Authorized Representatives.

(a) Issuer. The undersigned representative of the Issuer represents that such representative (i) is charged, along with others, with the responsibility for the Bonds and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Issuer to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Issuer personnel and consultants to the Issuer, the undersigned representative of the Issuer has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(b) Borrowers. Each of the undersigned representatives of the Borrower represents that such representative (i) is a duly chosen, qualified and acting officer or other representative of the corresponding Borrower, which will be the owner of a Project and, as such, the undersigned is familiar with the facts herein certified and is authorized on behalf of the Borrower to execute and deliver this Agreement and (ii) is aware of the provisions of sections 103 and 142 through 150, inclusive, of the Code. To the extent that the representations, expectations, certifications, covenants and warranties set forth herein are based on information and data accumulated and analyzed by Borrower personnel and consultants to the Borrowers, the undersigned representative of a Borrower has reviewed such representations, expectations, certifications, covenants and warranties with such personnel and consultants to confirm their completeness and accuracy.

(c) Trustee. The undersigned representative of the Trustee represents that such representative is a duly chosen, qualified and acting officer or other representative of the Trustee and is authorized on behalf of the Trustee to execute and deliver this Agreement.

3. Reasonable Expectations. The Issuer and the Borrowers hereby affirm that the facts and estimates that are set forth in this Agreement are accurate and the expectations that are set forth in this Agreement are reasonable in light of such facts and estimates. There are no other facts or estimates that would materially change such expectations. The Issuer has also relied, to the extent appropriate, on the (a) Issue Price Certificate attached hereto as Exhibit A and (b) the Certificate of Financial Advisor attached hereto as Exhibit B. The undersigned representatives of the Issuer and the Borrowers are aware of no fact, estimate or circumstance that would create any

doubt regarding the accuracy or reasonableness of all or any portion of the representations set forth in such certificates.

4. Reliance on Borrowers' Representations and Covenants. Except as otherwise indicated in this Agreement, the representations, expectations, certifications, covenants and warranties of the Issuer concerning the use and investment of the Proceeds of the Bonds and certain other matters described in this Agreement are based solely upon representations, expectations, certifications, covenants and warranties of the Borrowers, as set forth in this Agreement or in the Exhibits attached hereto. In relying upon such representations, expectations, certifications, covenants and warranties of the Borrowers, the Issuer has not made any independent investigations of the matters pertaining thereto. The Issuer is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representation, expectations, certifications, covenants and warranties of the Borrowers made in this Agreement or in the Exhibits attached hereto.

5. Completeness of Borrower Information. Each of the Borrowers has supplied or caused to be supplied to Bond Counsel all documents, instruments and written information requested by Bond Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrowers at the request of Bond Counsel, which have been reasonably relied upon by Bond Counsel in rendering its opinion with respect to the excludability from gross income for federal income tax purposes of the interest on the Bonds, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrowers are not aware of any other pertinent information for which Bond Counsel has not asked. After due investigation, there is no information not obtained, or any investigation or inspection not heretofore pursued, that would be relevant or material to the certifications set forth below.

6. General Requirements Relating to Issuance of the Bonds. The Issuer and the Borrowers hereby represent, covenant and agree as follows:

(a) Governmental Purpose. The Borrowers have applied to the Issuer and been approved for the Bond Loans to be made from the Proceeds of the Bonds. The proceeds of the Bond Loans (and, thus, the Proceeds of the Bonds) will be used to finance a portion of the Project Costs.

(b) Public Hearings and Approval. As required under section 147(f) of the Code, public hearings with respect to the Bonds were conducted by the Issuer on the following dates in the respective locations:

- (i) on April 3, 2018, in Lampasas, Texas (Evant Tom Sawyer and Lampasas Gardens);
- (ii) on April 5, 2018, in Baytown, Texas (Bay City Village);
- (iii) on April 12, 2018, in Burkburnett, Texas (Burk Village);

- (iv) on April 16, 2018, in Bastrop, Texas (Bastrop Oak Grove I and II and Elgin Meadowpark);
- (v) on April 17, 2018, in Beeville, Texas (Lantana Apartments); and
- (vi) on April 17, 2018, in Hondo, Texas (Hondo Brian Place and Hondo Gardens).

Written notice of the applicable date, hour, place and subject of each such public hearing was published no less than 14 days before the date such public hearing was held, in the newspaper of general circulation available to persons residing within such geographic locality. The Attorney General of the State approved the issuance of the Bonds as required under section 147(f) of the Code.

(c) Volume Cap. The Issuer has received from the Texas Bond Review Board a reservation of State private activity bond volume cap in an amount no less than the aggregate principal amount of the Bonds (or if greater, the Issue Price of the Bonds) for the purpose of issuing the Bonds to finance the acquisition, rehabilitation and equipping of the Project.

(d) Issue. There are no other obligations that (i) are sold at substantially the same time as the Bonds (i.e., less than 15 days apart), (ii) are sold pursuant to the same plan of financing with the Bonds, and (iii) will be paid out of substantially the same source of funds as the Bonds.

(e) Form 8038. The Borrowers have examined the completed Form 8038 with respect to the Bonds, including accompanying schedules and statements, and, to the best of the Borrowers' knowledge and belief, the information in Parts IV and V, which was furnished by the Borrowers, is true, correct, and complete. The Issuer will cause Form 8038 with respect to the Bonds to be filed timely with the IRS.

(f) Substantial User. None of the Borrowers or any Related Person (within the meaning of section 147(a)(2) of the Code) to the Borrowers was a "substantial user" (within the meaning of section 1.103-11 of the Regulations) of any of the Projects at any time during the five year period before the Issue Date of the Bonds.

(g) Program Covenant. None of the Borrowers or any Related Party of the Borrowers is, or will be, a party to any agreement, formal or informal, pursuant to which it will purchase any of the Bonds in an amount related to the amount of the Bond Loan made to the applicable Borrower unless such Borrower or such Related Party provides a Favorable Opinion of Bond Counsel to the Issuer.

(h) No Federal Guarantee. Neither the Issuer nor the Borrowers will take any action that would result in all or any portion of the Bonds being treated as federally guaranteed within the meaning of section 149(b)(2) of the Code.

7. Sale Proceeds of the Bonds. The amount of Sale Proceeds received by the Issuer from the sale of the Bonds is \$[\_\_\_\_\_], which represents the Stated Redemption Price at

Maturity of the Bonds. The Sale Proceeds of the Bonds will be loaned to the Borrower and deposited as follows:

(a) The amount of \$[ ] will be deposited in the Project Account of the Project Fund and used to pay Project Costs. The aggregate amount of the Project Costs is anticipated to exceed such amount. Any Project Costs not financed out of Proceeds of the Bonds will be financed out of the Borrower's available funds.

(b) [The amount of \$[ ] will be deposited in the Bond Fund and disbursed to pay interest on the Bonds accruing during a period not to exceed [ ] following the Issue Date of the Bonds. Sale proceeds and investment proceeds of the Bonds expected to be used to pay interest on the Bonds will serve the governmental purpose of the Bonds by temporarily enabling the payment of debt service on the Bonds pending the rehabilitation of the Project, which is the basis for payment of debt service on the Bonds.]

8. Pre-Issuance Accrued Interest. There is no Pre-Issuance Accrued Interest on the Bonds.

9. Use of Proceeds of the Bonds. The Issuer and the Borrowers hereby represent, covenant and agree as follows:

(a) Qualified Project Costs. At least 95 percent of the Net Proceeds of the Bonds actually expended will be used to pay or reimburse Qualified Project Costs. Not more than five percent of the Net Proceeds of the Bonds will be expended for or allocated to Project Costs that are not Qualified Project Costs. To facilitate compliance with the foregoing requirement, the Borrowers each agree that such requirement will be met separately with respect to the Allocated Bonds for each Borrower.

For purposes of this subparagraph (a) a Project includes only: (i) those portions of buildings included in such Project that are (A) separate and complete facilities for living, sleeping, eating, cooking and sanitation that will be used on other than a transient basis by one or more persons and that will be available on a regular basis for use by members of the general public and will be rented, or available for rental, on a continuous basis during the longer of the term of the Bonds or the Qualified Project Period for such Project, and (B) facilities in building areas that are functionally related and subordinate thereto, such as centrally located machinery and equipment and common areas in a typical apartment building (but not including any health club facilities, except a facility that will be available only to tenants and their guests with no separate fee to be paid for the use of such facility); and (ii) land and other facilities that are properly allocable to such living facilities, such as parking areas and recreational areas for occupants of the living facilities.

Further, all of the allocable functionally related and subordinate land areas, facilities, and building areas taken into account in determining Qualified Project Costs under this subparagraph (a) are of a character and size commensurate with the number and size of the living facilities and are not functionally related and subordinate to, or properly allocable to, any other facilities.

(b) Additional Limitations.

(i) Costs of Issuance. The Sale Proceeds of the Bonds, for purposes of the limit on Costs of Issuance payable from Proceeds of the Bonds set forth in section 147(g) of the Code, is not less than \$[\_\_\_\_\_]. No Costs of Issuance are expected to be paid out of the Net Proceeds of the Bonds. Thus, Costs of Issuance financed out of Net Proceeds of the Bonds are not expected to exceed in the aggregate two percent of the Sale Proceeds of the Bonds (i.e., \$[\_\_\_\_\_]). In no event will Costs of Issuance paid from Proceeds of the Bonds exceed two percent of the Sale Proceeds of the Bonds, and any Costs of Issuance in excess of two percent of Sale Proceeds of the Bonds will be paid by the Borrower from sources other than Net Proceeds of the Bonds.

(ii) Acquisition of Existing Property. No portion of the Net Proceeds of the Bonds will be used to pay or reimburse the cost of acquiring any property or an interest therein unless, (i) the first use of such property is pursuant to such acquisition, except for land, or (ii) the rehabilitation expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the portion of the cost of acquiring such building and equipment financed with the Net Proceeds of the Bonds (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term “rehabilitation expenditures” shall have the meaning set forth in section 147(d)(3) of the Code. If a Project has two or more buildings, the provisions regarding rehabilitation expenditures are to be applied on a Project-wide basis. To facilitate compliance with the foregoing requirements, the Borrowers each agree that such requirement will be met separately with respect to the Allocated Bonds for each Borrower.

(iii) Limitation on Land Acquisition. Less than 25 percent of the Net Proceeds of the Bonds will be used (directly or indirectly) to acquire land (or an interest therein) and no portion of the Net Proceeds of the Bonds will be used (directly or indirectly) for farming purposes. For this purpose, an amount is considered used for the acquisition of land (or an interest therein) to the extent of that portion of the acquisition cost of the Project that is properly allocable for all federal income tax purposes to the land component (including interests in land) of the Project. To facilitate compliance with the foregoing requirements, the Borrowers each agree that such requirement will be met separately with respect to the Allocated Bonds for each Borrower.

(iv) Prohibited Facilities. None of the Proceeds of the Bonds will be used to acquire, construct, or equip, and no portion of the Project will be, an airplane, a skybox or any other type of luxury box, a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises; provided that, any fitness room functionally related to and subordinate to a Project for use by tenants of such Project or their guest is not considered a health club facility for purposes of this subparagraph.

(v) Payments to Related Persons. Any amount of Proceeds of the Bonds paid to a Related Person to a Borrower or any affiliated person that is not a Related Person to a Borrower will not exceed an arm's-length charge that is the amount that would be charged to a person other than a Borrower. Further, any amount of Proceeds of the Bonds paid to a Related Person to a Borrower or any affiliated person that is not a Related Person to a Borrower would be paid under the same circumstances by a person other than a Borrower to such affiliated person or entity. Notwithstanding the foregoing, in no event will amounts of Proceeds of the Bonds that are paid to a Related Person to a Borrower be treated as spent until such amounts are spent on capital expenditures by such Related Person.

(vi) No Working Capital. Except for an amount that does not exceed five percent of the Sale Proceeds of the Bonds (and that is directly related to the Project), the Proceeds of the Bonds will only be expended for (A) costs that would be chargeable to the capital account of a Project if the Issuer's income were subject to federal income taxation; (B) interest on the Allocable Bonds of a Borrower in an amount that does not cause the aggregate amount of interest paid on the Bonds to exceed that amount of interest on the Allocable Bonds that is attributable to the period that commences on the Issue Date of the Bonds and ends on the later of (1) the date that is three years from the Issue Date of the Bonds or (2) the date that is one year after the date on which the Project financed with the Allocable Bonds is Placed in Service; and/or (C) fees for a qualified guarantee of the Bonds or payment for a qualified hedge on the Bonds.

(vii) No Pooling. The Issuer will not use the Proceeds of the Bonds directly or indirectly to make or finance loans to two or more ultimate unrelated borrowers.

(viii) Weighted Average Economic Life. The Weighted Average Maturity of the Bonds, as calculated by the Financial Advisor as set forth in Exhibit B hereto, is [WAM] years. The weighted average reasonably expected economic life of the portion of the Project financed with Proceeds of the Bonds is at least [WAM/1.2] years. Thus, the Weighted Average Maturity of the Bonds is not more than 120 percent of the weighted average reasonably expected economic life of the portion of the Projects financed with Proceeds of the Bonds. Such weighted average estimated economic life is determined in accordance with the following assumptions: (A) the weighted average is determined by taking into account the respective costs of each asset, excluding land; (B) the reasonably expected economic life of an asset is determined as of the later of (1) the Issue Date of the Bonds or (2) the date on which such asset is originally Placed in Service (or expected to be Placed in Service); and (C) the economic lives for the itemized assets are the useful lives that would have been used for depreciation purposes under section 167 of the Code prior to the enactment of the ACRS system under section 168 of the Code (i.e., the mid-point lives under the Class Life Asset Depreciation Range System of section 167(m) of the Code where applicable and the guideline lives under Revenue Procedure 62-21, 1962-2 C.B. 418, in the case of structures). The Borrowers hereby covenants not make any changes to the Projects that would,

at the time made, cause the remaining Weighted Average Maturity of the Bonds to be more than 120 percent of the remaining weighted average estimated economic life of the portion of the Project financed with Proceeds of the Bonds.

(c) Reimbursement. Other than (i) the amount of \$100,000 and/or (ii) Preliminary Expenditures up to an amount not in excess of 20 percent of the Sale Proceeds of the Bonds, no portion of the Proceeds of the Bonds will be disbursed to reimburse the Issuer, the Borrowers or any Related Person for any expenditures paid or incurred prior to the date that is 60 days before the Inducement Date, which is the date on which the Issuer adopted a resolution describing the Projects, stating the maximum principal amount of obligations expected to be issued for the Projects and stating the Issuer's reasonable expectation that expenditures for costs of the Projects would be reimbursed with Proceeds of an obligation. Such resolution was not an official intent declared as a matter of course or in an amount substantially in excess of the amount expected to be necessary for the Project. Neither the Issuer nor the Borrower has engaged in a pattern of failure to reimburse actual original expenditures covered by official intents. [The Borrowers expect that Proceeds of the Bonds in the amount of approximately \$[ ] will be used to reimburse themselves for expenditures paid prior to the Issue Date of the Bonds.] Such reimbursed portion will be treated as spent for purposes of the "Funds—Project Fund" subparagraph herein and the "Compliance with Rebate Requirements; Rebate Fund" paragraphs herein.

(d) Allocations and Accounting. The Proceeds of the Allocable Bonds will be allocated to expenditures not later than 18 months after the later of the date the original expenditure is made or the date the related Project is Placed in Service, but in no event later than the date that is 60 days after the fifth anniversary of the Issue Date of the Bonds or the retirement of the Bonds, if earlier; provided that, if such allocation is made pursuant to a reimbursement expenditure described above, such reimbursement allocation will in no event be made later than the date that is three years after the date each such original expenditure is paid. The Borrowers hereby elect to consistently allocate the expenditure of Proceeds of the Allocable Bonds to Qualified Project Costs of the related Project. No Proceeds of the Bonds will be allocated to any expenditures to which Proceeds of any other tax-exempt obligations have heretofore been allocated.

10. Issue Price. In accordance with section 1.148-1(f)(2)(iv) of the Regulations, the Issuer hereby identifies in its books and records maintained for the Bonds the rule the Issuer will use to determine the Issue Price for each maturity of the Bonds as follows:

(a) 10% Test. For those Bonds maturing in the years [ ], the Issuer will determine the Issue Price of such maturities as set forth in the first sentence of section 1.148-1(f)(2)(i) of the Regulations, i.e. the Issue Price is the first price at which a substantial amount (i.e. 10%) is sold to the public.

(b) Hold-the-Offering-Price Rule. For those Bonds maturing in the years [ ], the Issuer will determine the Issue Price of such maturities as set forth in section 1.148-1(f)(2)(ii) of the Regulations, i.e. the Issue Price is the initial offering price to the public as of the sale date.



Based on the representations set forth in Exhibit A hereto, the aggregate Issue Price of the Bonds is \$[Issue Price]. The Issue Price of the Bonds represents the Stated Redemption Price at Maturity (excluding Pre-Issuance Accrued Interest for those Bonds the interest on which is paid at least once annually) of the Bonds in an amount of \$[\_\_\_\_\_], plus Original Issue Premium in the amount of \$[\_\_\_\_\_], less Original Issue Discount in the amount of \$[\_\_\_\_\_].

11. Yield on the Bonds. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) The Yield on the Bonds will be computed separately for each computation period. For the purposes of this Agreement, the Yield on the Bonds for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all payments of principal, interest and fees for qualified guarantees on the Bonds that are attributable to the computation period, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price (or deemed Issue Price, as determined by section 1.148-4(c)(2)(iv) of the Regulations) of the Bonds as of the first day of the computation period.

(b) For purposes of demonstrating the fact that the Yield on the Bond Loans is not higher than the Yield on the Bonds by more than 1.5 percentage points, the Yield on the Bonds (i) is the discount rate that, when used in computing the present value as of the Issue Date of the Bonds, of all unconditionally payable payments of principal and interest on the Bonds, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price of the Bonds as of the Issue Date of the Bonds and (i) is computed by treating the Bonds as redeemed on the mandatory tender date of [\_\_\_\_\_]. As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Bonds, calculated in accordance with this subparagraph (b) is [Bond Yield] percent.

(c) Neither the Issuer nor the Borrowers has entered into any hedging transaction with respect to the Bonds, and each covenants not to enter into a hedging transaction with respect to the Bonds unless there is first received a Favorable Opinion of Bond Counsel.

12. Yield on the Bond Loans. The Issuer and the Borrowers hereby represent, covenant and agree as follows:

(a) The Bond Loans are allocated to the Bonds. The blended Yield on the Bond Loans is computed using the same compounding interval and financial conventions used to compute the Yield on the Bonds. For the purposes of this Agreement, the Yield on the Bond Loans is the discount rate that, when used in computing the present value as of the Issue Date of the Bonds of all receipts with respect to the Bond Loans, produces an amount equal to the present value, using the same discount rate, of the aggregate payments with respect to the Bond Loans as of the Issue Date of the Bonds. The aggregate payments made to the Borrower with respect to the Bond Loan includes no payments other than the “purchase price” of the Bond Loans. The purchase price of the Bond Loans is the aggregate

amount loaned to the Borrowers by the Issuer on the Issue Date of the Bonds, i.e. \$[\_\_\_\_\_].

(b) The Bond Loans are purpose investments that the Issuer intends to treat as “program investments” within the meaning of section 1.148-1 of the Regulations, because they are part of a governmental program (i) that involves the origination or acquisition of purpose investments; (ii) in which at least 95 percent of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, organizations exempt from tax under section 501(c)(3) of the Code, persons who provide housing and related facilities, or any combination of the foregoing; (iii) in which at least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption; and (iv) in which the program documents prohibit any obligor on a purpose investment financed by the program or any “related party,” within the meaning of section 1.150-1(b) of the Regulations, to that obligor from purchasing Bonds of an issue that finance the program in an amount related to the amount of the purpose investment acquired from that obligor. The Issuer has not waived the right to treat the Bond Loans as program investments.

(c) The receipts from the Borrower with respect to the Bond Loan include interest and principal payments with respect to the Bond Loans and the Qualified Administrative Costs paid by the Borrower, and the Qualified Administrative Costs paid by the Borrower have been taken into account, as provided by 1.148-5(e) of the Regulations, for purposes of computing the yield on the Loan. Because the Issuer intends to treat the Bond Loan as a “program investment” within the meaning of section 1.148-1 of the Regulations, the Qualified Administrative Costs do not include the costs or expenses paid, directly or indirectly, to purchase, carry, sell, or retire the Loan, which amounts are set forth in Exhibit C hereto.

(d) As set forth in the Certificate of Financial Advisor attached hereto as Exhibit B, the Yield on the Bond Loans, calculated in the manner set forth above, is [Loan Yield], which does not exceed than the Yield on the Bonds by more than 1.5 percentage points.

13. Investment of Proceeds Pending Expenditure; No Arbitrage. The Issuer and the Borrower hereby represent, covenant and agree as follows:

(a) Investment Proceeds. Amounts on deposit in the Project Fund may be comprised of Proceeds of the Bonds and amounts that are not Proceeds of the Bonds or any tax-exempt obligation. If Proceeds of the Bonds and amounts that are not Proceeds of the Bonds are commingled, the Borrower will take into account for purposes of its covenant to comply with the arbitrage and rebate requirements that Proceeds of the Bonds and amounts that are not Proceeds of the Bonds have been commingled as an investment. Investment

Proceeds resulting from the investment of any Proceeds of the Bonds pending expenditure of such Proceeds for Project Costs will be used to pay Qualified Project Costs or, if not used to pay Qualified Project Costs, such amounts will be treated as “bad costs.”

(b) Minor Portion and Yield Reduction Payments. All Gross Proceeds of the Bonds will be invested in accordance with the “Funds” paragraph herein. To the extent such amounts remain on hand following the periods set forth in the “Funds” paragraph herein or exceed the limits set forth in the “Funds” paragraph herein, such amounts will be invested at a restricted Yield as set forth in such paragraph; provided, however, that an amount not to exceed the Minor Portion may be invested at a Yield that is higher than the Yield on the Bonds and, provided further, that, if permitted by section 1.148-5(c) of the Regulations, the Yield restriction requirements may be satisfied by making Yield Reduction Payments to the federal government.

(c) Bonds Are Not Hedge Bonds. Not more than 50 percent of the Proceeds of the Bonds will be invested in a Nonpurpose Investments having a substantially guaranteed Yield for four years or more. Further, at least 85 percent of the spendable Proceeds of the Bonds are reasonably expected to be used to carry out the governmental purposes of the Bonds within the three-year period beginning on the Issue Date of the Bonds.

(d) No Arbitrage. On the basis of the facts, estimates and circumstances set forth in this Agreement, it is expected by the Issuer and the Borrowers that the Gross Proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148 of the Code. To the best of the knowledge and belief of the undersigned representatives of the Issuer and the Borrowers, there are no other facts, estimates or circumstances that would materially change such expectations. Except as provided in the Indenture and the Bond Loan Agreement, the Borrowers will not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under the Bond Loan Agreement or the note relating to the Bond Loans, will not establish any segregated reserve or similar fund for such purpose and will not prepay any such amounts in advance of the redemption date of an equal principal amount of the Bonds, unless in each case there will have been delivered a Favorable Opinion of Bond Counsel. The Borrowers will not, at any time prior to the final maturity of the Bonds, direct or permit the Trustee to invest Gross Proceeds of the Bonds in any investment (or to use Gross Proceeds of the Bonds to replace money so invested), if as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Bonds to stated maturity, except as permitted by section 148 of the Code. The Issuer and the Borrowers further covenant and agree that each will comply with and will take all action reasonably required to ensure that the Trustee complies with all applicable requirements of section 148 of the Code relating to the Bonds and the interest thereon.

(e) Investment Securities. **[Discuss reallocation concept and whether it applies since Collateral Fund will be fully-funded at closing. If yes, discuss whether expectation is that investment securities will be bid in open market or whether SLGS will be purchased. This section and 16(a) will be adjusted accordingly]**

14. Covenants of Trustee Relating to Investment of Proceeds. The Trustee will invest funds held under the Indenture in accordance with the respective terms of the Indenture and this Agreement, which covenant will extend throughout the term of the Bonds, to all funds and accounts created under the Indenture and this Agreement and all moneys on deposit to the credit of any fund or account.

Notwithstanding any other provisions of the Indenture or of this Agreement, the Trustee will not make or cause to be made any investment or other use of the moneys in the funds or accounts that would cause the Bonds to be classified as “arbitrage bonds” within the meaning of section 148 of the Code or would cause the interest on the Bonds to be includable in gross income for federal income tax purposes. This covenant will extend, throughout the term of the Bonds, to all funds created under the Indenture, and all moneys on deposit to the credit of any fund. Pursuant to this covenant, with respect to the investments of the funds and accounts under the Indenture, the Trustee obligates itself to comply throughout the term of the Bonds with the requirements of section 148 of the Code.

Should the Issuer or the Borrowers deliver notice (in the manner required under the Indenture or the Bond Loan Agreement, as applicable) to the Trustee (it being understood that neither the Issuer nor the Borrower has an obligation to so deliver) or should the Trustee receive an opinion of Bond Counsel to the effect that any proposed investment or other use of Proceeds of the Bonds would cause the Bonds to become “arbitrage bonds” within the meaning of section 148 of the Code, then the Trustee will comply with any written direction of the Borrower regarding such investment or use so as to prevent the Bonds from becoming an “arbitrage bond.”

The Issuer and the Borrowers agree that, in complying with the provisions set forth under this subparagraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent the Trustee materially follows the written directions of the Borrowers or the Issuer.

15. Compliance with Yield Reduction and Rebate Requirements; Rebate Fund.

(a) Covenant to Comply with Rebate Requirements. The Issuer and the Borrowers covenant to comply with the requirement that (i) if Gross Proceeds of the Bonds have been invested at a Yield that is “materially higher” the Yield on the Bonds and Yield Reduction Payments are permitted under section 1.148-5(c)(3) of the Regulations, Yield Reduction Payments be made to the federal government and (ii) “rebateable arbitrage earnings” on the investment of the Gross Proceeds of the Bonds, within the meaning of section 148(f) of the Code, be rebated to the federal government.

(b) Rebate Fund. The Indenture established the Rebate Fund, which will be maintained and held in trust by the Trustee and which will be disbursed and applied only as herein authorized in this “Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph. Notwithstanding anything herein to the contrary, all provisions of the Indenture relating to the general administration of the funds created thereunder will apply to the Rebate Fund, and the Trustee is afforded all the rights, protections and immunities otherwise accorded to it thereunder as if the provisions set forth in this

“Compliance with Yield Reduction and Rebate Requirements; Rebate Fund” paragraph were set forth in the Indenture.

(c) Delivery of Documents and Money by Borrowers on Computation Dates.

The Borrowers will deliver to the Trustee and the Issuer, within 55 days after each Computation Date:

(i) a statement, signed by an officer of the Borrowers, stating the Rebate Amount as of such Computation Date and the amount of any Yield Reduction Payments due; and

(ii) (A) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90 percent of the Rebate Amount and Yield Reduction Payments due as of such Installment Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations), made to the United States of America or (B) if such Computation Date is the Final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount and Yield Reduction Payments due as of such Final Computation Date, less any “previous rebate payments” (determined in accordance with section 1.148-3(f)(1) of the Regulations) made to the United States of America; and

(iii) an IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (“Form 8038-T”) properly signed and completed as of such Computation Date.

(d) Administration of Rebate Fund and Payment of Rebate.

(i) The Trustee will deposit or transfer to the credit of the Rebate Fund each amount delivered to the Trustee by each of the Borrowers for deposit thereto and each amount directed by such Borrower to be transferred thereto. Within five days after each receipt or transfer of funds to the Rebate Fund, the Trustee will withdraw such funds from the Rebate Fund and pay such funds to the United States of America. The Trustee may conclusively rely on the instructions of the Borrowers with regard to any actions to be taken by it pursuant to this paragraph and will have no liability for any consequences of any failure of any of the Borrowers to perform its duties or obligations or to supply accurate or sufficient instructions. Except as specifically provided herein, the Trustee will have no duty or responsibility with respect to the Rebate Fund or the Borrowers; duties and responsibilities with respect thereto except to follow a Borrower’s specific written instructions related thereto.

(ii) Moneys and securities held by the Trustee in the Rebate Fund will not be deemed funds of the Bonds and are not pledged or otherwise subject to any security interest in favor of the owners of the Bonds to secure the Bonds or any other obligations.

(iii) Moneys in the Rebate Fund will be separately invested and reinvested by the Trustee, at the written direction of the Borrower, in Eligible Investments, subject to the Code. The Trustee will sell and reduce to cash a sufficient amount of such Eligible Investments whenever the cash balance in the Rebate Fund is insufficient for its purposes.

(iv) The Borrowers will provide to the Trustee and the Trustee will keep such records of the results of the computations made pursuant to this paragraph for a period of three years after the last Bond and any tax-exempt obligations issued to refinance the Bonds is retired. The Trustee will keep and make available to the Issuer and the Borrowers such records concerning the investments of Gross Proceeds of the Bonds and the investments of earnings from those investments as may be requested by the Issuer or the Borrowers in order to enable the Borrower to make the computations required under section 148(f) of the Code.

(e) Correction of Underpayments. If the Borrowers discover or are notified as of any date that any amount required to be paid to the United States of America pursuant to this Agreement has not been paid as required or that any payment paid to the United States of America pursuant to this Agreement has failed to satisfy any requirement of section 148(f) of the Code or section 1.148-3 of the Regulations (whether or not such failure is due to any default by the Borrower, the Issuer, or the Trustee), the Borrowers will (i) deliver to the Trustee (for deposit to the Rebate Fund) and cause the Trustee to pay to the United States of America from the Rebate Fund (A) the Rebate Amount or Yield Reduction Payments due that the Borrowers failed to pay, plus any interest specified in section 1.148-3(h)(2) of the Regulations, if such correction payment is delivered to and received by the Trustee within 175 days after such discovery or notice, or (B) if such correction payment is not delivered to and received by the Trustee within 175 days after such discovery or notice, the amount determined in accordance with clause (A) of this subparagraph plus the 50 percent penalty required by section 1.148-3(h)(1) of the Regulations, and (ii) deliver to the Trustee and the Issuer a Form 8038-T completed as of such date. If such Rebate Amount or Yield Reduction Payments, together with any penalty and/or interest due, is not paid to the United States of America in the amount and manner and by the time specified in the Regulations, the Borrowers will take such steps as are necessary to prevent the Bonds from becoming “arbitrage bonds” within the meaning of section 148 of the Code.

(f) Fees and Expenses. The Borrowers agree to pay the fees and expenses of Bond Counsel, the Rebate Analyst, and any other necessary consultant employed by the Borrower, the Trustee, or the Issuer in connection with computing the Rebate Amount and the Yield Reduction Payments.

(g) No Diversion of Rebateable Arbitrage. The Borrowers will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Bonds that is not purchased at fair market value (as defined in section 1.148-5(d)(6)(iii) of the Regulations) or includes terms that the Borrower would not have included if the Bonds were not subject to section 148(f) of the Code.

(h) Amounts Not Required in Certain Circumstances.

(i) Notwithstanding the foregoing, the Borrowers will not be required to perform the obligations set forth in this “Compliance with Rebate Requirements; Rebate Fund” paragraph, except for the obligation to retain accounting records and the payment of expenses as described herein, if (A) the Gross Proceeds of the Bonds have not been invested at a Yield that is “materially higher” the Yield on the Bonds and therefore is not required to pay Yield Reduction Payments and/or (B) the Borrowers have not earned any rebatable arbitrage and, therefore, are not subject to the rebate obligation set forth in section 148(f) of the Code. To the extent that the Borrowers will not be required to perform such obligations, the Borrowers will send written notice to the Trustee and the Issuer within 55 days after the applicable Computation Date.

(ii) Notwithstanding anything to the contrary in this Agreement requiring a payment to be made based on the Rebate Analyst’s calculations showing a rebate being due, no payment will be made by the Trustee to the United States of America if the Borrowers furnish to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. In such event, the Borrowers will be entitled to withdraw funds from the Rebate Fund to the extent provided in such Favorable Opinion of Bond Counsel.

(i) Trustee Reliance on Written Directions. The Issuer and the Borrowers agree that, in complying with the provisions set forth under this paragraph, the Trustee will be deemed to have complied with such provisions and will have no liability to the extent it materially follows the written directions of the Borrowers, the Issuer, or the Rebate Analyst.

16. Funds.

(a) Project Fund. All of the Proceeds of the Bonds in the Project Account of the Project Fund are expected to be invested and disbursed as described in the Indenture to pay Project Costs. [The Issuer and the Borrowers hereby waive the temporary period available under Section 1.148-2(e)(2) of the Regulations.] OR [The Borrowers (i) reasonably expects to allocate at least 85 percent of the Net Proceeds of the Bonds, including amounts deposited as capitalized interest, to expenditures on capital projects of the Projects prior to the date that is three years after the Issue Date of the Bonds, (ii) have incurred, or reasonably expects to incur within six months after the Issue Date of the Bonds, a binding obligation to a third party that is not subject to any contingencies within the control of the Borrower pursuant to which the Borrowers are obligated to expend at least five percent of the Net Proceeds of the Bonds on capital projects of the Projects, and (iii) reasonably expects that the acquisition, rehabilitation, and equipping of the Projects will proceed with due diligence to completion and the Net Proceeds of the Bonds are reasonably expected to be expended on the Projects with reasonable dispatch; therefore, all of such amounts may be invested without regard to Yield restriction.] All amounts on deposit in the Project Fund will be invested at a Yield that is not “materially higher” than the Yield

on the Bonds, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(b) Bond Fund. Amounts on deposit in the Bond Fund will be used for the purposes set forth in Section 5.05 of the Indenture. The Bond Fund will be used primarily to achieve a proper matching of payments made pursuant to the Bond Loan Agreement and debt service on the Bonds within each Bond Year. Any amounts in the Bond Fund held for longer than 13 months will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Bonds, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” subparagraph herein.

(c) Costs of Issuance Fund. Amounts on deposit in the Costs of Issuance Fund will be funded by the Borrowers at closing and used for the purpose of paying Costs of Issuance. Amounts remaining in the Costs of Issuance Fund after the payment of all Costs of Issuance, and in any event not later than 30 days following the Issue Date of the Bonds, will be returned to the Borrowers. There is no assurance that amounts on deposit in the Costs of Issuance Fund will be available to pay debt service on the Bonds.

(d) Collateral Fund. Amounts on deposit in the Collateral Fund will be used for the purposes set forth in Section 5.04 of the Indenture. Any amounts held in the Collateral Fund will be invested in obligations the Yield on which is not “materially higher” than the Yield on the Bonds, except as set forth in the “Investment of Proceeds Pending Expenditure; No Arbitrage—Minor Portion and Yield Reduction Payments” and “—Investment Securities” subparagraphs herein.

(e) Expense Fund. Amounts on deposit in the Expense Fund will be funded by the Borrower and used for the purposes set forth in Section 5.08 of the Indenture. There is no assurance that amounts on deposit in such fund will be available to pay debt service on the Bonds.

(f) Rebate Fund. The Rebate Fund will be used in the event the Issuer and the Borrowers are required to pay rebatable arbitrage earnings to the federal government, as described in the “Compliance with Rebate Requirements; Rebate Fund” paragraph above. Amounts on deposit in the Rebate Fund are not subject to the lien of the Indenture; accordingly, there is no assurance that amounts on deposit, if any, in the Rebate Fund will be available to pay debt service on the Bonds.

17. Replacement Proceeds. The Issuer and the Borrower hereby represent as follows:

(a) No Sinking Funds. Other than the Bond Fund, there is no debt service fund, redemption fund, reserve fund, replacement fund, or similar fund reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds.

(b) No Pledged Funds. Other than amounts in the Bond Fund and the, there is no amount that is directly or indirectly pledged to pay principal or interest on the Bonds, or to a guarantor of the Bonds, such that such pledge provides reasonable assurance that such amount will be available to pay principal or interest on the Bonds if the Issuer or the



Borrowers encounter financial difficulty. For purposes of this certification, an amount is treated as so pledged if it is held under an agreement to maintain the amount at a particular level for the direct or indirect benefit of the holders or the guarantor of the Bonds.

(c) No Other Replacement Proceeds. There are no other Replacement Proceeds allocable to the Bonds because the Issuer reasonably expects that the term of the Bonds will not be longer than is reasonably necessary for the governmental purpose of the Bonds. Furthermore, even if the Bonds were outstanding longer than necessary for the purpose of the Bonds, no Replacement Proceeds will arise because the Issuer reasonably expects that no amounts will become available during the period that the Bonds remain outstanding longer than necessary based on the reasonable expectations of the Issuer as to the amounts and timing of future revenues. The Bonds would be issued to achieve the governmental purpose of the Bonds independent of any arbitrage benefit as evidenced by the expectation that the Bonds reasonably would have been issued if the interest on the Bonds were not excludable from gross income (assuming that the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate and that tax credits issued under section 42 of the Code would be available in connection therewith).

18. Not an Abusive Transaction. The Issuer and the Borrowers hereby represent as follows:

(a) General. A device has not been and will not be employed in connection with the issuance of the Bonds to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates. Furthermore, no action taken in connection with the Bonds is or will be an abusive arbitrage device by having the effect of (i) enabling the Issuer or the Borrowers to exploit, other than during an allowable temporary period, the difference between tax-exempt and taxable interest rates to obtain a material financial advantage (including as a result of an investment of any portion of the Gross Proceeds of the Bonds over any period of time, notwithstanding that, in the aggregate, the Gross Proceeds of the Bonds are not invested in higher yielding investments over the term of the Bonds) and (ii) overburdening the tax-exempt bond market by issuing more bonds, issuing bonds earlier or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Bonds, based on all the facts and circumstances. Specifically, (A) the primary purpose of each transaction undertaken in connection with the issuance of the Bonds is a bona fide governmental purpose; (B) each action taken in connection with the issuance of the Bonds would reasonably be taken to accomplish the governmental purposes of the Bonds if the interest on the Bonds were not excludable from gross income for federal income tax purposes (assuming the hypothetical taxable interest rate would be the same as the actual tax-exempt interest rate on the Bonds); and (C) the Proceeds of the Bonds will not exceed by more than a Minor Portion the amount reasonably anticipated to be necessary to accomplish the governmental purposes of the Bonds and will in fact not be substantially in excess of the amount of Proceeds allocated to expenditures for the governmental purposes of the Bonds.

(b) No Sinking Fund. No portion of the Bonds has a term that has been lengthened primarily for the purpose of creating a sinking fund or similar fund with respect to the Bonds.

(c) No Window. No portion of the Bonds has been structured with maturity dates the primary purpose of which is to make available released revenues that will enable the Issuer to avoid transferred proceeds or to make available revenues that may be invested to be ultimately used to pay debt service on another issue of obligations.

(d) No Disposition. No portion of the Projects is reasonably expected to be disposed of while the Bonds are outstanding.

19. The Projects. Each of the Borrowers hereby represents and covenants as follows with respect to the Project owned by such Borrower:

(a) The Project will be designed and equipped and will be owned, maintained and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code on a continuous basis during the Qualified Project Period.

(b) The Project is to be located at and will be comprised of (i) Units, none of which will be owner-occupied other than any functionally related and subordinate Units used by management for the purpose of housing any resident managers, security personnel or maintenance personnel that is reasonably required for the Project and (ii) land and facilities, all of which are functionally related and subordinate to the aforementioned Units (i.e., facilities that are of a size and character commensurate with the size and character of such Units).

(c) All Units in the Project will be rented to individuals or families for residential occupancy. No Units will be utilized on (i) a transient basis by being leased or rented for a period of less than thirty days or (ii) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or trailer court used on a transient basis.

(d) The Project will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (i) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (ii) will be owned by the same person for federal income tax purposes, and (iii) will be financed pursuant to a common plan; [Need to discuss with respect to Tom Sawyer – are all units on contiguous land??]

(e) There has been and will be no substantial deviation from the description and location of the Project and the Borrower, operator or manager set forth in the notice of hearing published with respect to the Bonds for purposes of satisfying the requirements of section 147(f) of the Code.

(f) Except to the extent that any Unit is a single room occupancy unit under section 42 of the Code, each Unit will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation. Specifically, each Unit will contain a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, full-size refrigerator and sink, all of which are separate and distinct from the facilities included in other Units.

(g) Parking spaces included in the Project are functionally related and subordinate to the Units included in the Project in that they are no greater in number than is normally appropriate for a residential rental facility that is of the size of the Project. Only tenants, prospective tenants, guests of tenants, employees of the Borrower, and employees of the manager are expected to use these parking spaces.

(h) If the Project contains a clubhouse, exercise or similar recreational facility, such facility exists as a tenant amenity and may be used by any tenant free of any separate charge and will be constructed for the exclusive use of tenants of the Project and their guests. Such facility, if any, is of a character and size commensurate with the character and size of the Project and will not be open to the general public on a membership basis.

(i) The Project will not include any nonresidential or commercial space, including particularly, without limitation, any other space or facility not described in this paragraph.

(j) No continual or frequent skilled or unskilled nursing services will be available at the Project, although the tenants will be permitted to engage such services from providers that are not affiliated with the Borrower or the manager. Thus, neither the Borrower nor the manager, nor any Related Person to either the Borrower or the manager, will provide any assistance to any tenant in connection with his or her activities of daily living, other than concierge and valet services. The Project will not be licensed as a convalescent or nursing home, continuing care facility, personal care facility, special care facility or other assisted living facility under State law.

20. Tenant Income Certifications. Each of the Borrowers hereby represents and covenants as follows with respect to the Project owned by such Borrower:

(a) The Borrower will obtain and maintain tenant income certifications in a form that satisfies the requirements of section 1.103-8(b)(8) of the Regulations demonstrating that the 40-60 Test is met with respect to the occupied Units continuously throughout the Qualified Project Period. [Discuss Evant Tom Sawyer]

(b) The Borrower will ensure that each person who is intended to be a Qualifying Tenant will sign and deliver to the Borrower or a manager of the Project a tenant income certification in the form required by the Regulatory Agreement. In addition, the Borrower will ensure that such person will provide whatever other information, documents or certifications are deemed necessary to substantiate the tenant income certification.

(c) The Borrower will timely file, or take such actions as are necessary to cause any other person who is properly treated as the “operator” for purposes of section 142(d)(7)

of the Code to file timely, the annual certifications described in section 142(d)(7) of the Code (currently, IRS Form 8703, Annual Certificate of Residential Rental Project).

(d) For a period of at least three years after the date the Bonds are retired, a tenant income certification in the form required by the Regulatory Agreement will at all times be maintained on file at the applicable location for the Project with respect to each Qualifying Tenant who resides or has resided in a Unit.

21. Form of Lease. Each Borrower will ensure that the term of a lease of any Unit in the Project owned by the Borrower will be for a term of not less than six months, subject to the provision that any lease may be terminated if the tenant's physical condition no longer permits full-time residence in the Project; provided, however, that the form of lease to be utilized by the Borrower in renting any Units to a person who is intended to be a Qualifying Tenant will provide for termination of the lease and consent by such person to immediate eviction in accordance with applicable law for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the tenant income certification.

22. Change in Use. Each Borrower acknowledges that any failure to satisfy the applicable requirements of sections 103 and 142 through 150, inclusive, of the Code, including the 40-60 Test, with respect to the Project owned by the Borrower, will be treated as a change in use for purposes of section 150(b)(2) of the Code with the result that no deduction will be allowed for federal income tax purposes for interest paid by the Borrower with respect to the portion of the Borrower's Bond Loan that is allocable to Proceeds of the Bonds that accrues during the period beginning on the first day of the taxable year in which the Project fails to meet such requirements and ending on the date that the Project meets such requirements.

On the earlier of (a) the date on which a Borrower reasonably determines that the Project owned by such Borrower will not be completed or (b) the date on which such Project is Placed in Service, the Borrower will identify the amount of unspent Net Proceeds of the Allocable Bonds, if any, and will use such amount to redeem or, if not permitted by the terms of the Allocable Bonds, defease the Allocable Bonds, all in accordance with the requirements of section 1.142-2 of the Regulations, the Indenture and the Bond Loan Agreement, as applicable, including the requirement that, if a defeasance is necessary, timely written notice be provided to the IRS.

23. Record Retention. The Issuer, the Borrowers and the Trustee will retain or cause to be retained all pertinent and material records relating to the use of the Projects, the investment, use and expenditure of the Proceeds of the Bonds and the Projects and the calculation of rebate in connection therewith until three years after the Bonds, including any tax-exempt obligations issued to refinance the Bonds, are redeemed or paid at maturity, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the Issuer to retrieve and reproduce such books and records in the event of an examination of the Bonds by the IRS.

24. Examination by IRS. The Borrowers acknowledge that, in the event of an examination by the IRS of the exclusion of interest on the Bonds from the gross income of the owners thereof for federal tax purposes, the Issuer will likely be treated as the “taxpayer”, and the Borrowers agree to respond in a commercially reasonable manner on behalf of, and at the direction of, the Issuer (and in consultation with the Trustee, who will have the right to participate in all related proceedings (including tax court challenges and appeals)) to such examination and to pay the costs of the counsel selected by the Issuer to provide a defense regarding the exclusion of the interest on the Bonds from the gross income of the owners thereof for federal income tax purposes. THE BORROWERS WILL INDEMNIFY AND HOLD HARMLESS THE ISSUER AND THE TRUSTEE AGAINST ANY AND ALL COSTS, LOSSES, CLAIMS, DAMAGES, OR LIABILITY OF, OR RESULTING FROM, SUCH AN EXAMINATION AND THE SETTLEMENT THEREOF BY THE ISSUER AND THE TRUSTEE (INCLUDING THE COST OF THE ISSUER’S AND THE TRUSTEE’S LEGAL COUNSEL), EXCEPT AS A RESULT OF THE WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE ISSUER (WITH RESPECT TO INDEMNIFICATION OF THE ISSUER) OR THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, BAD FAITH, OR FRAUD OF THE TRUSTEE (WITH RESPECT TO INDEMNIFICATION OF THE TRUSTEE).

25. Post-Issuance Compliance Procedures. The Borrowers have been provided with a copy of the Issuer’s written post-issuance compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code. The Borrowers have reviewed such written post-issuance compliance procedures and agrees to take such actions as required therein to maintain compliance with requirements in the Code. A copy of the current version of such procedures is attached hereto as Exhibit D.

26. Term. The obligations of the Issuer, the Borrowers and the Trustee, under this Agreement will survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion from gross income of interest on the Bonds for federal income tax purposes.

27. Amendments.

(a) To the extent any amendments to the Code or the Regulations, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrowers, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Agreement, this Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as will be necessary to document such automatic amendment hereof.

(b) To the extent that the Code or the Regulations, or any amendments thereto, which, as a matter of law, are applicable to the Project and, in the written opinion of Bond Counsel filed with the Issuer, the Trustee and the Borrowers, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Agreement, this Agreement may be amended or modified to provide such less restrictive requirements

but only by written amendment signed by the Issuer, the Trustee and the Borrowers and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All reasonable costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with an amendment to this Agreement will be paid by the Borrowers and any successors in interest.

28. Remedies. The Issuer, the Trustee, and the Borrowers each hereby agree that the remedies available under 7.08 of the Indenture and 7.2 of the Bond Loan Agreement apply upon the occurrence of an Event of Default (as defined under the Indenture or the Bond Loan Agreement, as applicable) resulting from an action or omission of an action by any party hereunder with respect to any provision of this Agreement; provided, however, that such remedies may only be exercised against the Borrower whose action or omission of an action resulted in the Event of Default.

29. Miscellaneous.

(a) Severability. If any provision of this Agreement is ruled invalid by any court of competent jurisdiction, the invalidity of such provision will not affect any of the remaining provision hereof.

(b) Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

(c) Notices. All notices, demands, communications and requests which may or are required to be given hereunder or by any party hereto will be deemed given on the date on which the same will have been mailed by registered or certified mail, postage prepaid, addressed to such parties at the addresses set forth in the Indenture and the Bond Loan Agreement, as applicable.

(d) Successors and Assigns. The terms, provisions, covenants and conditions of this Agreement bind and inure to the benefit of the respective successors and assigns of the Issuer, the Borrowers, and the Trustee.

(e) Headings. The headings of this Agreement are inserted for convenience only and will not be deemed to constitute a part of this Agreement.

(f) Governing Law. This Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Agreement will lie within the district courts of the State, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

[EXECUTION PAGES FOLLOW]

**IN WITNESS WHEREOF**, the Issuer, the Borrowers and the Trustee have caused this Agreement to be executed and delivered by duly authorized officers thereof as of Closing Date.

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**, as Issuer

By: \_\_\_\_\_  
Name: Monica Galuski  
Title: Director of Bond Finance/Chief Investment  
Officer

*Signature Page to Tax Exemption Agreement*

**IN WITNESS WHEREOF**, each of the Borrowers listed below has executed this Tax Exemption Certificate and Agreement, by the signature of Mark Mayfield, President of THF Housing Development Corporation, a Texas Non-Profit Corporation, the sole member of each of the Borrowers, all as of the Closing Date. This Tax Exemption Certificate and Agreement is being executed for the convenience of the parties as one instrument, but shall act as a separate Tax Exemption Certificate and Agreement between each of the Borrowers, the Trustee and the Issuer, as though nine separate Tax Exemption Certificate and Agreements had been drafted and executed by each of the Borrowers. Notwithstanding anything herein to the contrary, the parties agree that this Tax Exemption Certificate and Agreement binds each Borrower, independent of the other Borrowers, and the Borrowers each intentionally waive any defense(s) that could be raised relating to the execution of a single Tax Exemption Certificate and Agreement, rather than nine separate Agreements.

**BORROWERS:**

Each a Texas limited liability company

**Bastrop Oak Grove**

THF Bastrop Oak Grove, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its

Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as

its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit

Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

*Signature Page to Tax Exemption Agreement*



**Bay City Village**

THF Bay City Village, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Burk Village**

THF Burk Village, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

*Signature Page to Tax Exemption Agreement*

**Elgin Meadowpark**

THF Elgin Meadowpark, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Evant Tom Sawyer**

THF Evant Tom Sawyer, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

*Signature Page to Tax Exemption Agreement*

**Hondo Brian**

THF Hondo Brian Place, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Hondo Gardens**

THF Hondo Gardens, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

*Signature Page to Tax Exemption Agreement*

**Lampasas Gardens**

THF Lampasas Gardens, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

**Lantana Apartments**

THF Lantana Apartments, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

*Signature Page to Tax Exemption Agreement*

**WILMINGTON TRUST, N.A., as Trustee**

By: \_\_\_\_\_  
Name:  
Title:

*Signature Page to Tax Exemption Agreement*

**EXHIBIT A**  
**ISSUE PRICE CERTIFICATE**

[See attached]

## EXHIBIT B

### CERTIFICATE OF GEORGE K. BAUM & COMPANY

I, the undersigned officer of George K. Baum & Company (the “Financial Advisor”), make this certificate in connection with the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Tax Exemption Certificate and Agreement to which this Exhibit B is attached (the “Tax Exemption Agreement”). I hereby certify as follows as of the Issue Date of the Bonds:

1. I am the duly chosen, qualified and acting officer of the Financial Advisor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Financial Advisor.

2. The Issue Price plus any Pre-Issuance Interest on the Bonds, based on the representations of the Underwriter attached as Exhibit A to the Tax Exemption Agreement, is not more than \$[\_\_\_\_\_].

3. The Financial Advisor has computed the Yield on the Bonds, based on such Issue Price, to be [Bond Yield] percent.

4. The Financial Advisor has calculated the blended Yield on the Bond Loans to be [Loan Yield] percent. Accordingly, the Yield on the Bond Loan does not exceed the Yield on the Bonds by more than 1.5 percentage points.

5. For purposes of determining the Yields in paragraphs 3 and 4 above, the Financial Advisor has performed certain calculations relating to the Bonds and the Bond Loan. Such calculations are attached hereto as Schedule I. The Financial Advisor hereby represents that such calculations are based on assumptions and methodologies provided by Bond Counsel and are in all material respects consistent with the assumptions and methodologies set forth in the “Yield on the Bonds” and “Yield on the Bond Loan ” paragraphs of the Tax Exemption Agreement. These calculations include calculations based upon assumptions, information, and estimates obtained from the Borrower and the Issuer, which the Financial Advisor, based on its experience with similar transactions, has no reason to believe are not reasonable in light of the relevant facts and circumstances. To the best of the Financial Advisor’s knowledge, as of the Issue Date of the Bonds, no fact or circumstance has come to the Financial Advisor’s attention that conflicts with the assumptions, information and estimates described in the preceding sentence.

6. As shown in Schedule I attached hereto, the Financial Advisor computed the Weighted Average Maturity of the Bonds, calculated in accordance with the provisions of the Tax Exemption Agreement, to be [WAM] years.

7. The Financial Advisor represents that to the best of its knowledge as of the Issue Date of the Bonds, the statements set forth in paragraphs (a) through (c) of the “Not An Abusive Transaction” paragraph of the Tax Exemption Agreement are true.

The Issuer may rely on the statements made herein in connection with making the representations set forth in the Tax Exemption Agreement and in its efforts to comply with the conditions imposed by the Code on the exclusion of interest on the Bonds from the gross income of their owners. Bracewell LLP also may rely on this certificate for purposes of its opinion regarding the treatment of interest on the Bonds as excludable from gross income for federal income tax purposes and the preparation of the Form 8038.

[EXECUTION PAGE FOLLOWS]

*Signature Page to Tax Exemption Agreement*



The foregoing Certificate of George K. Baum & Company has been duly executed as of the Closing Date.

**GEORGE K. BAUM & COMPANY**

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

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

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

*Signature Page to Certificate of George K. Baum & Company*

**SCHEDULE I**  
**TO CERTIFICATE OF GEORGE K. BAUM & COMPANY**

*Schedule I to Certificate of George K. Baum & Company*

## EXHIBIT C

### SCHEDULE OF BOND LOAN COSTS\*

#### **Paid Prior to Closing**

Application Fee	\$7,680
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#### **Paid at Closing**

Issuer Issuance Fee	\$100,000
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Issuer Administration Fee (first two years)	[\$40,000]
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Issuer Compliance Fee (first year)	\$9,600
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#### **Annual Fees**

Issuer Administrative Fee (beginning November 1, 2020)	.10% per annum of the aggregate principal amount of the Bonds outstanding
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Issuer Compliance Fee (beginning November 1, 2021)	\$25 per unit in the Project
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\*Fees for Projects are stated on an aggregate basis.

**EXHIBIT D**  
**POST-ISSUANCE COMPLIANCE PROCEDURES**

[See attached]

## **EXHIBIT E**

### **LIST OF BORROWERS**

each a Texas limited liability company

THF Bastrop Oak Grove, LLC

THF Bay City Village, LLC

THF Burk Village, LLC

THF Elgin Meadowpark, LLC

THF Evant Tom Sawyer, LLC

THF Hondo Brian Place, LLC

THF Hondo Gardens, LLC

THF Lampasas Gardens, LLC

THF Lantana Apartments, LLC

REGULATORY AND LAND USE RESTRICTION AGREEMENT

Among

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,  
as Issuer,

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
a national banking association,  
as Trustee,

and

THF Bastrop Oak Grove, LLC,  
a Texas limited liability company,  
as Borrower

Dated as of November 1, 2018

Relating to

\$20,000,000  
Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio)  
Series 2018

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## REGULATORY AND LAND USE RESTRICTION AGREEMENT

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (as amended, modified or supplemented from time to time, this “Agreement” or this “Regulatory Agreement”) dated as of November 1, 2018 is among the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS** (together with its successors and assigns, the “Issuer”), a public and official agency of the State of Texas (the “State”), **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association organized and existing under the laws of the United States of America, as trustee under the hereinafter defined Indenture (together with any successor trustee under the Indenture described below and their respective successors and assigns, the “Trustee”), and **THF Bastrop Oak Grove, LLC**, a Texas limited liability company (together with its permitted successors and assigns, the “Borrower”).

### RECITALS

WHEREAS, pursuant to the Act (as hereinafter defined), the Issuer is authorized to issue bonds and to use the proceeds thereof to provide monies to aid in financing the acquisition, equipping and rehabilitation of residential rental property for dwelling units in the State; and

WHEREAS, the Borrower has requested the assistance of the Issuer in financing a multifamily residential rental housing development located on the real property described in Exhibit A hereto (the “Development Site”) and described in Exhibit B-1 hereto (the “Development Facilities” and, together with the Development Site, the “Development”), and, as a condition to such assistance, the Borrower has agreed to enter into this Regulatory Agreement, setting forth certain restrictions with respect to the Development; and

WHEREAS, the Issuer has determined to assist in the financing of the Development by issuing its Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 in the aggregate principal amount of \$20,000,000 (the “Bonds”), and loaning a portion of the proceeds of such Bonds to the Borrower, upon the terms and conditions set forth in the Loan Agreement (as hereinafter defined); and

WHEREAS, in order for interest on the Bonds to be excluded from gross income for federal income tax purposes under the Code (as defined herein) and the Regulations (as defined herein) and rulings with respect to the Code, and in order to comply with the Act, the use and operation of the Development must be restricted in certain respects; and

WHEREAS, in addition to the Loan made to the Borrower from Bond proceeds, the Issuer will use Bond proceeds to assist the other Borrowers listed in the Loan Agreement in financing the acquisition, equipping and rehabilitation of the projects described in the Loan Agreement, and similar regulatory agreements will be executed by those Borrowers restricting the use and operation of those projects; and

WHEREAS, the Issuer, the Trustee and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, equipping, rehabilitation and operation of the Development and in order to ensure that the Development will be acquired, rehabilitated, used and operated in accordance with the Code and the Act.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Issuer, the Trustee and the Borrower hereby agree as follows:



Section 1. Definitions and Interpretation. In addition to terms defined above, capitalized terms have the respective meanings assigned to them in this Section 1 or as elsewhere defined in this Regulatory Agreement, in the Indenture, the Loan Agreement or in the Tax Exemption Agreement, unless the context in which they are used clearly requires otherwise:

“**Act**” means Chapter 2306, Texas Government Code, as amended from time to time.

“**Agreement**” or “**Regulatory Agreement**” means this Regulatory and Land Use Restriction Agreement, as it may be amended from time to time.

“**Annual Income**” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by Section 142(d) of the Code.

“**Available Unit**” means a Unit (except for any Unit reserved for any resident manager, security personnel or maintenance personnel that is reasonably required for the Development) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Development is acquired by the Borrower or (ii) the Closing Date is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after the renovations are completed.

“**Bond Counsel**” means any counsel nationally recognized as having an expertise in connection with the excludability of interest on obligations of states and local governmental units from gross income for federal income tax purposes, and initially means Bracewell LLP.

“**Bond Loan**” has the meaning set forth in the Indenture.

“**Closing Date**” means the date upon which the Bonds are issued and delivered in exchange for the proceeds representing the purchase price of the Bonds paid by the original purchasers thereof.

“**Code**” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“**Compliance Monitoring Rules**” means the rules published by the Issuer in Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code.

“**Development**” means the Development Facilities and the Development Site.

“**Development Amenities**” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process, as more fully set forth in Exhibit B-2 hereto.

“**Development Facilities**” means the multifamily housing structure and related buildings and other improvements on the Development Site as more fully set forth in Exhibit B-1 hereto, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Development.

**“Development Site”** means the parcel or parcels of real property described in Exhibit A, which is attached hereto and by this reference incorporated herein, and all rights and appurtenances appertaining thereunto.

**“Eligible Tenants”** means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined by the Issuer under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

**“Favorable Opinion of Bond Counsel”** means, with respect to any action, or omission of an action, the taking or omission of which requires such an opinion, an unqualified written opinion of Bond Counsel to the effect that such action or omission does not adversely affect the excludability from gross income for federal income tax purposes of interest payable on the Bonds under existing law (subject to the inclusion of any exceptions contained in the opinion of Bond Counsel delivered upon the original issuance of the Bonds or other customary exceptions acceptable to the recipient thereof).

**“Indenture”** means the Trust Indenture of even date herewith between the Issuer and the Trustee, relating to the issuance of the Bonds, and any indenture supplemental thereto.

**“Inducement Date”** means June 29, 2017, as updated on March 22, 2018.

**“Lender”** has the meaning set forth in the Indenture.

**“Loan”** means the loan of the proceeds of the Bonds made by the Issuer to the Borrower as evidenced by the Bond Note.

**“Loan Agreement”** means the Loan Agreement of even date herewith among the Issuer and the Borrower, as it may be amended, modified, supplemented or restated from time to time to the extent permitted by the Indenture.

**“Loan Documents”** means the Security Instrument, the Bond Note, the Loan Agreement, this Regulatory Agreement, the Tax Exemption Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Loan.

**“Low-Income Tenant”** means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under Sections 142(d)(2)(B) and (E) of the Code and in accordance with this Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of Section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under Section 42(i)(3)(D) of the Code.

**“Low-Income Unit”** means a Unit that is included as a Unit satisfying the requirements of the Set Aside.

**“Multifamily Tax Subsidy Program Income Limit”** (or successor term) means the income limits provided by HUD pursuant to Section 142(d) of the Code.

**“Organizational Documents”** means the Company Agreement of the Borrower dated as of the November 7, 2017, as the same may be amended, modified, supplemented or restated from time to time.

**“Persons with Special Needs”** means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Issuer as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Issuer.

**“Qualified Project Period”** means, with respect to the Development, the period beginning on the first day on which 10 percent of the Units are occupied (which date may be the Closing Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied (which date may be the Closing Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in section 142(d)(2) of the Code) issued with respect to the Development is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Development under Section 8 of the Housing Act terminates.

**“Regulations”** means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

**“Related Person”** has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

**“Replacement Reserve”** means the Reserve for Replacement account required to be established by the [RHS loan agreement].

**“Reserve for Replacement”** has the meaning set forth in the [RHS loan agreement].

**“Security Instrument”** means Subordinate Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing from the Borrower, as the grantor, in favor of Issuer, as the beneficiary, as the same may be supplemented, amended or modified.

**“Set Aside”** means the requirement that at least 40% of the Available Units be occupied or held vacant for occupancy at all times by Low-Income Tenants.

**“State Reserve Period”** means, with respect to the Development, the period beginning on the Closing Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Development; (b) the date on which the Borrower suffers a total casualty loss with respect to the Development or the date on which the Development becomes functionally obsolete, if the Development cannot be or is not restored; (c) the date on which the Development is demolished; (d) the date on which the Development ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

**“State Restrictive Period”** means, with respect to the Development, the period beginning on the first day on which the Borrower takes legal possession of the Development and ending on the latest of (a) the date that is 35 years (as a result of the Borrower’s election to extend the affordability period) after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Development is outstanding for federal income tax purposes, and (c) the date on which any assistance provided with respect to the Development from the federal government terminates.

“**Tax Exemption Agreement**” means the Tax Exemption Certificate and Agreement of even date herewith among the Issuer, the Trustee and the Borrower, as in effect on the Closing Date and as it may thereafter be amended or supplemented or restated in accordance with its terms.

“**Tenant Income Certification**” means a certification form available on the Issuer’s website at the time of submission used to certify income and other matters executed by the household members of each Unit in the Development.

“**Unit**” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Development; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code).

“**Unit Status Report**” means the certified residential rental housing program compliance report with respect to the Development to be filed by the Borrower with the Issuer electronically through the filing system available on the Issuer’s website in the form available on the Issuer’s website at the time of submission of the report or in such other form as the Issuer may reasonably prescribe in writing to the Borrower pursuant to Section 4(e) hereof.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender include each other gender, and words of the singular number include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof are to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms are to be determined by reference to this Section 1, notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and do not in any way modify or restrict any of the terms or provisions hereof and are not to be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent arises.

Section 1A. Acquisition, Equipping and Rehabilitation of the Development. The Borrower hereby represents, covenants and agrees as follows:

(a) The statements made in the various certificates delivered by the Borrower to the Issuer or the Trustee or both, including specifically the representations and expectations set forth in the Tax Exemption Agreement, are true and correct in all material respects as and when made.

(b) [Reserved].

(c) The Borrower will submit to the Issuer and the Trustee evidence of construction completion as required in the Loan Agreement and within 30 days of completion in the format prescribed by the Issuer as required pursuant to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code. The Borrower further agrees to cause the architect of record to submit a certification that the Development was rehabilitated in compliance with all applicable laws and the engineer of record (if applicable) must submit a certification that the Development was rehabilitated in compliance with design requirements.

(d) The Borrower will take or not fail to take, as is applicable, all actions necessary to cause the Proceeds to be applied in a manner consistent with the requirements of the Indenture, the Loan Agreement, the Tax Exemption Agreement and this Regulatory Agreement. The Borrower acknowledges that such requirements have been designed for the purpose of ensuring compliance with the provisions of the Act or the Code applicable to the Borrower and the Development.

(e) The Borrower is a qualified “housing sponsor” as defined in the Act.

Section 2. Tax-Exempt Status of the Bonds. The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes (subject to any exceptions contained in the opinion delivered upon the original issuance of the Bonds). With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that prior to the final maturity of the Bonds, unless it has received and filed with the Issuer and Trustee a Favorable Opinion of Bond Counsel:

(a) That the Development will be owned, managed and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Development will be comprised of residential Units and facilities functionally related and subordinate thereto;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Development will be functionally related and subordinate to the Units comprising the Development and will be of a character and size that is commensurate with the character and size of the Development;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than thirty days or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Development will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Development will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Development tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Development, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Development that contains fewer than five Units be occupied by the Borrower;

(viii) that each Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in this Regulatory Agreement, the Tax Exemption Agreement and the Loan Agreement) at all times during the longer of (A) the term of the Bonds or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low-Income Tenants and other Eligible Tenants as provided herein, and that at no time will any portion of the Development be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Development will meet the Set Aside. For the purposes of this Section 2(a)(ix), a vacant Unit that was most recently occupied by a Low-Income Tenant is treated as rented and occupied by a Low-Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low-Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low-Income Tenants; provided, however, that, should a Low-Income Tenant's Annual Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low-Income Tenant of the same family size and such Low-Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low-Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file (A) Tenant Income Certifications and supporting documentation from each Low-Income Tenant dated immediately prior to the initial occupancy of such Low-Income Tenant in the Development and (B) thereafter, annual certification regarding, at a minimum, information regarding household composition and student status in the form available on the Issuer's website; provided that, if any Units in the Development are ever made available to tenants who are not Low-Income Tenants, then the Borrower will obtain, complete and maintain annual Tenant Income Certifications in accordance with Section 142(d)(3)(A) of the Code. The Borrower will obtain such additional information as may be required in the future by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the

income information provided by an applicant in any certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Issuer's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Issuer, the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Development continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Issuer's website at the time of such submission to the Issuer (via the electronic filing system available on the Issuer's website) and to the Trustee in accordance with Section 4(e) hereof. The Borrower will retain all documentation required by this Section 2(a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low-Income Units and will permit, at all reasonable times during normal business hours and upon reasonable notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury or the Internal Revenue Service to enter upon the Development Site to examine and inspect the Development and to inspect and photocopy the books and records of the Borrower pertaining to the Development, including those records pertaining to the occupancy of the Low-Income Units. The Borrower will retain all records maintained in accordance with this Section 2 until the date that is three years after the end of the Qualified Project Period.

(c) That the Borrower certifies that as of the Closing Date 50% of the Units are occupied.

(d) That the Borrower will prepare and submit to the Issuer and the Trustee, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form, however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in this Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties hereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the Borrower in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower hereunder or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Bonds.

Section 3. Modification of Tax and State Restrictive Covenants. The Borrower, the Trustee and the Issuer hereby agree as follows:

(a) During the Qualified Project Period and the State Restrictive Period, to the extent any amendments to the Act or the Code, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, and the Borrower, impose requirements upon the ownership or operation of the Development more restrictive than those imposed by this Regulatory Agreement, this

Regulatory Agreement will be deemed to be automatically amended to impose such additional or more restrictive requirements. The parties hereto hereby agree to execute such amendment hereto as is necessary to document such automatic amendment hereof. In addition, this Regulatory Agreement will be amended to the extent required by, and in accordance with, the Loan Agreement.

(b) During the Qualified Project Period and the State Restrictive Period, to the extent that the Act, the Code, or any amendments thereto, in the written opinion of Bond Counsel filed with the Issuer, the Trustee, and the Borrower, impose requirements upon the ownership or operation of the Development less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Issuer, the Trustee, and the Borrower and upon receipt of a Favorable Opinion of Bond Counsel.

(c) All costs, including fees and out-of-pocket expenses actually incurred by the Issuer and the Trustee, in connection with compliance with the requirements of this Section will be paid by the Borrower and its successors in interest.

Section 4. Housing Development During the State Restrictive Period. The Issuer and the Borrower hereby recognize and declare their understanding and intent that the Development is to be owned, managed and operated as a “housing development,” as such term is defined in Section 2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Issuer until the expiration of the State Restrictive Period.

To the same end, the Borrower hereby represents, covenants and agrees as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Development, to assure that 100% of the Units are reserved for Eligible Tenants;

(b) to assure that the provisions of Sections 2(a)(viii) and 2(a)(ix) hereof continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant in the Development (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant’s initial occupancy of a Unit in the Development, and, if required as described in Section 2(a)(x) hereof, at least annually thereafter in the manner as described in Section 2(a)(x) hereof, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant in the Development (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Issuer to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument and this Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of this Regulatory Agreement and the Loan Agreement are substantial and material obligations of tenancy in the Development, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Trustee and the Issuer, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to



comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Development;

(e) to cause to be prepared and submitted to the Issuer (via the electronic filing system available on the Issuer's website) and the Trustee by the tenth calendar day of each January, April, July and October or other schedule as determined by the Issuer with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Issuer's website at the time of submission or in such other form as the Issuer may reasonably prescribe in writing to the Borrower with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable notice to permit any duly authorized representative of the Issuer or the Trustee to inspect the books and records of the Borrower pertaining to the Development or the incomes of Development tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Issuer's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Issuer's website) the Annual Owner's Compliance Report to the Issuer and the Trustee in the form available on the Issuer's website at the time of submission by April 30 of each year, commencing April 30, 2020;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached hereto as Exhibit C and agreed to in writing by the Issuer. The Borrower must maintain documentation satisfactory to the Issuer of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Issuer upon request. The Borrower must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, regarding tenant and manager selection, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Development sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Issuer must first provide notice of any default or breach to the Borrower and the Lender, and the Borrower will have 30 days to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Development pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Development with, a housing developer that (i) is on the Issuer's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Issuer with respect to its compliance and oversight requirements and to cause the manager of the Development to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under Section 2(a)(ix) hereof will be distributed evenly throughout the Development and will include a reasonably proportionate amount of each type of Unit available in the Development; and

(o) to ensure that the Development conforms to the federal Fair Housing Act.

Section 4.A. Repairs and Maintenance Required by State Law. The Borrower will maintain the Replacement Reserve required by RHS and GNMA for the longer of: (a) the period of time required pursuant to the **[RHS Loan Agreement]**, or (b) the State Reserve Period as required by Section 2306.186 of the Texas Government Code.

Section 4.B. Development Amenities. The Borrower hereby represents, covenants and agrees that the Development will include the Development Amenities as described in Exhibit B-2 attached hereto.

Section 5. [Reserved].

Section 6. Persons With Special Needs. The Borrower represents, covenants and warrants that during the State Restrictive Period, it will make at least 5% of the Units within the Development available for occupancy by Persons with Special Needs.

Section 7. Consideration. The Issuer has issued the Bonds to provide funds to make the Loan to finance the Development, all for the purpose, among others, of inducing the Borrower to acquire, rehabilitate, equip and operate the Development. In consideration of the issuance of the Bonds by the Issuer, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which the Development can be put on the terms and conditions set forth herein.

Section 8. Reliance. The Issuer, the Trustee, and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all Persons interested in the legality and validity of the Bonds, and in the excludability from gross income of interest on the Bonds for federal income tax purposes under existing law. In performing their duties and obligations hereunder, the Issuer, the Borrower, and the Trustee may rely upon statements and certificates of the Low-Income Tenants or Eligible Tenants and the Issuer and the Trustee may rely upon statements and certifications by the Borrower and upon audits of the books and records of the Borrower pertaining to the Development. In addition, the Issuer, the Borrower, and the Trustee may consult with counsel, and the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Issuer, the Borrower, or the Trustee hereunder in good faith and in conformity with such opinion. In determining whether any default by the Borrower exists under this Regulatory Agreement, the Trustee is not required to conduct any investigation into or review of the operations or records of the Borrower and may rely on any written report, notice or certificate delivered to the Trustee by any Person retained to review the Borrower's compliance with this Regulatory Agreement or by the Borrower or the Issuer with respect to the occurrence or absence of a default unless it has actual knowledge that the report, notice or certificate is erroneous or misleading.

Section 9. Development in Bastrop County. The Borrower hereby represents that the Development is located entirely within Bastrop County, Texas.

Section 10. Sale or Transfer of the Development or Change in Sole Member.

(a) The Borrower covenants and agrees not to sell, transfer or otherwise dispose of the Development, prior to the expiration of the Qualified Project Period (other than pursuant to the lease of Units to Eligible Tenants), without (i) providing 30 days prior written notice to the Issuer, (ii) complying with any applicable provisions of this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and other Loan Documents and (iii) obtaining the prior written consent of the Issuer. Such consent of the Issuer will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by the Issuer: (A) there is delivered to the Trustee and the Issuer a written opinion of independent legal counsel reasonably satisfactory to the Trustee and the Issuer, addressed to the Trustee and the Issuer, concluding that the transferee has duly assumed all of the rights and obligations of the Borrower, under this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents and that each of the documents executed by the transferee in connection therewith has been duly authorized, executed and delivered by the transferee and is a valid and enforceable obligation of the transferee, subject to customary qualifications, (B) the Issuer receives a Favorable Opinion of Bond Counsel, with a copy to the Trustee, which opinion will be furnished at the expense of the Borrower or the transferee, (C) the Issuer receives an assumption fee equal to 0.25% of the principal balance of the Bonds Outstanding at the time of such transfer, (D) the proposed purchaser or assignee executes any document requested by the Issuer with respect to assuming the obligations of the Borrower under this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents, and (E) the Issuer has performed a previous participation review on the proposed purchaser or assignee or any affiliated party, the results of which are satisfactory to the Issuer in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Issuer does not further have any reason to believe the proposed purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or assignee relating to the Development, including but not limited to this Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement, the Security Instrument and other Loan Documents. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained herein, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, provided that written notice thereof has been provided to the Issuer, (a) the transfer by the Investor Member of its interest in the sole member of a Borrower in accordance with the terms of the Borrower's Organizational Documents, (b) the removal of the managing member of the sole member of a Borrower in accordance with the Borrower's Organizational Documents and the replacement thereof, (c) the transfer of ownership interests in the managing member of the sole member of a Borrower, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Member to the managing member of the sole member of the Borrower or any of its affiliates, (e) the transfer of ownership interest in the sole member of the Borrower (f) the transfer of the interest of the sole member of a Borrower to an affiliate of one or more members of the sole member of such Borrower, and (g) any amendment to a Borrower's Organizational Documents to memorialize the transfers or removal described above. Upon any sale, transfer or other disposition of the Development in compliance with this Regulatory Agreement, the Borrower so selling, transferring or otherwise disposing of the Development will have no further liability for obligations under the Loan Agreement, this Regulatory Agreement or any loan document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Borrower as set forth in the Loan Agreement, this Regulatory Agreement or any loan document with respect to matters arising prior

to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Development.

(b) No transfer of the Development will release the Borrower from its obligations under this Regulatory Agreement arising prior to the date of such transfer, but any such transfer will relieve the Borrower of further liability for obligations under this Regulatory Agreement arising after the date of such transfer.

(c) Except as set forth in Section 10(a) above, the Borrower will not change its sole member by transfer, sale or otherwise without the prior written consent of the Issuer, which consent will not be unreasonably withheld. A change in the Borrower's sole member includes any transfer of any managing member interest in the sole member other than by death or incapacity.

Section 11. Term. This Regulatory Agreement and all and each of the provisions hereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided herein and, except as otherwise provided in this Section, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of this Regulatory Agreement to the contrary notwithstanding, the requirements set forth herein will terminate, without the requirement of any consent by the Issuer or the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions hereof, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Bonds are retired in full or amounts received as a consequence of such event are used to provide a "qualified residential rental project" that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in Sections 1A through 6, 10, 11 and 12 of this Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Development for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee, and the Borrower upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Issuer and the Trustee incurred in connection with the termination of this Regulatory Agreement will be paid by the Borrower and its successors in interest.

Section 12. Covenants to Run With the Land. The Borrower hereby subjects the Development (including the Development Site) to the covenants, reservations and restrictions set forth in this Agreement.

The Issuer, the Trustee, and the Borrower hereby declare that the covenants, reservations and restrictions set forth herein are covenants running with the land and will pass to and be binding upon the Borrower's successors in title to the Development; provided, however, that upon the termination of this Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Development or any portion thereof prior to the termination of this Regulatory Agreement will conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

No breach of any of the provisions of this Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Development or any portion thereof.

Section 13. Burden and Benefit. The Issuer, the Trustee, and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Development is rendered less valuable thereby. The Issuer, the Trustee, and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Development by Low-Income Tenants and Eligible Tenants and by furthering the public purposes for which the Bonds were issued.

Section 14. Uniformity; Common Plan. The covenants, reservations and restrictions hereof will apply uniformly to the entire Development in order to establish and carry out a common plan for the use, development and improvement of the Development Site.

Section 15. Default; Enforcement by the Trustee and Issuer. If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower, set forth in this Regulatory Agreement, and if such default remains uncured by the Borrower for a period of 60 days after written notice thereof has been given by the Issuer or the Trustee to the Borrower, and the Investor Member at the Notice Addresses set forth in the Indenture, then the Trustee, acting on its own behalf or on behalf of the Issuer and after being indemnified as provided in the Indenture, will declare an "Event of Default" to have occurred hereunder; provided, however, that, if the default stated in the notice is of such a nature that it cannot be corrected within 60 days, such default will not constitute an Event of Default hereunder and will not be declared an Event of Default so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) the Borrower delivers to the Issuer and the Trustee a Favorable Opinion of Bond Counsel. The Issuer hereby agrees that any cure of any Event of Default hereunder made or tendered by the Investor Member shall be deemed to be cure by the Borrower, and shall be accepted or rejected by the Issuer on the same basis as if made or tendered by the Borrower.

Following the declaration of an Event of Default hereunder, the Trustee or the Issuer, each subject to being indemnified to its satisfaction with respect to the costs and expenses of any proceeding, may, at its option, take any one or more of the following steps:

- (a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Issuer or the Trustee hereunder;

(b) have access to and inspect, examine and make copies of all of the books and records of the Borrower pertaining to the Development during regular business hours following reasonable notice; and

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Issuer and the Trustee may obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder. In addition, if the Issuer succeeds in an action for specific performance of an obligation, covenant or agreement of the Borrower contained herein, it is entitled to the relief provided in Section 16(b) hereof to the extent provided in that provision.

All rights and remedies herein given or granted are cumulative, nonexclusive and in addition to any and all rights and remedies that the parties may have or may be given by reason of any law, statute, ordinance, document or otherwise. Notwithstanding the availability of the remedy of specific performance provided for in this Section, promptly upon determining that a violation of this Regulatory Agreement has occurred, the Issuer will to the extent that it has actual knowledge thereof, by notice in writing, use its best efforts to inform the Trustee, and the Borrower (provided that the failure to notify will not adversely affect the Issuer's or the Trustee's rights under this Regulatory Agreement) that a violation of this Regulatory Agreement has occurred.

It is specifically declared that this Regulatory Agreement or obligations hereunder may not be enforced by tenants or prospective tenants of the Development (except as described in Section 16 below) or, except as specifically provided in the Indenture, by the owners of the Bonds.

Section 16. Enforcement of Certain Provisions by Tenants and other Private Parties.

(a) Following the declaration of an Event of Default hereunder with respect to Sections 4(i) and 4(j) hereof only, a tenant of the Development or any private party may, at its option by mandamus or other suit, including injunctive relief, require the Borrower to perform its obligations and covenants under Sections 4(i) and 4(j) hereof.

(b) If the Issuer, a tenant of the Development, or any private party brings an action to enforce the obligations and covenants of the Borrower under Sections 4(i) and 4(j) hereof, such party has the right to recover attorney's fees directly from the Borrower, without recourse to the Development, if such party is successful in an action seeking enforcement of the obligations and covenants of the Borrower hereunder. This is the only monetary relief a tenant of the Development or other private parties may receive under this Regulatory Agreement and any such recovery is subject to the provisions set forth in Section 15 above.

Section 17. The Trustee. The Trustee will act only as specifically provided herein and in the Indenture and Tax Exemption Agreement. Subject to the right of the Trustee to be indemnified as provided in the Indenture, the Trustee agrees to act as the agent of and on behalf of the Issuer when requested in writing by the Issuer to do so, and any act required to be performed by the Issuer as herein provided will be deemed taken if such act is performed by the Trustee. The Trustee is entering into this Regulatory Agreement solely in its capacity as Trustee under the Indenture, and the duties, powers, rights and obligations of the Trustee in acting hereunder will be subject to the provisions of the Indenture and the Tax Exemption Agreement, all of which are incorporated by reference herein. The incorporated provisions of

the Indenture and Tax Exemption Agreement are intended to survive the retirement of the Bonds, discharge of the Bond Loan, termination of the Loan Agreement and defeasance or termination of the Indenture and the Tax Exemption Agreement.

Subject to the Trustee's rights under the Indenture, the Trustee will, at the direction of the Issuer, take reasonable actions to enforce compliance by the Borrower with the terms of this Regulatory Agreement. The Trustee may rely on certificates and reports delivered to the Trustee by the Borrower without independent investigation and the Trustee's responsibility to review and monitor compliance hereunder will not extend beyond the Trustee's receipt of the certificates, reports, and other documents required to be submitted to the Trustee by the Borrower pursuant to this Regulatory Agreement.

The Trustee may resign only upon giving 60 days prior written notice to the Issuer, the Borrower, and to each registered owner of Bonds then Outstanding as shown on the Bond Register. The Trustee may be removed at any time upon 30 days prior written notice to the Trustee, (a) by the Issuer, (b) by the owners of not less than 51% in aggregate principal amount of Bonds then Outstanding, which written instrument must designate a successor Trustee or (c) by the Borrower, with the prior written consent of the Issuer or the owners of 100% in aggregate principal amount of Bonds then Outstanding. Such resignation or removal will not be effective until a successor Trustee satisfying the requirements of the Indenture is appointed and has accepted its appointment. The Trustee's right to indemnification provided in the Loan Agreement will survive the resignation or removal of the Trustee and the termination of this Regulatory Agreement.

Upon discharge of the Trust Indenture, the Borrower will pay to the Trustee a fee for the performance of the Trustee's duties under this Agreement for the remaining term of this Regulatory Agreement. The amount of such fee to be paid by the Borrower to the Trustee will be in an amount mutually agreed upon by the Borrower and the Trustee at the time of the discharge of the Trust Indenture.

Section 18. Recording and Filing. The Borrower will cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of Bastrop County, Texas and in such other places as the Issuer or the Trustee may reasonably request. A file-stamped copy of this Regulatory Agreement and all amendments and supplements thereto will be delivered to the Trustee. The Borrower will pay all fees and charges incurred in connection with any such recording. This Regulatory Agreement is subject to and subordinate to all matters of record as of the date hereof.

Section 19. Reimbursement of Expenses. Notwithstanding any prepayment of the Loan and notwithstanding a discharge of the Indenture and the Tax Exemption Agreement, throughout the term of this Regulatory Agreement, the Borrower will continue to pay to the Issuer and the Trustee all fees and reimbursement for all expenses actually incurred thereby required to be paid to the Issuer and the Trustee by the Borrower pursuant to the Loan Agreement and the Tax Exemption Agreement.

Section 20. Governing Law. This Regulatory Agreement is governed by the laws of the State of Texas. The Trustee's rights, duties, powers and obligations hereunder are governed in their entirety by the terms and provisions of this Regulatory Agreement, the Loan Agreement, the Indenture and the Tax Exemption Agreement.

Section 21. Amendments. Subject to the provisions of Section 3 hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto (except that after discharge of the Indenture, consent of the Trustee will not be required), or their successors in title, and duly recorded in the real property records of Bastrop County, Texas, and only upon receipt by the Issuer (with a copy to the Trustee) of a Favorable Opinion of Bond Counsel and an opinion of Bond Counsel that such action is not contrary to the provisions of the Act.

Section 22. Notices. Any notice required to be given hereunder to the Issuer, the Trustee, the Borrower, and the Investor Member will be given in the manner and to the address (or facsimile numbers) set forth in the Indenture.

Section 23. Severability. If any provision of this Regulatory Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof will not in any way be affected or impaired thereby.

Section 24. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which constitute one and the same instrument, and each of which is deemed to be an original.

Section 25. Authorization to Act for Issuer. To the extent allowed by law, the Issuer hereby authorizes the Borrower to take on behalf of the Issuer all actions required or permitted to be taken by it hereunder, or under the Indenture and the Loan Agreement and to make on behalf of the Issuer all elections and determinations required or permitted to be made by the Issuer hereunder or under the Indenture and the Loan Agreement. In addition, the Issuer hereby authorizes the Borrower to exercise, on behalf of the Issuer, any election with respect to the Bonds pursuant to the Code or the Regulations, and the Issuer agrees to cooperate with the Borrower and execute any form of statement required by the Code or the Regulations to perfect any such election.



IN WITNESS WHEREOF, the Issuer, the Trustee, and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

**TEXAS DEPARTMENT OF HOUSING AND  
COMMUNITY AFFAIRS**, as Issuer

By: \_\_\_\_\_  
J.B. Goodwin, Chair

(SEAL)

Attest:

\_\_\_\_\_  
James B. Eccles, Secretary

ACKNOWLEDGMENT

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2018 personally appeared J.B. Goodwin, Chair of the Governing Board of the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_

(Personalized Seal)

**WILMINGTON TRUST, NATIONAL  
ASSOCIATION,**  
as Trustee

By: \_\_\_\_\_  
Name: Charles Hicks  
Title: Vice President

ACKNOWLEDGMENT

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS     §

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2018 personally appeared Charles Hicks, a Vice President of Wilmington Trust, National Association, a national banking association, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_

(Personalized Seal)

**Bastrop Oak Grove**

THF Bastrop Oak Grove, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

ACKNOWLEDGMENT

STATE OF TEXAS           §  
  §  
COUNTY OF BURNET       §

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2018 personally appeared Mark Mayfield, President of THF Housing Development Corporation, a Texas non-profit corporation, the sole member of THF RD Manager, LLC, a Texas limited liability company, the managing member of THF RD Master, LLC, a Texas limited liability company, the sole member of THF Bastrop Oak Grove, LLC, a Texas limited liability company, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_

(Personalized Seal)

EXHIBIT A  
PROPERTY DESCRIPTION  
**[TO COME]**

EXHIBIT B-1

DESCRIPTION OF DEVELOPMENT

Borrower: THF Bastrop Oak Grove, LLC, a Texas limited liability company

Development: The Development is a 48-unit affordable multifamily housing development known as Bastrop Oak Grove, located at 1910 Wilson Street, Bastrop, Bastrop County, Texas 78602. It consists of 7 residential apartment buildings with approximately 38,880 net rentable square feet. The unit mix will consist of:

12	one-bedroom/one-bath units
24	two-bedroom/one-bath units
12	two-bedroom/one-bath units
<hr/>	
48	Total Units

Unit sizes will range from approximately 700 square feet to approximately 850 square feet.

## EXHIBIT B-2

### DEVELOPMENT AMENITIES

“Development Amenities” means the amenities for which the Development was awarded points by the Issuer, pursuant to Section 2306.359 of the Texas Government Code, during the Private Activity Bond Program application scoring process.

Development Common Amenities must include at least seven (7) points selected from the following list. The Borrower may change, from time to time, the amenities offered; however, the overall points must remain the same. The tenant must be provided written notice of the elections made by the Borrower.

- (i) Full perimeter fencing that includes parking areas and all amenities (excludes guest or general public parking areas); (2 points);
- (ii) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development’s tenancy (2 points);
- (iii) Gazebo or covered pavilion w/sitting area (seating must be provided) (1 point);
- (iv) Accessible walking/jogging path separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
- (v) Community laundry room with at least one washer and dryer for every 40 Units (3 points);
- (vi) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);
- (vii) Swimming pool (3 points);
- (viii) Splash pad/water feature play area (1 point);
- (ix) Furnished fitness center. Equipped with a variety of fitness equipment that includes at least one of the following for every 40 Units: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control. (2 points);
- (x) Equipped business/computer center. Must be equipped with 1 computer for every 40 Units (maximum of 5 computers needed) loaded with basic applications/programs to enable email/internet access, word processing, Excel, etc., 1 laser printer per computer lab and at least one scanner which may be integrated with printer (2 points);
- (xi) Furnished Community room (2 points);
- (xii) Library with an accessible sitting area (separate from the community room) (1 point);

- (xiii) Enclosed community sun porch or covered community porch/patio (1 point);
- (xiv) Service provider office in addition to leasing offices (1 point);
- (xv) Regularly staffed service provider office in addition to leasing offices (3 points);
- (xvi) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- (xvii) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);
- (xviii) Horseshoe pit; putting green; shuffleboard court; pool table; or video game console(s) with a variety of games and a dedicated location accessible to all tenants to play such games (1 point);
- (xix) Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- (xx) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide shade and ultraviolet protection. Can only select this item if clause (xxi) of this subparagraph is not selected; or
- (xxi) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide shade and ultraviolet protection. Can only select this item if clause (xx) of this subparagraph is not selected;
- (xxii) Sport Court (Tennis, Basketball or Volleyball) (2 points);
- (xxiii) Furnished and staffed Children's Activity Center that must have age appropriate furnishings and equipment. Appropriate levels of staffing must be provided during after-school hours and during school vacations (3 points);
- (xxiv) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to tenants; and theater seating (3 points);
- (xxv) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash (requires that the Development allow dogs) (1 point);
- (xxvi) Wi-Fi (with coverage throughout the clubhouse and/or community building) (1 point);
- (xxvii) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site. (3 points);
- (xxiii) Bicycle parking that allows for, at a minimum, 1 bicycle for every 5 Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) (1 point);

(xxix) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);

(xxx) Porte-cochere (1 point); or

(xxxi) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of three categories: Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED), and ICC 700 National Green Building Standard. A Development may qualify for no more than two (2) points total under this clause.

**(I) Enterprise Green Communities.** The Development must incorporate all mandatory and optional items applicable to the construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

**(II) LEED.** The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

**(III) ICC 700 National Green Building Standard.** The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NAHB Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

Development Unit Amenities must include at least seven (7) points selected from the following list. Rehabilitation Developments will start with a base score of three (3) points. Owner may change, from time to time, the amenities offered; however, the overall points must remain the same.

(i) Covered entries (0.5 point);

(ii) Nine foot ceilings in living room and all bedrooms (at minimum) (0.5 point);

(iii) Microwave ovens (0.5 point);

(iv) Self-cleaning or continuous cleaning ovens (0.5 point);

(v) Refrigerator with icemaker (0.5 point);

(vi) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the property site (0.5 point);

(vii) Energy-Star qualified laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);

(viii) Covered patios or covered balconies (0.5 point);

(ix) Covered parking (may be garages or carports, attached or freestanding) and include at least one covered space per Unit (1.5 points);



- (x) 14 SEER HVAC (or greater) or for Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided (1.5 points);
- (xi) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);
- (xii) Built-in (recessed into the wall) shelving unit (0.5 point);
- (xiii) Recessed or track LED lighting in kitchen and living areas (1 point);
- (xiv) Thirty (30) year roof (0.5 point);
- (xv) Greater than 30 percent stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);
- (xvi) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area for seating although actual seating such as bar stools does not have to be provided) (0.5 points);
- (xvii) Walk-in closet in master bedroom (0.5 points);
- (xviii) Electric Vehicle Charging Station (0.5 points); and
- (xix) Ceiling fans in all bedrooms (0.5 points).

## EXHIBIT C

### TENANT SUPPORTIVE SERVICES

The tenant supportive services to be provided must include at least eight (8) points selected from the following list. The Borrower may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Borrower.

(A) partnership with local law enforcement to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (3 points);

(B) weekday character building program (shall include at least on a monthly basis a curriculum based character building presentation on relevant topics, for example teen dating violence, drug prevention, bullying, teambuilding, internet/social media dangers, stranger danger, etc.) (2 points);

(C) daily transportation such as bus passes, cab vouchers, specialized van on-site (4 points);

(D) Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a tenant. While it is possible that transportation may be provided to a local food bank to meet the requirement of this tenant service, the tenant must not be required to pay for the items they receive at the food bank (1 point);

(E) GED preparation classes (shall include an instructor providing on-site coursework and exam) (2 points);

(F) English as a second language classes (shall include an instructor providing on-site coursework and exam) (1 point);

(G) quarterly financial planning courses (i.e. homebuyer education, credit counseling, investing advice, retirement plans, etc.). Courses must be offered through an on-site instructor; a CD or online course is not acceptable (1 point);

(H) annual health fair provided by a health care professional(1 point);

(I) quarterly health and nutritional courses (1 point);

(J) organized youth programs or other recreational activities such as games, movies or crafts offered by the Development (1 point);

(K) scholastic tutoring (shall include daily (Monday – Thursday) homework help or other focus on academics) (3 points);

(L) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);

- (M) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);
- (N) twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (2 points);
- (O) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) (1 point);
- (P) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);
- (Q) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, etc.) (1 point);
- (R) specific case management services offered by a qualified owner or developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (2 points);
- (S) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (T) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);
- (U) contracted career training and placement partnerships with local worksorce offices, culinary programs, or vocational counseling services; also resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);
- (V) external partnerships for provision of weekly substance abuse meetings at the Development Site (2 points);
- (W) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (X) a full-time resident services coordinator with a dedicated office space at the Development (2 points);
- (Y) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (1 point); and

(Z) Development Sites located within a one mile radius of one of the following can also qualify for one (1) point provided they also have a referral process in place and provide transportation to and from the facility:

(i) Facility for treatment of alcohol and/or drug dependency;

(ii) Facility for treatment of PTSD and other significant psychiatric or psychological conditions;

(iii) Facility providing therapeutic and/or rehabilitative services relating to mobility, sight, speech, cognitive, or hearing impairments; or

(iv) Facility providing medical and/or psychological and/or psychiatric assistance for persons of limited financial means.

## BOND PURCHASE AGREEMENT

\$20,000,000

Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018

\_\_\_\_\_, 2018

Texas Department of Housing and  
Community Affairs  
P.O. Box 13941  
Austin, Texas 78711

[BORROWER NOTICE ADDRESS]

Ladies and Gentlemen:

RBC Capital Markets, LLC (the “Underwriter”) offers to enter into the following agreement (the “Bond Purchase Agreement”) with the Texas Department of Housing and Community Affairs (the “Issuer”) and (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (each a “Borrower” and collectively, the “Borrowers”), which, upon acceptance of this offer, will be binding upon the Issuer, the Borrowers and the Underwriter. This offer is made subject to the Issuer’s and the Borrowers’ acceptance on or before 5:00 p.m., Local time, today. If this offer is not timely accepted, it will thereafter be subject to withdrawal by the Underwriter upon written notice delivered to the Issuer and the Borrowers at any time prior to the acceptance hereof by the Issuer and the Borrowers.

Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture (as hereinafter defined). For purposes of this Bond Purchase Agreement, (a) the term “Issuer Documents” means the Indenture, the Bond Loan Agreement, the Regulatory Agreements, and this Bond Purchase Agreement, (b) the term “Borrower Documents” means the Bond Loan Agreement, each Bond Note, the Subordinate Mortgage, the Regulatory Agreements, the Continuing Disclosure Agreement, this Bond Purchase Agreement, and any other document executed by the Borrowers relating to the Bonds (defined below), (c) the term “Trustee Documents” means the Indenture, and (d) the term “Financing Documents” means, collectively (but without duplication), the Issuer Documents, the Borrower Documents, and the Trustee Documents.

### **Section 1. Purchase and Sale of the Bonds.**

Upon the terms and conditions and upon the basis of the representations and warranties herein set forth, the Underwriter hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell to the Underwriter, all but not less than all of the Issuer’s \$20,000,000 Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”) at a purchase price equal to 100% of the principal amount thereof. The Issuer will deliver the Bonds to the order of the Underwriter (with CUSIP numbers printed thereon) against payment of the purchase price therefor in immediately available funds at 10:00 a.m., Local time, on the “Closing Date” as defined herein. The Bonds will mature on the date and will bear interest at the rate set forth on Schedule I attached hereto.

The Borrowers agrees to pay to the Underwriter on the Closing Date, as compensation for services of the Underwriter hereunder, a fee equal to \$\_\_\_\_\_ (the "Underwriter's Fee"). Such Underwriter's Fee shall include the following costs: clearance charges, regulatory agencies' fees, computer services expenses, interest carrying charges, telephone and fax charges, and travel, but shall not include the cost of counsel to the Underwriter. The Underwriter's Fee shall be due and payable in immediately available funds on the Closing Date, solely and exclusively from funds provided by the Borrowers.

Inasmuch as this purchase and sale represents a negotiated transaction, the Issuer and the Borrowers acknowledge and agree that: (i) the transaction contemplated by this Bond Purchase Agreement is an arm's length, commercial transaction among the Issuer, the Borrowers, and the Underwriter in which the Underwriter is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Issuer or the Borrowers; (ii) the Underwriter has not assumed any advisory or fiduciary responsibility to the Issuer or the Borrowers with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Issuer or to the Borrowers on other matters); (iii) the Underwriter is acting solely in its capacity as an underwriter for its own account, (iv) the only obligations the Underwriter has to the Issuer or the Borrowers with respect to the transaction contemplated hereby are expressly set forth in this Bond Purchase Agreement; and (v) the Issuer and the Borrowers have consulted their own legal, accounting, tax, financial and other advisors, as applicable, to the extent they have deemed appropriate. The parties acknowledge that the structure, terms and timing of the transaction have been determined by the Underwriter and the Borrowers and presented to the Issuer for approval.

The Bonds shall be issued under the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"). The Bonds shall be issued pursuant to the terms of the Indenture of Trust (the "Indenture") dated as of November 1, 2018, between the Issuer and Wilmington Trust, National Association, as trustee (the "Trustee"). The Bonds are being issued for the purpose of funding loans (collectively, the "Bond Loans") for the benefit of the Borrowers, pursuant to the terms of a certain Loan Agreement dated as of November 1, 2018, between the Issuer and the Borrowers (the "Bond Loan Agreement"). The proceeds of the Bond Loans will be used to finance a portion of the cost of the acquisition, rehabilitation, renovation and equipping of nine separate multifamily housing facilities (collectively, the "Projects").

[Each of] the Projects are presently encumbered by a subordinate loan (the "Subordinate Loan") made under the Rural Housing Services ("RHS") department of the United States Department of Agriculture ("USDA") Section 515 program. At closing, the Subordinate Loan will be assumed by [each] Borrower and modified to provide for a [30-year term (with a 50-year amortization)] and an effective interest cost of [1.00]% per annum, after payment of an interest subsidy from the U.S. Department of Agriculture Rural Development ("RD").

On the Closing Date, [each of] the Borrowers will receive a loan (the "Senior Loan") made under the RD Section 538 program. The obligation to repay the Senior Loan will be set forth in a promissory note from [each] Borrower to the Lender and will be secured by a senior mortgage against each Project in favor of the Lender. Each promissory note will have a term of [\_\_] years and will bear interest at the rate of [5.00]% per annum, with annual principal and interest, not otherwise paid, due at maturity.

THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY

PLEGGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE OF TEXAS (THE "STATE") OR OF ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR ANY SUCH AGENCY, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.

On or before the Closing Date, the Issuer and the Borrowers shall have delivered to the Underwriter the Official Statement completed with the information permitted to be omitted from the Preliminary Official Statement, dated \_\_\_\_\_, 2018 (the "Preliminary Official Statement") by Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") and such other amendments and supplements as shall have been approved by the Issuer, the Underwriter and the Borrowers.

The Issuer and the Borrowers hereby represent and warrant that the Preliminary Official Statement was deemed final by the Issuer and the Borrowers as of its date, except for the omission of such information which is dependent upon the final pricing of the Bonds for completion, all as permitted to be excluded by the Rule. The Borrowers have executed and delivered to the Underwriter a certificate in the form attached hereto as Exhibit C to evidence the foregoing.

The Underwriter acknowledges that the Issuer and the Borrowers have not authorized or consented to (i) the sale of Bonds to any purchaser in connection with the initial public offering of the Bonds unless a copy of the Official Statement relating to the Bonds (the "Official Statement") is delivered to such purchaser not later than the settlement of such transaction, (ii) making any representations or providing any information to prospective purchasers of the Bonds in connection with the initial public offering and sale of the Bonds other than the information set forth in the Official Statement and any amendment thereto approved in writing by the Issuer and the Borrowers, or (iii) any actions in connection with the public offering and sale of the Bonds in violation of applicable requirements of federal and state securities laws and any applicable requirements of the Municipal Securities Rulemaking Board and the Financial Industry Regulatory Authority.

## **Section 2. Representations and Warranties of the Issuer.**

The Issuer represents and warrants as of the date hereof to the Underwriter and the Borrowers as follows:

(a) The Issuer is a public and official agency of the State, and has full legal right, power and authority (i) to enter into the Issuer Documents, (ii) to adopt the Bond Resolution dated October 11, 2018 authorizing the issuance of the Bonds (the "Bond Resolution"), (iii) to issue, sell and deliver the Bonds as provided herein and in the Indenture, (iv) to authorize the Trustee under the Indenture to use the proceeds of the Bonds to make the Bond Loans to provide for the acquisition, renovation, improvement and equipping of the related Project, and (v) to carry out the transactions on its part contemplated by the Issuer Documents, as they may be amended or supplemented from time to time by the Issuer.

(b) The information in the Official Statement under the headings “THE ISSUER” and “LITIGATION” (insofar as the information under such captions applies to the Issuer) was, on the date thereof, and is, on the date hereof, true and correct and did not, on the date thereof, and does not, on the date hereof, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(c) By adopting the Bond Resolution, the Issuer has duly authorized and approved the execution, delivery and use of the Official Statement (but by such authorization and approval, the Issuer makes no representations as to the accuracy or sufficiency of its contents, except as provided herein), has duly authorized and approved the execution and delivery of and the performance by the Issuer of the obligations on its part contained in the Issuer Documents, has duly authorized and approved the issuance, execution and delivery of, and the performance by the Issuer of its obligations under, the Bonds and has duly authorized and approved the consummation by it of all other transactions on its part contemplated by the Issuer Documents. The Bond Resolution has been duly adopted by the Issuer, has not been amended, modified or repealed and is in full force and effect on the date hereof.

(d) The Issuer is not in breach of or default under any applicable law or administrative regulation of the State or of the United States, or any applicable judgment or decree or any loan agreement, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject which would impair in any material respect the performance of its obligations under the Issuer Documents.

(e) The execution and delivery by the Issuer of the Bonds and the Issuer Documents, compliance with the provisions of each thereof and the consummation of the transactions contemplated thereby will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, note, resolution, agreement or other instrument to which the Issuer is a party or is otherwise subject; provided, however, that the Issuer makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Bond Note under the Securities Act of 1933, as amended, or the qualification of the Indenture under the Trust Indenture Act of 1939, as amended.

(f) All approvals, consents and orders of any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to the performance by the Issuer of its obligations under the Issuer Documents have been obtained or will be obtained on or before the Closing Date; provided, however, that the Issuer makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Bond Note under the Securities Act of 1933, as amended, or the qualification of the Indenture under the Trust Indenture Act of 1939, as amended.

(g) There is no action, suit, proceeding, inquiry or investigation against the Issuer, at law or in equity, by or before any court, public board or body, pending, or to the best knowledge of the Issuer threatened in writing, affecting the existence of the Issuer or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the pledge of revenues or assets of the Issuer pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way materially adversely affecting or questioning (i) the use of the Official Statement or the use of the proceeds of the Bonds to make the Bond Loan, (ii) the validity or enforceability of the Bonds, any proceedings of the Issuer taken with respect to the Bonds or any of the Issuer Documents, (iii) the tax-exempt status of the interest on the Bonds or the accuracy or completeness of the Official Statement, (iv) the execution and delivery of the Issuer Documents or the Bonds, or (v) the power of the



Issuer to carry out the transactions contemplated by the Bonds, the Official Statement or any of the Issuer Documents.

(h) The Bonds, when issued, authenticated and delivered in accordance with the Indenture and sold to the Underwriter as provided herein, will be validly issued and outstanding limited and special obligations of the Issuer, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditor's rights generally and further subject to the exercise of judicial discretion in accordance with general principles of equity, and entitled to the benefits of the Indenture.

(i) The Issuer Documents, when duly executed and delivered by the Issuer and the other parties thereto, and all other documents to be delivered by the Issuer in connection with the consummation of the transactions contemplated hereby and by the Official Statement and such Issuer Documents, when duly executed and delivered by the Issuer and the other parties thereto, will constitute valid, legal and binding limited obligations of the Issuer, enforceable in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally and further subject to the exercise of judicial discretion in accordance with general principles of equity.

(j) Any certificate signed by any official of the Issuer and delivered to the Underwriter shall be deemed to be a representation and warranty by the Issuer to the Underwriter as to the statements made therein.

(k) To the best of its knowledge, neither the Issuer nor anyone acting with its authorization on its behalf (other than the Underwriter) has, directly or indirectly, offered for sale or solicited any offer to acquire the Bonds or any security the offering of which would be deemed for purposes of the Securities Act of 1933, as amended, to be part of the offering of the Bonds contemplated hereby.

(l) The Bonds, the principal of and the interest thereon, are special limited obligations of the Issuer payable solely from the revenues and assets of the Issuer pledged under the Indenture and from no other revenues or assets of the Issuer. The Bonds do not constitute an indebtedness or obligation of the State, and neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or interest on the Bonds. The Issuer has no taxing power which is available to pay the Bonds.

### **Section 3. Covenants of the Issuer and Certain Conditions and Acknowledgements.**

The Issuer covenants with the Underwriter as follows:

(a) The Issuer is and will be at the Closing Date duly organized and validly existing as a public and official agency duly organized and existing under the constitution and laws of the State with the power and authority under the constitution and laws of the State, to issue the Bonds and to execute, deliver and perform its obligations hereunder and under the Bond Loan Agreement and the Indenture, to pledge the property described in the Indenture to be pledged thereby in the manner and to the extent therein set forth; all actions required for the issuance of the Bonds and the execution and delivery of, and the performance of its obligations under, this Bond Purchase Agreement and under the Bond Loan Agreement, the Indenture and the Bonds have been, or as of the Closing Date will have been, duly and effectively taken; this Bond Purchase Agreement has been and the Bond Loan Agreement and the Indenture will, as of the Closing Date, have been duly executed, issued and delivered; and the Bonds will, as of the Closing Date, have been duly authorized, executed, issued and delivered.

(b) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Issuer, threatened against or affecting the Issuer wherein an unfavorable decision, ruling or finding would adversely affect (i) the transactions contemplated by, or the validity or enforceability of, the Bonds, the Indenture, the Bond Loan Agreement, or this Bond Purchase Agreement or (ii) the tax-exempt status of interest on the Bonds.

(c) The execution and delivery by the Issuer of the Bonds, the Indenture, the Bond Loan Agreement and this Bond Purchase Agreement and the performance by the Issuer of its obligations thereunder (i) do not violate applicable provisions of the constitution, statutory laws or regulations of the State, (ii) do not violate its activating resolution or bylaws, (iii) do not breach or result in a default under any other agreement to which it is a party, and (iv) do not violate the terms of any judicial or administrative judgment, order, decree or arbitral decision that names the Issuer and is specifically directed to it or its properties, and no approval or other action by, or filing or registration with, any governmental authority or agency is required in connection therewith that has not been obtained or accomplished or will not be obtained or accomplished by the Closing Date (provided no representation or warranty is expressed as to any action required under federal or state securities or Blue Sky laws in connection with the sale of the Bonds by the Underwriter).

(d) The information relating to the Issuer contained in the Preliminary Official Statement and the Official Statement under the headings “THE ISSUER” and “LITIGATION” (to the extent that litigation affecting the Issuer is described under that heading) or incorporated by reference in the Preliminary Official Statement and the Official Statement or otherwise supplied in writing by the Issuer for inclusion therein does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(e) Each of the representations of the Issuer contained in the Bond Loan Agreement and in the Indenture are and will, as of the Closing Date, be true and correct in all material respects and are hereby made to the Underwriter as if set forth herein.

(f) The Issuer will not take or omit to take any action, which action or omission might in any way result in the inclusion of the interest on the Bonds in gross income of the owners thereof for federal income tax purposes.

(g) The obligation of the Issuer under this Bond Purchase Agreement shall be subject to the Issuer having received such legal opinions, certificates, proceedings, instruments and other documents as, in the sole discretion of counsel to the Issuer, are necessary in order to satisfy, or evidence satisfaction of, the conditions precedent in the Indenture.

(h) The Underwriter acknowledges that the Issuer, its officers, counsel, advisors and agents, and employees and agents of any of the foregoing (each individually an “Issuer Party” and all collectively the “Issuer Parties”) have not undertaken to furnish information to the Underwriter except under the headings “THE ISSUER” and “LITIGATION” (insofar as the information under such heading applies to the Issuer), or to ascertain the accuracy or completeness of any information that may have been furnished to the Underwriter by or on behalf of the Borrowers relating to the operations, financial condition or future prospects of the Borrowers or the related Project and that none of the Issuer Parties have made any representations concerning the accuracy or completeness of any information supplied to the Underwriter and relating to the Projects. On the basis of the foregoing, the Issuer hereby consents to the Underwriter’s lawful use of the Preliminary Official Statement and the Official Statement in connection with the offer, sale, and distribution of the Bonds.

#### **Section 4. Representations, Warranties and Agreements of the Borrowers.**

Each Borrower represents, warrants and agrees with the Underwriter and the Issuer as follows:

(a) The Borrower is duly organized and existing as a limited liability company under the laws of the State, has full legal right, power and authority to own its properties and to conduct its business as described in the Official Statement and to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents and the Official Statement, and is duly qualified to do such business and is in good standing wherever such qualification and/or standing are required, including the State.

(b) By all necessary action, the Borrower has duly authorized and approved the execution and delivery of the Borrower Documents, and the performance by the Borrower of the obligations in connection with the issuance of the Bonds on its part contained in the Borrower Documents and the consummation by it of all other transactions contemplated by the Indenture, the Official Statement and the Borrower Documents in connection with the issuance of the Bonds.

(c) On the Closing Date, the Borrower Documents will constitute the valid, legal and binding obligations of the Borrower (assuming due authorization, execution and delivery by the respective other parties thereto, where necessary), enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability affecting the enforcement of creditors' rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

(d) Between the date of this Bond Purchase Agreement and the date which is 25 days after the Closing Date, the Borrower shall promptly notify the Underwriter of the institution of any action, suit, proceeding, inquiry or investigation, of which it becomes aware, seeking to prohibit, restrain or otherwise restrict the issuance of the Bonds, the execution, delivery and performance by the Borrower of the Borrower Documents or the use of the Official Statement in connection with the offering, sale or distribution of the Bonds.

(e) The information contained in the Preliminary Official Statement and the Official Statement under the headings "PLAN OF FINANCING," "THE PROJECTS," "THE PRIVATE PARTICIPANTS" or "LITIGATION" (as such information under such caption pertains to the Borrower) or incorporated by reference in the Preliminary Official Statement and the Official Statement or otherwise supplied in writing by the Borrower for inclusion therein does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(f) If between the date of this Bond Purchase Agreement and the date which is 25 days after the Closing Date an event occurs, that is known to the Borrower that would cause the section of the Preliminary Official Statement, the Official Statement and any amendments or supplements under the headings "PLAN OF FINANCING," "THE PROJECTS," "THE PRIVATE PARTICIPANTS" or "LITIGATION" (as such information under such caption pertains to the Borrower) to contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, the Borrower shall promptly notify the Underwriter, and, if in the opinion of the Underwriter such event requires an amendment of or supplement to the Official Statement, the Borrower, at the expense of the Borrowers, will amend or supplement the Official Statement in a form and manner approved by the Issuer, the Borrowers and the Underwriter; provided, however, if such event shall occur on or prior to the Closing Date, the Underwriter, in its sole discretion, shall have the right to terminate its obligations hereunder by

written notice to the Issuer and the Borrowers, and the Underwriter shall have no obligation to purchase and pay for the Bonds.

(g) To the best knowledge of the Borrower, after due and diligent inquiry, as of the date hereof, the Borrower is not in any material respect in violation of, breach of or default under any applicable constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement (including, without limitation, the Borrower Documents) or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, which violation or breach of or default would have a material adverse effect upon the transactions contemplated by this Bond Purchase Agreement, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Borrower Documents, and compliance with the provisions on the Borrower's part contained therein, do not and will not conflict with or constitute on the part of the Borrower a violation or breach of or default under any constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement (including, without limitation, the Borrower Documents) or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound which breach or default would have a material adverse effect upon the transactions contemplated by this Bond Purchase Agreement, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or under the terms of any such law, regulation or instrument, except as provided by the Bonds or the Borrower Documents provided, however, that the Borrower makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Bond Note under the Securities Act of 1933, as amended, or the qualification of the Indenture under the Trust Indenture Act of 1939, as amended.

(h) All consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or commission of any state or of the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Borrower of the Borrower Documents or the performance by the Borrower of its obligations thereunder have been or will be obtained prior to the Closing Date and are or will be in full force and effect prior to the Closing Date; provided, however, that the Borrower makes no representation or warranty with respect to compliance with applicable state securities or Blue Sky laws or the registration of the Bonds or the Bond Note under the Securities Act of 1933, as amended, or the qualification of the Indenture under the Trust Indenture Act of 1939, as amended.

(i) As of the date hereof, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrower or THF RD Master, LLC, a Texas limited liability company (the "Sole Member"), threatened against the Borrower or the Sole Member, affecting the existence of the Borrower or the Sole Member, or the titles of their respective officers executing this Bond Purchase Agreement, involving the Projects or seeking to restrain or enjoin the issuance, sale, execution or delivery of the Bonds or the financing of the Projects, or in any way contesting or affecting as to the Borrower, the validity or enforceability of the Act, the Bonds, any Borrower Document or the execution and delivery or adoption by the Borrower of any Borrower Document, or any proceedings of the Borrower taken with respect to the sale, execution or delivery thereof, or the application of any moneys or security provided for the payment of the Bonds, or in any

way contesting or challenging the completeness or accuracy of the Official Statement or any supplement or amendment thereto, or the powers of the Borrower or its authority with respect to the Borrower Documents or the consummation of the transactions contemplated hereby or thereby, or challenging the exclusion of interest on the Bonds from gross income for Federal income tax purposes; nor, to the best knowledge of the Borrower, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Borrower's financial condition or operations or the validity of the authorization, execution, delivery or performance by the Borrower of any Borrower Document.

(j) The Borrower will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualifications in effect so long as required for the distribution of the Bonds; provided, however, that the Borrower shall not be required to register as a dealer or broker of securities or execute a general or special consent to service of process or qualify to do business in any jurisdiction where it is not now so subject.

(k) Any certificate signed by the Borrower and delivered to the Underwriter, or the Issuer pursuant to the Indenture or the Borrower Documents shall be deemed a representation and warranty by the Borrower to the Underwriter, and the Issuer as to the statements made therein.

(l) The Borrower will not take or omit to take any action, which action or omission will adversely affect the exclusion from gross income of interest on the Bonds for purposes of federal income taxation.

(m) The Borrower shall honor all other covenants contained in the Borrower Documents, which agreements are incorporated herein and made a part of this Bond Purchase Agreement; provided, however, that nothing herein shall be deemed to alter the non-recourse nature of any covenants which are, under the terms of the Borrower Documents, without recourse to the Borrower.

(n) The Borrower is not in default under any undertakings with respect to continuing disclosure requirements designed to comply with the Rule in connection with any issue of municipal securities.

The execution and delivery of this Bond Purchase Agreement by the Borrowers shall constitute a representation to the Underwriter and the Issuer that the representations and warranties contained in this Section 4 are true as of the date hereof.

## **Section 5. Indemnification.**

(a) Each Borrower and its Sole Member each agree to pay, defend, protect, indemnify, save and hold harmless the Issuer and the Underwriter and each past, present and future member, officer, director, official, employee and agent of the Issuer and the Underwriter and each person, if any, who controls any of the foregoing within the meaning of Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended (collectively referred to herein as the "Indemnified Parties"), against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action (whether in contract, tort or otherwise), suits, claims, demands and judgments of any kind, character and nature (collectively referred to herein as the "Liabilities") caused by (i) the breach (or alleged breach) by such Borrower of any of its representations

or warranties in this Bond Purchase Agreement or (ii) any untrue or misleading statement or alleged untrue or alleged misleading statement of a material fact contained in the Preliminary Official Statement or the Official Statement under the headings “PLAN OF FINANCING,” “THE PROJECTS,” “THE PRIVATE PARTICIPANTS” and “LITIGATION – The Borrowers,” or caused by any omission or alleged omission from the above-referenced sections of the Preliminary Official Statement or the Official Statement of any material fact necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, unless caused by the gross negligence or willful misconduct of the Indemnified Party seeking indemnification.

(b) Any Indemnified Party shall notify the applicable Borrower and its Sole Member of the existence of any Liability to which this indemnification obligation would apply and shall give to such Borrower and its Sole Member an opportunity to defend the same at the Borrower’s or the Sole Member’s expense and with counsel satisfactory to the Indemnified Party, provided that the Indemnified Party shall at all times also have the right to fully participate in the defense. If there may be legal defenses available to the Indemnified Party that are in conflict with those available to the Borrower or the Sole Member or if the Borrower or the Sole Member shall, after this notice and within a period of time necessary to preserve any and all defenses to any claim asserted, fail to assume the defense or to employ counsel for that purpose satisfactory to the Indemnified Party, the Indemnified Party shall have the right, but not the obligation, to undertake the defense of, and to compromise or settle the claim or other matter on behalf of, for the account of, and at the risk of, the Borrower and the Sole Member, provided that any compromise or settlement shall be entered into only with the consent of the Borrower and the Sole Member.

(c) Except with respect to the Issuer (including its past, present and future officers, directors, members, employees, counsel or agents), in order to provide for just and equitable contribution in circumstances in which the indemnity provided for in paragraph (b) of this Section 5 is for any reason held to be unavailable (other than a holding to the effect that the specific circumstances are not the subject of the indemnity), the applicable Borrower, the Sole Member and the Indemnified Party shall contribute proportionately to the aggregate Liabilities to which the applicable Borrower, the Sole Member and the Indemnified Party may be subject, so that the Indemnified Party is responsible for that portion represented by the percentage that the fees paid by the applicable Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds bear to the aggregate offering price of the Bonds, with the applicable Borrower and the Sole Member responsible for the balance; provided, however, that in no case shall the Indemnified Party be responsible for any amount in excess of the fees paid by the applicable Borrower to the Indemnified Party in connection with the issuance and administration of the Bonds.

(d) The Indemnified Parties, other than the Issuer and the Underwriter, shall be considered to be third party beneficiaries of this Bond Purchase Agreement for purposes of this Section 5. The provisions of this Section 5 will be in addition to all liability that the Borrowers may otherwise have and shall survive any termination of this Bond Purchase Agreement, the offering and sale of the Bonds and the payment or provisions for payment of the Bonds.

(e) The indemnification hereunder shall be in addition to, and shall not limit, any indemnity granted by the Borrowers pursuant to the Bond Loan Agreement, the Regulatory Agreements or any other document.

## **Section 6. Disclosure Matters.**

The Issuer and the Borrowers acknowledge that the Underwriter is required to comply with the requirements of the Rule in connection with the offer and sale of the Bonds and each agrees to cooperate (at the cost and expense of the Borrowers) with the Underwriter so as to enable the Underwriter to comply with the Rule. To this end:

(a) The Borrowers have delivered to the Underwriter the Official Statement that the Borrowers deemed final as of its date, except for the omission of no more than the following information: the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings, and other terms of the Bonds depending on such matters (collectively, the “Permitted Omissions”).

(b) If, during the period from the date hereof to and including the date as of which the Official Statement is available to any person from a nationally recognized municipal securities information repository, but in no case less than 25 days following the Closing Date, any event occurs as a result of which the Official Statement for the Bonds as then amended or supplemented might include an untrue statement of material fact, or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Issuer, if such event relates to the information included in the Official Statement under the captions “THE ISSUER” and “LITIGATION” (insofar as such information under such caption pertains to the Issuer), or the Borrowers, if such event relates to the captions “PLAN OF FINANCING,” “THE PROJECTS,” “THE PRIVATE PARTICIPANTS” or “LITIGATION” (insofar as such information under such caption pertains to the Borrowers), shall promptly notify the Underwriter thereof and shall (in either case, at the expense of the Borrowers), upon the request of the Underwriter, prepare and deliver to the Underwriter as many copies of an amendment or supplement which will correct such statement or omission as the Underwriter may reasonably request.

(c) On or before the date which is five business days after the date hereof (or such earlier date as is necessary to accompany any confirmation that requests payment for a Bond), the Issuer agrees to deliver or cause to be delivered to the Underwriter, at the expense of the Borrowers, as many copies of the Official Statement as the Underwriter may reasonably request.

## **Section 7. Closing.**

At 10:00 a.m., Local time, on \_\_\_\_\_, 2018, or at such time on such earlier or later date as shall be agreed upon in writing by the Issuer, the Borrowers, and the Underwriter (the “Closing Date”), the Issuer will deliver or cause to be delivered, the Bonds in definitive form, duly executed and authenticated by the Trustee. Delivery of the Bonds shall be made at the offices of the Trustee (or such other place upon which the Underwriters and the Issuer mutually agree) which shall hold the Bonds as custodian for The Depository Trust Company, 55 Water Street, New York, New York 10041 (“DTC”) under its “FAST” system. Subject to the terms and conditions hereof, the Issuer and the Borrowers shall deliver at the offices of Bracewell LLP, Austin, Texas (“Bond Counsel”), the other documents and instruments to be delivered pursuant to this Bond Purchase Agreement (the “Closing Documents”), and the Underwriter shall accept delivery of the Bonds and Closing Documents and pay the purchase price for the Bonds as set forth in Section 1 above by wire transfer, to the Trustee, in immediately available federal funds. Immediately following such payment and acceptance, the Underwriter shall receive its fee with respect to the Bonds in the amount set forth in Section 1 above by wire transfer from the Trustee in immediately available federal funds to the order of the Underwriter, in such manner as shall be agreed upon by the Borrowers and the Underwriter. This delivery and payment is herein called the “Closing” and the date on which the Closing occurs is herein called the “Closing Date.” The Bonds shall be prepared and delivered as fully registered Bonds without coupons in the denominations set forth in the Official Statement or multiples thereof. One fully registered Bond in the total aggregate principal amount of the Bonds, bearing a proper, duly assigned CUSIP number, will be issued initially in the name of Cede & Co., as nominee of DTC.

## **Section 8. Closing Conditions.**

The Underwriter has entered into this Bond Purchase Agreement in reliance upon representations, warranties and agreements of the Issuer and the Borrowers contained herein, in reliance upon the representations, warranties and agreements to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Issuer and the Borrowers of their obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Underwriter's obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be subject to the performance by the Issuer and the Borrowers of their obligations to be performed by them hereunder at or prior to the Closing, and to the accuracy in all material respects of the representations and warranties of the Issuer and the Borrowers contained herein as of the date hereof and as of the Closing as if made on the Closing Date, and shall also be subject to the following additional conditions:

(a) At the time of the Closing, the Bond Resolution shall have been duly approved and adopted by the Issuer and shall be in full force and effect and each of the Financing Documents shall have been duly authorized, executed and delivered, and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Underwriter and there shall have been taken in connection therewith and in connection with the issuance of the Bonds all such actions as, in the opinion of Bond Counsel and counsel for the Underwriter, shall be necessary and appropriate in connection with the transactions contemplated hereby.

(b) The Underwriter may terminate this Bond Purchase Agreement by notification to the Issuer and the Borrowers if at any time subsequent to the date hereof and at or prior to the Closing:

(i) (A) legislation shall be enacted by the Congress of the United States or adopted by the Senate or House of Representatives of the United States, or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to the Senate or House of Representatives by any committee of either such body to which such legislation has been referred for consideration or by a conference committee of such bodies, (B) a decision shall be rendered by a court of the United States or by the Tax Court of the United States, (C) a ruling, regulation or official action shall be rendered by or on behalf of the United States, or (D) a ruling, regulation or official action shall be issued, in any manner, including by pronouncement, press release or any other form of notice, by or on behalf of the Treasury Department of the United States, the Internal Revenue Service or another governmental agency of the United States or by or on behalf of any member of the Senate or House of Representatives of the United States in any such instance with respect to federal taxation of interest received on obligations of the general character of the Bonds and which (1) in the reasonable opinion of counsel for the Underwriter, would have or proposes action which would have the effect of making such interest includable in gross income for federal income tax purposes or (2) which, in the reasonable opinion of the Underwriter, would materially adversely affect the marketability of or the market price for the Bonds;

(ii) between the date hereof and the Closing, payment for and delivery of the Bonds is rendered impossible because (A) trading in securities generally shall have been suspended on the New York Stock Exchange or a general banking moratorium shall have been established by Federal or New York authorities or (B) a war involving the United States shall have been declared, or a national emergency, or any other outbreak or escalation of hostilities, or another national or international calamity shall have occurred, the effect of any of which, in the reasonable judgment of the Underwriter, materially adversely affects the marketability of the Bonds;



(iii) any event shall occur or exist which, in the reasonable judgment of the Underwriter, either makes untrue or incorrect in any material respect any statement or information contained in the Official Statement, or the draft thereof, dated the date hereof, or has the effect of constituting the omission from the Official Statement, on the draft thereof, dated the date hereof, of any statement or information which should have been reflected therein for the purpose for which the Official Statement is to be used in order to make the statements or information contained therein not misleading in any material respect;

(iv) any fact or event shall exist or have existed that, in the Underwriter's judgment, requires or has required an amendment of or a supplement to the Official Statement;

(v) legislation shall be enacted, or any action shall be taken by the Securities and Exchange Commission, which, in the reasonable opinion of counsel for the Underwriter, has or may have the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Indenture to be qualified as an indenture under the Trust Indenture Act of 1939, as amended;

(vi) an occurrence, in the reasonable judgment of Underwriter, of a material adverse change in the capital markets which makes the sale or financing contemplated hereby impossible to proceed with the sale or financing contemplated hereby on any terms, manner and basis contemplated by the Bond Resolution and mutually agreed to by the Issuer, Underwriter and the Borrowers;

(vii) there shall have occurred any materially adverse change in the affairs or financial condition of the Issuer or the Borrowers which makes sale of the Bonds impossible on the terms contemplated by the Bond Resolution and mutually agreed to by the Issuer, Underwriter and the Borrowers;

(viii) there shall have occurred or any notice shall have been given of any intended review, downgrading, suspension, withdrawal, or negative change in credit watch status by any national rating service to any rating of the Bonds or the government of the United States which, in the reasonable judgment of the Underwriter, materially adversely effects the value or marketability of the Bonds; or

(ix) there shall have occurred any change which, in the reasonable judgment of the Underwriter, makes unreasonable or unreliable any of the assumptions upon which (1) the calculation of yield for purposes of Section 103 of the Code, (2) the payment of debt service on the Bonds or (3) the basis for the exemption of interest on the Bonds from federal income taxation, is predicated.

(c) At or prior to the Closing, the Underwriter shall receive the following documents:

(i) an approving opinion of Bracewell LLP, Bond Counsel, addressed to the Issuer and the Underwriter, dated the Closing Date substantially in the form attached as Appendix B to the Official Statement;

(ii) opinions and/or letters, dated the Closing Date and addressed to the Underwriter and to such other parties as may be appropriate, of

(A) Bracewell LLP, substantially in the form attached hereto as Exhibit A;

(B) Counsel to the Borrowers, substantially in the form attached hereto as Exhibit B; and

(C) Counsel to the Underwriter, as to such matters as the Underwriter may reasonably request.

(iii) a certificate, dated the Closing Date and signed on behalf of the Issuer, to the effect that:

(A) the Issuer has not received notice of any pending, nor to the Issuer's actual knowledge is there any threatened, action, suit, proceeding, inquiry or investigation against the Issuer, at law or in equity, by or before any court, public board or body, affecting the existence of the Issuer or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the pledge of revenues or assets of the Issuer pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way materially adversely affecting or questioning (1) the use of the Official Statement, (2) the use of the proceeds of the Bonds to make the Bond Loans, (3) the validity or enforceability of the Bonds, any proceedings of the Issuer taken with respect to the Bonds or any of the Issuer Documents, (4) the tax exempt status of the interest on the Bonds, (5) the accuracy or completeness of the Official Statement under the headings "THE ISSUER" and "LITIGATION" (but only as to information under such caption relating to the Issuer), (6) the execution and delivery by the Issuer of the Issuer Documents or the Bonds, or (7) the power of the Issuer to carry out the transactions on its part contemplated in the Issuer Documents;

(B) to the best knowledge and belief of the persons signing the certificate, the sections of the Official Statement under the headings "THE ISSUER" and "LITIGATION" (as to the Issuer) do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein, in light of the circumstances under which they were made, not misleading; and

(C) the Issuer has complied with all the covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to the Closing Date, and the representations and warranties of the Issuer contained herein and in each of the Bond Documents to which it is a party are true and correct as of the Closing Date;

(iv) an executed copy of the Tax Exemption Agreement, which will include facts, estimates and circumstances and reasonable expectations pertaining to Section 148 of the Code to support the conclusion that none of the Bonds will be an "arbitrage bond";

(v) a certificate of the Borrowers, dated the Closing Date, to the effect that (A) each of the representations and warranties of the Borrowers set forth in each of the Borrower Documents (including this Bond Purchase Agreement) is true and correct in all material respects on the Closing Date with the same effect as if made on the Closing Date, (B) no event has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purpose for which it is to be used or which is necessary to be disclosed therein in order to make the statements and information therein not misleading in any material respect, and (C) the Borrowers have complied with all agreements and satisfied all the conditions on their part to be performed or satisfied under the Borrower Documents at or prior to the Closing Date;

(vi) counterpart originals or certified copies of each of the Financing Documents;

(vii) written evidence satisfactory to the Underwriter that S&P Global Ratings has issued a rating of “AA+” for the Bonds, and such rating shall be in effect on the Closing Date;

(viii) such agreements, certificates and opinions as reasonably requested by the Underwriter to evidence the assumption of the Subordinate Loan and the closing of the Senior Loan;

(ix) the Underwriter shall have received a 15c2-12 Certificate from the Borrowers, duly executed by the Borrowers substantially in the form set forth in Exhibit C hereto;

(x) an opinion of McCall, Parkhurst & Horton LLP and of Mahomes Bolden PC, Co-Disclosure Counsel to the Issuer, in form and substance satisfactory to the Issuer; and

(xi) such additional legal opinions, certificates (including any certificates necessary or desirable in order to establish the exclusion of the interest on the Bonds from gross income for federal income tax purposes), instruments and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the Closing Date, of the Issuer’s representations herein and in the Official Statement and the due performance or satisfaction by the Issuer at or prior to such date of all agreements then to be performed, and all conditions then to be satisfied by the Issuer.

If the obligations of the Underwriter shall be terminated for any reason permitted by this Bond Purchase Agreement, neither the Underwriter, the Borrowers nor the Issuer shall be under any further obligation hereunder.

## **Section 9. Expenses.**

(a) The Underwriter shall be under no obligation to pay, and the Borrowers hereby agree to pay, any expenses incident to the performance of the Issuer’s obligations hereunder, including, but not limited to, the costs of printing and mailing the Official Statement; the fees and expenses of Issuer’s counsel, including bond counsel, and counsel to the Borrowers; the fees and expenses of the Trustee and its counsel; and the fees and disbursements of any other experts or consultants retained by the Issuer or the Borrowers; the fees of rating agencies in connection with the rating of the Bonds; the Underwriter’s Fee and the fees and expenses of counsel to the Underwriter; and all other expenses in connection with the public offering and sale of the Bonds. Notwithstanding the foregoing, the Issuer shall have no obligation to pay any fees, expenses or costs associated with or resulting from the issuance and delivery of the Bonds, other than from the proceeds of the Bonds. The Borrowers shall also pay any expenses (included in the expense component of the Underwriter’s discount) incurred by the Underwriter which are incidental to implementing this Bond Purchase Agreement and the issuance of the Bonds, including, but not limited to, meals, transportation and lodging, if any, and any other miscellaneous closing costs.

(b) The Borrowers acknowledge that the Underwriter will pay from the Underwriter’s expense allocation of the underwriting discount the applicable per bond assessment charged by the Municipal Advisory Council of Texas, a non-profit corporation whose purpose is to collect, maintain and distribute information relating to issuing entities of municipal securities. An employee of the Underwriter serves on the Board of the Municipal Advisory Council of Texas.

(c) The Borrowers acknowledge that they have had an opportunity, in consultation with such advisors as they may deem appropriate, if any, to evaluate and consider the fees and expenses being incurred in connection with the issuance of the Bonds. The Issuer and the Borrowers acknowledge that the Underwriter’s Fee will pay or reimburse the Underwriter for various expenses incurred by the

Underwriter which are incidental to implementing this Bond Purchase Agreement and the issuance and purchase and sale of the Bonds.

**Section 10. Notices.**

Any notice or other communication to be given to the Issuer or the Borrowers may be given by mailing the same to each of them at the respective addresses set forth on the cover hereof, and any notice or other communication to be given to the Underwriter may be given by mailing the same to RBC Capital Markets, LLC, 100 2<sup>nd</sup> Avenue South, Suite 800, St. Petersburg, FL 33701-4337; Attention: Helen H. Feinberg.

**Section 11. Parties in Interest.**

This Bond Purchase Agreement is made solely for the benefit of the Issuer, the Borrowers and the Underwriter (including any successor or assignees of the Issuer or Underwriter), and, except as provided in Section 5 hereof, no other party or person shall acquire or have any right hereunder or by virtue hereof.

**Section 12. Amendments.**

This Bond Purchase Agreement may not be amended without the written consent of the Issuer, the Borrowers and the Underwriter.

**Section 13. Survival of Representations and Warranties.**

The representations and warranties of the Issuer and the Borrowers shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing and regardless of any investigations made by or on behalf of the Underwriter (or statements as to the results of such investigations) concerning such representations and statements of the Issuer and the Borrowers and regardless of delivery of and payment for the Bonds.

**Section 14. Execution in Counterparts.**

This Bond Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**Section 15. No Prior Agreements.**

This Bond Purchase Agreement supersedes and replaces all prior negotiations, agreements and understandings between the parties hereto in relation to the sale of Bonds for the Issuer and the Borrowers.

**Section 16. Effective Date.**

This Bond Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the Issuer and the Borrowers and shall be valid and enforceable as of the time of such acceptance.

**Section 17. Governing Law.**

This Bond Purchase Agreement shall be governed by the laws of the State without giving effect to the conflict of law principles of the State.

## **Section 18. No Personal Liability of Issuer.**

The Issuer and none of the members of the Issuer, nor any officer, agent or employee of the Issuer, shall be charged personally by the Underwriter with any liability, or be held liable to the Underwriter under any term or provision of this Bond Purchase Agreement, or because of execution or attempted execution, or because of any breach or attempted or alleged breach of this Bond Purchase Agreement.

## **Section 19. Establishment of Issue Price.**

Notwithstanding any provision of this Bond Purchase Agreement to the contrary, the following provisions related to the establishment of the issue price of the Bonds apply:

(a) *Definitions.* For purposes of this Section, the following definitions apply:

(i) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than a Tax Law Underwriter or a Related Party to a Tax Law Underwriter.

(ii) “Related Party” means any two or more persons who are subject, directly or indirectly, to (A) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(iii) “Sale Date” means the date of execution of this Bond Purchase Agreement by all parties.

(iv) “Tax Law Underwriter” means, with respect to each Issue of the Bonds, (A) any person that agrees pursuant to a written contract with the Issuer to participate in the initial sale of such Issue of the Bonds to the Public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of such Issue of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

(b) *Issue Price Certificate.* The Underwriter agrees to assist the Issuer in establishing the issue price of the Bonds and to execute and deliver to the Issuer at Closing an “issue price” or similar certificate relating to each Issue of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit D, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the Issuer and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the Public of the Bonds (the “Issue Price Certificate”).

(c) *Public Offering.* The Underwriter confirms that, on the Sale Date, the Underwriter offered each Issue of the Bonds to the Public at the offering price or prices (each, an “Initial Offering Price”), or at the corresponding yield or yields, set forth in Schedule I attached hereto.

(d) *10% Test.* Except as set forth in the Issue Price Certificate, the Issuer will determine the issue price of the Bonds based on the first price at which 10% of the Bonds is sold to the Public (the “10% Test”) (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% Test). The Issue Price Certificate will confirm if the issue price will be the applicable Initial Offering Price because the 10% Test was satisfied as of the Sale Date.

(e) *Hold-The-Offering-Price Rule.* The Issue Price Certificate will confirm if the 10% Test was not satisfied as of the Sale Date and, if such is the case, the Issuer and the Underwriter agree that the restrictions in the next sentence will apply, which will allow the Issuer to treat the Initial Offering Price to the Public of each the Bonds as the issue price of the Bonds (the “Hold-the-Offering-Price Rule”). If the 10% Test was not satisfied as of the Sale Date, the Underwriter will neither offer nor sell unsold Bonds to any person at a price that is higher than the applicable Initial Offering Price of the Bonds during the period starting on the Sale Date and ending on the earlier of the following:

(i) the close of the fifth business day after the Sale Date; or

(ii) the date on which the Tax Law Underwriters have sold at least 10% of the Bonds to the Public at a price that is no higher than the Initial Offering Price of the Bonds.

The Underwriter will promptly advise the Issuer when the Tax Law Underwriters have sold 10% of the Bonds to the Public at a price that is no higher than the applicable Initial Offering Price of the Bonds, if that occurs prior to the close of the fifth business day after the Sale Date. On or after the sixth business day after the Sale Date, if requested by the Issuer or Bond Counsel, the Underwriter also will promptly confirm that the Tax Law Underwriters have complied with the Hold-the-Offering-Price Rule. If at any time the Underwriter becomes aware of any noncompliance by a Tax Law Underwriter with respect to the Hold-the-Offering Price Rule, the Underwriter will promptly report such noncompliance to the Issuer.

(f) *Matters Relating to Certain Agreements.* The Underwriter confirms that any selling group agreement and each retail distribution agreement to which the Underwriter is a party relating to the initial sale of an Issue of the Bonds to the Public, together with related pricing wires, contains or will contain language obligating the Underwriter, each dealer who is a member of any selling group, and each broker-dealer that is a party to any such retail distribution agreement, as applicable, to (i) report the prices at which it sells to the Public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% Test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the Public and (ii) comply with the Hold-the-Offering Price Rule, if applicable, in each case if and for so long as directed by the Underwriter and as set forth in the relating pricing wire.

The Issuer acknowledges that, in making the representation that the Underwriter will comply with the Hold-the-Offering Price Rule with respect to any Held Bonds of an Issue of the Bonds, the Underwriter is relying on (A) in the event a selling group has been created in connection with the sale of the Issue of the Bonds to the Public, the agreement of each dealer who is a member of the selling group to comply with the Hold-the-Offering-Price Rule, as set forth in a selling group agreement and the related

pricing wires, and (B) in the event that an Underwriter is a party to a retail distribution agreement that was employed in connection with the sale of an issue of the Bonds, the agreement of each broker-dealer that is a party to such agreement to comply with the Hold-the-Offering-Price Rule, as set forth in the retail distribution agreement and the related pricing wires. The Issuer further acknowledges that each Tax Law Underwriter will be solely liable for its failure to comply with its agreement regarding the Hold-the-Offering Price Rule and that no Tax Law Underwriter will be liable for the failure of any other Tax Law Underwriter to comply with its corresponding agreement regarding the Hold-the-Offering-Price Rules as applicable to an Issue of the Bonds.

(g) *Sale to Related Party not a Sale to the Public.* The Underwriter acknowledges that sales of any Bonds to any person that is a Related Party to a Tax Law Underwriter do not constitute sales to the Public for purposes of this Section.

#### **Section 20. Underwriter Not Engaged with Foreign Terrorist Organizations.**

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, to the extent applicable to this Bond Purchase Agreement, the Underwriter represents that neither it nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Underwriter, is a company engaged in business with Iran, Sudan, or a foreign terrorist organization or on a list prepared and maintained by the Comptroller of Public Accounts of the State of Texas under Section 806.051, 807.051, or 2252.153, Texas Government Code.

To the extent this Bond Purchase Agreement is a contract for goods or services, the Underwriter hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Bond Purchase Agreement. For purposes of this verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

(Remainder of Page Intentionally Left Blank)

If the foregoing is in accordance with your understanding of this Bond Purchase Agreement please sign and return to us by email your acceptance hereof, whereupon it will become a binding agreement among the Issuer, the Borrowers and the Underwriter in accordance with its terms.

Very truly yours,

**RBC CAPITAL MARKETS, LLC,**  
as Underwriter

By: \_\_\_\_\_  
Helen H. Feinberg  
Managing Director



(Issuer's Signature Page to Bond Purchase Agreement)

ACCEPTED at \_\_\_\_\_, Texas at \_\_\_\_\_ .m. Central Time this \_\_\_ day of \_\_\_\_\_, 2018.

**TEXAS DEPARTMENT OF HOUSING  
AND COMMUNITY AFFAIRS,**  
as Issuer

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

(Borrowers' Signature Page to Bond Purchase Agreement)

ACCEPTED at \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ .m. \_\_\_\_\_ Time this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**THF BASTROP OAK GROVE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF BAY CITY VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Borrowers' Signature Page to Bond Purchase Agreement)

**THF BURK VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF ELGIN MEADOWPARK, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Borrowers' Signature Page to Bond Purchase Agreement)

**THF EVANT TOM SAWYER, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF HONDO BRIAN PLACE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Borrowers' Signature Page to Bond Purchase Agreement)

**THF HONDO GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF LAMPASAS GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Borrowers' Signature Page to Bond Purchase Agreement)

**THF LANTANA APARTMENTS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**SCHEDULE I**

**AMOUNT, MATURITY DATE AND INTEREST RATE**

<b>Maturity Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Price</b>
November 1, 2021	\$20,000,000	[ ]%	[ ]%

(Subject to mandatory tender on November 1, 2020)

**EXHIBIT A**

**FORM OF SUPPLEMENTAL OPINION OF BOND COUNSEL**

\_\_\_\_\_, 2018

Texas Department of Housing and  
Community Affairs  
Austin, Texas

Wilmington Trust, National Association, as Trustee  
Dallas, Texas

RBC Capital Markets, LLC  
St. Petersburg, Florida

\$20,000,000  
Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018

Ladies and Gentlemen:

We have represented the Texas Department of Housing and Community Affairs (the “Issuer”) in connection with the issuance by the Issuer of its \$20,000,000 Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”) pursuant to a resolution adopted by the Governing Board of the Issuer on October 11, 2018 (the “Bond Resolution”) and an Indenture of Trust dated as of November 1, 2018 (the “Indenture”), by and between the Issuer and Wilmington Trust, National Association, as trustee (the “Trustee”). The Bonds bear interest, mature on the date, and are subject to redemption prior to maturity as provided in the Indenture. Capitalized terms used herein and not otherwise defined are used with the meanings assigned to such terms in the Indenture, in the Bond Loan Agreement dated as of November 1, 2018 (the “Bond Loan Agreement”) between the Issuer and (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (each a “Borrower” and collectively, the “Borrowers”), or in each Regulatory and Land Use Restriction Agreement dated as of November 1, 2018 (collectively, the “Regulatory Agreements”), among the Issuer, the Trustee, and the Borrower.

This opinion is rendered pursuant to Section 8(c)(ii)(A) of the Bond Purchase Agreement dated \_\_\_\_\_, 2018 (the “Bond Purchase Agreement”) among the Issuer, the Borrowers and RBC Capital Markets, LLC as underwriter. In connection therewith, we have examined and are familiar with (i) certified or original executed counterparts of the documents referred to in our opinion of even date herewith relating to the Bonds, and the Official Statement relating to the Bonds (the “Official Statement”) and (ii) such other documents, instruments, certificates and opinion as we have deemed necessary to enable us to render this opinion.

You have authorized us to assume without independent verification (i) the genuineness of certificates, records and other documents (collectively, “documents”) submitted to us and the accuracy and completeness of the statements contained therein; (ii) the due authorization, execution and delivery of



the documents described above by the parties thereto; (iii) that all documents submitted to us as originals are accurate and complete; (iv) that all documents submitted to us as copies are true and correct copies of the originals thereof; and (v) that all information submitted to us and on which we have relied was accurate and complete.

Based on said examination, and subject to the assumptions, qualifications and limitations set forth herein, it is our opinion that, under existing laws, the Bonds may be offered and sold without registration under the Securities Act of 1933, as amended, and the Indenture is not required to be qualified under the Trust Indenture Act of 1939, as amended.

We have reviewed the statements appearing in the Official Statement (except as to any statistical and financial data included in the Official Statement, as to which we do not express an opinion) under the captions “THE BONDS,” “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS,” “TAX TREATMENT,” “APPENDIX A – Definition of Certain Terms,” “APPENDIX C – Summary of Certain Provisions of the Indenture,” “APPENDIX D – Summary of Certain Provisions of the Bond Loan Agreement” and “APPENDIX E – Summary of Certain Provisions of the Regulatory Agreement.” Such statements, insofar as they purport to summarize certain provisions of the Bonds, the Indenture, the Bond Loan Agreement, the Regulatory Agreements and certain aspects of our firm’s opinion relating to the federal tax implications with respect to the Bonds, present a fair and accurate summary of such matters. Other than as set forth above, we were not requested to participate in and did not take part in the preparation of any information in the Official Statement and do not assume responsibility with respect thereto.

In rendering this opinion, we have relied upon the opinions and certificates delivered pursuant to the Bond Purchase Agreement.

The opinions expressed above are expressed only insofar as the laws of the State of Texas and the United States of America may be applicable. This opinion speaks only as of its date and only in connection with the Bonds and may not be applied to any other transaction. The opinions set forth above are based on existing law, which is subject to change. Such opinions are further based on our knowledge of facts as of the date hereof. We assume no duty to update or supplement these opinions to reflect any facts or circumstances that may hereafter come to our attention or to reflect any changes in law that may hereafter occur or become effective. Further, this opinion is furnished by us solely to the addressees, and is solely for your benefit, and no one else is entitled to rely upon this opinion.

Very truly yours,

**EXHIBIT B**

**OPINION OF COUNSEL TO THE BORROWERS**

\_\_\_\_\_, 2018

RBC Capital Markets, LLC

Wilmington Trust, National Association

Texas Department of Housing  
and Community Affairs

\$20,000,000

Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018

[After appropriate introductory language, the opinion shall state substantially as follows:]

1. Each Borrower is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and each has all requisite limited liability company power and all material government licenses, authorizations, consents and approvals necessary to own and operate its property and conduct its business. Each Borrower is qualified to do business in the State of Texas.

2. Each Borrower has full legal right, power and authority (a) to own its properties and conduct its business as described in the Preliminary Official Statement and the Official Statement and (b) to enter into and to carry out and consummate the transactions contemplated by the Borrower Documents.

3. The Sole Member of each Borrower is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Texas and has all requisite limited liability company power and all material government licenses, authorizations, consents and approvals necessary to own and operate its property and conduct its business. Each Sole Member is qualified to do business in the State of Texas.

4. By all necessary action, each Borrower has duly authorized and adopted the Borrower Documents, and approved the execution and delivery of, and the performance by each Borrower of the obligations in connection with the issuance of the Bonds on its part contained in the Bonds and the Borrower Documents and the consummation by it of all other transactions contemplated by the Indenture and the Borrower Documents in connection with the issuance of the Bonds. The individual(s) who have executed the Borrower Documents on behalf of the Sole Member of each Borrower have the authority to bind the Sole Member and thereby the Borrower to the terms and conditions of the Borrower Documents.

5. The Borrower Documents have been duly executed and delivered by each Borrower and, assuming the due authorization, execution and delivery of such agreements by the respective other parties thereto where necessary, if any, constitute legal, valid and binding obligations of each Borrower enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws of general applicability

affecting the enforcement of creditors' rights and to general principles of equity, regardless of whether such enforceability is considered in equity or in law.

6. The execution and delivery of the Borrower Documents, the performance by the Borrowers of their obligations thereunder and the consummation of the transactions contemplated therein are within the organizational powers of the Borrowers and will not (i) conflict with or constitute a breach of the Borrowers' respective organizational documents; (ii) to our knowledge, constitute a default under any indenture, mortgage, deed of trust or other material lien, lease, contract, note, order, judgment, decree or other material agreement, instrument or restriction of any kind to which any of the Borrowers is a party or by which any of their respective properties are bound or affected; or (iii) result in a violation of any constitutional or statutory provision or any material order, rule, regulation, decree or ordinance of any court, government or governmental authority known to us to be applicable to the Borrowers or their respective property.

7. To the best of our knowledge after due and diligent inquiry, as of the Closing Date, the Borrower is not in any material respect in violation of, breach of or default under any applicable constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement (including, without limitation, the Borrower Documents) or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instruments; and the execution and delivery of the Bonds and the Borrower Documents, and compliance with the provisions on the Borrower's part contained therein, do not and will not conflict with, or constitute on the part of the Borrowers a violation of, breach of or default under, any applicable constitutional provision or law of any state or of the United States, or any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities, properties or assets, or any indenture, mortgage, deed of trust, resolution, note, agreement or other agreement or instrument to which the Borrower is a party or by which the Borrower or any of its property or assets is bound, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower or under the terms of any such law, regulation or instrument, except as provided by the Bonds or the Borrower Documents.

8. As of the Closing Date, all consents, approvals, authorizations, and orders of or filings or registrations with any governmental authority, board, agency or issuer of any state or of the United States having jurisdiction required in connection with, or the absence of which would materially adversely affect, the execution and delivery by the Borrower of the Borrower Documents or the performance by the Borrower of its obligations thereunder have been obtained or made and are in full force and effect.

9. To the best of our knowledge after due and diligent inquiry, as of the Closing Date, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best of our knowledge, threatened against the Borrowers, affecting the existence of the Borrowers or the titles of their respective officers to their respective offices, or contesting or affecting as to the Borrowers the validity or enforceability of the Act, the Bonds, any Borrower Document or the execution and delivery or adoption by the Borrowers of any Borrower Document, or in any way contesting or challenging the completeness or accuracy of the Preliminary Official Statement or the Official Statement or the powers of the Borrowers or their authority with respect to the Borrower Documents or the consummation of the transactions contemplated thereby; nor, to the best of our knowledge, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding

would materially adversely affect the financial condition or operations of the Borrowers or the validity of the authorization, execution, delivery or performance by the Borrowers of any Borrower Document.

10. During the course of our representation of the Borrowers, to our actual knowledge, nothing has come to our attention that would lead us to believe that the statements and information contained in the Preliminary Official Statement and the Official Statement, as of their respective dates and the date hereof, under the headings “PLAN OF FINANCING,” “THE PROJECTS,” “THE PRIVATE PARTICIPANTS,” and “LITIGATION—The Borrowers” (except as to the statistical and financial data included in the Preliminary Official Statement and the Official Statement with respect to which we do not express any opinion), contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

11. The Borrowers may not plead the defense of usury or maintain an action for usury with respect to the loan(s) being made under the Transaction Documents.

Very truly yours,

## EXHIBIT C

### RULE 15c2-12 CERTIFICATE

\$20,000,000

Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018

The undersigned hereby certifies and represents to RBC Capital Markets, LLC (the “Underwriter”) that he/she is authorized to execute and deliver this certificate on behalf of (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (each a “Borrower” and collectively, the “Borrowers”), and hereby further certifies to the Underwriter as follows:

(a) This Certificate is delivered to enable the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) in connection with the issuance and sale of the above captioned bonds (the “Bonds”).

(b) In connection with the issuance and sale of the Bonds, there has been prepared a Preliminary Official Statement, dated the date of this certificate, setting forth information concerning the Bonds and the Borrowers (the “Preliminary Official Statement”).

(c) As used herein, “Permitted Omissions” shall mean the offering price(s), interest rate(s), accreted values, yield to maturity, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all with respect to the issuance and sale of the Bonds.

(d) The Preliminary Official Statement is, as of the date thereof, deemed final within the meaning of the Rule, except for Permitted Omissions.

(e) The sections of the Preliminary Official Statement entitled “CONTINUING DISCLOSURE” and “APPENDIX F—FORM OF CONTINUING DISCLOSURE AGREEMENT” describes the agreement the Borrowers expect to make for the benefit of the Bondholders in the Continuing Disclosure Agreement dated as of November 1, 2018 by and between the Borrowers and Wilmington Trust, National Association, as dissemination agent, by which the Borrowers will undertake to provide continuing disclosure in accordance with the Rule.

Dated: \_\_\_\_\_, 2018

(Signature Page to Borrower Rule 15c2-12 Certificate)

IN WITNESS WHEREOF, I have hereunto set my hand as of the date set forth above.

**THF BASTROP OAK GROVE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF BAY CITY VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Borrower Rule 15c2-12 Certificate)

**THF BURK VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF ELGIN MEADOWPARK, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Borrower Rule 15c2-12 Certificate)

**THF EVANT TOM SAWYER, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF HONDO BRIAN PLACE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)



(Signature Page to Borrower Rule 15c2-12 Certificate)

**THF HONDO GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF LAMPASAS GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Borrower Rule 15c2-12 Certificate)

**THF LANTANA APARTMENTS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

## EXHIBIT D

### ISSUE PRICE CERTIFICATE

I, the undersigned officer of RBC Capital Markets, LLC (“RBC”), make this certification in connection with the \$20,000,000 Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”) issued by the Texas Department of Housing and Community Affairs (the “Department”).

1. I hereby certify as follows in good faith as of the Issue Date of the Bonds:

(a) I am the duly chosen, qualified and acting officer of RBC for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of RBC. I am the officer of RBC charged, along with other officers of RBC, with responsibility for the Bonds.

(b) **[IF 10% OF MATURITY SOLD]** The first price at which at least 10% of the Bonds was sold to the Public is the price set forth on the cover of the Official Statement prepared in connection with the Bonds (the “Actual Sales Price”).

(c) **[IF FEWER THAN 10% OF MATURITY SOLD ON SALE DATE]** At least 10% of the Bonds was not sold to the Public on the Sale Date. On or before the Sale Date, RBC offered for purchase the Bonds to the Public at the applicable initial offering price set forth on the cover of the Official Statement prepared in connection with the Bonds (the “Initial Offering Price”). A copy of the pricing wire evidencing the Initial Offering Price is attached hereto as Attachment I. In connection with the offering of the Bonds, RBC agreed in writing that (i) during the Hold Period, it would neither offer nor sell any Bond to any person at a price higher than the applicable Initial Offering Price (the “Hold-the-Offering-Price Rule”) and (ii) any selling group agreement would contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement would contain the agreement of each broker-dealer who is a party to the retail distribution agreement, that, during the Hold Period, such party would comply with the Hold-the-Offering-Price Rule. In accordance with such agreements, no Underwriter offered or sold any of the Bonds at a price higher than the Initial Offering Price the Bonds during the Hold Period.

(d) The [Actual Sales Price/Initial Offering Price] of the Bonds is \$[\_\_\_\_\_].

2. For purposes of this Issue Price Certificate, the following definitions apply:

(a) [“Hold Period” means the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date or (ii) the date on which the Underwriters have sold at least 10% of the Bonds to the Public at a price no higher than the applicable Initial Offering Price.]

(b) “Public” means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a Related Party to an Underwriter.

(c) “Related Party” means any two or more persons who are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another),

(ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interest or profits interest of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other).

(d) ["Sale Date" means the first day on which there is a binding contract in writing for the sale or exchange of the Bonds. The Sale Date of the Bonds is \_\_\_\_\_, 20[\_\_\_\_].]

(e) "Underwriter" means (i) any person that agrees pursuant to a written contract with the Department to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this definition to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents RBC's interpretation of any laws, including specifically sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Department and the Borrower with respect to certain of the representations set forth in the Tax Exemption Agreement and with respect to compliance with the federal income tax rules affecting the Bonds, and by Bracewell LLP in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of Internal Revenue Service Form 8038-G, and other federal income tax advice it may give to the Department from time to time relating to the Bonds.

[EXECUTION PAGE FOLLOWS]

EXECUTED as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

RBC CAPITAL MARKETS, LLC

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

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

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

## BOND NOTE

This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Trust Indenture and the Loan Agreement referred to herein.

[\$NOTE AMOUNT]

[CLOSING DATE]

[BORROWER], a Texas limited liability company (“Borrower”), for value received, promises to pay in installments to **WILMINGTON TRUST, N.A.**, as trustee (“Trustee”) under the Indenture hereinafter referred to, the principal sum of

[NOTE AMOUNT SPELL-OUT]

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate of [BOND INTEREST RATE]% per annum, to but not including the Mandatory Tender Date (as defined in the Indenture defined herein), and at the Remarketing Rate (as defined in the Indenture defined herein) from and after the Mandatory Tender Date until the payment of such principal sum has been made or provided for. The Principal Amount stated above shall be paid on or before the fifth Business Day (as defined in the Indenture defined herein) immediately preceding the Maturity Date (as defined in the Indenture defined herein). Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid in Federal Reserve funds on the fifth Business Day next preceding each May 1 and November 1, commencing May 1, 2019 (“Interest Payment Dates”).

This Note has been executed and delivered by the Borrower to the Trustee pursuant to a certain Loan Agreement (“Agreement”) dated as of November 1, 2018, between Texas Department of Housing and Community Affairs (“Issuer”) and the Borrower. Terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement and the Indenture, as defined below.

Under the Agreement, the Issuer has loaned the Borrower a portion of the proceeds received from the sale of the Issuer’s \$20,000,000 Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018, dated of even date herewith (“Bonds”) allocated to the Borrower (“Allocated Bonds”) to assist in the financing of the Project owned by the Borrower, and the Borrower has agreed to repay such loan by making payments (“Loan Payments”) at the times and in the amounts set forth in this Note for application to the payment of Bond Service Charges on the Allocated Bonds as and when due. The Allocated Bonds are in the same principal amount as this Note. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Trust Indenture (“Indenture”), dated as of November 1, 2018, between the Issuer and the Trustee.

To provide funds to pay the principal of and interest on the Allocated Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in Federal Reserve funds on the 5th Business Day immediately preceding each Interest Payment Date in an amount equal to the Bond Service Charges on the Allocated Bonds payable on the next succeeding Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Allocated Bonds as and when due at any other time, the Borrower hereby agrees to and shall make

Loan Payments in Federal Reserve funds on the fifth Business Day immediately preceding any other date on which any Bond Service Charges on the Allocated Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges. Notwithstanding the foregoing, the obligation for the Borrower is only its pro rata portion of the Loan Payments and Bond Service Charges as set forth in *Exhibit D* to the Agreement.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Service Charges on the Allocated Bonds from moneys other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Allocated Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund and allocated to the Allocated Bonds. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its designated corporate trust office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Service Charges on the Allocated Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other person.

This Note is subject to optional prepayment by the Borrower according to the same terms and conditions of the Bonds set forth in Section 4.01 of the Indenture.

Whenever an Event of Default under Section 7.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 7.03 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower and its members to the extent set forth in Section 8.10 of the Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

**[BORROWER'S SIGNATURE BLOCK]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

SUBORDINATE  
MULTIFAMILY DEED OF TRUST,  
SECURITY AGREEMENT AND FIXTURE FILING

from

THF BASTROP OAK GROVE, LLC,  
Grantor,

to

CHARLES HICKS,  
Trustee,

for the benefit of  
WILMINGTON TRUST, NATIONAL ASSOCIATION

and

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,  
together, Grantee

Dated as of November 1, 2018

Relating to:

\$20,000,000  
Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio), Series 2018

**THIS SECURITY INSTRUMENT IS TO BE FILED AND INDEXED IN THE REAL ESTATE RECORDS AND IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF GRANTOR AS "DEBTOR" AND GRANTEE AS "SECURED PARTY." THIS INSTRUMENT SHALL ALSO BE EFFECTIVE FROM THE DATE OF ITS RECORDING AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS CONSTITUTING PART OF THE PROPERTY WHICH ARE OR ARE TO BECOME FIXTURES**

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**SUBORDINATE  
MULTIFAMILY DEED OF TRUST,  
SECURITY AGREEMENT AND FIXTURE FILING**

This SUBORDINATE MULTIFAMILY DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING, dated as of November 1, 2018 (as the same may be amended, modified or supplemented from time to time, this “**Deed of Trust**”), by THF Bastrop Oak Grove, LLC, a Texas limited liability company (together with its successors and assigns, “**Grantor**”), having its principal office at c/o Texas Housing Foundation, 1110 Broadway, Marble Falls, Texas 78654, to Charles Hicks and his successors and assigns (the “**Trustee**”), for the benefit of WILMINGTON TRUST, NATIONAL ASSOCIATION, as trustee (together with any successor trustee under the Indenture described below and their respective successors and assigns, the “**Bond Trustee**”), a national banking association organized and existing under the laws of the United States of America, having offices at 15950 North Dallas Parkway, Suite 550, Dallas, TX 75248, and TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the “**Issuer**” and, together with the Bond Trustee, the “**Grantee**”), a public and official agency of the State of Texas having offices at 221 East 11th Street, Austin, TX 78701.

W I T N E S S E T H:

**WHEREAS**, the Issuer is authorized by the provisions of Chapter 2306, Texas Government Code, as amended (the “**Act**”), to issue one or more series of its revenue bonds and loan the proceeds thereof to finance residential rental housing facilities for individuals and families of low, very low and extremely low income and families of moderate income; and

**WHEREAS**, by proceedings adopted pursuant to and in accordance with the provisions of the Act, the Issuer has authorized the issuance of its Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018, in the original aggregate principal amount of \$20,000,000 (the “**Bonds**”) pursuant to a Trust Indenture between the Issuer and the Bond Trustee dated as of the date hereof (as the same may be modified, amended or supplemented from time to time, the “**Indenture**”); and

**WHEREAS**, Grantor proposes to borrow a portion of the proceeds of the Bonds in an amount equal to \$\_\_\_\_\_ (the “**Bond Loan Amount**”) from the Issuer pursuant to that certain Loan Agreement dated as of November 1, 2018 by and among the Issuer, as lender, the Bond Trustee, the Grantor and the other borrowers named in the Loan Agreement (as the same may be amended, modified or supplemented from time to time, the “**Loan Agreement**”); and

**WHEREAS**, Grantor has executed and delivered to the Issuer that certain promissory note dated the Closing Date (as the same may be amended, modified or supplemented from time to time, the “**Bond Note**”), which evidences the portion of the Bond Loan Amount corresponding to the aggregate principal amount of the Bonds (the “**Bond Loan**”) \$\_\_\_\_\_ being made to the Grantor pursuant to the Loan Agreement; and

**WHEREAS**, the proceeds of the Bond Loan will be utilized by Grantor to pay the costs of acquiring, equipping and rehabilitating a multifamily rental housing development known as Bastrop Oak Grove Apartments (the “**Development**”); and

**WHEREAS**, the Bond Note provides that the Bond Loan matures on the final maturity date of the Bonds, being November 1, 2021 (the “**Maturity Date**”), upon which date all of the outstanding and unpaid principal and interest under the Bond Note will be due and payable; and

**WHEREAS**, the Issuer requires that this Deed of Trust be executed and delivered as a condition to making the Bond Loan and as security for the Grantor’s obligations under the Loan Agreement.

### GRANTING CLAUSES

**NOW, THEREFORE**, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, in order to secure the payment of the Indebtedness (as hereinafter defined), and any other sums payable under the Financing Documents (as hereinafter defined); and to secure the performance and observance of all other provisions of the Financing Documents, Grantor hereby grants, bargains, sells, warrants, conveys, assigns, sets over and confirms to Trustee, in trust for the benefit of Grantee, with power of sale, and grants to Grantee a security interest and lien in, all of the following (all of which is hereinafter collectively referred to as the “**Mortgaged Property**”):

I. The fee simple interest of Grantor in those certain tract(s) or parcel(s) of land (the “**Land**”), being situated in \_\_\_\_\_ County, Texas, being more fully described as set forth in Exhibit A attached hereto and hereby referred to and incorporated herein for all purposes, together with all right, title and interest of the Grantor, including any after-acquired right, title or reversion, in and to the beds of the ways, streets, avenues and alleys adjoining the Land subject to the Permitted Encumbrances, and all Improvements;

II. The fee simple interest of Grantor in all (i) buildings and other improvements and additions thereto now erected or hereafter constructed or placed upon the Land or any part thereof (the “**Improvements**”); (ii) the name or names, if any, as may now or hereafter be used for each Improvement or otherwise in connection with the Land, and the books and records and good will associated therewith, and all licenses, permits, and approvals in connection with the construction and operation of the Improvements; and (iii) refrigerators, dishwashers, air conditioners, microwave ovens, washers, dryers, exercise equipment, lawn care equipment, pool equipment and furniture, devices, apparatus, interior improvements, appurtenances, heating, electrical, mechanical, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and elevator equipment and systems, stoves, ranges, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, fittings, fixtures, equipment and building materials of every kind and nature whatsoever now or hereafter attached to or placed in or upon the Land or the Improvements, or any part thereof, or used or procured for use in connection with the operation of the Land or the Improvements or any business conducted thereon (except for fixtures and personal property that are at any time the property of Space Tenants, as hereinafter defined), all of the foregoing items set forth in this clause (iii), except as aforesaid, hereinafter collectively called the “**Equipment**”;

III. All screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture, furnishings, decorations, chattels and other personal property now or hereafter in, on or at said Land (except for trade fixtures, furniture and furnishings that are at any time the property of Space

Tenants), all of the foregoing, except as aforesaid, hereinafter collectively called the “**Furnishings**”;

IV. All unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained, or caused to be obtained, by Grantor and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Property or any part thereof into cash or liquidated claims, including, without limitation, proceeds of casualty insurance, title insurance or any other insurance maintained on the Land, the Improvements, the Equipment or the Furnishings or any part of any thereof (collectively, “**Proceeds**”) and all awards and other compensation (collectively “**Awards**”) heretofore and hereafter made to the present and all subsequent owners of the Land, the Improvements, the Equipment or the Furnishings or any part of any thereof by any governmental or other lawful authorities for the taking by eminent domain, condemnation or otherwise, of all or any part thereof or any easement or other right therein, including Awards for any change of grade of streets, all of which Proceeds and Awards are hereby assigned to Grantee;

V. If applicable pursuant to Section 4.1 hereof, all of the rents, issues, income, receipts, revenues, benefits and profits of the Mortgaged Property (collectively, the “**Rents**”), including all leases, subleases, occupancy agreements, licenses, franchises and appurtenances now or hereafter entered into covering any part of the Mortgaged Property, including all interest of Grantor as landlord in and to any of the same, including, without limitation, the interest of Grantor in and to all cash, promissory notes and securities deposited thereunder and the right to receive and collect the Rents and any other sums payable thereunder, all of which are hereby assigned to Grantee;

VI. All rights under any easement or related agreements and all royalties and rights appertaining to the use and enjoyment of the Land, including, without limitation, alley, vault, drainage, mineral, ditch, reservoir, water, oil and gas rights, if any, together with any and all other rights, privileges and interests appurtenant thereto or used in connection with the Land or the Improvements, whether existing now or hereafter acquired;

VII. All construction contracts, subcontracts, architectural agreements, labor, material and payment bonds, guarantees and warranties, plans and specifications, and permits and approvals relating to the construction of the Improvements, whether now or hereafter existing;

VIII. All books, records and good will associated with the Land and the Improvements, all logos, trademarks and tradenames used in connection with the Land and Improvements, all management contracts now in effect or hereafter entered into, and all extensions, renewals and replacements thereof, and all permits, licenses and approvals for the operation of the Improvements;

IX. Upon foreclosure under this Deed of Trust, all tax credits or abatement certificates under Federal, State or local law arising out of or related to the Mortgaged Property and all of the Grantor’s title and interest in and to any instrument, document or agreement relating thereto, including, without limitation, any regulatory agreement relating to the leasing of individual units comprising the Mortgaged Property; and

X. All extensions, improvements, betterments, substitutions and replacements of, and all additions and appurtenances to, the Land, the Improvements, the Equipment and the

Furnishings, hereafter acquired by or released to Grantor or constructed, assembled or placed on the Land, and all conversions of the security constituted thereby immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by Grantor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by Grantor and specifically described herein.

**TO HAVE AND TO HOLD** the Mortgaged Property, together with all rights, hereditaments and appurtenances in any wise appertaining or belonging thereto, unto Trustee, its substitutes or its successors and assigns, forever for the uses set forth herein, and Grantor hereby binds itself and its successors and assigns to warrant and forever defend the Mortgaged Property unto Trustee, its substitutes or successors and assigns, against the claim or claims of all Persons claiming or to claim the same or any part thereof.

## **ARTICLE I**

### **CERTAIN DEFINITIONS**

In addition to other definitions contained herein, the following terms shall have the meanings set forth below, unless the context of this Deed of Trust otherwise requires. All other capitalized terms used herein which are defined in either the Indenture or the Loan Agreement, and not defined herein, shall have the respective meanings ascribed thereto in the Indenture or Loan Agreement, unless otherwise expressly provided or unless the context otherwise requires.

(a) “Condemnation” means any taking of title, of use, or of any other property interest under the exercise of the power of eminent domain, by any governmental body or by any person acting under governmental authority.

(b) “Default Rate” shall mean a per annum rate of interest equal to the lower of (a) 12% per annum, or (b) the Maximum Amount.

(c) “Development” shall have the meaning ascribed to such term in the recitals to this Deed of Trust.

(d) “Due and Payable” shall mean (i) when used with reference to the Indebtedness, or when referring to any and all other sums secured by this Deed of Trust, due and payable, whether at the monthly or other date of payment as specified in the Loan Agreement or other Financing Documents, and (ii) when used with reference to Impositions, the last day upon which any such charge may be paid without penalty or interest and without becoming a lien upon the Mortgaged Property.

(e) “Environmental Laws” shall mean and include each and every federal, state or local statute, regulation or ordinance or any judicial or administrative decree, policy, guidance or decision, whether now existing or hereafter enacted, promulgated or issued, governing or relating to the protection of the environment, natural resources and human health and safety, with respect to any Hazardous Substances (as hereinafter defined), Environmentally Sensitive Areas (as hereinafter defined), drinking water, groundwater,

wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water run-off, waste emissions, wells or radon.

(f) “Environmentally Sensitive Area” shall mean (i) a wetland or other “water of the United States” for purposes of the Clean Water Act or other similar area regulated under any State Environmental Law, (ii) a floodplain or other flood hazard area as defined pursuant to any applicable State Environmental Law, (iii) a portion of the coastal zone for purposes of the Federal Coastal Zone Management Act, or (iv) any other area, development of which is specifically restricted under applicable Environmental Laws by reason of its physical characteristics or prior use.

(g) “Event of Default” shall mean each of the events and circumstances described as such in Section 6.1 hereof.

(h) “Financing Documents” shall mean this Deed of Trust, the Loan Agreement, and the Regulatory Agreement.

(i) “Governmental Authority” means any federal, state, county, municipal or local government or any department, commission, board, legislature or office thereof, having or claiming jurisdiction over the Mortgaged Property.

(j) “Hazardous Substances” shall mean each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law, including, without limitation, asbestos, asbestos-containing materials, poly-chlorinated biphenyls, urea foam formaldehyde insulation, radon and lead-based paint.

(k) “Impositions” shall mean all duties, taxes, water and sewer rents, rates and charges, assessments (including, but not limited to, all assessments for public improvement or benefit), charges for public utilities, excises, levies, licenses and permit fees and other charges, ordinary or extraordinary, whether foreseen or unforeseen, of any kind and nature, whatsoever, which prior to or during the term of this Deed of Trust will have been or may be laid, levied, assessed or imposed upon or become due and payable out of or in respect of, or become a lien on, the Mortgaged Property or any part thereof or appurtenances thereto, or which are levied or assessed against the rent and income received by Grantor from the Space Leases (as hereinafter defined) by virtue of any present or future law, order or ordinance of the United States of America or of any state, county or local government or of any department, office of bureau thereof or of any other Governmental Authority.

(l) “Indebtedness” shall mean and include all payments, sums, charges, obligations and liabilities of Grantor due or to become due at any time under the Loan Agreement, and all other sums, charges, obligations and liabilities of Grantor due or to become due at any time to Grantee under this Deed of Trust, or any other Financing Document.

(m) “Land” shall mean that certain parcel of land more particularly described in Exhibit A annexed hereto and incorporated herein, including all and singular, the easements, rights, privileges, tenements, hereditaments and appurtenances (including air



rights) thereunto belonging or in any way appertaining thereto, and the reversion and the remainder thereof; and all of the estate, right, title, interest, claim or demand of Grantor therein and in and to any land lying in the bed of any street, road or avenue, open or proposed, thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired and in all strips and gores therein or adjoining thereto, the air space and right to use said air space thereinabove and all rights of ingress and egress by motor vehicles to parking facilities thereon or therein.

(n) “Maximum Amount” shall mean the maximum amount permitted to be charged under applicable usury laws or other applicable laws relating to the payment of interest from time to time in effect including, without limitation, Chapter 1204 of the Texas Government Code.

(o) “Net Proceeds”, when used with respect to any Condemnation awards or insurance proceeds allocable to the Development, means the gross proceeds from Condemnation or insurance remaining after payment of all reasonable expenses (including attorneys’ fees) incurred in the collection of such gross proceeds.

(p) “Permitted Encumbrances” shall mean, collectively, the mortgage on the Development securing the Senior Loan (the “**Senior Mortgage**”), the Regulatory Agreement, those liens, easements, rights of way, covenants, restrictions, encumbrances and other matters affecting title to the Mortgaged Property set forth in Schedule B of the mortgagee policy of title insurance insuring this Deed of Trust (or commitment to issue such policy in existence as of the date of this Deed of Trust) and any other liens, easements, rights of way, covenants, restrictions, encumbrances and other matters affecting title to the Mortgaged Property approved in writing by the Grantee.

(q) “Person” shall mean any natural person, firm, partnership, association, corporation, trust, or public body.

(r) “Senior Loan” shall have the meaning set forth in the Indenture.

(s) “Space Lease” shall mean any lease, sublease, license, concession agreement or any other form of agreement, however denominated, granting the right to use and occupy the Mortgaged Property, or any portion thereof, and all renewals, extensions, modifications, amendments and other agreements affecting the same.

(t) “Space Tenant” shall mean the tenant or other user or occupant of part or all of the Mortgaged Property under any Space Lease.

(u) “Spill” shall mean any release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, or discarding, burying, abandoning, or disposing into the environment.

(v) “State” shall mean the state in which the Land is located.

(w) “Threat of Spill” shall mean a substantial likelihood of a Spill which requires action to prevent or mitigate damage to the environment which may result from such Spill.

## ARTICLE II

### PARTICULAR COVENANTS OF GRANTOR

Grantor covenants and agrees as follows:

SECTION 2.1. Payment of Indebtedness. Grantor shall duly and punctually pay to Issuer and/or to Bond Trustee, as applicable, as and when Due and Payable, the Indebtedness.

SECTION 2.2. Warranty of Title. Grantor warrants that (a) it is the lawful owner the Land and all of the Mortgaged Property; (b) the Mortgaged Property is free and clear of all deeds of trust, deeds to secure debt, mortgages, liens, charges and encumbrances whatsoever except for the Permitted Encumbrances; (c) except as provided in Section 4.1 hereof, Grantor has not heretofore assigned the Rents; (d) it will maintain and preserve the lien and priority of this Deed of Trust until the Indebtedness has been paid in full and all other obligations owing to Grantee by Grantor in connection with the Loan have been satisfied; (e) it has good right and lawful authority to mortgage and assign the Mortgaged Property as provided in and by this Deed of Trust; and (f) except for the Permitted Encumbrances, it will warrant and defend the same against any and all claims and demands whatsoever.

SECTION 2.3. No Defaults. Grantor represents and warrants that no Event of Default or event which, with the giving of notice or passage of time, would constitute an Event of Default exists under the provisions of this Deed of Trust or the other Financing Documents with respect to the Grantor or the Mortgaged Property or in the performance of any of the terms, covenants, conditions or warranties hereof or thereof on the part of Grantor to be performed or observed.

SECTION 2.4. To Pay Impositions. Grantor will pay or cause to be paid as and when due and payable all Impositions levied upon the Mortgaged Property or any part thereof and, within fifteen (15) days after the payment thereof, will deliver to Grantee receipts evidencing the payment or bonding of all such Impositions. Notwithstanding the foregoing, if by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance thereof), Grantor shall have the right, provided that no Event of Default shall then exist under this Deed of Trust or any other of the Financing Documents, to exercise such option and to cause to be paid or to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments, as they fall due, and before any fine, penalty, further interest or cost may be added thereto.

SECTION 2.5. To Maintain Priority of Lien. Grantor will maintain this Deed of Trust as a valid lien on the Mortgaged Property, and Grantor will not, directly or indirectly, create or suffer or permit to be created, or to stand against the Mortgaged Property or any portion thereof, or against the Rents therefrom and will promptly discharge, any lien or charge whatsoever other than the Permitted Encumbrances, whether prior to, upon a parity with, or junior to the lien of this Deed of Trust; provided, however, that nothing herein contained shall require Grantor to pay or cause to

be paid any Imposition prior to the time the same shall become due and payable. Grantor will keep and maintain the Mortgaged Property, and every part thereof, free from all liens of Persons supplying labor and materials in connection with the construction, alteration, repair, improvement or replacement of the Improvements, the Equipment or the Furnishings. If any such liens shall be filed against the Mortgaged Property, or any part thereof, Grantor shall immediately release or discharge the same of record, by payment, bonding or otherwise, or otherwise provide security satisfactory to Grantee in Grantee's sole discretion, within fifteen (15) days after the filing thereof. In the event that Grantor fails to make payment of or bond over, such liens, Grantee may make payment thereof, and any amounts paid by Grantee as a result thereof, together with interest thereon at the Default Rate from the date of payment by Grantee, shall be immediately due and payable by Grantor to Grantee and until paid, shall be added to and become a part of the Indebtedness, and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust. Grantor shall deliver to Grantee, upon request, all receipts or other satisfactory evidence of the payment of taxes, assessments, charges, claims, liens or any other item which, if unpaid, may cause any such lien to be filed against the Mortgaged Property.

SECTION 2.6. To Pay Recording Fees, Taxes and Other Charges. Grantor will pay all filing, registration or recording fees, and all costs and expenses of Grantee, including without limitation, reasonable attorneys' fees actually incurred and disbursements, title insurance premiums, search fees and survey costs, incident to or in connection with the preparation, execution, delivery or acknowledgment of this Deed of Trust, any supplement hereto, any security instrument with respect to any collateral relating to the Loan and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Bond Note, this Deed of Trust, any supplement hereto, any security instrument with respect to any collateral relating to the Loan, the other Financing Documents, or any instrument of further assurance.

SECTION 2.7. Maintenance of Mortgaged Property; Covenants Against Waste; Inspection by Grantee. Grantor will not commit or permit physical waste on the Mortgaged Property and will keep and maintain at its own expense the Improvements, the Equipment and the Furnishings in a condition and state of repair such that each of the same shall meet or surpass the requirements of any applicable Governmental Authority and customary standards in the general area set by buildings of similar type, age and function for attractiveness of appearance, cleanliness and general soundness of condition, but in any event consistent with multifamily housing projects of a similar type and purpose. Grantor shall do all such further maintenance and repair work as may be required under the Space Leases and applicable law. Grantor will neither do nor permit to be done anything to the Mortgaged Property that may impair the value thereof or which may violate any covenant, condition or restriction affecting the same, or any part thereof, or permit any change therein or in the condition or use thereof which could increase the danger of fire or other hazard arising out of the construction or operation thereof. The Improvements shall not be removed or demolished (except for tenant improvements), without the prior written consent of Grantee. The Equipment and Furnishings shall not be removed without the prior written consent of the Grantee, except where appropriate replacements free of superior title, liens or claims are immediately made having a value at least equal to the value of the items removed. Grantee and its authorized employees and agents, may enter and inspect the Mortgaged Property at any time upon advance

notice during usual business hours, and Grantor shall, within fifteen (15) business days after demand by Grantee (or immediately upon demand in case of emergency), commence such repairs, replacements, renewals or additions, or perform such items of maintenance, to the Mortgaged Property as the Grantee may, in its sole reasonable discretion, require in order to cause the Mortgaged Property to comply with the above standards, shall diligently make the same and shall complete the same as promptly as practicable.

SECTION 2.8. After-Acquired Property. All right, title and interest of Grantor in and to all improvements, betterments, renewals, substitutes and replacements of, and all additions, accessions and appurtenances to, the Mortgaged Property hereafter acquired, constructed, assembled or placed by Grantor on the Land, and all conversions of the security constituted thereby, immediately upon such acquisition, construction, assembly, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance or assignment or other act of Grantor, shall become subject to the lien of this Deed of Trust as fully and completely, and with the same effect, as though now owned by Grantor and specifically described in the Granting Clauses hereof, but at any time and at all times Grantor, on demand, will execute, acknowledge and deliver to Grantee any and all such further assurances, mortgages, conveyances or assignments thereof as Grantee may require in its sole discretion for the purpose of expressly and specifically subjecting the same to the liens and security interests of this Deed of Trust.

SECTION 2.9. Further Assurances. Grantor shall, at its sole cost and without expense to Grantee, on demand, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Grantee shall from time to time require in its sole discretion for better assuring, conveying, assigning, transferring, confirming and perfecting unto Grantee the property and rights hereby conveyed, mortgaged or assigned or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey, mortgage or assign to Grantee, or for carrying out the intention or facilitating the performance of the terms of this Deed of Trust, or for filing, registering or recording this Deed of Trust; provided that in no event shall any such further act increase or expand the liability of the Grantor.

SECTION 2.10. Status of Grantor. Grantor shall not without the prior written consent of Grantee: (a) change its name; (b) change its state of organization through dissolution, merger, transfer of assets or otherwise; or (c) change its type of organization through conversion, reorganization or otherwise.

SECTION 2.11. Recorded Instruments. Grantor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Property. Grantor shall do or cause to be done all things required to preserve intact and unimpaired and to renew any and all rights-of-way, easements, grants, appurtenances, privileges, licenses, franchises and other interests and rights in favor of or constituting any portion of the Mortgaged Property. Other than Permitted Encumbrances, Grantor will not, without the prior written consent of the Grantee, initiate, join in or consent to any private restrictive covenant or other public or private restriction as to the use of the Mortgaged Property other than the Extended Use Agreement described in Section 8.6 hereof. Grantor shall, however, and shall cause all Space Tenants to, comply with all lawful restrictive covenants and zoning

ordinances and other public or private restrictions affecting the Mortgaged Property and other laws and ordinances of any Governmental Authority affecting the Mortgaged Property.

SECTION 2.12. Environmental Provisions. Grantor hereby represents, warrants and covenants that:

2.12.1. Except as set forth in the Phase I request prepared by Partner Engineering and Science, Inc. and dated April 30, 2018, (the "Phase I") (a) no condition, activity or conduct exists on or in connection with the Mortgaged Property which constitutes a violation of any Environmental Laws; (b) there has been no Spill or Threat of Spill of any Hazardous Substances on, upon, into or from the Mortgaged Property nor, to Grantor's knowledge, a Spill which, through soil or groundwater migration, could reasonably be expected to come to be located on the Mortgaged Property; (c) there are no existing or closed underground or aboveground storage tanks on the Mortgaged Property; (d) there are no existing or closed sanitary landfills, solid waste disposal sites, or hazardous waste treatment, storage or disposal facilities on or affecting the Land; (e) no notice has been issued to Grantor by any agency, authority, or unit of government that Grantor has been identified as a potentially responsible party under any Environmental Laws; (f) no portion of the Mortgaged Property constitutes an Environmentally Sensitive Area; (g) there exists no investigation, action, proceeding, or claim by any Governmental Authority or by any third party which could result in any liability, penalty, sanction, or judgment under any Environmental Laws with respect to any condition, use or operation of the Mortgaged Property; (h) there has been no claim by any party that any use, operation, or condition of the Mortgaged Property has caused any nuisance or any other liability or adverse condition on any other property; and (i) Grantor need not obtain any permit or approval for any part of the Development and need not notify any federal, state or local governmental authority having jurisdiction of the Development regarding any part of the Development pursuant to any Environmental Laws.

2.12.2. Grantor shall: (a) comply with and cause all activities at the Mortgaged Property to comply with all Environmental Laws; (b) not store or dispose of (except in compliance with all Environmental Laws pertaining thereto), nor Spill or allow the Spill of any Hazardous Substances on the Property; (c) neither directly nor indirectly transport or arrange for the transport of any Hazardous Substances (except in compliance with all Environmental Laws pertaining thereto); (d) neither install nor permit to be installed any temporary or permanent tanks for storage of any liquid or gas above or below ground except after obtaining written permission from the Grantee to do so and in compliance with Environmental Laws; and (e) comply with all terms and conditions of all permits, authorizations, approvals, waivers, judgments or decrees or notices from Governmental Authorities issued or sent pursuant to Environmental Laws.

2.12.3. Grantor, promptly upon the written request of Grantee from time to time (but no more frequently than once per calendar year) shall provide Grantee, at Grantor's sole cost and expense, with an environmental site assessment or environmental audit report, or an update of such an assessment or report, all in scope, form and content reasonably satisfactory to the Grantee.

2.12.4. In the event of any Spill or Threat of Spill affecting the Mortgaged Property, whether or not the same originates or emanates from the Mortgaged Property or any contiguous real estate, or if Grantor or the Mortgaged Property otherwise shall fail to comply with any of the requirements of Environmental Laws, Grantee may at its election, but without the

obligation so to do, give such notices, cause such work to be performed at the Mortgaged Property and take any and all other actions as Grantee shall reasonably deem necessary or advisable in order to remedy said Spill or the conditions constituting a Threat of Spill or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the Default Rate from the date of payment by Grantee, shall be immediately due and payable by Grantor to Grantee and until paid shall be added to and become a part of the Indebtedness and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust.

2.12.5. Grantor covenants and agrees to conduct representative radon sampling in the Improvements on the Land to determine whether indoor radon levels are below the United States Environmental Protection Agency's recommended threshold of 4.0pCi/L. Borrower has satisfied the foregoing requirement as set forth in the Phase I. In the event that said radon sampling results reveal indoor radon levels in excess of 4.0pCi/L, Grantor covenants and agrees to implement radon mitigation techniques to reduce or prevent the build-up or migration of radon in the Improvements on the Land. In the event that radon mitigation is required to be implemented, Grantor further covenants and agrees to conduct radon sampling in the Improvements on the Land following such implementation to confirm that the radon mitigation techniques have succeeded in reducing or preventing the build-up of radon in the Improvements on the Land to below the United States Environmental Protection Agency's recommended threshold of 4.0pCi/L. In the event that such radon sampling results reveal that levels of radon in the Improvements on the Land are still in excess of the above-referenced United States Environmental Protection Agency threshold, Grantor covenants and agrees to undertake any additional measures necessary to reduce radon levels in the Improvements on the Land and bring the Mortgaged Property into compliance with applicable Environmental Laws. Notwithstanding the foregoing, if the Borrower satisfies the radon mitigation requirements contained in the Senior Mortgage loan documents (if any), then Borrower will be deemed to have satisfied the requirements set forth in this paragraph.

2.12.6. The Grantor shall comply with the Environmental Laws and regulations with respect to on-site wetlands, including, but not limited to obtaining, complying with and maintaining any wetland permits, wetland permit requirements, development restrictions, setback and/buffers, habitat protection and mitigation requirements.

2.12.7. The Grantor shall handle any subsurface contamination encountered at the Land during the course of rehabilitation in accordance with a site-specific Health and Safety Plan developed in accordance with Environmental Laws and other applicable federal, state and local laws, rules and regulations, and any such contamination shall be remediated and disposed of in accordance with Environmental Laws and other applicable federal, state and local laws, rules and regulations.

SECTION 2.13. Mold Coverage. In the event that Grantor is covered by a commercial general liability insurance policy which contains an exclusion for loss or damage caused by mold, dangerous fungi, bacterial or microbial matter, contamination or pathogenic organisms that reproduce through the release of spores or the splitting of cells (collectively, "**Mold**") or a property insurance policy which contains an exclusion for loss or damage caused by Mold, in connection with another covered peril (e.g., Mold in connection with water damage caused by a storm or fire), Grantor shall demonstrate to the satisfaction of Grantee that such insurance without the

aforementioned exclusions is not available at ordinary and customary insurance rates and either: (i) Grantor shall demonstrate to the satisfaction of Grantee that the potential risk for loss or damage caused by Mold, fungus, moisture, microbial contamination or pathogenic organisms at the Mortgaged Property is minimal because of precautionary measures or techniques to be utilized in the construction or rehabilitation of the Improvements, including without limitation, the use of vapor barriers or other liners to limit the growth and reproduction of Mold; or (ii) Grantor shall implement a moisture management and control program (the “**Moisture Management Program**”) for the Improvements at the Mortgaged Property to prevent the occurrence of Mold, at, on or under the Mortgaged Property, which Moisture Management Program shall include, at a minimum: (a) periodic inspections of the Improvements at the Mortgaged Property for Mold, (b) removing or cleaning up any Mold in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by Grantee, and (c) in the event that the Mold identified at the Improvements at the Mortgaged Property cannot be removed or cleaned from any impacted building materials (e.g., porous materials such as carpeting, certain types of ceiling materials, etc.) and/or equipment, removing all such impacted building materials and/or equipment from the Mortgaged Property, all in accordance with the procedures set forth in the United States Environmental Protection Agency’s (“**EPA**”) guide entitled “Mold Remediation in Schools and Commercial Buildings”, EPA No. 402-K-01-001, dated March 2001, and in a manner consistent with best industry practices and utilizing an experienced remediation contractor acceptable to and approved by Grantee. Grantor further covenants and agrees that, in connection with any mold remediation undertaken by or on behalf of Grantor hereunder, the source (e.g., leaking pipe, water damage, water infiltration, etc.) of any Mold at the Improvements at the Mortgaged Property shall be promptly identified and corrected to prevent the occurrence or re-occurrence of any Mold. Notwithstanding the foregoing, if the Borrower satisfies the mold mitigation requirements contained in the Senior Mortgage loan documents (if any), then Borrower will be deemed to have satisfied the requirements set forth in this paragraph.

### ARTICLE III

#### CASUALTY AND CONDEMNATION

##### SECTION 3.1. Casualty.

3.1.1. If any of the Improvements, Equipment or Furnishings shall be damaged or destroyed, in whole or part, by fire or other casualty, Grantor shall give prompt notice thereof to Grantee. The Grantee are hereby authorized and empowered by Grantor, to settle, adjust or compromise in a commercially reasonable manner any and all claims for loss, damage or destruction under any policy of insurance.

3.1.2. Subject to the provisions of the Senior Loan Documents, any Net Proceeds received as payment for any loss under any insurance policies required to be maintained by Grantor in accordance with this Section shall be applied in accordance with the Financing Documents.

3.1.3. Subject to the provisions of the Senior Loan Documents, in the event of the happening of any casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen (including any casualty for which insurance was not obtainable), resulting in damage

to or destruction of the Mortgaged Property or any part thereof, if Grantee elects to apply any Net Proceeds received by it in connection with such casualty towards the restoration of the Mortgaged Property, Grantor shall promptly, whether or not the Net Proceeds, if any, shall be sufficient for the purpose, commence and diligently continue to restore, repair and rebuild the Mortgaged Property as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

#### SECTION 3.2. Condemnation.

3.2.1. Grantor shall promptly notify Grantee if Grantor shall become aware of the threat or institution of any proceeding or negotiations for the taking of the Mortgaged Property, or any part thereof, whether for permanent or temporary use and occupancy in condemnation or by the exercise of the power of eminent domain or by agreement of interested parties in lieu of such condemnation (all the foregoing herein called a “**taking**”); and shall keep Grantee currently advised, in detail, as to the status of such proceedings or negotiations and will promptly give to Grantee copies of all notices, pleadings, judgments, determinations and other papers received or delivered by Grantor therein. Grantor will not, without the Grantee’s prior written consent, enter into any agreement for the taking of the Mortgaged Property, or any part thereof, with anyone authorized to acquire the same by eminent domain or in condemnation.

3.2.2. In the event of any such taking, the Net Proceeds payable in connection therewith shall be applied in accordance with the Financing Documents.

3.2.3. In the event of the happening of any permanent taking, provided that Grantee elects to apply any Net Proceeds received by it in connection with such taking towards the restoration of the Mortgaged Property, Grantor shall promptly, whether or not the Net Proceeds, if any, shall be sufficient for the purpose, commence and diligently continue to restore, repair and rebuild the portion of the Mortgaged Property not subject to the taking as nearly as possible to its value, condition and character immediately prior to such taking.

### ARTICLE IV

#### ASSIGNMENT OF SPACE LEASES AND RENT

SECTION 4.1. Assignment of Space Leases and Rents. Contemporaneously with the execution of this Deed of Trust, Grantor has assigned its interests in the Space Leases and Rents to the Lender in the Senior Mortgage to secure the payment of the Senior Loan. In the event of the payment of the Senior Loan and release of the Senior Mortgage without the release of this Deed of Trust, Grantor hereby grants, conveys, assigns, transfers and sets over to Grantee to be effective as of the date of the release of the Senior Mortgage, the Space Leases now or hereafter entered into by Grantor with respect to all or any part of the Mortgaged Property, and all renewals, extensions, subleases or assignments thereof and all other occupancy agreements (written or oral), by concession, license or otherwise, together with all of the Rents and proceeds arising therefrom and from the Mortgaged Property pursuant to and in accordance with the provisions of Chapter 64 of the Texas Property Code.



## ARTICLE V

### SECURITY AGREEMENT UNDER UNIFORM COMMERCIAL CODE

SECTION 5.1. Security Agreement. It is the intent of the parties hereto that this Deed of Trust shall constitute a Security Agreement within the meaning of the Uniform Commercial Code of the State (the “UCC”) with respect to so much of the Mortgaged Property as is considered or as shall be determined to be of the type in which a security interest can be created under Article 9 of the UCC, together with all replacements thereof, substitutions therefor or additions thereto (the “Collateral”), and that a security interest shall attach thereto for the benefit of Grantee to secure the Indebtedness and all other sums and charges which may become due hereunder or under the Financing Documents. Grantor hereby authorizes Grantee to file financing and continuation statements and amendments thereto with respect to the Collateral without the signature of Grantor, if same is lawful; otherwise Grantor agrees to execute such financing and continuation statements and amendments thereto as Grantee may request. If there shall exist an Event of Default under this Deed of Trust, Grantee, pursuant to the appropriate provisions of the UCC, shall have the option of proceeding as to both real and personal property in accordance with its rights to both real and personal property, in which event the default provisions of the UCC shall not apply. The parties agree that, in the event Grantee shall elect to proceed with respect to the Collateral separately from the real property, unless a greater period shall then be mandated by the UCC, ten (10) days’ notice of the sale of the Collateral shall be reasonable notice. The expenses of retaking, holding, preparing for sale, selling and the like incurred by Grantee shall be assessed against Grantor and shall include, but shall not be limited to, reasonable attorneys’ fees, disbursements and other legal expenses incurred by Grantee. Grantor agrees that it will not remove or permit to be removed from the Mortgaged Property any of the Collateral without the prior written consent of Grantee, unless appropriate replacements free of superior title, liens or claims are immediately made having a value at least equal to the value of the items removed. All replacements, renewals and additions to the Collateral shall be and become immediately subject to the security interest of this Deed of Trust and the provisions of this Article. Grantor warrants and represents that all Collateral now is, and that replacements thereof, substitutions therefor or additions thereto, unless Grantee otherwise consents in writing, shall be free and clear of liens, encumbrances or security interests of others created after the date hereof other than Permitted Encumbrances.

From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Collateral which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

A. Name and Address of Debtor:

Bastrop Oak Grove, LLC  
c/o Texas Housing Foundation  
1110 Broadway  
Marble Falls, TX 78654

With a copy to:       Related Companies  
60 Columbus Circle  
New York, NY 10023  
Attention:     Matthew Finkle

B.     Name and Address of Secured Party:

Wilmington Trust, National Association  
15950 North Dallas Parkway, Suite 550  
Dallas, TX 75248  
Attn:   Charles Hicks

Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701  
Attn:   Manager of Multifamily Bonds

C.     This document covers goods which are or are to become fixtures.

D.     State of Debtor's Organization and Organizational Identification No.:

State: Texas  
I.D. No.: \_\_\_\_\_

E.     This filing is made in connection with a public finance transaction as described in Sections 9.515(b) and 9.102(a)(68) of the UCC.

## ARTICLE VI

### EVENTS OF DEFAULT AND REMEDIES

SECTION 6.1. Events of Default Defined. The entire amount of the Indebtedness shall become due, at the option of Grantee, subject to any prepayment premium or penalty provided for in the Loan Agreement, if any, upon the happening of any of the following events (each, individually, an “**Event of Default**” and collectively, “**Events of Default**”):

6.1.1.     if Grantor shall fail or neglect to comply with or otherwise perform, keep or observe any term, provision, condition, covenant, warranty or representation contained in this Deed of Trust that is required to be complied with or otherwise performed, kept or observed by Grantor beyond any notice, grace or cure period expressly provided in this Deed of Trust; or

6.1.2.     if an “Event of Default” as defined in any of the Financing Documents shall have occurred.

Grantee hereby agrees that any cure of any Event of Default hereunder made or tendered by the Tax Credit Investor shall be deemed to be a cure by the Grantor, and shall be accepted or rejected by the Grantee on the same basis as if made or tendered by the Grantor.

SECTION 6.2. Remedies. Upon the occurrence of any Event of Default hereunder, Grantee may, without notice, presentment, demand or protest, notice of intent to accelerate, or notice of acceleration, all of which are hereby expressly waived by Grantor to the extent permitted by applicable law, take such action as Grantee deems advisable, to protect and enforce its rights in and to the Mortgaged Property, including, but without limiting the generality of the foregoing, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such manner as Grantee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Grantee hereunder, under the other Financing Documents, or at law or in equity:

6.2.1. declare the entire amount of the Indebtedness, together with all accrued and unpaid interest thereon, to be immediately due and payable, and upon such declaration such amounts shall become and be immediately due and payable, anything in this Deed of Trust or the other Financing Documents to the contrary notwithstanding;

6.2.2. after such proceedings as may be required by any applicable law or ordinance and subject to the provisions of Section 8.7 hereof regarding the subordination of this Deed of Trust to the Senior Mortgage, either in person, or by its agents or attorneys, or by a court-appointed receiver, enter into and upon all or any part of the Mortgaged Property and each and every part thereof and exclude Grantor, its agents and servants wholly therefrom; and having and holding the same, use, operate, manage and control the Mortgaged Property and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or the receiver; and upon every such entry, Grantee, at the expense of the Mortgaged Property, from time to time, either by purchase repairs or construction, may maintain and restore the Mortgaged Property and, likewise, may make all necessary or proper repairs, renewals and replacements and such alterations, betterments, additions and improvement thereto and thereon as it may deem advisable; and in every such case Grantee shall have the right to manage and operate the Mortgaged Property and to carry on the business thereof and exercise all rights and powers of Grantor as Grantor's attorney-in-fact, or otherwise as it shall deem best; and Grantee shall be entitled to collect and receive all Rents and after deducting the expenses of conducting the business thereof and all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for Impositions, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of Grantee and for all attorneys, counsel, agents, clerks, servants and other employees or professionals engaged or employed by it, Grantee shall apply the moneys arising as aforesaid, first to the payment of the Indebtedness, whether or not then matured; next, to the payment of any other sums required to be paid by Grantor under this Deed of Trust; and the balance, if any, shall be turned over to Grantor or such other Person as may be lawfully entitled thereto; or

6.2.3. with or without entry, personally or by its agents or attorneys insofar as applicable:

(a) foreclose this Deed of Trust in accordance with the laws of the State and the provisions hereof, for the entire Indebtedness or for any portion of the Indebtedness or any other sums secured hereby which are then due and payable, subject to the continuing lien of this Deed of Trust for the balance of the Indebtedness not then due, and for such purposes

Grantor grants to Trustee for the benefit of Grantee a continuing power of sale of the Mortgaged Property; or

(b) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in this Deed of Trust or any other Financing Document, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Grantee shall elect.

SECTION 6.3. Foreclosure; No Marshaling of Assets; One Tract; Appointment of Receiver.

6.3.1. Grantee may foreclose this Deed of Trust either by judicial action or by non-judicial foreclosure through the Trustee. In the case of a foreclosure sale, all of the Mortgaged Property may be sold in one parcel, notwithstanding that the proceeds of such sale exceed or may exceed the Indebtedness. Moreover, Grantee shall not be required to proceed hereunder before proceeding against any other security, shall not be required to proceed against other security before proceeding hereunder, and shall not be precluded from proceeding against any or all of any security in any order or at the same time. In the event that this Deed of Trust is foreclosed, Grantor hereby waives and releases any right to have the Mortgaged Property or any part thereof marshaled, and Grantor and Grantee have jointly agreed that the Mortgaged Property is one project and one tract for all purposes legal, economic and all other. Grantor for itself, its successors and assigns irrevocably waives any right it may have in the event of foreclosure to request that the Mortgaged Property be sold as separate tracts pursuant to any applicable law or statute.

6.3.2. Grantee, in any action to foreclose this Deed of Trust or otherwise upon the occurrence and during the continuance of an Event of Default, shall be entitled (and, to the extent permitted under the laws of the State, without notice, without regard to the adequacy of any security for the Indebtedness and without regard to the solvency of any Person liable for the payment thereof) to the appointment of a receiver of the Mortgaged Property and the Rents, if the assignment of Rents pursuant to Section 4.1 hereof is then effective.

6.3.3. Grantor agrees, to the full extent that it may lawfully do so, that in any foreclosure or other action brought by Grantee hereunder, it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent, hinder or delay the enforcement of the provisions of this Deed of Trust or any right or remedies Grantee may have hereunder or by law.

6.3.4. If Grantor shall default hereunder and Grantee shall elect to accelerate the Indebtedness, Grantor, within five (5) days after demand, will pay over to Grantee, or any receiver appointed in connection with the foreclosure of this Deed of Trust, any and all amounts then held as security deposits under all Space Leases if the assignment of Space Leases pursuant to Section 4.1 hereof is then effective.

6.3.5. Upon the acceleration of the Indebtedness or upon an Event of Default under the Bond Note or Event of Default hereunder, and in addition to all other rights of Grantee

provided herein or by law, Grantor shall, on demand of Grantee, surrender possession of the Mortgaged Property to Grantee; and Grantor hereby consents that Grantee may exercise any or all of the rights specified herein. Grantor hereby irrevocably appoints Grantee attorney-in-fact, which appointment shall be coupled with an interest, of Grantor for such purposes. In the event that Grantor is an occupant of the Mortgaged Property, it agrees to vacate and surrender the possession of that portion of the Mortgaged Property which it occupies to Grantee immediately upon the acceleration of the Indebtedness or any Event of Default hereunder; and if Grantor remains in possession, such possession shall be as tenant of Grantee, and Grantor shall pay monthly, in advance, to Grantee or to any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Mortgaged Property occupied by Grantor, and upon the failure of Grantor to make any such payment, Grantor may be evicted by summary proceedings or otherwise. In case of the appointment of a receiver of the Rents, the covenants of this subsection may be enforced by such receiver.

6.3.6. GRANTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY.

SECTION 6.4. Remedies Cumulative; No Waiver; Etc.

6.4.1. No remedy herein conferred upon or reserved to Grantee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Grantee to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power and remedy given by this Deed of Trust to Grantee may be exercised from time to time as often as may be deemed expedient by Grantee. Nothing in this Deed of Trust or in any other Financing Document shall affect the obligation of Grantor to perform its obligations under the Financing Documents.

6.4.2. A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof, of any Financing Document shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Deed of Trust and of the other Financing Documents shall survive and continue to remain in full force and effect; and no waiver shall be effective unless in writing, dated and signed by Grantee.

6.4.3. Grantor hereby waives and renounces all homestead and similar exemption rights with respect to the Mortgaged Property provided for by the Constitution and the laws of the United States and the State as against the collection of the Indebtedness, or any part thereof, or the Financing Documents; and Grantor agrees that where, by the terms of this Deed of Trust or the other Financing Documents secured hereby, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the day and time stated enters into the consideration and is of the essence of the whole agreement between Grantor and Grantee.

SECTION 6.5. No Merger. It is the intention of the parties hereto that if Grantee shall at any time hereafter acquire title to all or any portion of the Mortgaged Property, then and until the Indebtedness has been paid in full, the interest of Grantee hereunder and the lien of this Deed of Trust shall not merge or become merged in or with the estate and interest of Grantee as the holder

and owner of title to all or any portion of the Mortgaged Property and that, until such payment, the estate of Grantee in the Mortgaged Property and the lien of this Deed of Trust and the interest of Grantee hereunder shall continue in full force and effect to the same extent as if Grantee had not acquired title to all or any portion of the Mortgaged Property. If, however, Grantee shall consent in writing to such merger or such merger shall nevertheless occur without its consent, then this Deed of Trust shall attach to and cover and be a lien upon the fee title or any other estate, title or interest in the premises demised under the leasehold estate acquired by the fee owner and the same shall be considered as granted, released, assigned, transferred, pledged, and set over to Grantee and the lien hereof spread to cover such estate with the same force and effect as though specifically herein granted, released, assigned, transferred, pledged, set over and spread.

## ARTICLE VII

### PROVISIONS OF GENERAL APPLICATION

SECTION 7.1. Modifications. No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless in writing, dated and signed by the party against whom such change, amendment, modification, cancellation or discharge is sought to be enforced.

SECTION 7.2. Notices. Except for notices of foreclosure that shall be sent as required by law, all notices, demands, requests, consents, approvals, certificates or other communications hereunder (hereinafter collectively called the “**Notices**”) shall be sufficiently given if given in accordance with the provisions of Section 9.01 of the Loan Agreement. A copy of any notice given to the Grantor hereunder shall also be sent concurrently to the Tax Credit Investor and the Tax Credit Investor shall have the right, but not the obligation, to cure any default on behalf of the Grantor on the same terms provided to the Grantor in this Deed of Trust.

SECTION 7.3. Grantee’s Rights to Perform Grantor’s Covenants. If Grantor shall fail to pay or cause payment to be made to Grantee in accordance with the terms of this Deed of Trust, or to perform or observe any other term, covenant, condition or obligation required to be performed or observed by Grantor under this Deed of Trust or any other Financing Document, without limiting any other provision of this Deed of Trust, and without waiving or releasing Grantor from any obligation or default hereunder, without notice to Grantor, Grantee (or any receiver of the Mortgaged Property) shall have the right, but not the obligation, to make any such payment, or to perform any other act or take any appropriate action, including, without limitation, entry on the Mortgaged Property and performance of work thereat, as it, in its sole discretion, may deem necessary to cause such other term, covenant, condition or obligation to be performed or observed on behalf of Grantor or to protect the security of this Deed of Trust. All monies expended by Grantee in exercising its rights under this Section (including, but not limited to, legal expenses and disbursements), together with interest thereon at the Default Rate from the date of each such expenditure, shall be paid by Grantor to Grantee forthwith upon demand by Grantee, secured by this Deed of Trust and added to and deemed part of the Indebtedness with the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust.

If Grantor fails to maintain any insurance which is required by any of the Financing Documents, Grantee may obtain the same, but must secure the insurance only in its own name and may insure only its interest in the Mortgaged Property, and in connection with Grantee securing any such insurance, the following notice is given and delivered pursuant to §307.052 of the Texas Finance Code:

**NOTICE:**

**(A) GRANTOR IS REQUIRED TO: (i) KEEP THE PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNT EQUAL TO GRANTOR'S INDEBTEDNESS TO GRANTEE; (ii) PURCHASE THE INSURANCE FROM AN INSURER THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS OR AN ELIGIBLE SURPLUS LINES INSURER; AND (iii) NAME THE GRANTEE AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF LOSS, SUBJECT TO THE SENIOR MORTGAGE;**

**(B) GRANTOR MUST, IF REQUIRED BY GRANTEE, DELIVER TO GRANTEE A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF THE PREMIUMS; AND**

**(C) IF GRANTOR FAILS TO MEET ANY REQUIREMENT LISTED IN CLAUSE (A) OR (B) ABOVE, GRANTEE MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF GRANTOR AT GRANTOR'S EXPENSE.**

SECTION 7.4. Additional Sums Payable by Grantor. All sums which, by the terms of this Deed of Trust or the other Financing Documents secured hereby, or by the instruments executed and delivered by Grantor to Grantee as additional security for this Deed of Trust and the other Financing Documents, are payable by Grantor to Grantee shall, together with the interest thereon provided for herein or in the other Financing Documents, be secured by this Deed of Trust and added to and deemed part of the Indebtedness and shall have the benefit of the lien hereby created as a part thereof prior to any right, title or interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Deed of Trust, whether or not the provision which obligates Grantor to make any such payment to Grantee specifically so states.

SECTION 7.5. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of this Deed of Trust or the construction of any provision hereof.

SECTION 7.6. Successors and Assigns. The covenants and agreements contained in this Deed of Trust shall run with the land and bind Grantor, the heirs, executors, administrators, principals, legal representatives, successors and assigns of Grantor and each Person constituting Grantor and all subsequent owners, encumbrancers and Space Tenants of the Mortgaged Property, or any part thereof, and shall inure to the benefit of Grantee, its successors and assigns and all subsequent beneficial owners of this Deed of Trust.

SECTION 7.7. Gender and Number. Wherever the context of this Deed of Trust so requires, the neuter gender includes the masculine or feminine gender and the singular number includes the plural.

SECTION 7.8. Severability. In case any one or more of the provisions contained in this instrument shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, but this Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision had never been included.

SECTION 7.9. Subrogation. Should the proceeds of the Loan be used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then Grantee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all of the same.

SECTION 7.10. Incorporation of the Financing Documents. This Deed of Trust has been executed and delivered to secure the Indebtedness pursuant to the Financing Documents, the provisions of which, including, but not limited to, any usury saving provisions in the Loan Agreement, as the same may be amended, modified or supplemented from time to time, are incorporated herein by reference with the same force and effect as if herein fully set forth.

SECTION 7.11. Controlling Law. This Deed of Trust shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas.

## ARTICLE VIII

### SPECIAL PROVISIONS

SECTION 8.1. Foreclosure—Power of Sale. Grantee may request Trustee to proceed with foreclosure under the power of sale which is hereby conferred, such foreclosure to be accomplished in accordance with the following provisions:

8.1.1. Trustee is hereby authorized and empowered, and it shall be Trustee's special duty, upon such request of Grantee, to sell the Mortgaged Property, or any part thereof, at public auction to the highest bidder for cash, with or without having taken possession of same. Any such sale (including notice thereof) shall comply with the applicable requirements, at the time of the sale, of Chapter 51 of the Texas Property Code, as amended, or, if and to the extent the statutes within said Chapter 51 are not then in force, with the applicable requirements, at the time of the sale, of the successor statute or statutes, if any, governing sales of Texas real property under powers of sale conferred by deeds of trust. If there is no statute in force at the time of the sale governing sales of Texas real property under powers of sale conferred by deeds of trust, such sale shall comply with applicable law, at the time of the sale, governing sales of Texas real property under powers of sale conferred by deeds of trust.

8.1.2. Subject to any applicable requirements at the time of sale governing sales of Texas real property under the powers of sale conferred by deeds of trust, at any time during the bidding, the Trustee may require a bidding party (A) to disclose its full name, state and city of



residence, occupation, and specific business office location, and the name and address of the principal the bidding party is representing (if applicable), and (B) to demonstrate reasonable evidence of the bidding party's financial ability (or, if applicable, the financial ability of the principal of such bidding party), as a condition to the bidding party submitting bids at the foreclosure sale. If any such bidding party (the "**Questioned Bidder**") declines to comply with the Trustee's requirement in this regard, or if such Questioned Bidder does respond but the Trustee deems the information or the evidence of the financial ability of the Questioned Bidder (or, if applicable, the principal of such bidding party) to be inadequate, then the Trustee may continue the bidding with reservation; and in such event (1) the Trustee shall be authorized to caution the Questioned Bidder concerning the legal obligations to be incurred in submitting bids, and (2) if the Questioned Bidder is not the highest bidder at the sale, or if having been the highest bidder the Questioned Bidder fails to deliver the cash purchase price payment promptly to the Trustee, all bids by the Questioned Bidder shall be null and void. The Trustee may determine that a credit bid is in the best interest of Grantor and Grantee, and elect to sell the Mortgaged Property for credit or for a combination of cash and credit; provided, however, (i) the Trustee shall have no obligation to accept any bid except an all cash bid and (ii) the Trustee shall be required to accept the highest bid. In the event the Trustee requires a cash bid and cash is not delivered within a reasonable time after conclusion of the bidding process, as specified by the Trustee, but in no event later than 3:45 p.m. local time on the day of sale, then said contingent sale shall be null and void, the bidding process may be recommenced provided that it is recommenced within the time frame set forth in the Notice of Sale given pursuant to Section 51.002 of the Texas Property Code, and any subsequent bids or sale shall be made as if no prior bids were made or accepted.

8.1.3. In addition to the rights and powers of sale granted under the preceding provisions of this subsection, if an Event of Default shall have occurred hereunder, Grantee may at once or at any time thereafter while an Event of Default is continuing, without declaring the entire Indebtedness to be due and payable, orally or in writing direct Trustee to enforce this trust and to sell the Mortgaged Property subject to such unmatured Indebtedness and to the rights, powers, liens, security interests, and assignments securing or providing recourse for payment of such unmatured Indebtedness, in the same manner, all as provided in the preceding provisions of this subsection. Sales made without acceleration of the unmatured balance of the Indebtedness may be made hereunder whenever an Event of Default shall have occurred and be continuing hereunder, without exhausting the power of sale granted hereby, and without affecting in any way the power of sale granted under this subsection, the unmatured balance of the Indebtedness or the rights, powers, liens, security interests, and assignments securing or providing recourse for payment of the Indebtedness.

8.1.4. Sale of a part of the Mortgaged Property shall not exhaust the power of sale, but sales may be made from time to time until the Indebtedness is paid in full. It is intended by each of the foregoing provisions of this subsection that Trustee may, after any request or direction by Grantee, sell not only the Land and the Improvements, but also the Equipment and Furnishings and other interests constituting a part of the Mortgaged Property or any part thereof, along with the Land and the Improvements or any part thereof, as a unit and as a part of a single sale, or may sell at any time or from time to time any part or parts of the Mortgaged Property separately from the remainder of the Mortgaged Property. It shall not be necessary to have present or to exhibit at any sale any of the Mortgaged Property.

8.1.5. After any sale under this subsection, Trustee shall make good and sufficient deeds, assignments, and other conveyances to the purchaser or purchasers thereunder in the name of Grantor, conveying the Mortgaged Property or any part thereof so sold to the purchaser or purchasers with general warranty of title by Grantor. It is agreed that in any deeds, assignments or other conveyances given by Trustee, any and all statements of fact or other recitals therein made as to the identity of Grantee, the occurrence or existence of any Event of Default, the notice of intention to accelerate, or acceleration of, the maturity of the Indebtedness, the request to sell, notice of sale, time, place, terms and manner of sale, and receipt, distribution, and application of the money realized therefrom, the due and proper appointment of a substitute Trustee, and without being limited by the foregoing, any other act or thing having been duly done by or on behalf of Grantee or by or on behalf of Trustee, shall be taken by all courts of law and equity as prima facie evidence that such statements or recitals state true, correct, and complete facts and are without further question to be so accepted, and Grantor does hereby ratify and confirm any and all acts that Trustee may lawfully do in the premises by virtue hereof.

8.1.6. The following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time): (i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Property for cash promptly (but no later than twelve (12) months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by the seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Property, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (ii) and/or (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons having at least five (5) years' experience in appraising property similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

SECTION 8.2. Non-Recourse. The monetary obligations of the Grantor under this Deed of Trust shall be non-recourse to the Grantor to the extent provided in Section 5.11 of the Loan Agreement.

SECTION 8.3. Concerning the Trustee.

8.3.1. Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in Trustee's opinion, such action would be likely to involve Trustee in expense or liability, unless requested so to do by a written instrument signed by

Grantee and unless Trustee is tendered security and indemnity satisfactory to Trustee against any and all cost, expense, and liability arising therefrom and if such request is made and such security and indemnity is tendered, the Trustee shall act in accordance with Grantee's request. Trustee shall not be responsible for the execution, acknowledgment, or validity of the Financing Documents, or for the proper authorization thereof, or for the sufficiency of the lien and security interest purported to be created hereby, and Trustee makes no representation in respect thereof or in respect of the rights, remedies, and recourses of Grantee.

8.3.2. With the approval of Grantee, Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for Grantee) upon any matters arising hereunder, including the preparation, execution, and interpretation of the Financing Documents, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys in fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney in fact, if selected with reasonable care and approved by the Grantee, or for any error of judgment or act done by Trustee in good faith and in accordance with the terms hereof, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith or failure to act in accordance with the terms hereof, and (iv) any and all other lawful action as Grantee may instruct Trustee to take to protect or enforce Grantee's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon the Mortgaged Property for debts contracted for or liability or damages incurred in the management or operation of the Mortgaged Property. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, out-of-pocket expenses reasonably incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered. Grantor will, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and save Trustee harmless against, any and all liability and expenses which may be incurred by Trustee in the performance of Trustee's duties.

8.3.3. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

8.3.4. Trustee may resign by the giving of notice of such resignation in writing or verbally to Grantee. If Trustee shall die, resign, or become disqualified from acting in the execution of this trust, or if, for any reason, Grantee shall prefer to appoint a substitute Trustee or multiple substitute Trustees, or successive substitute Trustees or successive multiple substitute Trustees, to act instead of the aforementioned Trustee, Grantee shall have full power to appoint a substitute Trustee (or, if preferred, multiple substitute Trustees) in succession who shall succeed (and if multiple substitute Trustees are appointed, each of such multiple substitute Trustees shall

succeed) to all the estates, rights, powers, and duties of the aforementioned Trustee. Such appointment may be executed by any authorized agent of Grantee, and if such Grantee be a corporation and such appointment be executed in its behalf by any officer of such corporation, such appointment shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the board of directors or any superior officer of the corporation. Grantor hereby ratifies and confirms any and all acts which the aforementioned Trustee, or Trustee's successor or successors in this trust, shall do lawfully by virtue hereof. If multiple substitute Trustees are appointed, each of such multiple substitute Trustees shall be empowered and authorized to act alone without the necessity of the joinder of the other multiple substitute Trustees, whenever any action or undertaking of such substitute Trustees is requested or required under or pursuant to this Deed of Trust or applicable law.

8.3.5. Should any deed, conveyance, or instrument of any nature be required from Grantor by any Trustee or substitute Trustee to more fully and certainly vest in and confirm to the Trustee or substitute Trustee such estates, rights, powers, and duties, then, upon request by the Trustee or substitute Trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by Grantor.

8.3.6. Any substitute Trustee appointed pursuant to any of the provisions hereof shall, without any further act, deed, or conveyance, become vested with all the estates, properties, rights, powers, and trusts of its or his predecessor in the rights hereunder with like effect as if originally named as Trustee herein; but nevertheless, upon the written request of Grantee or of the substitute Trustee, the Trustee ceasing to act shall execute and deliver any instrument transferring to such substitute Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, and trusts of the Trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such Trustee to the substitute Trustee so appointed in the Trustee's place.

8.3.7. By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Trustee or Grantee pursuant to the Financing Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, neither Trustee nor Grantee shall be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee or Grantee.

**SECTION 8.4. Indemnity. GRANTOR SHALL INDEMNIFY, DEFEND, PROTECT AND HOLD HARMLESS GRANTEE AND TRUSTEE, THEIR RESPECTIVE PARENTS, SUBSIDIARIES, DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST AND DOES HEREBY RELEASE GRANTEE AND TRUSTEE FROM ANY AND ALL LIABILITY, DAMAGE, LOSS, COST, OR EXPENSE (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND EXPENSES), ACTION, PROCEEDING, CLAIM OR DISPUTE INCURRED OR SUFFERED BY THE FOREGOING PARTIES SO INDEMNIFIED WHETHER OR NOT AS THE RESULT OF**

**THE NEGLIGENCE OR GROSS NEGLIGENCE (BUT NOT THE WILLFUL MISCONDUCT, FRAUD OR BAD FAITH) OF ANY PARTY SO INDEMNIFIED, WHETHER VOLUNTARILY OR INVOLUNTARILY INCURRED OR SUFFERED, IN RESPECT OF THE FOLLOWING:**

(i) ANY LITIGATION CONCERNING THIS DEED OF TRUST, THE OTHER FINANCING DOCUMENTS OR THE MORTGAGED PROPERTY, OR ANY INTEREST OF GRANTOR OR GRANTEE THEREIN, OR THE RIGHT OF OCCUPANCY THEREOF BY GRANTOR OR GRANTEE, WHETHER OR NOT ANY SUCH LITIGATION IS PROSECUTED TO A FINAL, NON APPEALABLE JUDGMENT;

(ii) ANY DISPUTE, INCLUDING DISPUTES AS TO THE DISBURSEMENT OF PROCEEDS OF THE BOND NOTE NOT YET DISBURSED, AMONG OR BETWEEN ANY OF THE CONSTITUENT PARTIES OR OTHER PARTNERS OR VENTURERS OF GRANTOR IF GRANTOR IS A GENERAL OR LIMITED PARTNERSHIP, OR AMONG OR BETWEEN ANY EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS OR MANAGERS OF GRANTOR IF GRANTOR IS A CORPORATION OR LIMITED LIABILITY COMPANY, OR AMONG OR BETWEEN ANY MEMBERS, TRUSTEES OR OTHER RESPONSIBLE PARTIES IF GRANTOR IS AN ASSOCIATION, TRUST OR OTHER ENTITY;

(iii) ANY ACTION TAKEN OR NOT TAKEN BY GRANTEE OR TRUSTEE WHICH IS ALLOWED OR PERMITTED UNDER THIS DEED OF TRUST OR ANY OF THE OTHER FINANCING DOCUMENTS RELATING TO GRANTOR, THE MORTGAGED PROPERTY, ANY CONSTITUENT PARTIES OR OTHERWISE IN CONNECTION WITH THE FINANCING DOCUMENTS, INCLUDING WITHOUT LIMITATION, THE PROTECTION OR ENFORCEMENT OF ANY LIEN, SECURITY INTEREST OR OTHER RIGHT, REMEDY OR RECOURSE CREATED OR AFFORDED BY THIS DEED OF TRUST OR THE OTHER FINANCING DOCUMENTS;

(iv) ANY ACTION BROUGHT BY GRANTEE OR TRUSTEE AGAINST GRANTOR UNDER THIS DEED OF TRUST OR THE OTHER FINANCING DOCUMENTS, WHETHER OR NOT SUCH ACTION IS PROSECUTED TO A FINAL, NON APPEALABLE JUDGMENT; AND

(v) ANY AND ALL LOSS, DAMAGE, COSTS, EXPENSE, ACTION, CAUSES OF ACTION, OR LIABILITY (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS) DIRECTLY OR INDIRECTLY ARISING FROM OR ATTRIBUTABLE TO THE USE, GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL, OR PRESENCE OF A HAZARDOUS SUBSTANCE ON, IN, UNDER OR ABOUT THE MORTGAGED PROPERTY, WHETHER KNOWN OR UNKNOWN AT THE TIME OF THE EXECUTION HEREOF, INCLUDING WITHOUT LIMITATION (A) ALL FORESEEABLE CONSEQUENTIAL DAMAGES OF ANY SUCH USE,

GENERATION, MANUFACTURE, PRODUCTION, STORAGE, RELEASE, THREATENED RELEASE, DISCHARGE, DISPOSAL, OR PRESENCE, AND (B) THE COSTS OF ANY REQUIRED OR NECESSARY ENVIRONMENTAL INVESTIGATION OR MONITORING, ANY REPAIR, CLEANUP, OR DETOXIFICATION OF THE MORTGAGED PROPERTY, AND THE PREPARATION AND IMPLEMENTATION OF ANY CLOSURE, REMEDIAL, OR OTHER REQUIRED PLANS.

**GRANTEE AND/OR TRUSTEE MAY EMPLOY AN ATTORNEY OR ATTORNEYS TO PROTECT OR ENFORCE ITS RIGHTS, REMEDIES AND RECOURSES UNDER THIS DEED OF TRUST AND THE OTHER FINANCING DOCUMENTS, AND TO ADVISE AND DEFEND GRANTEE AND/OR TRUSTEE WITH RESPECT TO ANY SUCH ACTIONS AND OTHER MATTERS. GRANTOR SHALL REIMBURSE GRANTEE AND/OR TRUSTEE FOR THEIR RESPECTIVE REASONABLE ATTORNEYS' FEES AND EXPENSES (INCLUDING EXPENSES AND COSTS FOR EXPERTS) IMMEDIATELY UPON RECEIPT OF A WRITTEN DEMAND THEREFOR, WHETHER ON A MONTHLY OR OTHER TIME INTERVAL, AND WHETHER OR NOT AN ACTION IS ACTUALLY COMMENCED OR CONCLUDED. ALL OTHER REIMBURSEMENT AND INDEMNITY OBLIGATIONS HEREUNDER SHALL BECOME DUE AND PAYABLE WHEN ACTUALLY INCURRED BY GRANTEE AND/OR TRUSTEE. ANY PAYMENTS NOT MADE WITHIN TEN (10) DAYS AFTER WRITTEN DEMAND THEREFOR SHALL BEAR INTEREST AT THE DEFAULT RATE FROM THE DATE OF SUCH DEMAND UNTIL FULLY PAID. THE PROVISIONS OF THIS SECTION 8.4 SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF THE OBLIGATIONS, THE RELEASE OF THE LIEN OF THIS DEED OF TRUST, ANY FORECLOSURE (OR ACTION IN LIEU OF FORECLOSURE), THE TRANSFER BY GRANTOR OF ANY OR ALL OF ITS RIGHT, TITLE AND INTEREST IN OR TO THE PROPERTY AND THE EXERCISE BY GRANTEE OF ANY AND ALL REMEDIES SET FORTH HEREIN OR IN THE OTHER FINANCING DOCUMENTS.**

SECTION 8.5. Purpose of Loan. This Deed of Trust is given pursuant to the Financing Documents and secures Grantor's obligations to pay the Indebtedness as described herein and as advanced under the Financing Documents, to pay the costs of acquiring, constructing, improving and equipping the Development, among other purposes set forth in the Financing Documents.

SECTION 8.6. Extended Low-Income Housing Commitment. The Grantor and Grantee agree that the lien of this Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Mortgaged Property; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Mortgaged Property by instrument in lieu of foreclosure or comparable conversion of the Loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The Grantor acknowledges and agrees that any default, Event of Default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an Event of Default under this

Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees, incurred by the Grantee as a result of an Event of Default by the Grantor and any amounts paid to cure any default under the Extended Use Agreement, shall be an obligation of the Grantor and become a part of the Indebtedness secured by this Deed of Trust.

SECTION 8.7. Subordination. The liens and security interests hereby granted and conveyed by Grantor to Grantee against the Mortgaged Property are subordinate to the Senior Mortgage and shall remain subordinate to the Senior Mortgage regardless of the frequency or manner of renewal, extension, change or alteration of the Senior Mortgage or the Senior Loan secured by the Senior Mortgage. By its acceptance of this Deed of Trust, the Grantee agrees to the subordination of this Deed of Trust to the Senior Mortgage and to the foregoing provisions and to the provisions of that certain Subordination Agreement dated as of the date hereof among Fannie Mae, Grantor and Grantee.

SECTION 8.8. Entire Agreement. THIS INSTRUMENT, AND THE OTHER FINANCING DOCUMENTS CONTAIN THE FINAL, ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND ALL PRIOR AGREEMENTS, WHETHER WRITTEN OR ORAL, RELATIVE HERETO AND THERETO WHICH ARE NOT CONTAINED HEREIN OR THEREIN ARE SUPERSEDED AND TERMINATED HEREBY, AND THIS INSTRUMENT, AND THE OTHER FINANCING DOCUMENTS MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMOUNT THE PARTIES HERETO.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the Grantor has duly executed this Deed of Trust as of the day and year first above written.

**BORROWERS:**

Each a Texas limited liability company

**Bastrop Oak Grove**

THF Bastrop Oak Grove, LLC, a Texas Limited Liability Company

By THF RD Master, LLC, a Texas Limited Liability Company, as its Sole Member

By THF RD Manager, LLC, a Texas Limited Liability Company, as its Managing Member

By THF Housing Development Corporation, a Texas Non-Profit Corporation, as its Sole Member

By \_\_\_\_\_  
Mark Mayfield  
President

ACKNOWLEDGMENT

STATE OF TEXAS           §  
  §  
COUNTY OF BURNET      §

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2018 personally appeared Mark Mayfield, President of THF Housing Development Corporation, a Texas non-profit corporation, the sole member of THF RD Manager, LLC, a Texas limited liability company, the managing member of THF RD Master, LLC, a Texas limited liability company, the sole member of THF Bastrop Oak Grove, LLC, a Texas limited liability company, who acknowledged that he executed the foregoing instrument for the purposes therein contained and in the capacity stated on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_

(Personalized Seal)



**EXHIBIT A**  
**LEGAL DESCRIPTION**

NEW ISSUE - BOOK ENTRY ONLY

EXPECTED RATING: S&P "AA+"  
See "RATING" herein

*In the opinion of Bracewell LLP ("Bond Counsel"), assuming compliance with certain covenants and based on certain representations, under existing law (i) interest on the Bonds is excludable from gross income for federal income tax purposes, except with respect to interest on any Bond for any period during which it is held by a "substantial user" of the Project or a "related person" of such a "substantial user" within the meaning of Section 147(a) of the Internal Revenue Code of 1986, as amended and (ii) interest on the Bonds is not an item of tax preference includable in alternative minimum taxable income for purposes of determining a taxpayer's alternative minimum tax liability. See "TAX TREATMENT" herein for a discussion of Bond Counsel's opinion.*

**\$20,000,000\***

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
MULTIFAMILY HOUSING REVENUE BONDS  
(RELATED RD PORTFOLIO),  
SERIES 2018**

**Dated: Date of Delivery**  
**Interest Rate: \_\_\_%**  
**Initial Offering Price: \_\_\_%**

**Initial Mandatory Tender Date: November 1, 2020\***  
**Maturity Date: November 1, 2021\***  
**CUSIP: \_\_\_\_\_**

The above-captioned Bonds (the "Bonds") will be issued under the provisions of the Trust Indenture dated as of November 1, 2018 (the "Indenture"), between the Texas Department of Housing and Community Affairs (the "Issuer") and Wilmington Trust, National Association, as trustee (the "Trustee"). The Bonds will be issued for the purpose of providing financing to the Borrowers (as defined herein) for a portion of the costs of acquiring, rehabilitating, equipping and otherwise improving nine separate multifamily housing facilities described herein (each a "Project" and collectively, the "Projects") located in the State of Texas (the "State"), to be occupied, to the extent required by federal tax law and state law by persons or families of low and moderate income. See "THE PROJECTS" herein.

The Bonds will be issued as fully registered bonds in book entry form and book entry interests in the Bonds will be available for purchase in principal amounts of \$5,000 and any increment of \$1,000 in excess thereof. Interest on the Bonds is payable on May 1\* and November 1\* of each year, commencing May 1, 2019\*. Owners of book entry interests in the Bonds will not receive physical delivery of bond certificates. The Depository Trust Company, New York, New York ("DTC") will act as a securities depository for the Bonds. DTC, or its nominee, will receive all payments with respect to the Bonds from the Trustee. DTC is required by its rules and procedures to remit such payments to participants in DTC for subsequent disbursement to the owners of book entry interests. See "THE BONDS—Book Entry System" herein.

The Bonds, when, as and if issued will be limited obligations of the Issuer, payable solely from the revenues and other moneys assigned by the Indenture to secure that payment, which include the payments required to be made pursuant to the Loan Agreement between the Issuer and the Borrowers (the "Bond Loan Agreement") dated as of November 1, 2018.

**At all times the Bonds will be secured by Eligible Investments or other Eligible Funds sufficient to pay, without need for reinvestment, all of the interest and principal on the Bonds when due to the Initial Mandatory Tender Date, as further described herein. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS."**

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR ANY SUCH AGENCY, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.**

The Bonds are subject to mandatory tender for purchase, subject to satisfaction of the applicable terms and conditions set forth in the Indenture, on the Initial Mandatory Tender Date. All Holders must tender their Bonds for purchase on the Initial Mandatory Tender Date. The Bonds may be remarketed and a new interest rate for the Bonds may be determined on the Initial Mandatory Tender Date in accordance with the terms of the Indenture. If the Bonds are remarketed on the Initial Mandatory Tender Date, the terms of the Bonds after such date may differ materially from the description provided in this Official Statement. Therefore, prospective purchasers of the Bonds on and after the Initial Mandatory Tender Date cannot rely on this Official Statement, but rather must rely upon any disclosure documents prepared in connection with such remarketing. See "THE BONDS – Mandatory Tender of Bonds" herein.

The Bonds are offered, subject to prior sale, when, as and if issued by the Issuer and accepted by the Underwriter, subject to, among other things, the approving opinion of Bracewell LLP, Austin, Texas, Bond Counsel. Certain legal matters will be passed upon for the Underwriter by Norris George & Ostrow PLLC, Washington, D.C., and for the Borrowers by Levitt & Boccio, LLP, New York, New York. Certain financial advisory services will be provided to the Issuer by George K. Baum & Company. It is expected that the Bonds will be available for delivery in definitive form on or about \_\_\_\_\_, 2018 through the services of DTC against payment therefor.



RBC Capital Markets

The date of this Official Statement is \_\_\_\_\_, 2018.

\*Preliminary; subject to change.

## **REGARDING THIS OFFICIAL STATEMENT**

This Official Statement does not constitute an offering of any security other than the original offering of the Bonds identified on the cover hereof. No person has been authorized to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such other information or representations must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, and there shall not be any sale of the Bonds by any person, in any jurisdiction in which it is unlawful to make such offer, solicitation or sale. The information and expression of opinions herein are subject to change without notice and neither the delivery of this Official Statement nor the sale of any of the Bonds shall, under any circumstances, create any implication that the information herein is correct as of any time subsequent to the date hereof.

Information herein has been obtained from the Issuer (only as to the Sections labeled “THE ISSUER” and “LITIGATION – The Issuer”) and the Borrowers and other sources believed to be reliable, but it is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriter.

The Issuer has not confirmed, and assumes no responsibility for, the accuracy, completeness, sufficiency or fairness of any statements in the Official Statements or any amendments thereof or supplements thereto, other than in the Sections labeled “THE ISSUER” and “LITIGATION – The Issuer”, and or in any reports, financial information, offering or disclosure documents or other information relating to the Underwriter, the Projects, the Borrowers, or the history, businesses, properties, organization, management, financial condition, market area or any other matter relating to the Borrowers or contained otherwise in the Official Statement.

The Trustee has neither reviewed nor participated in the preparation of this Official Statement, except for the contents of the Section labeled “THE TRUSTEE.”

The Underwriter has provided the following sentence for inclusion in this Official Statement:

The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Upon issuance, the Bonds will not be registered by the Issuer under the Securities Act of 1933, as amended, or any state securities law, and will not be listed on any stock or other securities exchange. Neither the Securities and Exchange Commission nor any other federal, state or other governmental entity or agency will have passed upon the accuracy or adequacy of this Official Statement or, other than the Issuer (to the extent described herein) approved the Bonds for sale.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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## OFFICIAL STATEMENT

**\$20,000,000\***

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
MULTIFAMILY HOUSING REVENUE BONDS  
(RELATED RD PORTFOLIO),  
SERIES 2018**

### INTRODUCTION

This Official Statement, including the Appendices, is furnished in connection with the original issuance and sale by the Texas Department of Housing and Community Affairs (the “Issuer”) of the Bonds identified on the cover page (the “Bonds”). The Bonds are being issued by the Issuer pursuant to (a) a Trust Indenture (the “Indenture”) dated as of November 1, 2018 between the Issuer and Wilmington Trust, National Association, as Trustee (the “Trustee”), (b) Chapter 2306, Texas Government Code, as amended (the “Act”), and (c) a bond resolution adopted by the Board of Directors of the Issuer on October 11, 2018 (the “Bond Resolution”). The Trustee is expected to also serve as Registrar. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Indenture and in Appendix A.

Pursuant to the Loan Agreement dated as of November 1, 2018 (the “Bond Loan Agreement”), between the Issuer and (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (each a “Borrower” and collectively, the “Borrowers”), the Issuer will loan the proceeds of the sale of the Bonds to the Borrowers to pay a portion of the costs of acquiring, rehabilitating, equipping and otherwise improving nine separate multifamily housing facilities described herein (each, a “Project” and collectively, the “Projects”), to be owned by the Borrowers. The Borrowers are “related” through a common sole member, but each Borrower has legal title only to the applicable Project as set forth herein and has no ownership interest in any of the other Projects. See “THE PROJECTS” and “THE PRIVATE PARTICIPANTS” herein. The Bond Loan Agreement, except for Issuer’s Reserved Rights, will be assigned without recourse by the Issuer to the Trustee.

The Bonds are limited obligations of the Issuer, and the principal of and interest thereon will be payable solely from the revenues and other moneys assigned by the Indenture to secure such payment. **At all times the Bonds will be secured by Eligible Investments or other Eligible Funds sufficient to pay, without need for reinvestment, all of the interest and principal on the Bonds when due to the Initial Mandatory Tender Date, as further described herein. See “SECURITY AND SOURCES OF PAYMENT FOR THE BONDS” and “ESTIMATED SOURCES AND USES OF FUNDS” herein.**

Each Project is subject to a separate Regulatory and Land Use Restriction Agreement (collectively the “Regulatory Agreement”) dated as of November 1, 2018, by and among the related Borrower, the Issuer and the Trustee. The Regulatory Agreement requires that at least 40% of completed units of each Project be occupied by persons or families having incomes at or below 60% of area median gross income during the longer of the Qualified Project Period or as long as any of the Bonds remain outstanding, in accordance with Section 142(d) of the Code. Failure to comply with these requirements could result in the loss of the federal tax exemption of the Bonds retroactive to their date of issuance. See “TAX TREATMENT” and “APPENDIX E - SUMMARY OF CERTAIN PROVISIONS OF THE

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\* Preliminary; subject to change.

REGULATORY AGREEMENT.” In addition to the rental restrictions imposed upon the Projects by the Regulatory Agreement, each Project will be further encumbered by a tax credit restrictive covenant (the “Tax Certificate”), to be executed by the related Borrower in connection with the low-income housing tax credits (the “Tax Credits”) anticipated to be granted for the Projects in compliance with the requirements of Section 42 of the Code. See “THE PROJECTS” and “THE PRIVATE PARTICIPANTS” herein.

Brief descriptions of the Issuer, the Projects, the Borrowers, the use of proceeds of the Bonds and the Bonds together with summaries of the Indenture, the Bond Loan Agreement and the Regulatory Agreement are provided below. All information with respect to the Borrowers, the private participants and the Projects contained in this Official Statement has been furnished by the Borrowers. The descriptions and summaries of the Bond Loan Agreement, the Indenture and the Regulatory Agreement and other documents contained herein do not purport to be comprehensive or definitive and are qualified in their entirety by reference to those documents, and all references to the Bonds are qualified in their entirety by the definitive forms thereof included in the Indenture. See “MISCELLANEOUS” for the availability of those documents.

THIS OFFICIAL STATEMENT DESCRIBES THE BONDS FROM THE DELIVERY DATE TO THE INITIAL MANDATORY TENDER DATE. A NEW OFFERING DOCUMENT IS REQUIRED TO BE USED TO OFFER THE BONDS AFTER THE INITIAL MANDATORY TENDER DATE.

## **THE ISSUER**

### **General**

The Issuer, a public and official agency of the State was created pursuant to and in accordance with the Act. The Issuer is the successor agency to the Texas Housing Agency (the “Agency”) and the Texas Department of Community Affairs, both of which were abolished by the Act and their functions and obligations transferred to the Issuer. One of the purposes of the Issuer is to provide for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State. Pursuant to the Act, the Issuer may issue bonds, notes or other obligations to finance or refinance residential housing and to refund bonds previously issued by the Agency, the Issuer or certain other quasi-governmental issuers. The Act specifically provides that the revenue bonds of the Agency become revenue bonds of the Issuer.

The Issuer is subject to the Texas Sunset Act (Chapter 325, Texas Government Code, as amended, hereinafter referred to as the “Sunset Act”), and its continued existence is subject to a review process that resulted in passage of legislation in the Seventy-Eighth Legislative Session in 2003 which continued the Issuer in existence until September 1, 2011. House Bill 3361 extended the existence of the Issuer until September 2025, at which time it will be subject to review. The Sunset Act, however, recognizes the continuing obligation of the State to provide for the payment of bonded indebtedness incurred by a State agency abolished under the provisions thereof and provides that the Governor of the State shall designate an appropriate State agency to continue to carry out all covenants with respect to any bonds outstanding, including the payment of any bonds from the sources provided in the proceedings authorizing such bonds.

In the Act, the State also pledges and agrees with the holders of any bonds issued under the Act (such as the Bonds) that the State will not limit or alter the rights vested in the Issuer to fulfill the terms of any agreements made with the holders thereof that would in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, interest on any unpaid installments of

interest and all costs and expenses incurred in connection with any action or proceeding by or on behalf of such holders are fully met and discharged.

### **Organization and Membership**

Governing Board. The Issuer is governed by a governing board (the “Board”) consisting of seven public members appointed by the Governor, with the advice and consent of the State Senate. Board members hold office for six-year staggered terms. Each member serves until his or her successor is appointed and qualified. Each member is eligible for reappointment. Members serve without compensation, but are entitled to reimbursement for actual expenses incurred in performing their duties of office. The Act requires the Governor to make appointments so that the places on the Board are occupied by persons who have a demonstrated interest in issues related to housing and support services and who broadly reflect the geographic, economic, cultural and social diversity of the State, including ethnic minorities, persons with disabilities, and women.

The Governor of the State designates a member of the Board to serve as the presiding officer (the “Chair”) of the Board at the pleasure of the Governor. The Chair presides at all meetings and performs such other duties as may be prescribed from time to time by the Board and by the Act. In addition, the members of the Board elect one of its members as assistant presiding officer (the “Vice Chair”) to perform the duties of the Chair when the Chair is not present or is incapable of performing such duties. The Board also elects a Secretary and a Treasurer (which offices may be held by one individual, neither of which is required to be a Board member) to perform the duties prescribed by the Board.

One seat on the Board is currently vacant. The current members of the Board, their occupations and their terms of office are as follows:

J.B. GOODWIN, Chair and Board Member. CEO of JB Goodwin Realtors, Austin, Texas. His term expires January 31, 2021.

LESLIE BINGHAM-ESCAREÑO, Vice Chair and Board Member. Chief Executive Officer, Valley Baptist Medical Center-Brownsville. Her term expires January 31, 2019.

PAUL A. BRADEN, Board Member. Partner and Head of Public Finance for the United States at Norton Rose Fulbright, Dallas, Texas. His term expires January 31, 2023.

LEO VASQUEZ, Board Member. Executive Vice President of Cadeco Industries and related companies, Houston, Texas. His term expires January 31, 2023.

SHARON THOMASON, Board Member. President of Lubbock Land Company, Wolfforth, Texas. Her term expires January 31, 2021.

ASUSENA RESÉNDIZ, Board Member. Member of U.S. Global Leadership Coalition Texas Advisory Council, Dallas/Ft. Worth, Texas. Her term expires January 31, 2019.

All of the above Board members have been appointed by the Governor and confirmed by the State Senate. Texas law requires that confirmations of any such appointment be considered at the next legislative session, whether regular or special. Pursuant to Article XVI, Section 17, of the Texas Constitution, any Board member whose term has expired or who has tendered his or her resignation continues to serve until his or her successor has been appointed.

Administrative Personnel. The Act provides that the Issuer is to be administered by an Executive Director to be employed by the Board with the approval of the Governor. The Executive Director serves at the pleasure of the Board, but may also be removed by a newly elected Governor who did not approve the Executive Director's appointment by action taken within 90 days after such Governor takes office. The Executive Director is responsible for administering the Issuer and its personnel. The Executive Director may employ other employees necessary for the discharge of the duties of the Issuer, subject to the annual budget and the provisions of any resolution authorizing the issuance of the Issuer's bonds.

Currently, the Issuer has 287 employees. The following is a biographical summary of certain of the Issuer's senior staff members who have responsibility with respect to multi-family housing bond matters:

TIMOTHY K. IRVINE, Executive Director since September 16, 2011 and has recently announced his intention to retire effective November 30, 2018. Mr. Irvine has been a licensed attorney in Texas since 1976. He has been with the Issuer since January 2009 and was appointed General Counsel in March 2010 and Acting Director in June 18, 2011. His prior experience includes serving as an attorney for the Federal Reserve Bank of Dallas, heading the legal division and serving as secretary of Texas Commerce Bancshares and as General Counsel of its lead bank, heading the legal division and serving as secretary for Franklin Federal Bancorp as well as overseeing its mortgage banking, human resources, and other support functions, serving as a partner in the Austin office Locke Liddell & Sapp (now Locke Lord LLP), serving as General Counsel of the Texas Savings and Loan Department (now the Savings and Mortgage Lending), as Executive Director of the Issuer's Manufactured Housing Division, as Administrator of the Texas Real Estate Commission and Commissioner of the Texas Appraiser Licensing and Certification Board. He has a B.A. (1971) from Claremont McKenna College, an M.A. (1973) from Claremont Graduate University, and a J.D. (1975) from Willamette University.

MONICA GALUSKI, Director of Bond Finance and Chief Investment Officer. Ms. Galuski has over 20 years of experience in municipal finance, including 14 years as a single-family housing banker. She oversees the Issuer's Single Family and Multifamily Mortgage Revenue Bond Programs, including bond issuance, debt and portfolio management, and bond compliance and disclosure. Ms. Galuski received a Bachelor of Science in Financial Management from Arizona State University.

JAMES "BEAU" ECCLES, General Counsel. J. Beau Eccles joined the Issuer in June 2015 as its General Counsel and is responsible for coordination of all internal and external legal counsel for the Issuer. Before joining the Issuer, Mr. Eccles served as an Assistant Texas Attorney General for thirteen years, including five years as Deputy Chief, then two years as Chief, of the General Litigation Division. Mr. Eccles is a graduate of the Texas Tech School of Law, and received his B.A. from the University of Texas at Austin.

The offices of the Issuer are located at 221 East 11th Street, Austin, Texas 78701-2410, and the telephone number for the Issuer is 512/475-3800 or toll-free 800/525-0657.

THE BONDS, TOGETHER WITH INTEREST THEREON, ARE SPECIAL AND LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, RECEIPTS AND SECURITY PLEDGED THEREFOR UNDER THE INDENTURE. NONE OF THE UNITED STATES OF AMERICA, THE STATE, THE ISSUER, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE OR ANY AGENCY OF THE UNITED STATES OF AMERICA OR ANY ISSUER THEREOF, WILL IN ANY EVENT BE LIABLE FOR THE



PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS OR FOR THE PERFORMANCE OF ANY PLEDGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER OF THE ISSUER, AND NONE OF THE BONDS OR ANY OF THE ISSUER'S AGREEMENTS OR OBLIGATIONS WILL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE UNITED STATES OF AMERICA, THE STATE, THE ISSUER, OR ANY OTHER POLITICAL SUBDIVISION OR BODY CORPORATE AND POLITIC OF THE STATE, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS ARE NOT AN OBLIGATION, DEBT OR LIABILITY OF THE STATE, AND DO NOT CREATE OR CONSTITUTE A PLEDGE, GIVING OR LENDING OF THE FAITH, CREDIT, OR TAXING POWER OF THE STATE.

#### **Other Indebtedness of the Issuer**

Single Family Mortgage Revenue Bonds. Since 1979, the year of creation of the Agency, through July 31, 2018, there have been issued by the Agency or the Issuer thirty-six series of Residential Mortgage Revenue Bonds, two series of GNMA Collateralized Home Mortgage Revenue Bonds, fifty-eight series of Single Family Mortgage Revenue Bonds, four series of Junior Lien Single Family Mortgage Revenue Bonds, eleven series of Collateralized Home Mortgage Revenue Bonds, and ten series of Single Family Mortgage Revenue Bonds (Collateralized Home Mortgage Revenue Bonds). As of July 31, 2018, the aggregate outstanding principal amount of bonded indebtedness of the Issuer for single family purposes was \$462,930,948.

Multifamily Housing Revenue Bonds. The Issuer and the Agency, through July 31, 2018, have issued two-hundred twenty-seven series of multifamily housing revenue bonds, which have been issued pursuant to separate trust indentures and are secured by individual trust estates that are separate and distinct from each other. As of July 31, 2018, the aggregate outstanding principal amount of multifamily housing revenue bonds was \$938,189,389.

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## ESTIMATED SOURCES AND USES OF FUNDS

The proceeds expected to be deposited under the Indenture upon closing are to be applied as follows:

<b>Sources of Funds*</b>	
Bond Proceeds	\$20,000,000
Eligible Funds	20,000,000
<b>Total</b>	<b>\$40,000,000</b>
<b>Uses of Funds*</b>	
Project Fund	\$20,000,000
Collateral Fund	20,000,000
Initial Deposit Account of the Bond Fund <sup>†</sup>	20,000,000
<b>Total</b>	<b>\$40,000,000</b>

† The deposit to the Initial Deposit Account of the Bond Fund has been calculated to be sufficient to pay, together with projected investment earnings on Eligible Investments deposited with the Trustee on the Closing Date, and without the need for reinvestment, the interest which will become due on the Bonds to but not including the Initial Mandatory Tender Date.

## PLAN OF FINANCING

*The information under this heading has been provided solely by the Borrowers and has not been independently verified by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees, or Bond Counsel. No representation whatsoever as to the accuracy, adequacy or completeness of such information is made by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees or Bond Counsel.*

The total project costs of the Projects are estimated by the Borrowers to be \$75,210,000\*. The total sources and uses of Bond proceeds and other funds for the development of the Projects are projected to be approximately as follows:

<b>Sources of Funds*</b>	
Bond Proceeds	\$20,000,000
Subordinated 515 Loans	8,857,000
RD 538 Loans	22,730,000
Tax Credit Equity	20,885,000
Deferred Developer Fee	2,738,000
<b>Total</b>	<b>\$75,210,000</b>
<b>Uses of Funds*</b>	
Acquisition Costs	\$11,854,000
Rehabilitation Costs	29,253,000
Financing Fees and Expenses	6,533,000
Developer Fees	7,570,000
Payment of Bond Principal	20,000,000
<b>Total</b>	<b>\$75,210,000</b>

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\* Preliminary; subject to change.

All costs of issuing the Bonds, including the Underwriter's fee, will be paid by the Borrowers. All Bond Proceeds are expected to be used to cover Qualified Project Costs (as defined in the Regulatory Agreement).

### **Subordinate 515 Loans**

[Each of] the Projects are presently encumbered by one or more subordinate loans (each a "Subordinate 515 Loan") made under the Rural Housing Services ("RHS") department of the United States Department of Agriculture ("USDA") Section 515 program. At closing, the Subordinate 515 Loans will be modified to provide for a 30-year term (with a 50-year amortization) and an effective interest cost of 1.00% per annum, after payment of an interest subsidy from the U.S. Department of Agriculture Rural Development ("RD").

### **Rural Development 538 Loans**

On the Closing Date, [each of] the Borrowers will receive a loan (each a "RD 538 Loan") made under the RD Section 538 program. The obligation to repay each RD 538 Loan will be set forth in a related promissory note (each a "RD 538 Note" and collectively, the "RD 538 Notes") from the Borrower to the Lender. Each RD 538 Note will be secured by a senior mortgage against the related Project in favor of the Lender. The RD 538 Notes will have a term of [ ] years and will bear interest at the rate of 5.00% per annum, with annual principal and interest, not otherwise paid, due at maturity.

### **The Tax Credit Equity**

In addition to the proceeds of the Bonds, the Projects will be financed with Tax Credit equity. BF Related Texas, LLC, a Delaware limited liability company (the "Investor Member"), will own a 99.99% membership interest in THF RD Master, LLC, a Texas limited liability company (the "Master Owner"), the sole member of each Borrower. In connection with this interest, the Tax Credit equity is expected to be approximately \$20,885,000\*. The funding levels and the timing of the funding are subject to numerous adjustments and conditions which could result in the amounts funded and/or the timing or even occurrence of the funding varying significantly from the projections set forth above and neither the Issuer nor the Underwriter makes any representation as to the availability of such funds.

### **Rental Assistance Agreements**

Seven of the Projects benefit from Section 521 Rural Rental Assistance ("RA") and the related Borrowers are expected to enter into a Rental Assistance Agreement with RD that will provide for rental subsidies to qualifying tenants in the related Project.

RA is a program of the USDA's Rural Development Housing and Community Facilities Programs office. It covers the difference between 30 percent of a tenant's income and the monthly rental rate. RA is a project-based program, providing an additional subsidy for tenants in Section 515- or 514/516-financed rental housing with incomes too low to pay the RD subsidized rent from their own resources. RD pays the owner the difference between the tenant's contribution (30 percent of adjusted income) and the monthly rental rate, which is calculated based on the owner's project costs. Persons with very low and low incomes, elderly persons, and persons with disabilities are eligible if they are unable to pay the basic monthly rent within 30 percent of adjusted monthly income. Very low income is defined as below 50 percent of the area median income (the "AMI"); low income is between 50 and 80 percent of AMI. RD and the project owner execute a one-year contract in which RD commits payments on behalf of

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\* Preliminary; subject to change.

tenants in a designated number or percentage of the units. Additional units may be covered if funds are available and an additional contract is executed. The agreement may be renewed as many times as funds are made available. RD State Directors may transfer unused and unneeded contracts or portions of contracts to other projects.

Two of the Projects benefit from Section 8 project-based rental assistance and the related Borrowers will each enter into a 20-year Section 8 Housing Assistance Payment Contracts (together, the “HAP Contracts”), each covering 100% of the units in the applicable Project.

Funding under the HAP Contracts is subject to annual Congressional appropriations, as more particularly described below. The Section 8 project-based housing assistance payment program (the “Section 8 Program”) is authorized by Section 8 of the United States Housing Act of 1937, as amended, and in the case of Section 8 contracts is administered by local public housing authorities. Renewals of Section 8 HAP contracts are governed by the Multifamily Assisted Housing Reform and Affordability Act, as amended (“MAHRA”). The Section 8 Program authorizes housing assistance payments to owners of qualified housing for the benefit of low-income families (defined generally as families whose incomes do not exceed 80% of the AMI for the area as determined by the United States Department of Housing and Urban Development (“HUD”)), and very low-income families (defined generally as families whose income do not exceed 50% of the AMI as determined by HUD). Section 8 housing assistance payments generally represent the difference between the “contract rent” for the unit approved by HUD and the eligible tenant’s contribution, which is generally 30% of income, as adjusted for family size and certain expenses, subject to a minimum rent contribution. The rents approved by HUD for the applicable Projects, as they may be adjusted from time to time with procedures set forth in MAHRA and the HAP Contracts, are the “contract rents” for such Projects. The HAP Contracts will require the Borrowers to maintain the Projects in decent, safe and sanitary condition and to comply with other statutory and regulatory requirements governing the operation of the Projects, use of project funds, and other matters. If a Borrower fails to comply with the terms of the related HAP Contract, HUD or the contract administrator could seek to abate or terminate the payments under such HAP Contract, or take other sanctions. MAHRA requires that upon the request of a Borrower, HUD shall renew the HAP Contract under the Section 8 Program. However, because the HAP Contracts are subject to receipt of annual appropriations by Congress, there is no assurance that the HAP Contracts will be renewed or replaced upon their expiration. Funding for HAP contracts is appropriated by Congress on an annual basis, and there is no assurance that adequate funding will be appropriated each year during the term of the HAP Contracts. Since payments received under the HAP Contracts constitute a primary source of revenues for the applicable Projects, the expiration of a HAP Contract, or the failure of Congress to appropriate funds sufficient to fund the HAP Contracts during each year of their terms, would have a material adverse effect on the ability of the applicable Project to generate revenues sufficient to pay the principal of and interest of the Bond Loan.

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## THE PROJECTS

*The information under this heading has been provided solely by the Borrowers and has not been independently verified by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees, or Bond Counsel. No representation whatsoever as to the accuracy, adequacy or completeness of such information is made by the Issuer, the Underwriter or any of their respective counsel, members, officers or employees or Bond Counsel.*

### The Projects

The Projects consist of nine separate multifamily housing facilities (which may include contiguous and non-contiguous sites) located in Texas. The proceeds of the Bonds will be loaned to the Borrowers for purposes of acquiring, rehabilitating and equipping the Projects pursuant to the Bond Loan Agreement. The following is a brief description of each of the Projects:

***Bastrop Oak Grove.*** Bastrop Oak Grove (the “Bastrop Oak Grove Project”), originally constructed in two phases between 1978 and 1981, is located on a site of approximately 2.17 acres in Bastrop, Texas. The Bastrop Oak Grove Project consists of nine residential buildings, containing 48 units. The unit breakdown of the Bastrop Oak Grove Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
12	1 Bedroom / 1 Bath	613
36	2 Bedroom / 1 Bath	754
<b>Total: 48</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Bastrop Oak Grove Project available to THF Bastrop Oak Grove, LLC, as the Borrower, the Bastrop Oak Grove Project receives 48 units of Section 8 Rental Assistance.

***Bay City Village.*** Bay City Village (the “Bay City Village Project”), originally constructed in 1974, is located on a site of approximately 8.26 acres in Baytown, Texas. The Bay City Village Project consists of 13 residential buildings, containing 62 units. The unit breakdown of the Bay City Village Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
18	1 Bedroom / 1 Bath	710
30	2 Bedroom / 1 Bath	799
14	3 Bedroom / 2 Bath	1,190
<b>Total: 62</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Bay City Village Project available to THF Bay City Village, LLC, as the Borrower, the Bay City Village Project receives 51 units of RD-provided Section 521 Rural Rental Assistance.

**Burk Village.** Burk Village (the “Burk Village Project”), originally constructed in 1981, is located on a site of approximately 5.48 acres in Burkburnett, Texas. The Burk Village Project consists of seven residential buildings, containing 40 units. The unit breakdown of the Burk Village Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
20	1 Bedroom / 1 Bath	600
20	2 Bedroom / 1 Bath	864
<b>Total: 40</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Burk Village Project available to THF Burk Village, LLC, as the Borrower, the Burk Village Project receives 29 units of RD-provided Section 521 Rural Rental Assistance.

**Elgin Meadowpark.** Elgin Meadowpark (the “Elgin Meadowpark Project”), originally constructed in 1976, is located on a site of approximately 4.09 acres in Elgin, Texas. The Elgin Meadowpark Project consists of seven residential buildings, containing 28 units. The unit breakdown of the Elgin Meadowpark Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
8	1 Bedroom / 1 Bath	660
20	2 Bedroom / 1 Bath	840
<b>Total: 28</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water

units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new (30) year architectural roofs, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Elgin Meadowpark Project available to THF Elgin Meadowpark, as the Borrower, the Elgin Meadowpark Project receives 28 units of RD-provided Section 521 Rural Rental Assistance.

**Evant Tom Sawyer.** Evant Tom Sawyer (the “Evant Tom Sawyer Project”), originally constructed in two phases between 1971 and 1975, is located on a non-contiguous site totaling approximately 3.10 acres in Evant, Texas. The Evant Tom Sawyer Project consists of 14 buildings, containing 18 units. The unit breakdown of the Evant Tom Sawyer Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
8	2 Bedroom / 1 Bath	864
10	3 Bedroom / 2 Bath	1,000
<b>Total: 18</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, siding repairs, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Evant Tom Sawyer Project available to THF Evant Tom Sawyer, LLC, as the Borrower, the Evant Tom Sawyer Project receives 18 units of RD-provided Section 521 Rural Rental Assistance.

**Hondo Brian Place.** Hondo Brian Place (the “Hondo Brian Place Project”), originally constructed in 1980, is located on a site of approximately 5.64 acres in Hondo, Texas. The Hondo Brian Place Project consists of 12 residential buildings, containing 40 units. The unit breakdown of the Hondo Brian Place Project is as follows:

Number Of Rental Units	Composition	Approximate Square Footage
8	1 Bedroom / 1 Bath	700
12	2 Bedroom / 1 Bath	800
20	3 Bedroom / 1 Bath	1,000
<b>Total: 40</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs,

vinyl siding, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Hondo Brian Place Project available to THF Hondo Brian Place, LLC, as the Borrower, the Hondo Brian Place Project has a HAP Contract that covers all 40 units.

**Hondo Gardens.** Hondo Gardens (the “Hondo Gardens Project”), originally constructed in 1980, is located on a site of approximately 3.081 acres in Hondo, Texas. The Hondo Gardens Project consists of ten residential buildings, containing 32 units. The unit breakdown of the Hondo Gardens Project is as follows:

<b>Number Of Rental Units</b>	<b>Composition</b>	<b>Approximate Square Footage</b>
28	1 Bedroom / 1 Bath	600
4	2 Bedroom / 1 Bath	830
<b>Total: 32</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, vinyl siding, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Hondo Gardens Project available to THF Hondo Gardens, LLC, as the Borrower, the Hondo Gardens Project receives 28 units of RD-provided Section 521 Rural Rental Assistance.

**Lampasas Gardens.** Lampasas Gardens (the “Lampasas Gardens Project”), originally constructed in 1978, is located on a site of approximately 1.75 acres in Lampasas, Texas. The Lampasas Gardens Project consists of five buildings, containing 24 units. The unit breakdown of the Lampasas Gardens Project is as follows:

<b>Number Of Rental Units</b>	<b>Composition</b>	<b>Approximate Square Footage</b>
4	1 Bedroom / 1 Bath	675
20	2 Bedroom / 1 Bath	840
<b>Total: 24</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, vinyl siding, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.



As of the most recent rent roll for Lampasas Gardens Project available to THF Lampasas Gardens, LLC, as the Borrower, the Lampasas Gardens Project was 100% occupied and receives 24 units of RD-provided Section 521 Rural Rental Assistance.

**Lantana Apartments.** Lantana Apartments (the “Lantana Apartments Project”), originally constructed in two phases between 1974 and 1980, is located on a site of approximately five acres in Beeville, Texas. The Lantana Apartments Project consists of 11 residential buildings, containing 92 units. The unit breakdown of the Lantana Apartments Project is as follows:

<b>Number Of Rental Units</b>	<b>Composition</b>	<b>Approximate Square Footage</b>
40	1 Bedroom / 1 Bath	550-645
52	2 Bedroom / 1 Bath	676-779
<b>Total: 92</b>		

All units will include improvements upon (but not limited to) kitchen and bath upgrades with new cabinets, countertops, energy efficient plumbing fixtures and appliances, as needed. Additional interior work includes installation of new flooring, energy star qualified HVAC systems and domestic hot water units. Electrical improvements will include replacement of all interior and exterior light fixtures, new GFI outlets and new smoke detectors. Exterior improvements include installation of new architectural roofs, vinyl siding, brick tuck pointing, energy efficient windows, and exterior doors, as needed. Furthermore, additional community work will include parking lot and sidewalk repairs, landscaping upgrades, amenity upgrades and new property signage.

As of the most recent rent roll for the Lantana Apartments Project available to THF Lantana Apartments, LLC, as the Borrower, the Lantana Apartments Project was 76% occupied (20 units are being held off line until they are renovated) and receives 54 units of USDA provided Section 521 Rural Rental Assistance.

The Bastrop Oak Grove Project, the Bay City Village Project, the Burk Village Project, the Elgin Meadowpark Project, the Evant Tom Sawyer Project, the Hondo Brian Place Project, the Hondo Gardens Project, the Lampasas Gardens Project, and the Lantana Apartments Project are collectively referred to herein as the “Projects.”

**Rehabilitation of Projects**

Rehabilitation of the Projects is expected to commence in November 2018\*. The Projects are expected to have a rehabilitation period of approximately 3-4 months\*. The rehabilitation will provide upgrades to all units that will result in new and better quality living spaces. The unit renovations will vary depending on need; however, renovations at the majority of the units will include the removal and replacement of cabinets, plumbing fixtures, HVAC equipment, energy star lighting and appliances, exterior doors, windows, floor covering, and painting. Other community improvements will vary depending on need and existing conditions; however the following improvements will be completed at the majority of the properties: exterior roofing and siding repair or replacement, site accessibility improvements, playground or picnic shelter, and landscaping.

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\* Preliminary; subject to change.

## **Regulatory Restrictions**

Each Regulatory Agreement imposes certain requirements on the related Borrower with respect to the tax-exempt status of the Bonds under the Code, which include, among other requirements, a set aside of 40% of the units for rental to persons or families having incomes at or below 60% of area median gross income, adjusted for family size and determined in accordance with Section 142(d) of the Code and certain other requirements under state law. Each Regulatory Agreement also requires that the related Borrower make at least 5% of the units within the related Project available for occupancy by Persons with Special Needs (as such term is defined in the Regulatory Agreement). See “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT” attached hereto.

In addition, each Borrower has entered into a Low Income Housing Tax Credit Extended Use Agreement with the Issuer (collectively, the “Extended Use Agreement”). Each Extended Use Agreement is expected to require that the related Borrower (a) rent 100% of the residential rental units (aside from any management units) in the related Project to tenants whose annual household income does not exceed 60% of AMI, and to charge rents which do not exceed 30% of the imputed income for the size of such tenant’s apartment (subject to various adjustments).

## **THE PRIVATE PARTICIPANTS**

*The following information concerning the Borrowers and the private participants has been provided by representatives of the Borrowers and the private participants and has not been independently confirmed or verified by either the Underwriter or the Issuer. No representation is made herein as to the accuracy or adequacy of such information or as to the absence of material adverse changes in such information subsequent to the date hereof.*

### **The Borrowers**

The Borrower with respect to: (1) the Bastrop Oak Grove Project will be THF Bastrop Oak Grove, LLC, (2) the Bay City Village Project will be THF Bay City Village, LLC, (3) the Burk Village Project will be THF Burk Village, LLC, (4) the Elgin Meadowpark Project will be THF Elgin Meadowpark, LLC, (5) the Evant Tom Sawyer Project will be THF Evant Tom Sawyer, LLC, (6) the Hondo Brian Place Project will be THF Hondo Brian Place, LLC, (7) the Hondo Gardens Project will be THF Hondo Gardens, LLC, (8) the Lampasas Gardens Project will be THF Lampasas Gardens, LLC, and (9) the Lantana Apartments Project will be THF Lantana Apartments, LLC (each a “Borrower,” and collectively, the “Borrowers”). Each borrower is a Texas limited liability company.

Each Borrower was formed for the purpose of acquiring, rehabilitating and operating the applicable Project. The Master Owner will be the sole member of each Borrower. THF RD Manager, LLC, a Texas limited liability company (the “Managing Member”) will own a 0.0025% interest in the Master Owner. The Investor Member and its successors and assigns will own a 99.99% interest in the Master Owner.

Operating through an affiliated group of companies referred to collectively as “Related” or “Related Companies”, The Related Companies, L.P. has been active in real estate acquisition, development, financial services and property/asset management since 1972. Today, Related is a fully integrated real estate firm with expertise in acquisition/development, financial services and property/asset management, overseeing a real estate portfolio valued in excess of \$20 billion. Related’s principal offices are in New York City, NY; Irvine, CA; Chicago, IL; and Miami, FL. An affiliate of The Related Companies, Related TX RD Special Member, LLC, will own 0.0025% of the Master Owner.

Related TX RD Class B Member, LLC will own 0.0025% of the Master Owner. It is a non-controlling entity that is comprised of Related employees but is not an affiliate of Related.

The Investor Member is expected to make equity contributions to the Master Owner, which is expected to make equity contributions to each Borrower, totaling approximately \$20,885,000\* in approximately six to eight installments, subject to certain conditions precedent for each installment and adjustment thereof, as set forth in the operating agreement of the Master Owner.

The Borrowers have no substantial assets other than the respective Projects and do not intend to acquire any other substantial assets or to engage in any substantial business activities other than those related to the ownership and operation of the respective Projects.

The obligations and liabilities of the Borrowers under the Bond Note are of a non-recourse nature and are limited to the Projects and moneys derived from the operation of the Projects. Neither the Borrowers nor their members or their respective principals and members have any personal liability for payments on the Bond Note to be applied to pay the principal of and interest on the Bonds. Furthermore, no representation is made that the Borrowers have substantial funds available for the Projects. Accordingly, neither the Borrowers' financial statements nor those of their members are included in this Official Statement.

### **The General Contractor**

The Borrowers will enter into a construction contract with THF Housing Development Corporation, an affiliate of the Managing Member (the "General Contractor"). Concurrently, [the General Contractor] will enter into master subcontracts with two separate subcontractors to perform the complete scope of the rehabilitation at each Project as listed below.

The master subcontractor for the Bastrop Oak Grove Project, the Burk Village Project, the Elgin Meadowpark Project, the Evant Tom Sawyer Project, and the Lampasas Gardens Project will be ETC Companies, LLC ("ETC"). ETC has over ten years of experience in renovating residential multifamily housing developments, and its principals have, collectively, over 40 years of such experience. ETC has completed over 2,000 multifamily units throughout the Midwest and South.

The master subcontractor for the Bay City Village Project, the Hondo Brian Place Project, the Hondo Gardens Project, and the Lantana Apartments Project will be ZMG Construction of Texas, LLC ("ZMG"). ZMG has over [ ] years of experience in renovating residential multifamily housing developments, and its principals have, collectively, over [ ] years of such experience. ZMG has completed over [ ] multifamily units throughout Texas.

### **Property Manager**

The Projects will be managed by THF Housing Management Corporation, a Texas nonprofit corporation (the "Property Manager"). The Property Manager was established in 2001 and currently manages over 1,900 multifamily units.

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\* Preliminary; subject to change.

## **The Architect**

The architect for the Projects will be Basis Architecture (the “Architect”). Founded in 2007, the Architect has been the principal architect on over 9,000 multifamily projects containing over 175 units throughout California, Hawaii, Washington, Arizona, and Montana.

## **THE BONDS**

### **General**

The Bonds will be dated, will be payable in the amounts and on the dates, will bear interest (computed on the basis of a 360 day year consisting of twelve 30-day months) at the rate, and will mature as described on the cover page. The Bonds will be issued as fully registered bonds in book entry form and book entry interests in the Bonds will be available for purchase in principal amounts of \$5,000 and any increment of \$1,000 in excess thereof.

The Trustee, in its capacity as Registrar, will keep all books and records necessary for registration, exchange and transfer of the Bonds.

Discussion of the Bonds being issued only under the Book Entry System is provided below. Details regarding the procedures for and manner of payment, issuance, exchange and transfer of the Bonds if ever issued in certificated form as provided in the Bond proceedings are also stated below.

### **Book Entry System**

*The information in this section concerning DTC and DTC’s book-entry system has been obtained from sources that the Borrowers believe to be reliable, but the Borrowers take no responsibility for the accuracy thereof.*

The Depository Trust Company, New York, New York (“DTC”), will act as securities depository for the Bonds. The Bonds will be initially issued and issuable only as one fully-registered Bond certificate for each maturity, registered in the name of Cede & Co. as partnership nominee of DTC. Those fully-registered Bonds will be deposited with and retained in the custody of DTC.

For ease of reference in this and other discussions, reference to “DTC” includes when applicable any successor securities depository and the nominee of the depository.

For all purposes under the Bond proceedings, DTC will be and will be considered by the Issuer and the Trustee to be the owner or holder of the Bonds.

Owners of book entry interests in the Bonds (book entry interest owners) will not receive or have the right to receive physical delivery of Bonds, and will not be or be considered by the Issuer and the Trustee to be, and will not have any rights as, owners or holders of Bonds under the Bond proceedings.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with

DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has an S&P rating of AA+. The DTC Rules applicable to its Participants are on file with the SEC. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the book entry interest owner) is in turn to be recorded on the Direct and Indirect Participant's records. Book entry interest owners will not receive written confirmation from DTC of their purchase, but are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the book entry interest owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Participants acting on behalf of book entry interest owners. Book entry interest owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in actual ownership. DTC has no knowledge of the book entry interest owners (or beneficial owners) of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the book entry interest owners. Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to book entry interest owners, will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and debt service payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to book entry interest owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and debt service payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the book entry interest owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or the Trustee. The Issuer may decide to discontinue use of the book entry system if DTC (or a successor securities depository) determines not to continue to act as securities depository for the Bonds.

### **Revision of Book Entry System; Replacement Bonds**

Replacement Bonds may be issued directly to beneficial owners of Bonds other than a Depository, or its nominee, but only in the event that (i) the Depository determines not to continue to act as securities depository for the Bonds (which determination shall become effective no less than 90 days after written notice to such effect to the Issuer and the Trustee); or (ii) the Issuer has advised a Depository of its determination (which determination is conclusive as to the Depository and beneficial owners of the Bonds) that the Depository is incapable of discharging its duties as securities depository for the Bonds; or (iii) the Issuer has determined (which determination is conclusive as to the Depository and the beneficial owners of the Bonds) that the interests of the beneficial owners of the Bonds might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the Issuer and the Borrowers shall use commercially reasonable efforts to attempt to locate another qualified securities depository. If the Issuer and the Borrowers fail to locate another qualified securities depository to replace the Depository, the Issuer and the Borrowers, at the Borrowers' expense, shall cause to be authenticated and delivered replacement Bonds, in certificate form, to the beneficial owners of the Bonds. In the event that the Issuer makes the determination noted in (ii) or (iii) above (provided that the Issuer undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any such determination), and has made provisions to notify the beneficial owners of Bonds of such determination by mailing an appropriate notice to the Depository, it and the Borrowers shall cause to be issued replacement Bonds in certificate form to beneficial owners of the Bonds as shown on the records of the Depository provided to the Issuer.

Upon the written consent of one hundred percent (100%) of the beneficial owners of the Bonds, the Trustee shall withdraw the Bonds from any Depository and authenticate and deliver Bonds fully registered to the assignees of that Depository or its nominee. If the request for such withdrawal is not the result of any Issuer action or inaction, such withdrawal, authentication and delivery shall be at the cost and expense (including costs of printing, preparing and delivering such Bonds) of the persons requesting such withdrawal, authentication and delivery; otherwise such withdrawal, authentication and delivery shall be at the cost and expense of the Borrowers.

Whenever, during the term of the Bonds, the beneficial ownership thereof is determined by a book entry at a Depository, (i) the requirements in the Indenture of holding, delivering or transferring

Bonds shall be deemed modified to require the appropriate Person or entity to meet the requirements of the Depository as to registering or transferring the book entry to produce the same effect and (ii) delivery of the Bonds will be in accordance with arrangements among the Issuer, the Trustee and the Depository notwithstanding any provision of the Indenture to the contrary.

The Trustee and the Issuer shall enter into any letter of representation with a Depository to implement the Book Entry System of Bond registration described above.

### **Redemption of Bonds; Purchase in Lieu of Redemption**

The Bonds are subject to optional redemption prior to their maturity, at the direction of the Authorized Borrowers' Representative, either in whole or in part on any date on or after the later to occur of (i) the date that the Projects all have been placed in service, as certified in writing by the Borrower to the Trustee, and (ii) [\_\_\_\_\_ 1, 20\_\_]\* (the "Optional Redemption Date") at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest, but without premium, to the date fixed for redemption.

The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Borrower.

At least thirty (30) days but not more than sixty (60) days before the Redemption Date, whether such redemption shall be in whole or in part, the Trustee shall cause a notice of such redemption, signed by the Trustee, to be mailed, postage prepaid, to all Holders of the Bonds to be redeemed at their addresses as they appear on the registration books maintained by the Trustee, but failure to mail any such notice to one or more Owners or any defect in such notice shall not affect the validity of the proceedings for such redemption with respect to any other Owner.

Any notice of redemption may state that the redemption to be effected is conditioned upon the receipt by the Trustee on or prior to the Redemption Date of moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed and that if such moneys are not so received such notice shall be of no force or effect and such Bond shall not be required to be redeemed. In the event that such notice contains such a condition and moneys sufficient to pay the principal of and premium, if any, and interest on such Bonds are not received by the Trustee on or prior to the Redemption Date, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

At the election of the Borrower, upon a redemption in whole of the Bonds, by written notice to the Trustee given not less than five (5) Business Days in advance of such Redemption Date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of

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\* Preliminary; subject to change.

Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain Outstanding and shall be registered to or upon the direction of the Borrower.

The Trustee shall pay the redemption price of Bonds, or the purchase price from Bonds deemed to be tendered as described in the preceding paragraph, from the following sources in the following priority: (i) amounts on deposit in the Collateral Fund and the Initial Deposit Account and the Interest Payment Account of the Bond Fund, to the extent not needed to reimburse the Lender for any advances of Senior Loan proceeds and (ii) any other Eligible Funds available or made available for such purpose at the direction of the Authorized Borrowers' Representative.

### **Mandatory Tender**

The Bonds are subject to mandatory tender in whole and not in part on the Mandatory Tender Date and shall be purchased at a price equal to 100 percent of the principal amount of such Bonds, plus accrued interest, if any to the Mandatory Tender Date, and without premium. No later than 10:00 a.m., Eastern time, on the Mandatory Tender Date, the Holders shall deliver the Bonds to the Trustee. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Eastern time on the Mandatory Tender Date, in the following priority; (i) amounts representing proceeds of remarketed Bonds received pursuant to the Indenture, to pay the principal amount, plus accrued interest, of Unredeemed Bonds tendered or deemed tendered for purchase, (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds other than Unredeemed Bonds tendered or deemed tendered for purchase, (iii) amounts on deposit in the Initial Deposit Account of the Bond Fund to pay the accrued interest, if any, on Bonds other than Unredeemed Bonds tendered or deemed tendered for purchase and (iv) any other Eligible Funds available or made available for such purpose at the direction of the Authorized Borrowers' Representative.

Not less than 30 days before the Mandatory Tender Date, the Trustee shall give written notice of tender and remarketing to the Holders by first class mail, postage prepaid, at their respective addresses appearing on the Bond Register. The notice shall state the Mandatory Tender Date and that:

(a) all Outstanding Bonds are subject to mandatory tender for purchase on the Mandatory Tender Date and must be tendered for purchase on the Mandatory Tender Date;

(b) all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to the Mandatory Tender Date;

(c) Holders will not have the right to elect to retain their Bonds and any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date; and

(d) the address of the office of the Trustee at which Holders should deliver their Bonds for purchase on the Mandatory Tender Date.

If notice is given as described above, failure of any Holder to receive such notice, or any defect in the notice, shall not affect the remarketing or the validity of the proceedings for the remarketing of the Bonds.



## **Cancellation of Bonds**

The Trustee shall immediately cancel those Bonds the tender price of which is paid from amounts other than proceeds derived from the remarketing of the Bonds.

## **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

**At all times the Bonds will be secured by Eligible Investments or other Eligible Funds sufficient to pay, without need for reinvestment, all of the interest and principal on the Bonds when due to the Initial Mandatory Tender Date, as further described herein.**

To the extent provided in and except as otherwise permitted by the Indenture, (i) the Bonds will be limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from the Pledged Revenues, including but not limited to moneys and investments in the Special Funds, (ii) the payment of Bond Service Charges on the Bonds shall be secured by the assignment of the Pledged Revenues under and by the Indenture, and (iii) payments due on the Bonds also shall be secured by the Bond Note. The Pledged Revenues include the payments required to be made by each respective Borrower under the Bond Loan Agreement and the Bond Note; all other moneys received or to be received by the Issuer or the Trustee for the account of the Issuer with respect to repayment of the Bond Loans; moneys and investments in or allocated to the Special Funds; and the income and profit from the investment of the foregoing moneys, excluding in each case amounts related to the Issuer's Reserved Rights, and the investments of those moneys.

The Issuer has directed the Trustee to fund the Collateral Fund pursuant to the terms of the Indenture. Pursuant to the Indenture, to the extent funds available in the Bond Fund and the Project Fund on any Bond Loan Payment Date are insufficient to pay Bond Service Charges on any Interest Payment Date, funds on deposit in the Collateral Fund will be transferred to the Trustee to pay the Bond Service Charges. Amounts so transferred from the Collateral Fund shall be a credit to the Borrower against the Bond Loan Payments due pursuant to the Bond Loan Agreement.

The funds on deposit in the Special Funds will be invested in Eligible Investments. There will be no fees of the Issuer or the Trustee payable from the Pledged Revenues.

**THE ISSUER SHALL NOT IN ANY EVENT BE LIABLE FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS, OR FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER WHICH MAY BE UNDERTAKEN BY THE ISSUER EXCEPT FROM THE SOURCES SPECIFICALLY PLEDGED THERETO PURSUANT TO THE INDENTURE, AND NEITHER THE BONDS NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE ISSUER SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER. THE BONDS AND THE INTEREST THEREON SHALL NOT BE DEEMED TO CONSTITUTE OR TO CREATE IN ANY MANNER A DEBT, LIABILITY OR OBLIGATION OF THE STATE OR OF ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF OR A PLEDGE OR A GRANT OF THE FAITH AND CREDIT OF THE STATE OR ANY SUCH POLITICAL SUBDIVISION OR ANY SUCH AGENCY, BUT SHALL BE LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES AND OTHER FUNDS PLEDGED THEREFOR AND SHALL NOT BE PAYABLE FROM ANY OTHER ASSETS OR FUNDS OF THE ISSUER, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION OR ANY AGENCY**

**THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS. THE ISSUER HAS NO TAXING POWER.**

**THE TRUSTEE**

*The information under this heading has been provided solely by the Trustee and has not been independently verified. No representation whatsoever as to the accuracy, adequacy or completeness of such information is being made.*

Wilmington Trust, National Association will act as Trustee pursuant to the Indenture. The obligations of the Trustee are described in the Indenture. The Trustee has undertaken only those duties and obligations that are expressly set forth in the Indenture. The Trustee has not independently passed upon the validity of the Bonds, the security of the payment therefor, the value or condition of any assets pledged to the payment thereof, the adequacy of the provisions for such payment, the status for federal or state income tax purposes of the interest on the Bonds, or the investment quality of the Bonds. Except for the contents in this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and has assumed no responsibility for the nature, content, accuracy or completeness of the information included in this Official Statement.

**CERTAIN HOLDERS' RISKS**

*The following is a summary of certain risks associated with a purchase of the Bonds. There are other possible risks not discussed below and in order for potential investors to identify risk factors and make an informed investment decision, potential investors should be thoroughly familiar with this entire Official Statement and the Appendices attached hereto.*

**General**

Payment of the Bond Service Charges, and the Borrowers' obligations with respect to the Bond Service Charges, will be primarily secured by and payable from Bond proceeds held in the Project Fund and moneys deposited into the Collateral Fund and the Bond Fund, including the Initial Deposit Account within the Bond Fund, and the projected interest earnings thereon. Although the Borrowers will execute the Bond Note to evidence their obligation to repay the Bond Loans, it is not expected that any revenues from the Projects or other amounts, except moneys in the Special Funds and the projected interest earnings thereon, will be available to satisfy that obligation. The Indenture requires the Trustee to verify, before any disbursement of funds from the Project Fund, that the sum of the funds on deposit in the Project Fund and the Collateral Fund is at least equal to the then outstanding principal amount of the Bonds. It is expected that funds on deposit in the Project Fund, the Collateral Fund and the Initial Deposit Account of the Bond Fund, and the projected interest earnings thereon, will be sufficient to pay the debt service on the Bonds.

**Limited Security for Bonds**

The Bonds are not secured by any mortgage, the Projects or any other source except as stated in the next sentence. Investors should look exclusively to amounts on deposit in the Special Funds under the Indenture and projected investment earnings on each as the source of payment of debt service on the Bonds.

## **Issuer Limited Liability**

The Bonds will not be insured or guaranteed by any governmental entity or by the Issuer or any member of the foregoing. The Bondholders will have no recourse to the Issuer in the event of an Event of Default on the Bonds. The Trust Estate for the Bonds will be the only source of payment on the Bonds.

## **Tax Exemption**

In the event a Borrower does not maintain the related Project as a “qualified residential rental project” for the Qualified Project Period or to comply with tax related covenants in the Bond Loan Agreement, the interest on the Bonds may be or become taxable from the date of original issuance to the Holders for federal income tax purposes. Such an event will not constitute an immediate default under the Bond Loan and will not give rise to an immediate redemption or acceleration of the Bonds and is not the basis for an increase in the rate of interest payable on the Bonds or give rise to the payment to the owners of the Bonds of any amount denoted as “supplemental interest,” “additional interest,” “penalty interest,” “liquidated damages” or otherwise, in addition to the amounts payable to the owners of the Bonds prior to the occurrence of the event which results in the interest payable on the Bonds being includable, for federal income tax purposes, in the gross income of the owners of the Bonds.

## **Enforceability of Remedies upon an Event of Default**

The remedies available to the Trustee and the owners of the Bonds upon an Event of Default under the Indenture, the Bond Loan Agreement, the Regulatory Agreement or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Bonds is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

## **Secondary Markets and Prices**

No representation is made concerning the existence of any secondary market for the Bonds. The Underwriter will not be obligated to repurchase any of the Bonds, nor can any assurance be given that any secondary market will develop following the completion of the offering of the Bonds. Further, there can be no assurance that the initial offering prices for the Bonds will continue for any period of time. Furthermore, the Bonds should be purchased for their projected returns only and not for any resale potential, which may or may not exist.

## **LITIGATION**

### **The Issuer**

There is no action, suit, proceeding, inquiry or investigation against the Issuer, at law or in equity, by or before any court, public board or body, pending, or to the best knowledge of the Issuer threatened in writing, affecting the existence of the Issuer or the titles of its officials to their respective offices, or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or the pledge of revenues or assets of the Issuer pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way materially adversely affecting or questioning (i) the use of this Official Statement or the use of the proceeds of the Bonds to make the Bond Loans, (ii) the validity or enforceability of the Bonds, any

proceedings of the Issuer taken with respect to the Bonds or any of the other documents entered into by the Issuer in connection with the transaction contemplated hereby, (iii) the tax-exempt status of the interest on the Bonds or the accuracy or completeness of this Official Statement, (iv) the execution and delivery of the Bonds or any of the other documents entered into by the Issuer in connection with the transaction contemplated hereby, or (v) the power of the Issuer to carry out the transactions contemplated by the Bonds, this Official Statement or any of the other documents entered into by the Issuer in connection with the transaction contemplated hereby.

## **The Borrowers**

There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any judicial or administrative court or governmental agency or body, state, federal or other, pending or, to the best knowledge of the Borrowers or the Master Owner, threatened against the Borrowers or the Master Owner, affecting the existence of the Borrowers or the Master Owner, or the titles of their respective officers executing this Official Statement, involving the Projects in any material respect or seeking to restrain or enjoin the issuance, sale, execution or delivery of the Bonds or the financing of the Projects, or in any way contesting or affecting as to the Borrowers, the validity or enforceability of the Act, the Bonds, any document entered into by the Borrowers in connection with the transactions contemplated hereby or the execution and delivery or adoption by the Borrowers of any document entered into by the Borrowers in connection with the transactions contemplated hereby, or any proceedings of the Borrowers taken with respect to the sale, execution or delivery thereof, or the application of any moneys or security provided for the payment of the Bonds, or in any way contesting or challenging the completeness or accuracy of this Official Statement or any supplement or amendment hereto, or the powers of the Borrowers or their authority with respect to any document entered into by the Borrowers in connection with the transactions contemplated hereby or the consummation of the transactions contemplated hereby or thereby, or challenging the excludability of interest on the Bonds from gross income for Federal income tax purposes; nor, to the best knowledge of the Borrowers, is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the Borrowers' financial condition or operations or the validity of the authorization, execution, delivery or performance by the Borrowers of any document entered into by the Borrowers in connection with the transactions contemplated hereby.

## **UNDERWRITING**

RBC Capital Markets, LLC (the "Underwriter") has agreed, subject to certain conditions, to purchase the Bonds from the Issuer at an aggregate purchase price of \$\_\_\_\_\_ and to make a public offering of the Bonds at prices that are not in excess of the public offering prices stated on the cover page of this Official Statement. The Underwriter will be obligated to purchase all such Bonds if any are purchased. The Bonds may be offered and sold to certain dealers (including the Underwriter) at prices lower than such public offering prices, and such public offering prices may be changed, from time to time, by the Underwriter. The Underwriter will receive an underwriting fee for its services in the amount of \$\_\_\_\_\_ (which amount does not include the fees and expenses of its counsel).

The Underwriter and its affiliates are full service financial institutions engaged in various activities, that may include securities trading, commercial and investment banking, municipal advisory, brokerage and asset management. In the ordinary course of business, the Underwriter and its affiliates may actively trade debt and if applicable equity securities (or related derivative securities) and provide financial instruments (which may include bank loans, credit support or interest rate swaps) and the Underwriter and its affiliates may engage in transactions for its own accounts involving the securities and instruments made the subject of this securities offering or other offerings of the Issuer and/or Borrowers. The Underwriter and its affiliates may also communicate independent investment recommendations,

market color or trading ideas and publish independent research views in respect of this securities offering or other offerings of the Issuer and/or Borrowers. The Underwriter does not make a market in credit default swaps with respect to municipal securities at this time but may do so in the future.

The Underwriter does not guarantee a secondary market for the Bonds and is not obligated to make any such market in the Bonds. No assurance can be made that such a market will develop or continue. Consequently, investors may not be able to resell Bonds should they need or wish to do so for emergency or other purposes.

In addition to serving as Underwriter, RBC Capital Markets, LLC has been designated to serve as Remarketing Agent and will receive a fee for its remarketing services in connection with the remarketing of any Bonds on the Initial Mandatory Tender Date.

## **TAX TREATMENT**

### **Tax Exemption**

#### *In General*

In the opinion of Bond Counsel, assuming compliance with certain covenants and based on certain representations, under existing law (i) interest on the Bonds is excludable from gross income for federal income tax purposes, except with respect to interest on any Bond for any period during which it is held by a “substantial user” of the Project or a “related person” of such a “substantial user” within the meaning of Section 147(a) of the Internal Revenue Code, as amended (the “Code”) and (ii) interest on the Bonds is not an item of tax preference includable in alternative minimum taxable income for purposes of determining a taxpayer’s alternative minimum tax liability.

The Code imposes a number of requirements that must be satisfied for interest on state or local obligations, such as the Bonds, to be excludable from gross income for federal income tax purposes. These requirements include, among other things, limitations on the use of the bond-financed project, limitations on the use of bond proceeds, limitations on the investment of bond proceeds prior to expenditure, a requirement that excess arbitrage earned on the investment of bond proceeds be paid periodically to the United States, and a requirement that the Issuer file an information report with the Internal Revenue Service (the “Service”). The Issuer and each of the Borrowers have covenanted in the Indenture, Bond Loan Agreement, Tax Exemption Agreement and Regulatory Agreement that they will comply with these requirements.

Bond Counsel’s opinion will assume continuing compliance with the covenants of the Indenture, Bond Loan Agreement, Tax Exemption Agreement and Regulatory Agreement pertaining to those sections of the Code that affect the excludability from gross income of interest on the Bonds for federal income tax purposes and, in addition, will rely on representations by the Issuer, the Borrowers and the Underwriter with respect to matters solely within the knowledge of the Issuer, the Borrowers and the Underwriter, respectively, which Bond Counsel has not independently verified. If the Issuer or the Borrowers should fail to comply with the covenants in the Indenture, Bond Loan Agreement, Tax Exemption Agreement and Regulatory Agreement or if the foregoing representations should be determined to be inaccurate or incomplete, interest on the Bonds could become includable in gross income for federal income from the date of original delivery of the Bonds, regardless of the date on which the event causing such inclusion occurs.

Interest on the Bonds is not treated as an “item of tax preference” to be included in the computation of “alternative minimum taxable income” for purposes of determining a taxpayer’s alternative minimum tax liability.

Except as stated above, Bond Counsel will express no opinion as to any federal, state or local tax consequences resulting from the receipt or accrual of interest on, or the acquisition, ownership or disposition of, the Bonds.

Bond Counsel’s opinions are based on existing law, which is subject to change. Such opinions are further based on Bond Counsel’s knowledge of facts as of the date thereof. Bond Counsel assumes no duty to update or supplement its opinions to reflect any facts or circumstances that may thereafter come to Bond Counsel’s attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, Bond Counsel’s opinions are not a guarantee of result and are not binding on the Service; rather, such opinions represent Bond Counsel’s legal judgment based upon its review of existing law and in reliance upon the representations and covenants referenced above that it deems relevant to such opinions. The Service has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the Service will commence an audit of the Bonds. If an audit is commenced, in accordance with its current published procedures the Service is likely to treat the Issuer as the taxpayer and the Owners may not have a right to participate in such audit. Public awareness of any future audit of the Bonds could adversely affect the value and liquidity of the Bonds during the pendency of the audit regardless of the ultimate outcome of the audit.

#### *Operation of the Projects*

In the case of bonds used to provide residential rental housing, such as the Bonds, section 142 of the Code requires that such bonds also satisfy the tenant eligibility requirements applicable to “qualified residential rental projects” under section 142(d) of the Code. Section 142(d) of the Code requires that at all times during the “qualified project period” a certain percentage of the available units in each Project be occupied by individuals with income below certain levels pursuant to the Issuer’s election made under section 142(d)(1) of the Code. The “qualified project period” for each Project will commence on the first day on which 10 percent of the units in the Project are occupied (which date may be the delivery date of the Bonds) and will end on the latest of the following: (1) the date that is 15 years after the date on which 50 percent of the units in the Project are occupied (which date may be the date of delivery of the Bonds); (2) the first day on which no tax-exempt private activity bond (as defined in section 142(d)(2) of the Code) issued with respect to the Project remains outstanding for federal income tax purposes; or (3) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates. Treasury Regulations (the “Regulations”) setting forth requirements for compliance with a comparable provision of the predecessor of section 142 of the Code require, among other things, that (1) the low-income set aside requirement must be met on a continuous basis during the “qualified project period”, and (2) all of the units in the each Project must be rented or available for rental to the general public on a continuous basis during such period. Under the Regulations, the failure to satisfy the foregoing requirements on a continuous basis or the failure to satisfy any of the other requirements of the Regulations, unless corrected within a reasonable period of not more than 60 days after such non-compliance is first discovered or would have been discovered by the exercise of reasonable diligence, will cause interest on the Bonds to be includable in gross income for federal income tax purposes as of the date of their original issue, irrespective of the date such non-compliance actually occurred.

The Issuer has established requirements, procedures and safeguards that it believes to be sufficient to ensure compliance with the requirements of the Code and the Regulations with respect to

each Project. Such requirements, procedures and safeguards are incorporated into the Regulatory Agreement, the Bond Loan Agreement, the Tax Exemption Agreement and the Indenture. In addition, the Issuer and the Trustee have each covenanted in the Tax Exemption Agreement to follow and enforce such procedures to ensure compliance with such requirements. However, no assurance can be given that in the event of a breach of any of the provisions or covenants described above, the remedies available to the Issuer and the Trustee can be judicially enforced in such manner as to assure compliance with the Code and therefore to prevent the loss of the exclusion from gross income for federal income tax purposes of the interest on the Bonds. Furthermore, if any of the Borrowers fail to comply with the Regulatory Agreement, the Tax Exemption Agreement or the Bond Loan Agreement, the enforcement remedies available to the Issuer, the Trustee and the Owners are severely limited and may be inadequate to prevent the loss of the excludability from gross income for federal income tax purposes of the interest on the Bonds retroactive to the date of issuance of the Bonds. In such event, there is no provision for acceleration or redemption of the Bonds, and the holders of the Bonds may be required to hold the Bonds until maturity bearing interest that is includable in gross income for federal income tax purposes.

Bond Counsel's opinions assume continuous compliance with all covenants and requirements set forth in the Regulatory Agreement and the Tax Exemption Agreement pertaining to those sections of the Code that affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. Prospective purchasers should be aware that the Rural Housing Service ("RHS") and the Government National Mortgage Association ("GNMA") have required that the Indenture and the Bond Loan Agreement include provisions providing that, if the Indenture or the Bond Loan Agreement would otherwise require a party to such document to take any action necessary to preserve the tax exemption of interest on the Bonds, or would prohibit any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool or the terms of any of the Senior Loan Documents (as each such capitalized term is defined in the Indenture). Bond Counsel expresses no opinion as to whether any of the covenants and requirements set forth in the Regulatory Agreement conflict with such RHS Requirements or GNMA Requirements. Furthermore, Bond Counsel expresses no opinion as to the initial and continuing excludability of interest on the Bonds from gross income for federal income tax purposes in the event that the RHS Requirements or GNMA Requirements prevent a party to the Indenture or the Bond Loan Agreement from taking any action, or refrain from taking any action, necessary to preserve the tax exemption of interest on the Bonds.

### **Additional Federal Income Tax Considerations**

Prospective purchasers of the Bonds should be aware that the ownership of tax-exempt obligations may result in collateral federal income tax consequences to financial institutions, property and casualty insurance companies, certain S corporations with Subchapter C earnings and profits, individual recipients of Social Security or Railroad Retirement benefits, taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, low and middle taxpayers otherwise qualifying for the health insurance premium assistance credit and individuals otherwise qualifying for the earned income tax credit. In addition, certain foreign corporations doing business in the United States may be subject to the new "branch profit tax" on their effectively-connected earnings and profits, including tax-exempt interest such as interest on the Bonds. These categories of prospective purchasers should consult their own tax advisors as to the applicability of these consequences. Under the Code, taxpayers are required to report on their returns the amount of tax-exempt interest, such as interest on Bonds, received or accrued during the year.

### **Tax Legislative Changes**

Public Law No. 115-97 (i.e., Tax Cuts and Jobs Act), which makes significant changes to the Code, including changing certain provisions affecting tax-exempt obligations, such as the Bonds, was signed into law on December 22, 2017. Further, current law may change so as to directly or indirectly reduce or eliminate the benefit of the exclusion of interest on the Bonds from gross income for federal income tax purposes. Any proposed legislation, whether or not enacted, could also affect the value and liquidity of the Bonds. Prospective purchasers of the Bonds should consult with their own tax advisors with respect to any proposed, pending or future legislation.

## **LEGAL MATTERS**

Legal matters incident to the authorization, issuance and sale of the Bonds and with regard to the tax exempt status of the interest thereon (see “TAX TREATMENT” herein) are subject to the approving legal opinion of Bracewell LLP, Austin, Texas, Bond Counsel. A signed copy of that opinion, dated and speaking only as of the date of original delivery of the Bonds, will be delivered to the Underwriter at the time of such original delivery. A copy of such opinion will accompany the Bonds and a draft of that opinion is attached hereto as Appendix B.

In rendering its approving opinion, Bond Counsel will rely on certifications and representations of fact to be contained in the transcript of proceedings which Bond Counsel will not have independently verified. Certain legal matters will be passed upon for the Underwriter by its counsel, Norris George & Ostrow PLLC, Washington, D.C., and for the Borrowers by Levitt & Boccio, LLP, New York, New York.

## **RATING**

S&P Global Ratings (“S&P”) is expected to assign to the Bonds the rating set forth on the cover page hereof. An explanation of the significance of such rating may be obtained from S&P. The rating of the Bonds reflect only the views of S&P at the time such rating was given, and neither the Issuer, the Borrowers nor the Underwriter makes any representation as to the appropriateness of the rating. There is no assurance that such rating will continue for any given period of time or that it will not be revised downward or withdrawn entirely by S&P, if in its judgment, circumstances so warrant. Any such downward revision or withdrawal of the rating may have an adverse effect on the market price of the Bonds.

## **RHS AND GNMA REQUIREMENTS TO CONTROL**

To the extent there is any conflict, inconsistency or ambiguity between or among the provisions of the Indenture, the Bond Loan Agreement, the Regulatory Agreement and the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool or the Senior Loan Documents, then in such event the RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or Senior Loan Documents will be deemed to be controlling and any such ambiguity or inconsistency will be resolved in favor of and pursuant to the RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or the provisions of the Senior Loan Documents.

Notwithstanding anything to the contrary contained in the Indenture, the Regulatory Agreement or the Bond Loan Agreement, the enforcement of the Indenture, the Regulatory Agreement or the Bond Loan Agreement shall not result in any claim against a Project, Senior Loan proceeds, any reserve or deposit made with the Lender or with another person or entity required by RHS in connection with the Senior Loan transactions, or against rents or other income from the Project other than available “surplus cash” as defined in the Senior Loan Documents available for distribution to the Borrower under the Senior Loan Documents. Nothing contained in the Indenture, the Regulatory Agreement or the Bond



Loan Agreement, however, shall prevent or preclude the Trustee, to the extent expressly permitted by the provisions of the Indenture, the Bond Loan Agreement or the Regulatory Agreement, (i) from using funds on deposit in the Bond Fund to make payments to Holders and/or (ii) to use funds on deposit in the Project Fund to make payments to or on behalf of the Lender.

If the Indenture, the Regulatory Agreement or the Bond Loan Agreement contains any provision requiring the Issuer, a Borrower, the Trustee or any other party to the transaction to take any action necessary to preserve the tax exemption of interest on the Bonds, or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents.

Notwithstanding any provision of the Indenture, the Regulatory Agreement or the Bond Loan Agreement to the contrary, the parties thereto acknowledge and agree that all of their respective rights and powers to any assets or properties of the Borrowers are subordinate and subject to the liens created by the mortgages securing the Senior Loans, together with any and all amounts from time to time secured thereby, and interest thereon, and to all of the terms and provisions of the mortgages securing the Senior Loans, and any and all other documents executed by the Borrowers as required by RHS or GNMA in connection therewith.

#### **CONTINUING DISCLOSURE**

The Borrowers will enter into a Continuing Disclosure Agreement dated as of November 1, 2018 (the “Continuing Disclosure Agreement”) with Wilmington Trust, National Association, acting as the Dissemination Agent, obligating the Borrowers to send, or cause to be sent, certain financial information with respect to the Projects to certain information repositories annually and to provide notice, or cause notice to be provided, to the Municipal Securities Rulemaking Board, if any, of certain enumerated events for the benefit of the Beneficial Owners and Holders of any of the Bonds, in order to allow the Underwriter to meet the requirements of Section (b)(5)(i) of Securities Exchange Commission Rule 15c2-12 (the “Rule”).

A failure by the Borrowers to comply with the provisions of the Continuing Disclosure Agreement will not constitute a default under the Indenture or the Bond Loan Agreement (although Holders will have any available remedy at law or in equity for obtaining necessary disclosures). Nevertheless, such a failure to comply is required to be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Bonds.

The Borrowers have not previously been subject to the continuing disclosure requirements of the Rule. See “APPENDIX F – FORM OF CONTINUING DISCLOSURE AGREEMENT” herein.

#### **FINANCIAL ADVISOR**

George K. Baum & Company (the “Financial Advisor”) has served as financial advisor to the Issuer for purposes of assisting the Issuer with the development and implementation of the bond program in connection with the Bonds. The Financial Advisor has not been engaged by the Issuer to compile, create or interpret any information in this Official Statement relating to the Issuer, including (without limitation) any of the Issuer’s financial and operating data, whether historical or projected. Any information contained in this Official Statement concerning the Issuer, any of its affiliates or contractors

and any outside parties has not been independently verified by the Financial Advisor, and inclusion of such information is not and should not be construed as a representation by the Financial Advisor as to its accuracy or completeness or otherwise. The Financial Advisor is not a public accounting firm and has not been engaged by the Issuer to review or audit any information in this Official Statement in accordance with accounting standards.

The Financial Advisor does not assume any responsibility for the covenants and representations contained in any of the legal documents with respect to the federal income tax status of the Bonds, or the possible impact of any present, pending or future actions taken by any legislative or judicial bodies.

#### **MISCELLANEOUS**

The foregoing references to and summaries or descriptions of provisions of the Bonds, the Bond Loan Agreement, the Indenture and the Regulatory Agreement, and all references to other materials not stated to be quoted in full are only brief outlines of some of the provisions thereof and do not purport to summarize or describe all of the provisions thereof. After the Closing Date, copies of the Bond Loan Agreement, the Indenture, the Bond Note, and the Regulatory Agreement may be obtained from the Trustee at its designated corporate trust office.

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This Official Statement has been duly authorized, executed and delivered by the Borrowers.

**THF BASTROP OAK GROVE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF BAY CITY VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Official Statement)

**THF BURK VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF ELGIN MEADOWPARK, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Official Statement)

**THF EVANT TOM SAWYER, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF HONDO BRIAN PLACE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Official Statement)

**THF HONDO GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF LAMPASAS GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Official Statement)

**THF LANTANA APARTMENTS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

## APPENDIX A

### DEFINITION OF CERTAIN TERMS

“Act” means Chapter 2306, Texas Government Code, as amended.

“Additional Payments” means the amounts required to be paid by the Borrowers pursuant to the provisions of the Bond Loan Agreement.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Allocated Bonds” means, with respect to each Project and Borrower, the portion of the Bonds that have been allocated to the Project and Borrower, the proceeds of which are to be loaned to that Borrower pursuant to the Bond Loan Agreement with the Borrower, which allocation is set forth in an exhibit attached to the Indenture. The aggregate amount of the Allocated Bonds equals the aggregate principal amount of the Bonds.

“Authenticating Agent” means the Trustee and the Registrar for the Bonds and any bank, trust company or other Person designated as an Authenticating Agent for the Bonds by or in accordance with the Indenture, each of which shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934 as amended.

“Authorized Borrowers’ Representative” means the person or persons designated to act on behalf of all of the Borrowers collectively and each Borrower individually.

“Authorized Denomination” means \$5,000 and any increment of \$1,000 in excess thereof.

“Authorized Lender Representative” means the person designated to act on behalf of the Lender.

“Authorized Officer” means the Chair or Vice Chair of the Governing Body, the Executive Director of the Issuer, the Director of Bond Finance and Chief Investment Officer of the Issuer, the Director of Texas Homeownership of the Issuer and the Secretary or any Assistant Secretary to the Governing Body.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

“Board” means the Board of Directors of the Issuer.

“Bond Counsel” means counsel selected by the Issuer and nationally recognized as having an expertise in connection with the exclusions of interest on obligations or obligations of state and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Bond Fund” means the Bond Fund created in the Indenture.



“Bond Loan” means each Bond Loan by the Issuer to a Borrower of a portion of the proceeds received from the sale of the Bonds to be made pursuant to a Bond Loan Agreement. “Bond Loans” means, collectively, all of such Bond Loans.

“Bond Loan Agreement” means the Loan Agreement, dated as of even date with the Indenture, between the Issuer and the Borrowers and assigned by the Issuer, except for Issuer’s Reserved Rights, to the Trustee, as amended or supplemented from time to time.

“Bond Loan Payment Cure Period” means a period of five Business Days following any Bond Loan Payment Date.

“Bond Loan Payment Date” means the fifth Business Day preceding each Bond Payment Date.

“Bond Loan Payments” means the amounts required to be paid by each respective Borrower in repayment of the Bond Loan to such Borrower pursuant to the provisions of the Bond Note and the Bond Loan Agreement relating to the Bond Loan to such Borrower.

“Bond Note” means, with respect to the Borrowers, the promissory note of each of the Borrowers, dated as of even date with the Bonds initially issued, in the form attached to the Bond Loan Agreement for the Borrower as an exhibit and totaling in the aggregate the principal amount of the Bonds, evidencing the obligation of the Borrowers to make Bond Loan Payments.

“Bond Payment Date” means each Interest Payment Date, Mandatory Tender Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, mandatory tender or optional redemption, upon acceleration or otherwise.

“Bond Resolution” means that certain Bond Resolution relating to the Projects, adopted by the Board of the Issuer on October 11, 2018.

“Bond Service Charges” means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption, Mandatory Tender or acceleration.

“Bonds” means the Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 of the Issuer authorized in the Bond Resolution and the Indenture in an amount of \$20,000,000\*.

“Book Entry Form” or “Book Entry System” means, with respect to the Bonds, a form or system, as applicable, under which (i) physical Bond certificates in fully registered form are issued only to a Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Depository and (ii) the ownership of book entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book entry made by Persons other than the Issuer or the Trustee. The records maintained by Persons other than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book entry interests in the Bonds and Bond Service Charges thereon.

“Borrower” means, individually, each of the following entities: (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability

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\* Preliminary; subject to change.

company, each of which entity is entering into the Bond Loan Agreement with the Issuer. “Borrowers” means, collectively, all of the Borrowers.

“Borrower’s Equity Fund” means the Borrower’s Equity Fund created pursuant to the Indenture.

“Bridge Lender” means BF Related Texas, LLC, a Delaware limited liability company, in its capacity as maker of the Bridge Loan.

[“Bridge Loan” means, together, the equity bridge loans made from the Bridge Lender to the Borrowers.]

“Business Day” means a day of the week, other than a Saturday or a Sunday, on which commercial banks located in the city in which the principal corporate trust office of the Trustee are not required or authorized to remain closed.

“Closing Date” means \_\_\_\_\_, 2018.

“Collateral Fund” means the Collateral Fund created pursuant to the Indenture.

“Completion Date” means, for each Project, the date of substantial completion of such Project evidenced by the filing of a completion certificate with respect to such Project in accordance with the requirements of the Bond Loan Agreement relating to that Project.

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“Construction Period” means the period between the beginning of the acquisition and rehabilitation or construction of a Project and the Completion Date for that Project.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement dated as of November 1, 2018 between the Borrowers and the Dissemination Agent as originally executed and as it may be amended from time to time in accordance with its terms.

“Contractual Obligation” means for any Person any obligation, covenant, or condition contained in any evidence of Indebtedness or any agreement or instrument under or pursuant to which any evidence of Indebtedness has been issued, or any other material agreement, instrument or guaranty, to which such Person is a party or by which such Person or any of its assets or properties are bound.

“Costs of Issuance Fund” means the Costs of Issuance Fund created pursuant to the Indenture.

“Depository” means, with respect to the Bonds, DTC, until a successor Depository shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, Depository shall mean the successor Depository. Any Depository shall be a securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in the Bonds or Bond Service Charges thereon, and to effect transfers of book entry interests in the Bonds.

“Dissemination Agent” means Wilmington Trust, National Association acting as the dissemination agent under the Continuing Disclosure Agreement or any successor Dissemination Agent under the Continuing Disclosure Agreement.

“Dissemination Agent Fee” means the fees payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement.

“DTC” means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

“DTC Participant” means any participant contracting with DTC under its book entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

“Eligible Funds” means, as of any date of determination, any of:

(a) the proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof by the Underwriter);

(b) the proceeds of the Senior Loan, the Bridge Loan and/or the Subordinate Loan;

(c) amounts paid by the Lender to the Trustee representing advances of the Senior Loan, whether from funds of the Lender, funds from the Lender’s warehouse line or funds derived by the Lender from the issuance and sale of GNMA Securities related to such advances;

(d) amounts drawn by the Trustee on any letter of credit including proceeds of draws received for the benefit of the Borrower;

(e) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer or any Affiliate of either the Borrower or the Issuer);

(f) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an opinion of counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an “insider” within the meaning of the Bankruptcy Code) to the effect that (A) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (B) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 of the Bankruptcy Code should the Issuer or the Borrowers become a debtor in proceedings commenced under the Bankruptcy Code;

(g) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and

(h) investment income derived from the investment of the money described in (a) through (g) above.

“Eligible Investments” means any of the following obligations which mature (or are redeemable at the option of the Trustee) at such time or times as to enable disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of the Indenture, to the extent the same are at the time legal for investment of the Issuer’s funds (written direction of the Issuer to invest funds shall be conclusive evidence that the directed investment is at the time a legal investment of the Issuer’s funds):

(a) Government Obligations; or

(b) to the extent permitted in the Indenture, money market mutual funds rated “AAAm” by S&P (or if S&P is not the Rating Agency or a new rating scale is implemented, the equivalent rating category given by the Rating Agency for that general category of security) (including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor) registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

“Eligible Investments” shall not include the following: (1) any investment with a final maturity or any agreement with a term ending later than the earlier of (i) the current Mandatory Tender Date in effect at the time of investment, (ii) the Maturity Date, or (iii) the Optional Redemption Date (except (A) obligations that provide for the optional or mandatory tender, at par, by the holder of such obligations at any time and (B) Government Obligations irrevocably deposited with the Trustee for payment of Bonds pursuant to the Indenture), and (2) any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

“Event of Default” means any of the events as described as an Event of Default under the Indenture or the Bond Loan Agreement.

“Expense Fund” means the Expense Fund created pursuant to the Indenture.

“Extension Payment” means the amount due, if any, to provide additional funds for the payment of Bond Service Charges in connection with the change or extension of the Mandatory Tender Date pursuant to the Indenture as determined by a cash flow projection approved in writing by the Rating Agency consisting of Eligible Funds other than the proceeds of the Bonds.

“Extraordinary Services” and “Extraordinary Expenses” mean all services rendered and all reasonable expenses properly incurred by the Trustee under the Indenture, other than Ordinary Services and Ordinary Expenses. Extraordinary Services and Extraordinary Expenses shall specifically include services rendered or expenses incurred by the Trustee in connection with, or in contemplation of, an Event of Default.

“Fiscal Year” means, with respect to a Person, that period beginning on January 1 of each year and ending on December 31 of that year or such other fiscal year as shall be designated by such Person as its annual accounting period.

“Force Majeure” means any of the causes, circumstances or events described as constituting Force Majeure in the Bond Loan Agreement.

“GAAP” means generally accepted accounting principles applied on a consistent basis.

“GNMA” means the Government National Mortgage Association, a U.S. government-owned corporation within the United States Department of Housing and Urban Development.

“GNMA Mortgage-Backed Securities Guide” means the GNMA Mortgage-Backed Securities Guide promulgated by GNMA, together with any and all Supplements thereto.

“GNMA Requirements” means the GNMA Mortgage-Backed Securities Guide and all applicable GNMA regulations and administrative requirements.

“GNMA Security” or “GNMA Securities” means a fully modified pass through security in the form of a construction loan certificate or a permanent loan certificate issued by an approved lender and guaranteed by GNMA as to timely payment of principal of and interest on a permanent loan certificate and as to timely payment of interest only until maturity and timely payment of principal at maturity on a construction loan certificate, pursuant to Section 306(g) of the National Housing Act of 1934, as amended, and the regulations promulgated thereunder.

“Government Obligations” means direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury), and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by the United States of America.

“Holder,” “Holders,” or “Holder of a Bond” means the Person in whose name a Bond is registered on the Register.

“Indebtedness” shall mean for any Person (a) all indebtedness or other obligations of such Person for borrowed money or for the deferred purchase price of property or services, (b) all indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services, the payment or collection of which such Person has guaranteed (except by reason of endorsement for deposit or collection in the ordinary course of business) or in respect of which such Person is liable, contingently or otherwise, including, without limitation, by way of agreement to purchase, to provide funds for payment, to supply funds to or otherwise to invest in such other Person, or otherwise to assure a creditor against loss, (c) all indebtedness or other obligations of any other Person for borrowed money or for the deferred purchase price of property or services secured by (or for which the holder of such indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien, upon or in property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness or other obligations, (d) all direct or contingent obligations of such Person in respect of letters of credit, (e) all lease obligations which have been or should be, in accordance with GAAP, capitalized on the books of such Person as lessee, and (f) guaranties of any of the foregoing; provided that Indebtedness does not include accounts payable and accrued expenses incurred in the ordinary course of business.

“Indenture” means the Trust Indenture, dated as of November 1, 2018, between the Issuer and the Trustee, as amended or supplemented from time to time.

“Independent” when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in any Borrower or any Affiliate of a Borrower and in the case of an individual is not a director, trustee, officer, partner or employee of a Borrower or any Affiliate of a Borrower and in the case of an entity, does not have a partner, director, trustee, officer, partner or employee who is a director, trustee, officer or employee of any partner of a Borrower or any Affiliate of a Borrower.

“Information Services” means in accordance with then-current guidelines of the Securities and Exchange Commission, the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, or any successor entity or entities designated by the Securities and Exchange Commission.

“Initial Bond” means the initial Bond registered by the Comptroller and subsequently canceled and replaced by a definitive Bond pursuant to the Indenture.

“Initial Deposit Account” means the Initial Deposit Account within the Bond Fund created in the Indenture.

“Initial Interest Rate” means \_\_%.

“Initial Mandatory Tender Date” means November 1, 2020\*.

“Interest Payment Account” means the Interest Payment Account within the Bond Fund created in the Indenture.

“Interest Payment Date” means (a) each May 1\* and November 1\*, commencing May 1, 2019\*, (b) each Redemption Date and (c) each Mandatory Tender Date.

“Interest Rate” means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

“Interest Rate for Advances” means the rate of twelve percent per annum (12%) or the rate per annum which is two percent plus that interest rate announced by the Trustee in its lending capacity as a bank as its “Prime Rate” or its “Base Rate,” whichever is greater and lawfully chargeable, in whole or in part.

“Investor Member” means BF Related Texas, LLC, a Delaware limited liability company, and its permitted successors and assigns which is the investor member of the applicable sole member of the Borrower.

“Issuer” means the Texas Department of Housing and Community Affairs, a public and official agency of the State, its successors and assigns.

“Issuer Administration Fee” means the fee payable annually in advance to the Issuer on each November 1, in the amount of .10% per annum of the aggregate principal amount of Bonds Outstanding at the inception of each payment period. On the Closing Date, the Borrower will pay the Issuer Administration Fee in advance to the Issuer for the period from the Closing Date to October 31, 2020. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), payable solely from funds provided by the Borrower, all payments of the Issuer Administration Fee due on or after November 1, 2020.

“Issuer Compliance Fee” means the fee payable annually in advance to the Issuer on each November 1, in the amount of \$25 per Low-Income Unit in the Project. The first annual Issuer Compliance Fee shall be paid on the Closing Date. The Trustee will remit to the Issuer (upon receipt of an invoice from the Issuer), solely from funds provided by the Borrower, all payments of the Issuer Compliance Fee due on or after November 1, 2021. The Issuer Compliance Fee is for bond compliance only, and an additional fee may be charged for tax credit compliance.

“Issuer Fees” means, collectively, the Issuer Administration Fee and the Issuer Compliance Fee.

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\* Preliminary; subject to change.

“Lender” means Lancaster Pollard Mortgage Company LLC, a Delaware limited liability company, its successors and assigns, or Rural Housing Service, an agency of the United States Department of Agriculture, its successors and assigns.

“Lien” means any mortgage, deed of trust, lien, charge, security interest or encumbrance of any kind upon, or pledge of, any property, whether owned acquired after the date of the Indenture, and includes the acquisition of, or agreement to acquire, any property subject to any conditional sale agreement or other title retention agreement, including a lease on terms tantamount thereto or on terms otherwise substantially equivalent to a purchase.

“Local Time” means Central time (daylight or standard, as applicable), in Austin Travis County, Texas.

“Mandatory Tender Date” means the Initial Mandatory Tender Date and if the Bonds outstanding are remarketed pursuant to the Indenture for a remarketing period that does not extend to the final maturity of the Bonds, any subsequent mandatory tender date.

“Maturity Date” means November 1, 2021\*.

“Maximum Rate” shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Bonds under State law pursuant to Chapter 1204 of the Texas Government Code.

“Mortgage” means a deed of trust securing each Senior Loan, as the same may be amended or modified from time to time.

“Opinion of Bond Counsel” means an opinion of Bond Counsel or of other counsel designated by the Issuer and nationally recognized as having an expertise in connection with the exclusion of interest on obligations of states and local governmental units from the gross income of holders thereof for federal income tax purposes.

“Optional Redemption Date” means [\_\_\_\_\_ 1, 20\_\_]\*.

“Ordinary Services” and “Ordinary Expenses” mean those services normally rendered, and those expenses normally incurred, by a trustee under instruments similar to the Indenture. Without limiting the generality of this definition, Ordinary Services and Ordinary Expenses shall include, without limitation, services provided to the Trustee in connection with the redemption of Bonds as provided in the Indenture and in connection with any meetings of Holders of the Bonds as provided the Indenture.

“Outstanding Bonds,” “Bonds outstanding” or “outstanding” as applied to Bonds mean, as of the applicable date, all Bonds which have been authenticated and delivered, or which are being delivered by the Trustee under the Indenture, except:

(a) Bonds cancelled upon surrender, exchange or transfer, or cancelled because of payment on or prior to that date;

(b) Bonds, or the portion thereof, for the payment or purchase for cancellation of which sufficient money has been deposited and credited with the Trustee or any Paying Agents on or prior to that date for that purpose (whether upon or prior to the maturity of those Bonds);

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\* Preliminary; subject to change.

(c) Bonds, or the portion thereof, which are deemed to have been paid and discharged or caused to have been paid and discharged pursuant to the provisions of the Indenture; and

(d) Bonds in lieu of which others have been authenticated under the Indenture.

“Paying Agent” means any bank or trust company designated as a Paying Agent by or in accordance with the Indenture.

“Person” or words importing persons mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, limited liability companies, public or governmental bodies, other legal entities and natural persons.

“Plans and Specifications” means for each Project, the plans and specifications describing the Project as now prepared and as they may be changed from time to time as provided in the Indenture.

“Pledged Revenues” means (a) the Bond Loan Payments, (b) all other moneys received or to be received by the Issuer or the Trustee in respect of repayment of the Bond Loans, including without limitation, all moneys and investments in the Bond Fund, (c) any moneys and investments in the Project Fund and the Collateral Fund, and (d) all income and profit from the investment of the foregoing moneys, excluding in each case amounts related to the Issuer’s Reserved Rights. The term “Pledged Revenues” does not include any moneys or investments in the Rebate Fund.

“Predecessor Bond” of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under the Indenture in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in in the Indenture, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

“Principal Payment Account” means the Principal Payment Account within the Bond Fund created in the Indenture.

“Project” means, individually, the acquisition, rehabilitation and equipping by a Borrower of the property described in the Indenture and in “THE PROJECTS” herein and associated with that Borrower. “Projects” means, collectively, all of such Projects.

“Project Costs” means:

(a) Costs incurred directly or indirectly for or in connection with the acquisition, construction, rehabilitation, installation, improving, equipping or financing of a Project, including costs incurred in respect of a Project for preliminary planning and studies; architectural, legal, engineering, accounting, consulting, supervisory and other services; labor, services and materials; and recording of documents and title work;

(b) Premiums attributable to any surety bonds and insurance required to be taken out and maintained during the Construction Period with respect to a Project;

(c) Taxes, assessments and other governmental charges in respect of a Project that may become due and payable during the Construction Period;



(d) Costs incurred directly or indirectly in seeking to enforce any remedy against any contractor or subcontractor in respect of any actual or claimed default under any contract relating to a Project;

(e) Subject to the Bond Loan Agreement, financial, legal, accounting, printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of the Bonds, including, without limitation, the fees and expenses of the Trustee, the Registrar and any Paying Agent properly incurred under the Indenture that may become due and payable during the Construction Period;

(f) Any other costs, expenses, fees and charges properly chargeable to the capital account for a Project for the cost of acquisition, construction, rehabilitation, installation, improving, equipping or financing of the Project;

(g) Payment of interest on the Bonds during the Construction Period; and

(h) Payments to the Rebate Fund.

“Project Fund” means the Project Fund created in the Indenture.

“Rating Agency” means S&P Global Ratings (“S&P”), Moody’s Investors Service (“Moody’s”) or any other nationally recognized municipal securities rating agency.

“Rebate Fund” means the Rebate Fund created in the Indenture.

“Redemption Date” means any date under the Indenture on which the Bonds are to be redeemed, including (a) the Maturity Date, (b) the date of acceleration of the Bonds or (c) as otherwise set forth in the Indenture.

“Register” means the books kept and maintained by the Registrar for registration and transfer of Bonds pursuant to the Indenture.

“Registrar” means the Trustee, until a successor Registrar shall have become such pursuant to applicable provisions of the Indenture; each Registrar shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934.

“Regular Record Date” means the close of business on the 15th day of the calendar month next preceding an Interest Payment Date applicable to that Bond.

“Regulatory Agreement” means, collectively, each Regulatory and Land Use Restriction Agreement dated as of November 1, 2018, between the Issuer, a Borrower and the Trustee with respect to each Project.

“Remarketing Agent” means, initially, RBC Capital Markets, LLC, and any successor Remarketing Agent that may be appointed by the Issuer.

“Remarketing Notice Parties” means the Authorized Borrowers’ Representative, the Issuer, the Trustee, the Remarketing Agent, and the Rating Agency.

“Remarketing Rate” means the interest rate or rates established pursuant to the Indenture and borne by the Bonds then Outstanding from and including the Mandatory Tender Date to a new Mandatory

Tender Date or the Maturity Date, as applicable, determined pursuant to the Indenture; provided that the Remarketing Rate shall never exceed the Maximum Rate.

“Reserved Rights” of the Issuer means (a) all of the Issuer’s right, title and interest in and to all reimbursement, costs, expenses and indemnification; (b) the right of the Issuer to amounts payable to it pursuant to the Bond Loan Agreement, including the Issuer’s Fees; (c) all rights of the Issuer to receive any Rebate Amount (as defined in the Tax Exemption Agreement) required to be rebated to the United States of America under the Code in connection with the Bonds, as described in the Tax Exemption Agreement; (d) all rights of the Issuer to receive notices, reports or other information, and to make determinations and grant approvals or consent under the Indenture, the Bond Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement; (e) all rights of the Issuer of access to the Project and documents related thereto and to specifically enforce the representations, warranties, covenants and agreements of the Borrower set forth in the Bond Loan Agreement, in the Tax Exemption Agreement and in the Regulatory Agreement; (f) any and all rights, remedies and limitations of liability of the Issuer set forth in the Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, or the Subordinate Mortgage, as applicable, regarding (1) the negotiability, registration and transfer of the Bonds, (2) the loss or destruction of the Bonds, (3) the limited liability of the Issuer as provided in the Act, the Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, the Subordinate Mortgage or the Note, (4) no liability of the Issuer to third parties, and (5) no warranties of suitability or merchantability by the Issuer; (g) all rights of the Issuer in connection with any amendment to or modification of the Indenture, the Bond Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement, the Mortgage, Subordinate Mortgage and the Note; (h) any and all limitations of the Issuer’s liability and the Issuer’s disclaimers of warranties set forth in the Indenture, the Regulatory Agreement, the Tax Exemption Agreement or the Bond Loan Agreement, and the Issuer’s right to inspect and audit the books, records and permits of the Borrower and the Project.

“RHS” means the Rural Housing Service, an agency of the United States Department of Agriculture.

“RHS Requirements” means all applicable RHS regulations and administrative guidelines.

“Section 538 Projects Pool” means the Projects receiving funding under the Senior Loan as more specifically set forth in the Indenture.

“Senior Loan” means proceeds from one or more loans made for any Project under the RHS department of the USDA Section 538 Guaranteed Rural Rental Housing Loan Program.

“Senior Loan Documents” means the documents executed by each Borrower with respect to the making of the Senior Loan.

“Special Funds” means, collectively, the Bond Fund, the Collateral Fund and the Project Fund and any accounts therein, all as created in the Indenture.

“Special Record Date” means, with respect to any Bond, the date established by the Trustee in connection with the payment of overdue interest or principal on that Bond.

“State” means the State of Texas.

“Subordinate Loan” means proceeds from one or more loans made for any Project under the RHS department of the USDA Section 515 Program.

“Subordinate Mortgage” means the Subordinate Multifamily Leasehold Deed of Trust, Security Agreement and Fixture Filing dated as of November 1, 2018 from each Borrower for the benefit of the Issuer as security for the Borrower’s obligations under the Bond Loan Agreement.

“Supplemental Indenture” means any indenture supplemental to the Indenture entered into between the Issuer and the Trustee in accordance with the Indenture.

“Tax Exemption Agreement” means that certain Tax Exemption Certificate and Agreement among the Issuer, each Borrower and the Trustee dated as of the date of the Indenture, as in effect on the Closing Date and as it may thereafter be amended or supplemented or restated in accordance with its terms.

“Trustee” means Wilmington Trust, National Association, until a successor Trustee shall have become such pursuant to the applicable provisions of the Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“Underwriter” means RBC Capital Markets, LLC.

“Unredeemed Bonds” means Bonds tendered or deemed tendered upon mandatory tender but not redeemed.

“USDA” means the United States Department of Agriculture.

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**APPENDIX B**

**FORM OF BOND COUNSEL OPINION**

*On the date of issuance of the Bonds, Bracewell LLP, Bond Counsel, proposes to issue its approving opinion in substantially the following form.*

[TO COME]

## APPENDIX C

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following, in addition to the information provided under "THE BONDS", summarizes certain provisions of the Indenture, to which reference is made for the detailed provisions thereof.*

#### **Creation of Trust**

To secure the payment of Bond Service Charges on the Bonds, the Issuer will assign to the Trustee its right, title and interest in (i) the Pledged Revenues, including, without limitation, all Bond Loan Payments and other amounts receivable by or on behalf of the Issuer under the Bond Loan Agreement in respect of repayment of the Bond Loans, (ii) the Special Funds, including all accounts in those funds and all moneys deposited therein and the investment earnings on such moneys, (iii) subject to the provisions of the Bond Resolution, all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which moneys in the Special Funds are invested, and (except for moneys required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time after the date of the Indenture by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security under the Indenture by the Issuer or by anyone in its behalf, or with its written consent, to the Trustee, which is authorized by the Indenture to receive any and all such property at any and all times and to hold and apply the same subject to the terms of the Indenture, (iv) the Bond Note, and (v) the Bond Loan Agreement, except for (relating to all clauses (i) through (v)) the Issuer's Reserved Rights.

#### **Creation of Funds; Allocation of Bond Proceeds**

The funds and accounts described in under this caption, designated as indicated are created by the Indenture. Each Fund is to be maintained in the custody of the Trustee as a separate bank account (except when invested in Eligible Investments). The funds and accounts are:

- (1) the Bond Fund and the Interest Payment Account, Principal Payment Account and the Initial Deposit Account therein;
- (2) the Project Fund;
- (3) the Collateral Fund;
- (4) the Rebate Fund;
- (5) the Costs of Issuance Fund;
- (6) the Expense Fund; and
- (7) the Borrower's Equity Fund and the Eligible Funds Account and the Non-Eligible Funds Account therein.

#### **Application of Bond Loan Payments**

So long as there are any Outstanding Bonds, any payments by the Borrowers pursuant to the Bond Note and the Bond Loan Agreement shall be paid on each Bond Loan Payment Date directly to the

Trustee, and deposited as follows: (1) into the Interest Payment Account, at least the amount necessary to pay the interest on the Bonds on the next succeeding Interest Payment Date; and (2) into the Principal Payment Account, at least the amount necessary to pay the principal due on the Bonds on the next succeeding Interest Payment Date.

### **Disbursements from and Records of Project Fund**

When the Trustee receives a request for disbursement from the Project Fund in accordance with the provisions described in “APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE BOND LOAN AGREEMENT – Disbursement of Proceeds of the Allocated Bonds” the Trustee shall confirm that Eligible Funds are on deposit in the Collateral Fund in an amount equal to or greater than the sum of (a) the amount set forth in the request for disbursement and (b) all prior disbursements. Upon confirmation of the above, the Trustee shall thereafter disburse funds to pay Project Costs in the amount requested from the Project Fund, to the extent the corresponding deposit to the Collateral Fund was made by the Lender; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project Fund at original cost plus accrued interest (if applicable), in the amount specified in the request for disbursement, to the Collateral Fund, and (ii) transfer a like amount of Collateral Payments on deposit in the Collateral Fund to the Project Fund.

Payments from the Project Fund shall be paid by wire transfer to the applicable party. If the deposit to the Collateral Fund is deposited by noon, then the wire transfer shall occur no later than the close of business on the Business Day the day the deposit is made. If the deposit to the Collateral Fund is deposited after noon Eastern time, then the wire transfer shall occur no later than 10:00 a.m. Eastern time on the Business Day following the day the deposit is made.

Notwithstanding anything described under this caption to the contrary, the Trustee shall be permitted to transfer funds from the Project Fund directly to the Collateral Fund upon the request of the Authorized Borrowers’ Representative substantially in the form attached to the Indenture as an exhibit, which shall be consecutively numbered.

The Trustee shall cause to be kept and maintained adequate records pertaining to the amounts deposited to the Project Fund, the investment thereof and all disbursements therefrom as provided in the Indenture. After a Project has been completed and a completion certificate for such Project is filed as provided in the Indenture, the Trustee shall file copies of the records pertaining to the Project Fund and disbursements therefrom with respect to that Project with the Issuer, the Authorized Borrowers’ Representative, the Lender and the Investor Member.

Upon the occurrence and continuance of an Event of Default under the Indenture because of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to the provisions described under the caption “Acceleration” below, any moneys remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

### **Collateral Fund**

Eligible Funds shall be deposited in the Collateral Fund in such amounts and at such times as may be necessary to allow the Trustee to transfer funds from the Project Fund upon the Trustee’s receipt of a request for disbursement. The Collateral Fund shall only be used and applied for, and irrevocably committed to, the payment of (i) the Bond Service Charges on the Bonds which are due and payable on

any Interest Payment Date and the Maturity Date and (ii) the Bond Services Charges on the Bonds as and when due at any other Bond Payment Date.

### **Bond Fund**

There shall be deposited in the Bond Fund (and credited to appropriate accounts therein), from the proceeds of the sale of the Bonds, any accrued interest paid by the Holder.

The Bond Fund (and accounts therein for which provision is made in the Indenture or in the Bond Loan Agreement) and the moneys and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges, as they become due and at stated maturity, or upon acceleration, all as provided in the Indenture and in the Bond Loan Agreement.

The Trustee shall transmit to the Paying Agent from moneys on deposit in the Bond Fund, amounts sufficient to make timely payments of Bond Service Charges on the Bonds. To the extent that the amount needed by the Paying Agent is not sufficiently predictable, the Trustee may make any credit arrangements with the Paying Agent which will permit those payments to be made. The Issuer authorizes and directs the Trustee to cause withdrawal of moneys from the Bond Fund which are available for the purpose of paying, and are sufficient to pay, the Bond Service Charges on the Bonds as they become due and payable, for the purposes of paying or transferring moneys to the Paying Agent which are necessary to pay the Bond Service Charges. Amounts credited to or on deposit in the Initial Deposit Account shall be transferred to the Interest Payment Account of the Bond Fund on each Bond Loan Payment Date in order to provide for the payment of the Bond Service Charges on the next succeeding Bond Payment Date.

In the event that amounts on deposit in the Interest Payment Account and Principal Payment Account of the Bond Fund on any Bond Loan Payment Date are insufficient to make the payment of Bond Service Charges due on the next succeeding Bond Payment Date, the Trustee shall transfer funds in the following order to the applicable account of the Bond Fund and use such funds, together with amounts then on deposit in the Bond Fund, to pay the Bond Service Charges due on the next succeeding Bond Payment Date:

- (1) first, from amounts on deposit in the Initial Deposit Account of the Bond Fund;
- (2) second, from amounts on deposit in the Interest Payment Account of the Bond Fund;
- (3) third, from amounts on deposit in the Collateral Fund; and
- (4) fourth, from amounts on deposit in the Project Fund.

### **Investment of Special Funds and Rebate Fund**

Except as otherwise described under this caption, moneys in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments at the written direction of the Authorized Borrowers' Representative. At no time shall the Authorized Borrowers' Representative direct that any funds constituting gross proceeds of the Bonds be used in any manner as would constitute failure of compliance with Section 148 of the Code. Investments of moneys in the Bond Fund shall mature or be redeemable at the times and in the amounts necessary to provide moneys to pay Bond Service Charges on the Bonds. Each investment of moneys in a Project Fund shall mature or be redeemable without penalty at such time as may be necessary to make payments from the Project Fund, including on each Interest

Payment Date. Any of those investments may be purchased from or sold to the Trustee, the Registrar, an Authenticating Agent or a Paying Agent, or any bank, trust company or savings and loan association affiliated with any of the foregoing. The Trustee shall sell or redeem investments credited to the Special Funds to produce sufficient moneys applicable under the Indenture to and at the times required for the purposes of paying Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. An investment made from moneys credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund shall be credited to the Interest Payment Account of the Bond Fund. All investment earnings from amounts on deposit in the Collateral Fund shall be credited to the Interest Payment Account of the Bond Fund. All gains resulting from the sale of, or income from, any investment made from moneys credited to the Special Funds shall be credited to and become part of the Bond Fund from which the investment was made. Notwithstanding the foregoing, any moneys held under the Indenture without the written direction of the Authorized Borrowers' Representative shall be invested in Eligible Investments.

### **Valuation**

For the purpose of determining the amount on deposit to the credit of any Fund or Account, the value of obligations in which money in such Fund or Account shall have been invested shall be computed at the then market value thereof.

The Eligible Investments shall be valued by the Trustee at any time requested by the Authorized Borrowers' Representative on reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Eligible Investments more than once in any calendar month.

### **Defaults; Events of Default**

The occurrence of any of the following events is defined as and declared to be and to constitute an Event of Default under the Indenture:

(a) Payment of any interest on any Bond shall not be made when and as that interest shall become due and payable;

(b) Payment of the principal of any Bond shall not be made when and as that principal shall become due and payable, whether at stated maturity, upon acceleration or otherwise;

(c) Failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in the Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer and the Authorized Borrowers' Representative specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding; and

(d) The occurrence and continuance of an Event of Default as defined in "APPENDIX D – SUMMARY OF CERTAIN PROVISIONS OF THE BOND LOAN AGREEMENT – Events of Default."



The term “default” or “failure” as used in the Indenture means (i) a default or failure by the Issuer in the observance or performance of any of the covenants, agreements or obligations on its part to be observed or performed contained in the Indenture or in the Bonds, or (ii) a default or failure by the Borrowers under the Bond Loan Agreement, exclusive of any period of grace or notice required to constitute an Event of Default, as provided above or in the Bond Loan Agreement.

### **Acceleration**

Upon the occurrence of an Event of Default described in (a) and (b) under the caption “Defaults; Events of Default” above, the Trustee may declare, and upon the written request of the Holders of not less than 25% in aggregate principal amount of Bonds then outstanding the Trustee shall declare, by a notice in writing delivered to the Issuer and the Authorized Borrowers’ Representative, the principal of all Bonds then outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. Upon the occurrence of any Event of Default other than those described in (a) and (b) under the caption “Defaults; Events of Default” above, the Trustee may, with the written consent of all Holders of Bonds then outstanding, declare by a notice in writing delivered to the Issuer and the Authorized Borrowers’ Representative, the principal of all Bonds then outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement under the Indenture (after an opportunity for hearing by the Issuer and the Borrowers),

(a) all sums payable under the Indenture, including the Issuer’s Fee, and the Trustee’s fees and expenses (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds in respect of which the default shall have occurred, shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee or Paying Agents, and

(b) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

### **Other Remedies; Rights of Holders**

With or without taking action as described under the caption “Acceleration” above, upon the occurrence and continuance of an Event of Default, the Trustee may pursue any available remedy, including without limitation actions at law or equity to enforce the payment of Bond Service Charges or the observance and performance of any other covenant, agreement or obligation under the Indenture, the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note or any other instrument providing security, directly or indirectly, for the Bonds.

If, upon the occurrence and continuance of an Event of Default, the Trustee is requested so to do by the Holders of at least 25% in aggregate principal amount of Bonds outstanding, the Trustee (subject to the provisions of the Indenture), shall exercise any rights and powers conferred by the provisions described under this caption and the provisions described under “Acceleration” above.

No remedy conferred upon or reserved to the Trustee (or to the Holders) by the Indenture is intended to be exclusive of any other remedy. Each remedy shall be cumulative and shall be in addition to every other remedy given under the Indenture or otherwise to the Trustee or to the Holders existing as of or after the date of the Indenture.

No delay in exercising or omission to exercise any remedy, right or power accruing upon any default or Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

No waiver of any default or Event of Default under the Indenture, whether by the Trustee or by the Holders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

As the assignee of all right, title and interest of the Issuer in and to the Bond Loan Agreement (except for the Issuer’s Reserved Rights), the Trustee is empowered to enforce each remedy, right and power granted to the Issuer under the Bond Loan Agreement. In exercising any remedy, right or power under the Indenture or the Bond Loan Agreement, the Trustee shall take such action as may be directed by the requisite percentage of the Holders of the Bonds then outstanding, applying the standards described in the Indenture.

### **Right of Holders to Direct Proceedings**

Anything to the contrary in the Indenture notwithstanding, the Holders of a majority in aggregate principal amount of Bonds then outstanding shall have the right at any time to direct, by an instrument or document in writing executed and delivered to the Trustee, the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of the Indenture, or any other proceedings under the Indenture; provided, that (i) any direction shall not be other than in accordance with the provisions of law and of the Indenture, and (ii) the Trustee shall be indemnified as provided in the Indenture.

### **Application of Moneys.**

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of moneys and to all fees of the Trustee for Ordinary and Extraordinary Expenses pursuant to any right given or action taken under the provisions of the Indenture, the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or Bond Note (including without limitation, reasonable attorneys’ fees and expenses, except as limited by law or judicial order or decision entered in any action taken under the Indenture), all moneys received by the Trustee, shall be applied as follows, subject to certain provisions of the Indenture:

- (a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of those moneys shall be deposited in the Bond Fund and shall be applied:

First – To the payment of the Issuer’s Fee;

Second – To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Third – To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to the Indenture, all of those moneys shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to the Indenture, and if that declaration thereafter shall have been rescinded and annulled under the provisions described under the captions “Acceleration” above and “Waivers of Events of Default” below, subject to the provisions of paragraph (b) under this caption in the event that the principal of all of the Bonds shall become due and payable later, the moneys shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of the Indenture.

(d) Whenever moneys are to be applied pursuant to the provisions described under this caption, those moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future. Whenever the Trustee shall direct the application of those moneys, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the moneys are available therefor. The Trustee shall give notice of the deposit with it of any moneys and of the fixing of that date, all consistent with the requirements of the Indenture for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

## **Rights and Remedies of Holders**

A Holder shall not have any right to institute any suit, action or proceeding for the enforcement of the Indenture, for the execution of any trust thereof, or for the exercise of any other remedy thereunder, unless:

(a) there has occurred and is continuing an Event of Default of which the Trustee has been notified, as provided in the Indenture, or of which it is deemed to have notice under the Indenture,

(b) the Holders of at least 25% in aggregate principal amount of Bonds then outstanding shall have made written request to the Trustee and shall have afforded the Trustee reasonable opportunity to proceed to exercise the remedies, rights and powers granted in the Indenture or to institute the suit, action or proceeding in its own name, and shall have offered indemnity to the Trustee as provided in the Indenture, and

(c) the Trustee thereafter shall have failed or refused to exercise the remedies, rights and powers granted in the Indenture or to institute the suit, action or proceeding in its own name.

At the option of the Trustee, that notification (or notice), request, opportunity and offer of indemnity are conditions precedent in every case, to the institution of any suit, action or proceeding described above.

No one or more Holders of the Bonds shall have any right to affect, disturb or prejudice in any manner whatsoever the security or benefit of the Indenture by its or their action, or to enforce, except in the manner provided therein, any remedy, right or power thereunder. Any suit, action or proceedings shall be instituted, had and maintained in the manner provided in the Indenture for the benefit of the Holders of all Bonds then outstanding. Nothing in the Indenture shall affect or impair, however, the right of any Holder to enforce the payment of the Bond Service Charges on any Bond owned by that Holder at and after the maturity thereof, at the place, from the sources and in the manner expressed in that Bond.

## **Waivers of Events of Default**

The Trustee shall waive any Event of Default under the Indenture and its consequences and may rescind and annul any declaration of maturity of principal of or interest on, the Bonds upon the written request of the Holders of:

(a) at least a majority in aggregate principal amount of all Bonds then outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or

(b) at least 25% in aggregate principal amount of all Bonds then outstanding, in the case of any other Event of Default.

There shall not be so waived, however, any Event of Default described in paragraph (a) or (b) under the caption “Defaults; Events of Default” or any declaration of acceleration in connection therewith rescinded or annulled, unless at the time of that waiver or rescission and annulment payments of the amounts described under the caption “Acceleration” above for waiver and rescission and annulment in connection with acceleration of maturity have been made or provision has been made therefor. In the case of the waiver or rescission and annulment, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the Issuer, the Trustee and the Holders shall be restored to their former positions and rights under the

Indenture, respectively. No waiver or rescission shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

### **Supplemental Indentures Not Requiring Consent of Holders**

Without the consent of, or notice to, any of the Holders, the Issuer and the Trustee may enter into indentures supplemental to the Indenture which shall not, in the opinion of the Issuer and the Trustee, be inconsistent with the terms and provisions of the Indenture for any one or more of the following purposes:

- (a) to cure any ambiguity, inconsistency or formal defect or omission in the Indenture;
- (b) to grant to or confer upon the Trustee for the benefit of the Holders any additional rights, remedies, powers or authority that lawfully may be granted to or conferred upon the Holders or the Trustee;
- (c) to assign additional revenues under the Indenture;
- (d) to accept additional security and instruments and documents of further assurance with respect to the Projects;
- (e) to add to the covenants, agreements and obligations of the Issuer under the Indenture, other covenants, agreements and obligations to be observed for the protection of the Holders, or to surrender or limit any right, power or authority reserved to or conferred upon the Issuer in the Indenture;
- (f) to evidence any succession to the Issuer and the assumption by its successor of the covenants, agreements and obligations of the Issuer under the Indenture, the Bond Loan Agreement and the Bonds;
- (g) to permit the Trustee to comply with any obligations imposed upon it by law;
- (h) to specify further the duties and responsibilities of, and to define further the relationship among, the Trustee, the Registrar and any Authenticating Agents or Paying Agents;
- (i) to achieve compliance of the Indenture with any applicable federal securities or tax law;
- (j) to make amendments to the provisions of the Indenture relating to arbitrage matters under Section 148 of the Code, if, in the Opinion of Bond Counsel, those amendments would not adversely affect the excludability of the interest on the Bonds outstanding from gross income for federal income tax purposes which amendments may, among other things, change the responsibility for making the relevant calculations, provided that in no event shall such amendment delegate to the Trustee without its consent, in its sole discretion the obligation to make or perform the calculations required under Section 148 of the Code; and
- (k) to permit any other amendment which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Holders.

The provisions of clauses (i) and (k) above shall not be deemed to constitute a waiver by the Trustee, the Registrar, the Issuer or any Holder of any right which it may have in the absence of those provisions to contest the application of any change in law to the Indenture or the Bonds

### **Supplemental Indentures Requiring Consent of Holders**

Exclusive of Supplemental Indentures to which reference is made under the caption “Supplemental Indentures Not Requiring Consent of Holders” above and subject to the terms, provisions and limitations described under this caption, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time outstanding, evidenced as provided in the Indenture, and with the consent of the Borrowers if required by the Indenture, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of the Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing described under this caption or “Supplemental Indentures Not Requiring Consent of Holders” above shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on such Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) without the consent of the Holders of all Bonds then outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Trustee is requested to execute and deliver any Supplemental Indenture requiring the consent of the Holders as described in under this caption, then the Trustee shall, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by the Indenture, receipt of the consent of the Authorized Borrowers’ Representative and the Investor Member to the proposed execution and delivery of the Supplemental Indenture, cause notice of the proposed execution and delivery of the Supplemental Indenture to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee’s failure to mail, or the failure of any Holder to receive, the notice required by the provisions described under this caption. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided under this caption. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

If the Trustee shall receive within a period of not exceeding one year following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything in the Indenture to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds outstanding shall have consented to the Supplemental Indenture, as described under this caption, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

### **Release of Indenture**

If (i) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Service Charges due or to become due thereon, and (ii) provision also shall be made for the payment of all other sums payable under the Indenture, including the Trustee's fees and expenses, or under the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement and the Bond Note, then the Indenture shall cease, determine and become null and void (except for those provisions surviving by reason of the Indenture in the event the Bonds are deemed paid and discharged pursuant to the provisions described under the caption "Payment and Discharge of Bonds" below), and the covenants, agreements and obligations of the Issuer under the Indenture shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of the Indenture if applicable,

(a) the Trustee shall release the Indenture (except for those provisions surviving by reason of the Indenture in the event the Bonds are deemed paid and discharged pursuant to the provisions described under the caption "Payment and Discharge of Bonds" below), and shall execute and deliver to the Issuer any instruments or documents in writing as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer, and

(b) the Trustee and any other Paying Agents shall assign and deliver to the Issuer any property subject at the time to the lien of the Indenture which then may be in their possession, except amounts in the Bond Fund required (a) to be paid to the Borrowers under the Indenture, or (b) to be held by the Trustee and the Paying Agents under the Indenture or otherwise for the payment of Bond Service Charges.

### **Payment and Discharge of Bonds**

All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of the Indenture, including without limitation, as described under the caption "Release of Indenture" above, if:

(a) the Trustee as paying agent and any Paying Agents shall have received, in trust for and irrevocably committed thereto, sufficient moneys, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America which are certified by an Independent firm acceptable to the Trustee to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any moneys to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom (which earnings are to be held likewise in trust and so irrevocably committed, except as provided in the Indenture),

for the payment of all Bond Service Charges on those Bonds at their maturity; provided however, in the case of clause (b), the Trustee and the Issuer must receive an Opinion of Bond Counsel to the effect that the receipt, use and investment of the obligations will not adversely affect the excludability of the interest on the Bonds outstanding from gross income for federal income tax purposes.

Any moneys held by the Trustee in accordance with the provisions described under this caption may be invested by the Trustee only in noncallable direct obligations of or obligations guaranteed as to full and timely payment by the United States of America having maturity dates, or having redemption dates which, at the option of the Holder of those obligations, shall be not later than the date or dates at which moneys will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held pursuant to the provisions described under this caption is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes described under this caption, that income, interest or increment shall be transferred at the time of that determination in the manner provided in the Indenture for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to the provisions described under this caption, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged and shall set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph under this caption.

#### **Amendments Not Requiring Consent of Holders**

Without the consent of or notice to the Holders, the Issuer, a Borrower, the Investor Member and the Trustee may consent to any amendment, change or modification of a Bond Loan Agreement, Tax Exemption Agreement, Regulatory Agreement or the Bond Note relating to that Borrower as may be required (i) by the provisions of the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Indenture, (ii) for the purpose of curing any ambiguity, inconsistency or formal defect or omission in the Bond Loan Agreement, the Tax Certificate, the Regulatory Agreement or the Bond Note, (iii) in connection with an amendment or to effect any purpose for which there could be an amendment of the Indenture pursuant to the provisions described under the caption “Supplemental Indentures Not Requiring Consent of Holders” above, or (iv) in connection with any other change therein which is not to the prejudice of the Trustee or the Holders of the Bonds, in the judgment of the Trustee, applying the standards described in the Indenture.

#### **Amendments Requiring Consent of Holders**



Except for the amendments, changes or modifications contemplated under the caption “Amendments Not Requiring Consent of Holders” above, neither the Issuer nor the Trustee shall consent to

(a) any amendment, change or modification of the Bond Loan Agreement or the Bond Note which would change the amount or time as of which Bond Loan Payments are required to be paid, without the giving of notice as provided under this caption of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of all of the then Outstanding Bonds affected by such amendment, change or modification, or

(b) any other amendment, change or modification of the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note without the giving of notice as provided under this caption of the proposed amendment, change or modification and receipt of the written consent thereto of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding affected by such amendment, change or modification.

The consent of the Holders shall be obtained as described under the caption “Supplemental Indentures Requiring Consent of Holders” above with respect to Supplemental Indentures.

If the Issuer or the Authorized Borrowers’ Representative shall request at any time the consent of the Trustee to any proposed amendment, change or modification of a Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note contemplated in subparagraphs (a) or (b) under this caption, upon being indemnified satisfactorily with respect to expenses, the Trustee shall cause notice of the proposed amendment, change or modification to be provided in the manner which is required by the provisions described under the caption “Supplemental Indentures Requiring Consent of Holders” above with respect to notice of Supplemental Indentures. The notice shall set forth briefly the nature of the proposed amendment, change or modification and shall state that copies of the instrument or document embodying it are on file at the designated corporate trust office of the Trustee for inspection by all Holders.

#### **Extent of Covenants; No Personal Liability**

All covenants, stipulations, obligations and agreements of the Issuer contained in the Indenture are and shall be deemed to be covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized by the Act and permitted by the Constitution of the State. No covenant, stipulation, obligation or agreement of the Issuer contained in the Indenture shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the Issuer or the Board in other than that person’s official capacity. Neither the members of the Board nor any official executing the Bonds, the Indenture, the Bond Loan Agreement or any amendment or supplement to the Indenture, the Bond Loan Agreement or the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution of the Indenture, the Bond Loan Agreement or of the Bonds.

#### **RHS and GNMA Requirements to Control**

To the extent there is any conflict, inconsistency or ambiguity between or among the provisions of the Indenture and the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool or the Senior Loan Documents, then in such event the RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or Senior Loan Documents will be deemed to be controlling and any such ambiguity or inconsistency will be resolved in favor of and pursuant to the

RHS Requirements, GNMA Requirements with respect to the Section 538 Projects Pool or the provisions of the Senior Loan Documents.

Notwithstanding anything to the contrary contained in the Indenture, the enforcement of the Indenture shall not result in any claim against a Project, Senior Loan proceeds, any reserve or deposit made with the Lender or with another person or entity required by RHS in connection with the Senior Loan transactions, or against rents or other income from the Project other than available “surplus cash” as defined in the Senior Loan Documents available for distribution to the Borrower under the Senior Loan Documents. Nothing described under this caption, however, shall prevent or preclude the Trustee, to the extent expressly permitted by the provisions of the Indenture, (i) from using funds on deposit in the Bond Fund to make payments to Holders and/or (ii) to use funds on deposit in the Project Fund to make payments to or on behalf of the Lender.

If the Indenture contains any provision requiring the Issuer, a Borrower, the Trustee or any other party to the transaction to take any action necessary to preserve the tax exemption of interest on the Bonds, or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents.

Notwithstanding any provision of the Indenture to the contrary, the parties to the Indenture acknowledge and agree that all of their respective rights and powers to any assets or properties of the Borrowers are subordinate and subject to the liens created by the mortgages securing the Senior Loans, together with any and all amounts from time to time secured thereby, and interest thereon, and to all of the terms and provisions of the mortgages securing the Senior Loans, and any and all other documents executed by the Borrowers as required by RHS or GNMA in connection therewith.

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## APPENDIX D

### SUMMARY OF CERTAIN PROVISIONS OF THE BOND LOAN AGREEMENT

*The following summarizes certain provisions of the Bond Loan Agreement, to which reference is made for the detailed provisions thereof.*

#### **Disbursement of Proceeds of the Allocated Bonds from the Project Fund**

Subject to the provisions below and so long as no Event of Default under the Bond Loan Agreement has occurred and is continuing for which the principal amount of the Bonds has been declared to be immediately due and payable pursuant to the provisions described under the caption “Remedies on Default” below and in “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Acceleration,” disbursements of proceeds of the Allocated Bonds from the Project Fund shall be made only to pay Project Costs.

Any disbursements from the Project Fund shall be made by the Trustee only as permitted pursuant to the provisions described in “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Disbursements from and Records of Project Fund” and upon the written requisition of the Authorized Borrowers’ Representative substantially in the form attached to the Bond Loan Agreement as an exhibit, which shall be consecutively numbered. Such requisition shall be approved by a Lender, if the corresponding funds for deposit to the Collateral Fund derive from a Lender.

Any moneys in the Project Fund remaining after the Trustee’s receipt of a Completion Certificate with respect to all Projects and payment, or provision for payment, in full of the Project Costs for all Projects shall, at the direction of the Authorized Borrowers’ Representative, be promptly paid into the Bond Fund for payment of Bond Service Charges.

Notwithstanding anything described under this caption to the contrary, the Trustee shall be permitted to transfer funds from the designated subaccount of the Project Fund directly to the Collateral Fund upon the request of the Authorized Borrowers Representative substantially in the form attached to the Indenture as an exhibit, which shall be consecutively numbered.

Notwithstanding any provision of the Bond Loan Agreement or any provisions of the Indenture to the contrary, the Trustee shall not disburse funds from the Project Fund unless and until the Trustee confirms that funds in the Collateral Fund plus funds in the Project Fund is or will be at least equal to the then-outstanding amount of the Bonds.

#### **Bond Loan Repayment; Delivery of Bond Note**

Upon the terms and conditions of the Bond Loan Agreement, the Issuer will make the Bond Loan to the Borrowers. In consideration of and in repayment of the Bond Loan, the Borrowers shall deliver or cause to be delivered to the Trustee on or before each Bond Loan Payment Date, Bond Loan Payments, equal to the amount necessary to pay Bond Service Charges on the Allocated Bonds due on the next Bond Payment Date. Each Borrower is only responsible for its pro rata portion of the Bond Loan Payments and Bond Service Charges. All such Bond Loan Payments shall be paid to the Trustee in accordance with the terms of the Bond Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and the Bond Loan Agreement.

The Borrowers shall be entitled to a credit against the Bond Loan Payments required to be made under the Bond Loan Agreement, on any date, equal to the amounts, if any, allocated to the Borrowers

from amounts transferred by the Trustee from the Initial Deposit Account, the Project Fund or the Collateral Fund on such date for the payment of Bond Service Charges.

To secure the Borrowers' performance of their obligations under the Bond Loan Agreement, the Borrowers shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Bond Note, the Tax Exemption Agreement, the Subordinate Mortgage and the Regulatory Agreement.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (i) the Bond Note shall be deemed fully paid, the obligations of the Borrowers shall be terminated, and the Bond Note shall be surrendered by the Trustee to the Borrowers, and shall be canceled by the Borrowers, or (ii) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and the Bond Note shall be surrendered by the Trustee to the Borrowers for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrowers are entitled to a credit under express terms of the Bond Loan Agreement or the Bond Note, all payments on the Bond Note shall be in the full amount required thereunder.

The Borrowers and the Issuer each acknowledge that neither the Borrowers nor the Issuer has any interest in the Bond Fund or the Collateral Fund and any moneys deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Holders.

#### **Borrowers Not to Adversely Affect Excludability from Gross Income of Interest on Bonds**

Each of the Borrowers represents that it has taken or caused to be taken, and covenants that it will take or cause to be taken, all actions that may be required of it, alone or in conjunction with the Issuer, for the interest on the Bonds to be and to remain excludable from gross income for federal income tax purposes, and represents that it has not taken or permitted to be taken on its behalf, and covenants that it will not take or permit to be taken on its behalf, any actions that would adversely affect such excludability under the provisions of the Code.

Each of the Borrowers (including any "related person" thereto within the meaning of Section 147(a)(2) of the Code) covenants that it will not, pursuant to any arrangement, formal or informal, purchase Bonds in an amount related to the amount of the Bond Loans funded pursuant to the Bond Loan Agreement.

#### **Affirmative Covenants**

Unless the Issuer and the Trustee shall otherwise consent in writing:

Maintenance of Properties. Each Borrower shall maintain and preserve in good working order and condition, ordinary wear and tear and casualty loss excepted, all of its properties which are necessary or useful in the proper conduct of its business, and shall from time to time make all necessary repairs, renewals, replacements, additions and improvements to said properties. All damage to apartment units shall be repaired promptly and apartment units shall be maintained so as to be available at all times for habitation.

Keeping of Records and Books of Account. Each Borrower shall keep adequate records and books of account in which complete entries will be made in accordance with GAAP or indicating deviations therefrom, reflecting all financial transactions. The Borrowers shall deliver to the Trustee

annually by June 30 its year-end financial statements accompanied by a written statement of the Borrower's independent public accountants that in making the examination necessary for certification of such financial statements, nothing has come to its attention that would lead them to believe that the Borrower has violated any of the terms, covenants or provisions of the Bond Loan Agreement insofar as it relates to accounting matters.

Payment of Taxes, Etc. Each Borrower shall promptly pay and discharge: or cause to be paid or discharged, all taxes, assessments, fees, and other Governmental charges or levies or imposed upon it or upon any of its properties, income or profits, before the same shall become delinquent; all lawful claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons for labor, materials, supplies and rentals, which if unpaid might by law become a Lien upon its properties; any Indebtedness incurred before or after the date of the Bond Loan Agreement by it when due, and discharge, perform and observe covenants, provisions and conditions to be discharged, performed and observed by it in connection therewith, or in connection with any agreement or other instrument relating thereto or in connection with any Lien existing at any time upon any of its properties; provided, however, that a Borrower shall not be required to pay any of the foregoing if (a) the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings, (b) the Borrower shall have set aside on its books adequate reserves with respect thereto and (c) the title of the Borrower to, and its right to use, its properties is not materially and adversely affected thereby.

Insurance. Each Borrower shall at all times maintain, or cause to be maintained, insurance of such types and in such amounts as required by the Lender.

Notice of Material Litigation. Each Borrower shall promptly notify the Trustee in writing of any litigation, arbitration proceeding or administrative investigation, inquiry or other proceeding to which it may become a party or be subject to after the date of the Bond Loan Agreement which may involve any material risk of any material judgment or liability (unless fully covered by insurance) or which may otherwise result in any material adverse change in the business or assets or in the condition, financial or otherwise, of the respective Borrower or which may materially impair the ability of the respective Borrower to perform the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement, or any other agreement or instrument contemplated therein.

Notice of Default. In the event that any Event of Default occurs under the Bond Loan Agreement, the respective Borrower shall give prompt notice in writing of such happening to the Trustee.

Performance of Contracts, Etc. Except to the extent contested in good faith, each Borrower shall perform according to and shall comply with all of its Contractual Obligations and all Requirements of Law if nonperformance thereof would materially and adversely affect the business or credit of the Borrowers on an individual basis or would materially impair the ability of the Borrower to perform the Bond Loan Agreement, the Tax Exemption Agreement, the Regulatory Agreement or the Bond Note or any other agreement or instrument contemplated therein.

Notice of Other Matters. Each Borrower shall promptly notify the Trustee in writing of any of the following events:

- (i) Any material change with respect to the business, assets, liabilities, financial condition, results of operations or business prospects of such Borrower other than changes in the ordinary course of business the effects of which have not been materially adverse.
- (ii) A default by such Borrower in any material respect under any material agreement to which the Borrower is a party or by which the Borrower or its properties or assets may be

bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto.

Environmental Matters. Each Borrower will take and continue to take prompt action to remedy (or comply with applicable o&m plan) all environmental pollution and contamination, hazardous waste disposal and other environmental cleanup problems with respect to its Project, if any, whether or not such cleanup problems have resulted from the order or request of a municipal, state, federal, administrative or judicial authority, or otherwise. The foregoing covenant shall not constitute or create a waiver of any rights the Borrower may have to pursue any legal rights or remedies against any third party for any environmental claims.

Non-discrimination. Each Borrower will not and will require each contractor, subcontractor and commercial tenant of its Project to covenant that it will not discriminate by reason of race, creed, color, handicap, national origin or sex in the employment of any Person employed by it in connection with its Project or working in or on its Project. Each Borrower will require each manager of its Project to covenant that in the leasing of its Project it will not discriminate by reason of race, creed, color, handicap, national origin or sex.

Patriot Act. Each Borrower covenants and agrees to provide documentation as reasonably requested or required by the Trustee to enable the Trustee to comply with the requirements of the USA Patriot Act as described in the Indenture.

### **Optional Prepayment**

The Bond Loan is subject to optional prepayment by the Borrowers according to the terms and conditions set forth in the Indenture for the redemption of the Bonds.

### **Borrowers' Obligations Upon Tender of Bonds**

If any Tendered Bond is not remarketed on any Mandatory Tender Date and a sufficient amount is not available for the purpose of paying the purchase price of such Bond pursuant to the Indenture, the Borrowers will cause to be paid to the Trustee as set forth in the Indenture an amount equal to the amount by which the purchase price of all Bonds tendered and not remarketed exceed the amount otherwise available pursuant to the Indenture. Notwithstanding the foregoing, each Borrower shall only be responsible to its pro rata of such obligation.

### **Events of Default**

The Bond Loan Agreement provides that each of the following shall be an "Event of Default" with respect to a Borrower:

(a) A Borrower shall fail to pay its pro rata portion of any Bond Loan Payment on or prior to the date on which that Bond Loan Payment is due and payable or within the Bond Loan Payment Cure Period;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in the Bond Loan Agreement and shall continue such failure for a period of thirty (30) days after written notice thereof shall have been given to the Borrowers by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default

so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within one hundred eighty (180) days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against them under the federal bankruptcy laws, as in effect as of or after the date of the Bond Loan Agreement, which is not dismissed within one hundred eighty (180) days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for one hundred eighty (180) days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of one hundred eighty (180) days;

(d) Any representation or warranty made by a Borrower in the Bond Loan Agreement or any statement in any report, certificate, financial statement or other instrument furnished in connection with the Bond Loan Agreement or with the purchase of the Bonds with respect to the Borrower or its Project shall at any time prove to have been false or misleading in any adverse material respect when made or given; and

(e) There shall occur an “Event of Default” as defined in the Indenture, the Tax Exemption Agreement and the Regulatory Agreement with respect to the Borrower or its Project.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrowers are unable to perform or observe any agreement, term or condition of the Bond Loan Agreement which would give rise to an Event of Default under subparagraph (b) above, the Borrowers shall not be deemed in default during the continuance of such inability. However, the Borrowers shall promptly give notice to the Trustee, the Lender and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

The term “Force Majeure” shall mean, without limitation, the following:

(i) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; civil disturbances; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower.

The declaration of an Event of Default under subparagraph (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

## **Remedies on Default**

Whenever an Event of Default shall have happened and be subsisting, any one or more of the following remedial steps may be taken:

(a) If acceleration of the principal amount of the Bonds has been declared pursuant to the provisions described in “APPENDIX C – SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Acceleration,” the Trustee shall declare all Bond Loan Payments from the defaulted Borrower to be immediately due and payable together with any other amounts payable by the defaulted Borrower under the Bond Loan Agreement and the Bond Note whereupon the same shall become immediately due and payable;

(b) The Trustee may exercise any or all or any combination of the remedies specified in the Bond Loan Agreement against the defaulted Borrower and the Project and other collateral owned by the defaulted Borrower;

(c) The Issuer or the Trustee may have access to, inspect, examine and make copies of the books, records, accounts and financial data of the Borrowers pertaining to the Projects; or

(d) The Issuer or the Trustee may pursue all remedies existing at law or in equity against the defaulted Borrower and its assets as of or after the date of the Bond Loan Agreement to collect all amounts then due and thereafter to become due under the Bond Loan Agreement, the Tax Exemption Agreement, the Bond Note and the Regulatory Agreement with respect to the defaulted Borrower or the Bond Loan to such Borrower or to enforce the performance and observance of any other obligation or agreement of the defaulted Borrower under those instruments.

Notwithstanding the foregoing, the Issuer shall not be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until a satisfactory indemnity bond has been furnished to the Issuer at no cost or expense to the Issuer. Any amounts collected as Bond Loan Payments or applicable to Bond Loan Payments and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this caption shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions described under this caption are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) under this caption and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

## **RHS and GNMA Requirements to Control**

To the extent there is any conflict, inconsistency or ambiguity between or among the provisions of the Bond Loan Agreement and the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool or the Senior Loan Documents, then in such event the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents will be deemed to be controlling and any such ambiguity or inconsistency will be resolved in favor of and



pursuant to the RHS Requirements, the GNMA Requirements with respect to the Section 538 Projects Pool and the Senior Loan Documents.

Notwithstanding anything to the contrary contained in the Bond Loan Agreement, the enforcement of the Bond Loan Agreement shall not result in any claim against the Projects, Senior Loan proceeds, any reserve or deposit made with the Lender or with another person or entity required by RHS in connection with the Senior Loan transaction, or against rents or other income from the Projects other than available “surplus cash” as defined in the Senior Loan Documents available for distribution to the Borrowers under the Senior Loan Documents. Nothing contained under this caption, however, shall prevent or preclude the Trustee from using funds on deposit in the Bond Fund to make payments to Bondholders as and to the extent expressly permitted by the provisions of the Bond Loan Agreement and the Indenture and/or to use funds on deposit in the Project Fund to make payments to or on behalf of the Lender.

If the Bond Loan Agreement contains any provision requiring the Lender, the Issuer, the Borrowers or the Trustee or any other party to the transaction to take any action necessary to preserve the tax exemption of interest on the Bonds, or prohibiting any such party to the transaction from taking any action that might jeopardize such tax exemption, such provision is qualified to except any actions required (or prohibited) by RHS or GNMA pursuant to applicable RHS Requirements or GNMA Requirements with respect to the Section 538 Projects Pool or the terms of any of the Senior Loan Documents.

Notwithstanding any provision of the Bond Loan Agreement to the contrary, the parties thereto acknowledge and agree that all of their respective rights and powers to any assets or properties of the Borrowers are subordinate and subject to the liens created by the Mortgages, together with any and all amounts from time to time secured thereby, and interest thereon, and to all of the terms and provisions of the Mortgages, and any and all other documents executed by the Borrowers as required by RHS or GNMA in connection therewith.

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## APPENDIX E

### SUMMARY OF CERTAIN PROVISIONS OF THE REGULATORY AGREEMENT

*The following is a summary of certain provisions of the Regulatory Agreement for the Bastrop Oak Grove Project. Except with respect to certain dollar amounts, percentages and parties, each Regulatory Agreement for each of the other Projects identified herein is substantially identical to the Regulatory Agreement for the Bastrop Oak Grove Project. This summary does not purport to be complete or definitive and is qualified in its entirety by reference to the Regulatory Agreement for the Bastrop Oak Grove Project, copies of which, along with copies of each of the other Regulatory Agreements, are on file with the Trustee.*

Certain capitalized terms used in this Appendix E are defined below. In addition, capitalized terms used herein but not defined shall have the meanings given to them in Appendix A and in the Regulatory Agreement and the Indenture.

“Annual Income” means the anticipated annual income of a person (together with the anticipated annual income of all persons that intend to reside with such person in one Unit) calculated pursuant to Section 8 of the Housing Act, as required by Section 142(d) of the Code.

“Available Unit” means a Unit (except for any Unit reserved for any resident manager, security personnel or maintenance personnel that is reasonably required for the Project) that has been leased at least once after becoming available for occupancy; provided that (a) a residential unit that is unoccupied on the later of (i) the date the Project is acquired by the Borrower or (ii) the Closing Date is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after such date, and (b) a residential unit that is not available for occupancy due to renovations is not an “Available Unit” and does not become an “Available Unit” until it has been leased for the first time after the renovations are completed.

“Eligible Tenants” means (a) individuals and families of low, very low and extremely low income, (b) families of moderate income (in each case in the foregoing clauses (a) and (b) as such terms are defined by the Issuer under the Act), and (c) Persons with Special Needs, in each case, with an Annual Income not in excess of 140% of the area median income; provided that all Low-Income Tenants are Eligible Tenants.

“Housing Act” means the United States Housing Act of 1937, as amended, or a successor thereto.

“Loan” means the loan of the proceeds of the Bonds made by the Issuer to the Borrower as evidenced by the Bond Note.

“Loan Documents” means the Security Instrument, the Bond Note, the Loan Agreement, the Regulatory Agreement, the Tax Exemption Agreement and any and all other instruments and other documents evidencing, securing, or otherwise relating to the Loan.

“Low-Income Tenant” means a tenant whose Annual Income is 60% or less of the Multifamily Tax Subsidy Program Income Limit, as determined under Sections 142(d)(2)(B) and (E) of the Code and in accordance with the Regulatory Agreement. If all the occupants of a Unit are students (as defined for the purposes of Section 152(f)(2) of the Code) no one of whom is entitled to file a joint return under Section 6013 of the Code, such occupants will not qualify as Low-Income Tenants unless such students meet the qualifications under Section 42(i)(3)(D) of the Code.

“Low-Income Unit” means a Unit that is included as a Unit satisfying the requirements of the Set Aside.

“Multifamily Tax Subsidy Program Income Limit” (or successor term) means the income limits provided by HUD pursuant to Section 142(d) of the Code.

“Organizational Documents” means the [Operating Agreement] of the Borrower dated as of the Closing Date, as the same may be amended, modified, supplemented or restated from time to time.

“Persons with Special Needs” means persons who (a) are considered to be individuals having a disability under State or federal law, (b) are elderly, meaning 62 years of age or more or of an age specified by the applicable federal program, (c) are designated by the governing board of the Issuer as experiencing a unique need for decent, safe housing that is not being met adequately by private enterprise, or (d) are legally responsible for caring for an individual described by clauses (a), (b) or (c) above and meet the income guidelines established by the governing board of the Issuer.

“Project” means the Project Facilities and the Project Site.

“Project Facilities” means the multifamily housing structure and related buildings and other improvements on the Project Site as more fully set forth in an exhibit to the Regulatory Agreement, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project.

“Project Site” means the parcel or parcels of real property described in an exhibit to the Regulatory Agreement, and all rights and appurtenances appertaining thereunto.

“Qualified Project Period” means, with respect to the Project, the period beginning on the first day on which 10 percent of the Units are occupied (which date may be the Closing Date) and ending on the latest of (a) the date that is 15 years after the date on which 50 percent of the Units are occupied (which date may be the Closing Date), (b) the first day on which no tax-exempt private activity bond (as that phrase is used in Section 142(d)(2) of the Code) issued with respect to the Project is outstanding for federal income tax purposes, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Related Person” has the meaning set forth in section 144(a)(3) of the Code. A person is a “Related Person” to another person if the relationship between such persons would result in a disallowance of losses under sections 267 or 707(b) of the Code or such persons are members of the same controlled group of corporations (as defined in section 1563(a) of the Code, except that “more than 50 percent” is substituted for “at least 80 percent” each place it appears therein).

“Security Instrument” means Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing from the Borrower and the Fee Owner, as the grantor, in favor of Issuer, as the beneficiary, as the same may be supplemented, amended or modified.

“State Conversion Date” means the date of the first amortization payment on the note relating to the Bond Loan.

“State Reserve Period” means, with respect to the Project, the period beginning on the State Conversion Date and ending on the earliest of the following dates: (a) the date of any involuntary change in ownership of the Project; (b) the date on which the Borrower suffers a total casualty loss with respect to the Project or the date on which the Project becomes functionally obsolete, if the Project cannot be or is

not restored; (c) the date on which the Project is demolished; (d) the date on which the Project ceases to be used as multifamily rental property; or (e) the end of the State Restrictive Period.

“State Restrictive Period” means, with respect to the Project, the period beginning on the first day on which the Borrower takes legal possession of the Project and ending on the latest of (a) the date that is 35 years (as a result of the Borrower’s election to extend the affordability period) after the first day of the State Restrictive Period, (b) the first date on which no tax-exempt private activity bond issued with respect to the Project is outstanding for federal income tax purposes, and (c) the date on which any assistance provided with respect to the Project from the federal government terminates.

“Tenant Income Certification” means a certification form available on the Issuer’s website at the time of submission used to certify income and other matters executed by the household members of each Unit in the Project.

“Unit” means a residential accommodation containing separate and complete facilities for living, sleeping, eating, cooking and sanitation located within the Project; provided that, a unit will not fail to be treated as a Unit merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code).

### **Tax-Exempt Status of the Bonds**

The Borrower will not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes (subject to any exceptions contained in the opinion delivered upon the original issuance of the Bonds). With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that prior to the final maturity of the Bonds, unless it has received and filed with the Issuer and Trustee a Favorable Opinion of Bond Counsel:

(a) That the Project will be owned, managed and operated as a “qualified residential rental project” within the meaning of Section 142(d) of the Code, on a continuous basis during the Qualified Project Period. In particular, the Borrower covenants and agrees, continuously during the Qualified Project Period, as follows:

(i) that the Project will be comprised of residential Units and facilities functionally related and subordinate thereto;

(ii) that each Unit will contain complete facilities for living, sleeping, eating, cooking and sanitation, e.g., a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator and sink, all of which are separate and distinct from other Units; provided that, a Unit will not fail to meet these requirements merely because it is a single-room occupancy unit (within the meaning of Section 42 of the Code);

(iii) that the land and the facilities that are part of the Project will be functionally related and subordinate to the Units comprising the Project and will be of a character and size that is commensurate with the character and size of the Project;

(iv) that at no time during the Qualified Project Period will any of the Units be utilized (A) on a transient basis by being leased or rented for a period of less than thirty days or (B) as a hotel, motel, dormitory, fraternity house, sorority house, rooming

house, hospital, sanitarium, nursing home, rest home, or trailer park or court used on a transient basis;

(v) that the Project will consist of one or more proximate buildings or structures, together with any functionally related and subordinate facilities containing one or more similarly constructed Units, all of which (A) will be located on a single tract of land or two or more parcels of land that are contiguous except for the interposition of a road, street, stream or similar property or their boundaries meet at one or more points, (B) will be owned by the same person for federal income tax purposes, and (C) will be financed pursuant to a common plan;

(vi) that substantially all of the Project will consist of similarly constructed Units together with functionally related and subordinate facilities for use by Project tenants at no additional charge, such as swimming pools, other recreational facilities, parking areas, and other facilities that are reasonably required for the Project, such as heating and cooling equipment, trash disposal equipment, and Units for resident managers, security personnel or maintenance personnel;

(vii) that at no time during the Qualified Project Period will any Unit in any building or structure in the Project that contains fewer than five Units be occupied by the Borrower;

(viii) that each Unit will be rented or available for rental on a continuous basis to Eligible Tenants (subject to the limitations and exceptions contained in the Regulatory Agreement, the Tax Exemption Agreement and the Loan Agreement) at all times during the longer of (A) the term of the Bonds or (B) the Qualified Project Period, that the Borrower will not give preference in renting Units to any particular class or group of persons, other than Persons with Special Needs, Low Income Tenants and other Eligible Tenants as provided in the Regulatory Agreement, and that at no time will any portion of the Project be exclusively reserved for use by a limited number of nonexempt persons in their trades or businesses;

(ix) that the Project will meet the Set Aside. For the purposes of this subparagraph (a)(ix), a vacant Unit that was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, at which time the character of such Unit must be redetermined. No tenant qualifying as a Low Income Tenant will be denied continued occupancy of a Unit because, after the most recent Tenant Income Certification, such tenant's Annual Income increases to exceed the qualifying limit for Low Income Tenants; provided, however, that, should a Low Income Tenant's Annual Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size and such Low Income Tenant constitutes a portion of the Set Aside, then such tenant will only continue to qualify for so long as no Unit of comparable or smaller size in the same building (within the meaning of Section 42 of the Code) is rented to a tenant that does not qualify as a Low Income Tenant;

(x) that the Borrower will obtain, complete and maintain on file (A) Tenant Income Certifications and supporting documentation from each Low Income Tenant dated immediately prior to the initial occupancy of such Low Income Tenant in the Project and (B) thereafter, annual certification regarding, at a minimum, information regarding household composition and student status in the form available on the Issuer's

website; provided that, if any Units in the Project are ever made available to tenants who are not Low-Income Tenants, then the Borrower will obtain, complete and maintain annual Tenant Income Certifications in accordance with Section 142(d)(3)(A) of the Code. The Borrower will obtain such additional information as may be required in the future by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service as of or after the date of the Regulatory Agreement with respect to obligations that are tax-exempt private activity bonds described in Section 142(d) of the Code. The Borrower will make a diligent and good-faith effort to determine that the income information provided by an applicant in any certification is accurate by taking steps required under Section 142(d) of the Code pursuant to provisions of the Housing Act. As part of the verification, the Borrower will document income and assets in accordance with HUD Handbook 4350.3 and the Issuer's Compliance Monitoring Rules;

(xi) that, on or before each March 31, the Borrower will submit to the Secretary of the Treasury, with a copy provided to the Issuer, the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code; and

(xii) that the Borrower will prepare and submit the Unit Status Report in the form available on the Issuer's website at the time of such submission to the Issuer (via the electronic filing system available on the Issuer's website) and to the Trustee in accordance with paragraph (e) under the caption "Housing Development During the State Restrictive Period" below. The Borrower will retain all documentation required by this subparagraph (a)(xii) until the date that is three years after the end of the Qualified Project Period.

(b) That the Borrower will maintain complete and accurate records pertaining to the Low Income Units and will permit, at all reasonable times during normal business hours and upon reasonable notice, and subject to the rights of tenants in lawful possession, any duly authorized representative of the Issuer, the Trustee, the Department of the Treasury or the Internal Revenue Service to enter upon the Project Site to examine and inspect the Project and to inspect and photocopy the books and records of the Borrower pertaining to the Project, including those records pertaining to the occupancy of the Low Income Units. The Borrower will retain all records maintained in accordance with the provisions described under this caption until the date that is three years after the end of the Qualified Project Period.

(c) That the Borrower has certified that as of the Closing Date 50% of the Units are occupied.

(d) That the Borrower will prepare and submit to the Issuer and the Trustee, within 60 days prior to the last day of the Qualified Project Period, a certificate setting forth the date on which the Qualified Project Period will end, which certificate must be in recordable form, however, failure to deliver such certificate shall not extend the Qualified Project Period.

Anything in the Regulatory Agreement to the contrary notwithstanding, it is expressly understood and agreed by the parties thereto that the Issuer and the Trustee may rely conclusively on the truth and accuracy of any certificate, opinion, notice, representation or instrument made or provided by the

Borrower in order to establish the existence of any fact or statement of affairs solely within the knowledge of the Borrower, and which is required to be noticed, represented or certified by the Borrower under the Regulatory Agreement or in connection with any filings, representations or certifications required to be made by the Borrower in connection with the issuance and delivery of the Bonds.

### **Housing Development During the State Restrictive Period**

The Issuer and the Borrower have recognized and declared their understanding and intent that the Project is to be owned, managed and operated as a “housing development,” as such term is defined in Section 2306.004(13) of the Act, and in compliance with applicable restrictions and limitations as provided in the Act and the rules of the Issuer until the expiration of the State Restrictive Period.

To the same end, the Borrower has represented, covenanted and agreed as follows during the State Restrictive Period:

(a) except for Units occupied or reserved for a resident manager, security personnel and maintenance personnel that are reasonably required for the Project, to assure that 100% of the Units are reserved for Eligible Tenants;

(b) to assure that the provisions of subparagraphs (a)(viii) and (a)(ix) under the caption “Tax Exempt Status of the Bonds” above continue in full force and effect until the end of the State Restrictive Period;

(c) to obtain a Tenant Income Certification from each tenant in the Project (other than resident managers, security personnel and maintenance personnel) not later than the date of such tenant’s initial occupancy of a Unit in the Project, and, if required as described in subparagraph 2(a)(x) under the caption “Tax Exempt Status of the Bonds” above, at least annually thereafter in the manner as described in such subparagraph, and to maintain a file of all such Tenant Income Certifications, together with all supporting documentation, for a period of not less than three years after the end of the State Restrictive Period;

(d) to obtain from each tenant in the Project (other than resident managers, security personnel and maintenance personnel), at the time of execution of the lease pertaining to the Unit occupied by such tenant, a written certification, acknowledgment and acceptance in such form provided by the Issuer to the Borrower from time to time that (i) such lease is subordinate to the Security Instrument and the Regulatory Agreement, (ii) all statements made in the Tenant Income Certification submitted by such tenant are accurate, (iii) the family income and eligibility requirements of the Regulatory Agreement and the Loan Agreement are substantial and material obligations of tenancy in the Project, (iv) such tenant will comply promptly with all requests for information with respect to such requirements from the Borrower, the Trustee and the Issuer, and (v) failure to provide accurate information in the Tenant Income Certification or refusal to comply with a request for information with respect thereto will constitute a violation of a substantial obligation of the tenancy of such tenant in the Project;

(e) to cause to be prepared and submitted to the Issuer (via the electronic filing system available on the Issuer’s website) and the Trustee by the tenth calendar day of each January, April, July and October or other schedule as determined by the Issuer with written notice to the Borrower, a certified quarterly Unit Status Report in a form available on the Issuer’s website at the time of submission or in such other form as the Issuer may reasonably prescribe in writing to the Borrower with the first quarterly report due on the first quarterly reporting date after leasing activity commences;

(f) to the extent legally permissible and upon reasonable notice to permit any duly authorized representative of the Issuer or the Trustee to inspect the books and records of the Borrower pertaining to the Project or the incomes of Project tenants, including but not limited to tenant files, during regular business hours and to make copies therefrom if so desired and file such reports as are necessary to meet the Issuer's requirements;

(g) that the Borrower is qualified to be a "housing sponsor" as defined in the Act and will comply with all applicable requirements of the Act, including submitting (via the electronic filing system available on the Issuer's website) the Annual Owner's Compliance Report to the Issuer and the Trustee in the form available on the Issuer's website at the time of submission by April 30 of each year, commencing April 30, 2020;

(h) to provide social services which must meet the minimum point requirement and be chosen from the list of Tenant Supportive Services attached to the Regulatory Agreement as an exhibit and agreed to in writing by the Issuer. The Borrower must maintain documentation satisfactory to the Issuer of social services provided and such documentation will be reviewed during onsite visits beginning with the second onsite review and must be submitted to the Issuer upon request. The Borrower must provide the social services throughout the State Restrictive Period;

(i) to comply with Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, regarding tenant and manager selection, as such requirements may be amended from time to time;

(j) to maintain the property in compliance with HUD's Uniform Physical Condition Standards and to provide regular maintenance to keep the Project sanitary, safe and decent and to comply with the requirements of Section 2306.186 of the Texas Government Code; provided, however, that the Issuer must first provide notice of any default or breach to the Borrower and the Lender, and the Borrower will have 30 days to cure such default or breach;

(k) to renew any available rental subsidies which are sufficient to maintain the economic viability of the Project pursuant to Section 2306.185(c) of the Texas Government Code;

(l) the Borrower is not a party to and will not enter into a contract for the Project with, a housing developer that (i) is on the Issuer's debarred list, including any parts of that list that are derived from the debarred list of HUD; (ii) breached a contract with a public agency; or (iii) misrepresented to a subcontractor the extent to which the Borrower has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the Borrower's participation in contracts with the agency and the amount of financial assistance awarded to the Borrower by the agency;

(m) to cooperate fully with the Issuer with respect to its compliance and oversight requirements and to cause the manager of the Project to so comply;

(n) to ensure that Units intended to satisfy the Set Aside under subparagraph (a)(ix) under the caption "Tax Exempt Status of the Bonds" above will be distributed evenly throughout the Project and will include a reasonably proportionate amount of each type of Unit available in the Project; and

(o) to ensure that the Project conforms to the federal Fair Housing Act.



## **Persons with Special Needs**

The Borrower has represented, covenanted and warranted that during the State Restrictive Period, it will make at least 5% of the Units within the Project available for occupancy by Persons with Special Needs.

## **Sale or Transfer of the Project or Change in Sole Member**

(a) The Borrower and the Fee Owner have covenanted and agreed not to sell, transfer or otherwise dispose of the Project, prior to the expiration of the Qualified Project Period (other than pursuant to the lease of Units to Eligible Tenants), without (i) providing 30 days prior written notice to the Issuer, (ii) complying with any applicable provisions of the Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and other Loan Documents and (iii) obtaining the prior written consent of the Issuer. Such consent of the Issuer will not be unreasonably withheld and will be given if the following conditions to the sale or other disposition are met or waived in writing by the Issuer: (A) there is delivered to the Trustee and the Issuer a written opinion of independent legal counsel reasonably satisfactory to the Trustee and the Issuer, addressed to the Trustee and the Issuer, concluding that the transferee has duly assumed all of the rights and obligations of the Borrower or the Fee Owner, as applicable, under the Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents and that each of the documents executed by the transferee in connection therewith has been duly authorized, executed and delivered by the transferee and is a valid and enforceable obligation of the transferee, subject to customary qualifications, (B) the Issuer receives a Favorable Opinion of Bond Counsel, with a copy to the Trustee, which opinion will be furnished at the expense of the Borrower or the transferee, (C) the Issuer receives an assumption fee equal to 0.25% of the principal balance of the Bonds Outstanding at the time of such transfer, (D) the proposed purchaser or assignee executes any document requested by the Issuer with respect to assuming the obligations of the Borrower or the Fee Owner under the Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement and the other Loan Documents, and (E) the Issuer has performed a previous participation review on the proposed purchaser or assignee or any affiliated party, the results of which are satisfactory to the Issuer in accordance with Title 10, Part 1, Chapter 1, Subchapter C, Section 1.301, Texas Administrative Code, and the Issuer does not further have any reason to believe the proposed purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements and instruments binding on such proposed purchaser or assignee relating to the Project, including but not limited to the Regulatory Agreement, the Loan Agreement, the Tax Exemption Agreement, the Security Instrument and other Loan Documents. The foregoing provisions do not apply to transfer by foreclosure or deed in lieu of foreclosure or other similar involuntary transfers, but such provisions apply to any transfer subsequent to such involuntary transfers. Notwithstanding anything to the contrary contained in the Regulatory Agreement, the following shall be permitted and shall not require the prior written approval of Issuer or Trustee, provided that written notice thereof has been provided to the Issuer, (a) the transfer by the Investor Member of its interest in the sole member of the Borrower in accordance with the terms of Borrower's Organizational Documents, (b) the removal of the managing member if the sole member of the Borrower in accordance with its organizational documents and the replacement thereof, (c) the transfer of ownership interests in the managing member of the sole member of the Borrower, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Member in the sole member of the Borrower to the managing member of the sole member of the Borrower or any of its affiliates, (e) the transfer of ownership interest in the sole member of the Borrower, (f) the transfer of the interest of the sole member of the Borrower to an affiliate of one or more members of the sole member of such Borrower, and (f) any amendment to the Organizational Documents to memorialize the transfers or removal described above. The Borrower and the Fee Owner expressly stipulate and agree that any sale, transfer or other disposition of the Project in violation of the provisions described under this caption will be ineffective to relieve the Borrower or the Fee Owner of its obligations

under the Regulatory Agreement. Upon any sale, transfer or other disposition of the Project in compliance with the Regulatory Agreement, the Borrower or the Fee Owner so selling, transferring or otherwise disposing of the Project will have no further liability for obligations under the Loan Agreement, the Regulatory Agreement or any loan document arising after the date of such disposition. The foregoing notwithstanding, the duties of the Borrower and the Fee Owner as set forth in the Loan Agreement, the Regulatory Agreement or any loan document with respect to matters arising prior to the date of such sale, transfer or other disposition will not terminate upon the sale, transfer or other disposition of the Project.

(b) No transfer of the Project will release the Borrower or the Fee Owner from its obligations under the Regulatory Agreement arising prior to the date of such transfer, but any such transfer will relieve the Borrower and the Fee Owner of further liability for obligations under the Regulatory Agreement arising after the date of such transfer.

(c) Except as set forth in paragraph (a) above, the Borrower will not change its sole member by transfer, sale or otherwise without the prior written consent of the Issuer, which consent will not be unreasonably withheld. A change in the Borrower's sole member includes any transfer of any managing member interest in the sole member other than by death or incapacity.

## **Term**

The Regulatory Agreement and all and each of the provisions thereof will become effective upon its execution and delivery, will remain in full force and effect for the periods provided therein and, except as otherwise described under this caption, will terminate in its entirety at the end of the State Restrictive Period, it being expressly agreed and understood that the provisions of the Regulatory Agreement are intended to survive the retirement of the Bonds, discharge of the Loan, termination of the Loan Agreement and defeasance or termination of the Indenture; provided, however, that the provisions related to the Qualified Project Period that are not incorporated into the State Restrictive Period will terminate in their entirety at the end of the Qualified Project Period.

The terms of the Regulatory Agreement to the contrary notwithstanding, the requirements set forth therein will terminate, without the requirement of any consent by the Issuer or the Trustee, and be of no further force and effect in the event of involuntary noncompliance with the provisions of the Regulatory Agreement caused by fire, seizure, requisition, change in a federal or State law or an action of a federal agency after the Closing Date which prevents the Issuer or the Trustee from enforcing the provisions of the Regulatory Agreement, or foreclosure or transfer of title by deed in lieu of foreclosure or other similar involuntary transfer, condemnation or a similar event, but only if, within a reasonable period thereafter, either the Bonds are retired in full or amounts received as a consequence of such event are used to provide a "qualified residential rental project" that meets the requirements of the Code and State law including, but not limited to, the provisions set forth in the Regulatory Agreement. The provisions of the preceding sentence will cease to apply and the requirements referred to therein will be reinstated if, at any time during the Qualified Project Period, after the termination of such requirements as a result of involuntary noncompliance due to foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the Borrower or any Related Person obtains an ownership interest in the Project for federal income tax purposes or for the purposes of State law.

Notwithstanding any other provision of the Regulatory Agreement, the Regulatory Agreement may be terminated upon agreement by the Issuer, the Trustee, the Borrower and the Fee Owner upon receipt of a Favorable Opinion of Bond Counsel.

Upon the termination of the terms of the Regulatory Agreement, the parties thereto have agreed to execute, deliver and record appropriate instruments of release and discharge of the terms thereof;

provided, however, that the execution and delivery of such instruments are not necessary or a prerequisite to the termination of the Regulatory Agreement in accordance with its terms. All costs, including fees and expenses, of the Issuer and the Trustee incurred in connection with the termination of the Regulatory Agreement will be paid by the Borrower and its successors in interest.

### **Covenants to Run With the Land**

The Borrower and the Fee Owner have subjected the Project (including the Project Site) to the covenants, reservations and restrictions set forth in the Regulatory Agreement. The Issuer, the Trustee, the Borrower and the Fee Owner have declared that the covenants, reservations and restrictions set forth in the Regulatory Agreement are covenants running with the land and will pass to and be binding upon the Borrower's and the Fee Owner's successors in title to the Project; provided, however, that upon the termination of the Regulatory Agreement said covenants, reservations and restrictions will expire. Each and every contract, deed or other instrument executed after the date of the Regulatory Agreement covering or conveying the Project or any portion thereof prior to the termination of the Regulatory Agreement will conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

No breach of any of the provisions of the Regulatory Agreement will impair, defeat or render invalid the lien of any mortgage, deed of trust or like encumbrance made in good faith and for value encumbering the Project or any portion thereof

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## APPENDIX F

### FORM OF CONTINUING DISCLOSURE AGREEMENT

**\$20,000,000\***

**Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018**

This CONTINUING DISCLOSURE AGREEMENT (the “Continuing Disclosure Agreement”) is made and entered into as of November 1, 2018, between Wilmington Trust, National Association, as Disclosure Agent (the “Disclosure Agent”) and (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (collectively, the “Obligated Party”).

#### RECITALS

WHEREAS, this Continuing Disclosure Agreement is being executed and delivered in connection with the issuance by the Texas Department of Housing and Community Affairs (the “Issuer”) of its \$20,000,000\* aggregate principal amount of its Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018 (the “Bonds”).

WHEREAS, the Obligated Party and Disclosure Agent are entering into this Continuing Disclosure Agreement for the benefit of the Beneficial Owners of the Bonds and in order to assist the underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the “Rule”) as defined below.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein and in the Rule, the receipt and sufficiency of which consideration is hereby mutually acknowledged, the parties hereto agree as follows:

#### **SECTION 1. Definitions; Scope of this Continuing Disclosure Agreement**

(A) All terms capitalized but not otherwise defined herein shall have the meanings assigned to those terms in the Rule, as amended and supplemented from time to time. Notwithstanding the foregoing, the term “Disclosure Agent” shall initially mean Wilmington Trust, National Association; any such successor disclosure agent shall automatically succeed to the rights and duties of the Disclosure Agent hereunder, without any amendment hereto pursuant to Section 4(E). The following capitalized terms shall have the following meanings:

“Annual Financial Information” shall mean a copy of the annual financial information prepared by the Obligated Party which shall include, a balance sheet, a statement of revenue and expenditure and a statement of changes in fund balances. All such financial information shall be prepared using generally accepted accounting principles as applied to governmental units, provided, however, that the Obligated Party may change the accounting principles used for preparation of such financial information so long as the Obligated Party includes as information provided to the public, a statement to the effect that different

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\* Preliminary; subject to change.

accounting principles are being used, stating the reason for such change and how to compare the financial information provided by the differing financial accounting principles. Any or all of the items listed above may be incorporated by reference from other documents, including Offering Documents of debt issues of the Obligated Party or related public entities, which have been transmitted to the MSRB, or may be included by specific reference to documents available to the public on the MSRB's website or filed with the SEC.

“Beneficial Owner” shall mean any person which has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

“Bondholders” shall mean any holder of the Bonds and any Beneficial Owner thereof.

“EMMA” means the MSRB's Electronic Municipal Market Access (“EMMA”) system, or its successor as designated by the MSRB.

“Event” shall mean any of the Events listed in items (i) through (xiv) below, the occurrence in which the Obligated Party obtains knowledge, which Events shall be reported to the Disclosure Agent for further reporting to EMMA. To the extent any Event requires a materiality determination, such determination shall be made by the Obligated Party.

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity facility providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax-exempt status of the security;
- (vii) Modifications to rights of security holders, if material;
- (viii) Bond calls, if material, and tender offers (except for mandatory scheduled redemptions not otherwise contingent upon the occurrence of an Event);
- (ix) Defeasances;
- (x) Release, substitution or sale of property securing repayment of the securities, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar Event of the obligated person (Note: For the purposes of this Event, the Event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the

obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person);

(xiii) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material and;

(xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The SEC requires the listing of (i) through (xiv) although some of such Events may not be applicable to the Bonds.

“MSRB” shall mean the Municipal Securities Rulemaking Board.

“Offering Document” shall mean the Official Statement, dated \_\_\_\_\_, 2018.

“Participating Underwriter” shall mean any of the original underwriters of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the Securities and Exchange Commission.

“State” shall mean the State of Texas.

(B) This Continuing Disclosure Agreement applies to the Bonds.

(C) The Disclosure Agent shall have no obligation to disclose information about the Bonds except as expressly provided herein. The fact that the Disclosure Agent or any affiliate thereof may have any fiduciary or banking relationship with the Obligated Party, apart from the relationship created by the Rule shall not be construed to mean that the Disclosure Agent has actual knowledge of any event or condition except as may be provided by written notice from the Obligated Party.

## **SECTION 2. Disclosure of Information**

(A) General Provisions: This Continuing Disclosure Agreement governs the Obligated Party’s direction to the Disclosure Agent, with respect to information to be made public. In its actions under this Continuing Disclosure Agreement, the Disclosure Agent is acting as the Obligated Party’s agent.

(B) Information Provided to the Public: Except to the extent this Continuing Disclosure Agreement is modified or otherwise altered in accordance with Section 3 hereof, the Obligated Party shall make or cause to be made public the information set forth in subsection B (1), (2) and (3) of this Section 2.

(1) Annual Financial Information: Annual Financial Information provided annually accompanied with a written certification substantially in the form of Exhibit C hereto from the Obligated Party furnished to the Disclosure Agent that such Annual Financial Information complies with the requirements of this Continuing Disclosure Agreement. Commencing with the fiscal year ended 2018 and continuing with each fiscal year end thereafter, the Annual Financial Information is to be provided on or before June 30 in each year.

(2) Notwithstanding anything to the contrary contained in this Continuing Disclosure Agreement, in order to expedite the transmission of the Annual Financial Information to the MSRB, as set forth in subsection (B)(1) of this Section 2, the Obligated Party shall have the option, but shall not be obligated, to submit the Annual Financial Information to the MSRB no later than June 30 in each year. In the event the Obligated Party elects to submit the Annual Financial Information directly to the MSRB, the Obligated Party shall submit the Annual Financial Information to the Disclosure Agent accompanied with a written certification substantially in the form of Exhibit D. The written certification shall state that such Annual Financial Information has been disclosed as required per this Continuing Disclosure Agreement, upon which the Disclosure Agent may conclusively rely. Such written certification shall be provided at the same time that the Obligated Party submits the Annual Financial Information to the MSRB. In the event that the Obligated Party elects not to submit the Annual Financial Information directly to the MSRB, the Obligated Party shall provide the Annual Financial Information to the Disclosure Agent within the time period specified in subsection (B)(1) of this Section 2.

If the Obligated Party is unable to provide the audited Annual Financial Information within the time period specified in subsection (B)(1) of this Section 2 and the Obligated Party provides to the Disclosure Agent the unaudited Annual Financial Information, the Disclosure Agent shall file the unaudited Annual Financial Information in lieu of the audited Annual Financial Information. Upon receipt of the audited Annual Financial Information, the Disclosure Agent shall file the same as soon thereafter as practicable.

(3) Event Notices: Notice of the occurrence of an Event, in a timely manner, not in excess of ten (10) business days after the occurrence of the Event.

(4) Failure to Provide Annual Financial Information: Notice of the failure of the Obligated Party to provide the Annual Financial Information by the date in subsection (B)(1) and (B)(2) of this Section 2. To the extent the Obligated Party does not provide to the Disclosure Agent a Notice of Failure to File the Annual Financial Information, the terms of this Section 2(C)(4) shall hereof apply.

(C) Information Provided by Disclosure Agent to the Public:

(1) The Obligated Party hereby directs the Disclosure Agent on its behalf to make public in accordance with subsection (D) of this Section 2 and within the time frame set forth in clause (3) below, and the Disclosure Agent agrees to act as the Obligated Party's agent in so making public, the following:

- (a) Annual Financial Information;
- (b) Event occurrences;

(c) Notices of failure to provide information which the Obligated Party has agreed to make public pursuant to subsection (C)(1) of this Section 2 and;

(d) such other information as the Obligated Party shall determine to make public through the Disclosure Agent and shall provide to the Disclosure Agent in the form required by subsection (C)(2) of this Section 2. If the Obligated Party chooses to include any information in any Annual Financial Information report or in any notice of occurrence of an Event, in addition to that which is specifically required by this Continuing Disclosure Agreement, the Obligated Party shall have no obligation under this Continuing Disclosure Agreement to update such information or include it in any future Annual Financial Information report or notice of occurrence of an Event.

(2) The information which the Obligated Party has agreed to make public shall be in the following form:

(a) as to all notices, reports and financial information to be provided to the Disclosure Agent by the Obligated Party, as referenced in Exhibit A, in a word searchable portable document format (PDF) as required by the Rule.

(b) as to all other notices or reports, in such form as the Disclosure Agent shall deem suitable for the purpose of which such notice or report is given.

(3) The Disclosure Agent shall make public the Annual Financial Information and Event occurrences within the following time periods:

(a) with respect to Annual Financial Information, five (5) business days upon receipt by the Disclosure Agent of the Annual Financial Information disclosure from the Obligated Party,

(b) with respect to Event occurrences, two (2) business days upon receipt by the Disclosure Agent of the Event disclosure from the Obligated Party.

If, on any such date, information required to be provided by the Obligated Party to the Disclosure Agent has not been provided as required per this Continuing Disclosure Agreement, the Disclosure Agent shall make such information public as soon thereafter as it is provided to the Disclosure Agent.

(4) If the Disclosure Agent does not receive 1) the audited or unaudited Annual Financial Information or a written certification, substantially in the form of Exhibit D, from the Obligated Party that it has provided the audited or unaudited Annual Financial Information to the MSRB by the date required in subsection (B)(1) or (B)(2) of this Section 2, 2) or a Notice of Failure to File the Annual Financial Information, then the Disclosure Agent shall send a notice in a timely manner to the MSRB in substantially the form herein attached as Exhibit B.

(D) Means of Making Information Public:

(1) Information shall be deemed to be made public by the Obligated Party or the Disclosure Agent under this Continuing Disclosure Agreement if it is transmitted as provided in subsection (D)(2) of this Section 2 by the following means:



(a) to the Bondholders of outstanding Bonds, by the method prescribed by the Rule;

(b) to the MSRB in a word searchable portable document format (PDF) as required by the Rule, or other applicable document or agreement, accompanied by identifying information as prescribed by the MSRB (a description of such format and information is included in Exhibit A hereto) and/or;

(c) to the SEC by (i) electronic facsimile transmissions confirmed by first class mail, postage prepaid, or (ii) first class mail, postage prepaid; provided that the Obligated Party or the Disclosure Agent is authorized to transmit information to the SEC by whatever means are mutually acceptable to the Disclosure Agent or the Obligated Party, as applicable, and the SEC.

(2) Information shall be transmitted to the following:

(a) information to be provided to the public in accordance with subsection (B) of this Section 2 shall be transmitted to the MSRB;

(b) all information described in clause (a) shall be made available to any Bondholder upon request, but need not be transmitted to the Bondholders who do not so request;

(c) to the extent the Obligated Party is obligated to file any Annual Financial Information with the MSRB pursuant to this Continuing Disclosure Agreement, such Annual Financial Information may be set forth in the document or set of documents transmitted to the MSRB, or may be included by specific reference to documents available to the public on the MSRB's website or filed with the SEC.

(3) Nothing in this Continuing Disclosure Agreement shall be construed to require the Disclosure Agent to interpret or provide an opinion concerning any information made public. If the Disclosure Agent receives a request for an interpretation or opinion, the Disclosure Agent may refer such request to the Obligated Party for response.

(E) Disclosure Agent Compensation: The Obligated Party shall pay or reimburse the Disclosure Agent for its fees and expenses for the Disclosure Agent's services rendered in accordance with this Continuing Disclosure Agreement.

(F) Indemnification of Disclosure Agent: In addition to any and all rights of the Disclosure Agent for reimbursement, indemnification and other rights pursuant to the Rule or under law or equity, the Obligated Party shall indemnify and hold harmless the Disclosure Agent and its respective officers, directors, employees and agents from and against any and all claims, damages, losses, liabilities, reasonable costs and expenses whatsoever (including attorney fees) which such indemnified party may incur by reason of or in connection with the Disclosure Agent's performance under this Continuing Disclosure Agreement; provided that the Obligated Party shall not be required to indemnify the Disclosure Agent for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the Disclosure Agent in such disclosure of information hereunder. The obligations of the Obligated Party under this Section shall survive resignation or removal of the Disclosure Agent and payment of the Bonds.

The Disclosure Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the Obligated Party, the Bondholder or any other party.

### **SECTION 3. Amendment or Waiver**

Notwithstanding any other provision of this Continuing Disclosure Agreement, the Obligated Party and the Disclosure Agent may amend this Continuing Disclosure Agreement and the Disclosure Agent shall agree to any reasonable amendment requested by the Obligated Party and any provision of this Continuing Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of a nationally recognized bond counsel or counsel expert in federal securities laws acceptable to both the Obligated Party and the Disclosure Agent to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule as well as any change in circumstance.

Subject to the provisions of this Section 3, the parties hereto may enter into any amendment, change or modification of this Continuing Disclosure Agreement in connection with curing any ambiguity or formal defect or omission, in order to comply with the requirements of federal or state securities laws. In making a determination above, the Disclosure Agent may rely on the advice of counsel.

### **SECTION 4. Miscellaneous**

(A) Representations: Each of the parties hereto represents and warrants to each other party that it has (i) duly authorized the execution and delivery of this Continuing Disclosure Agreement by the officer of such party whose signature appears on the execution pages hereto, (ii) that it has all requisite power and authority to execute, deliver, and perform this Continuing Disclosure Agreement under its organizational documents and any corporate resolutions now in effect, (iii) that the execution and delivery of this Continuing Disclosure Agreement and performance of the terms hereof, does not and will not violate any law, regulation, ruling, decision, order, indenture, decree, agreement or instrument by which such party is bound, and (iv) such party is not aware of any litigation or proceeding pending, or, to the best of such party's knowledge, threatened, contesting or questioning its existence, or its power and authority to enter into this Continuing Disclosure Agreement, or its due authorization, execution and delivery of this Continuing Disclosure Agreement, or otherwise contesting or questioning the issuance of the Bonds.

(B) Governing Law: This Continuing Disclosure Agreement shall be governed by and interpreted in accordance with the laws of the State; provided that, to the extent that the SEC, the MSRB or any other federal or state agency or regulatory body with jurisdiction over the Bonds shall have promulgated any rule or regulation governing the subject matter hereof, this Continuing Disclosure Agreement shall be interpreted and construed in a manner consistent therewith.

(C) Severability: If any provision hereof shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall survive and continue in full force and effect.

(D) Counterparts: This Continuing Disclosure Agreement may be executed in one or more counterparts, each and all of which shall constitute one and the same instrument.

(E) Termination: This Continuing Disclosure Agreement may be terminated by any party to this Continuing Disclosure Agreement upon thirty days' written notice of termination delivered to the other party or parties to this Continuing Disclosure Agreement; provided the termination of this

Continuing Disclosure Agreement is not effective until (i) the Obligated Party, or its successor, enters into a new continuing disclosure agreement with a disclosure agent who agrees to continue to provide, to the MSRB and the Bondholders of the Bonds, all information required to be communicated pursuant to the rules promulgated by the SEC or the MSRB, (ii) a nationally recognized bond counsel or counsel expert in federal securities laws provides an opinion that the new continuing disclosure agreement is in compliance with all applicable state and federal securities laws, and (iii) notice of the termination of this Continuing Disclosure Agreement is provided to the MSRB.

The Dissemination Agent shall be fully discharged at the time any such termination is effective. Notwithstanding the foregoing, this Continuing Disclosure Agreement shall terminate (i) automatically upon payment or provisions for payment of the Bonds or (ii) when all of the Bonds are or are deemed to be no longer outstanding by reason of redemption or legal defeasance or at final maturity.

(F) Default: In the event of failure of the Obligated Party to comply with any provision of this Continuing Disclosure Agreement, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Obligated Party to comply with its obligations under this Continuing Disclosure Agreement. A default under this Continuing Disclosure Agreement shall not be deemed an Event of Default under the indenture or the bonds and the sole remedy under this Continuing Disclosure Agreement in the event of any failure of the Obligated Party to comply with this Continuing Disclosure Agreement shall be an action to compel performance.

(G) Beneficiaries: This Continuing Disclosure Agreement is entered into by the parties hereof and shall inure solely to the benefit of the Obligated Party, the Disclosure Agent, the Participating Underwriter and Bondholder and shall create no rights in any other person or entity.

## SECTION 5. Notices

Any notices or communications to or among any of the parties to this Continuing Disclosure Agreement may be given as follows:

To the Obligated Party:	[ _____ ]
To the Disclosure Agent:	Wilmington Trust, National Association 15950 North Dallas Parkway, Suite 550 Dallas, TX 75248 Attention: Chuck Hicks, Vice President-CCTS Telephone: (972) 383-3152 Facsimile: (972) 385-0844
To the Issuer:	Texas Department of Housing and Community Affairs P.O. Box 13941 Austin, Texas 78711 Attention: Manager of Multifamily Bonds Telephone: (512) 475-3344 Facsimile: (512) 475-1895

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

IN WITNESS WHEREOF, the Disclosure Agent and the Obligated Party have each caused their duly authorized officers to execute this Continuing Disclosure Agreement, as of the day and year first above written.

**THF BASTROP OAK GROVE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF BAY CITY VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Continuing Disclosure Agreement)

**THF BURK VILLAGE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF ELGIN MEADOWPARK, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Continuing Disclosure Agreement)

**THF EVANT TOM SAWYER, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF HONDO BRIAN PLACE, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Continuing Disclosure Agreement)

**THF HONDO GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

**THF LAMPASAS GARDENS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President

(Signatures Continue on Next Page)

(Signature Page to Continuing Disclosure Agreement)

**THF LANTANA APARTMENTS, LLC,**  
a Texas limited liability company

By: THF RD Master, LLC,  
a Texas limited liability company,  
its Sole Member

By: THF RD Manager, LLC,  
a Texas limited liability company,  
its Managing Member

By: THF Housing Development Corporation,  
a Texas non-profit corporation,  
its Sole Member

By: \_\_\_\_\_  
Mark Mayfield  
President



(Counterpart Signature Page to Continuing Disclosure Agreement)

**WILMINGTON TRUST, N.A.,**  
as Disclosure Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT A

### MSRB Procedures for Submission of Continuing Disclosure Documents and Related Information

Securities and Exchange Commission Release No. 34-59061 (the “Release”) approves an MSRB rule change establishing a continuing disclosure service of the MSRB’s Electronic Municipal Market Access system (“EMMA”). The rule change establishes, as a component of EMMA, the continuing disclosure service for the receipt of, and for making available to the public, continuing disclosure documents and related information to be submitted by issuers, obligated persons and their agents pursuant to continuing disclosure undertakings entered into consistent with Rule 15c2-12 (“Rule 15c2-12”) under the Securities Exchange Act of 1934. The following discussion summarizes procedures for filing continuing disclosure documents and related information with the MSRB as described in the Release.

All continuing disclosure documents and related information is to be submitted to the MSRB, free of charge, through an Internet-based electronic submitter interface or electronic computer-to-computer data connection, at the election of the submitter. The submitter is to provide, at the time of submission, information necessary to accurately identify: (i) the category of information being provided; (ii) the period covered by any annual financial information, financial statements or other financial information; (iii) the issues or specific securities to which such document is related or otherwise material (including CUSIP number, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate); (iv) the name of any obligated person other than the issuer; (v) the name and date of the document; and (vi) contact information for the submitter.

Submissions to the MSRB are to be made in a portable document format (PDF) files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means. If the submitted file is a reproduction of the original document, the submitted file must maintain the graphical and textual integrity of the original document. In addition, such PDF files must be word-searchable (that is, allowing the user to search for specific terms used within the document through a search or find function), provided that diagrams, images and other non-textual elements will not be required to be word-searchable.

All submissions to the MSRB’s continuing disclosure service are to be made through password protected accounts on EMMA by (i) issuers, which may submit any documents with respect to their municipal securities; (ii) obligated persons, which may submit any documents with respect to any municipal securities for which they are obligated; and (iii) agents, designated by issuers and obligated persons to submit documents and information on their behalf. Such designated agents are required to register to obtain password-protected accounts on EMMA in order to make submissions on behalf of the designating issuers or obligating persons. Any party identified in a continuing disclosure undertaking as a dissemination agent or other party responsible for disseminating continuing disclosure documents on behalf of an issuer or obligated person will be permitted to act as a designated agent for such issuer or obligated person, without a designation being made by the issuer or obligated person as described above, if such party certifies through the EMMA on-line account management utility that it is authorized to disseminate continuing disclosure documents on behalf of the issuer or obligated person under the continuing disclosure undertaking. The issuer or obligated person, through the EMMA on-line account management utility, is able to revoke the authority of such party to act as a designated agent.

The MSRB’s Internet-based electronic submitter interface (EMMA Dataport) is at [www.emma.msrb.org](http://www.emma.msrb.org).

**EXHIBIT B**

**NOTICE OF FAILURE TO FILE ANNUAL FINANCIAL INFORMATION**

Name: (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company

Bond Issue: \$20,000,000\* Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related RD Portfolio), Series 2018

CUSIP: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_, 2018

NOTICE IS HEREBY GIVEN that (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (collectively, the “Obligated Party”) has not provided its Annual Financial Information with respect to the above named Bond issue as required by Section 2 of the Continuing Disclosure Agreement, dated as of November 1, 2018, between the (Obligated Party) and the Disclosure Agent. [TO BE INCLUDED IF THE DISCLOSURE AGENT HAS BEEN ADVISED OF THE EXPECTED FILING DATE – The (Obligated Party) anticipates that the specified Annual Financial Information will be filed by \_\_\_\_\_.]

Dated \_\_\_\_\_, 20\_\_

WILMINGTON TRUST, N.A.,  
as Disclosure Agent

By: \_\_\_\_\_  
Name:  
Title:

cc: Obligated Party

---

\* Preliminary; subject to change.

**EXHIBIT C**

**FORM OF COMPLIANCE CERTIFICATE**

**\$20,000,000\***

**Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018**

[DATE]

Wilmington Trust, National Association, as Disclosure Agent  
15950 North Dallas Parkway, Suite 550  
Dallas, TX 75248  
Attention: Chuck Hicks, Vice President-CCTS

Re: Compliance Certificate for Annual Financial Information

Dear \_\_\_\_\_:

Pursuant to the Continuing Disclosure Agreement dated as of November 1, 2018 between (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (collectively, the "Obligated Party") and Wilmington Trust, National Association, (the "Disclosure Agent"), the undersigned as a representative of the (Obligated Party), does hereby certify that the enclosed Annual Financial Information for the fiscal year-end \_\_\_\_\_, of the Obligated Party, complies with the requirements of the Continuing Disclosure Agreement.

Obligated Party

By: \_\_\_\_\_  
Name:  
Title:

Enclosure

---

\* Preliminary; subject to change.

**EXHIBIT D**

**FORM OF COMPLIANCE CERTIFICATE**

**\$20,000,000\***

**Texas Department of Housing and Community Affairs  
Multifamily Housing Revenue Bonds  
(Related RD Portfolio),  
Series 2018**

[DATE]

Wilmington Trust, National Association, as Disclosure Agent  
15950 North Dallas Parkway, Suite 550  
Dallas, TX 75248  
Attention: Chuck Hicks, Vice President-CCTS

Re: Compliance Certificate for Annual Financial Information

Dear \_\_\_\_\_:

Pursuant to the Continuing Disclosure Agreement dated as of November 1, 2018 between (1) THF Bastrop Oak Grove, LLC, (2) THF Bay City Village, LLC, (3) THF Burk Village, LLC, (4) THF Elgin Meadowpark, LLC, (5) THF Evant Tom Sawyer, LLC, (6) THF Hondo Brian Place, LLC, (7) THF Hondo Gardens, LLC, (8) THF Lampasas Gardens, LLC, and (9) THF Lantana Apartments, LLC, each a Texas limited liability company (collectively, the "Obligated Party") and Wilmington Trust, National Association, (the "Disclosure Agent"), the undersigned as a representative of the (Obligated Party), does hereby certify that the enclosed Annual Financial Information of the (Obligated Party), complies with the requirements of the Continuing Disclosure Agreement and was submitted directly to the MSRB on \_\_\_\_\_.

Obligated Party

By: \_\_\_\_\_  
Name:  
Title:

---

\* Preliminary; subject to change.

Project Name: \_\_\_\_\_  
RHS Case No. \_\_\_\_\_

**SUBORDINATION AGREEMENT**

This Subordination Agreement (this “Agreement”) is made as of \_\_\_\_\_, 2018, by the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State of Texas (the “Subordinate Lender”), **LANCASTER POLLARD MORTGAGE COMPANY, LLC**, a Delaware limited liability company (as “Senior Lender”), and **THF [\_\_\_\_\_]**, LLC, a Texas limited liability company (the “Borrower”).

Recitals.

A. Borrower is the owner of a multifamily residential apartment project known as \_\_\_\_\_ and located in \_\_\_\_\_, \_\_\_\_\_ County, Texas on the land described in Exhibit A attached hereto (the “Mortgaged Property”).

B. Pursuant to a Loan Agreement dated as of November 1, 2018, between Borrower and Subordinate Lender (the “Subordinate Loan Agreement”), Subordinate Lender has agreed to make a loan to Borrower in the original principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the “Subordinate Loan”), which is secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing from Borrower to Lender encumbering the Mortgaged Property (the “Subordinate Security Instrument”). In addition, the Subordinate Loan is evidenced and secured by, among other things, evidenced by a Multifamily Note by Borrower payable Lender in the amount of the Subordinate Loan (and together with the Subordinate Loan Agreement, the Subordinate Security Instrument, and all other documents evidencing or securing the Loan, the “Subordinate Loan Documents”).

C. Pursuant to a Loan Agreement dated as of the date hereof, executed by and between Borrower and Lender (the “Senior Loan Agreement”), Senior Lender has agreed to make a loan to Borrower in the original principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the “Senior Loan”), which is secured by a Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing from Borrower to Lender encumbering the Mortgaged Property (the “Senior Security Instrument”). In addition, the Senior Loan is evidenced and secured by, among other things, by a Multifamily Note by Borrower payable Lender in the amount of the Loan, a Declaration of Restrictions granted by Borrower to Senior Lender encumbering the Mortgaged Property and a Regulatory Agreement between Borrower and Senior Lender encumbering the Mortgaged Property (collectively, and together with the Loan Agreement, the Security Instrument, and all other documents evidencing or securing the Loan, the “Senior Loan Documents”).

D. As a condition of making the Senior Loan, Senior Lender requires that the payment of and security for the Subordinate Loan be subordinated to the payment of and security for the Senior Loan, as provided in this Agreement. Subordinate Lender and Borrower are willing to enter into this Agreement in order to induce Senior Lender to make the Senior Loan.

Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Subordinate Lender, Borrower and Senior Lender by this Agreement agree to the Recitals above and as follows:

1. Subordination of Subordinate Loan. The liens and security interests evidenced and created by the Subordinate Loan and the Subordinate Loan Documents shall be junior and subordinate in

all respects to the liens and security interests evidenced and created by the Senior Loan and the Senior Loan Documents. All rights and remedies available to Senior Lender under the Senior Loan Documents or otherwise available at law or in equity shall be superior to any rights or remedies available to Subordinate Lender and/or Borrower under the Subordinate Loan Documents.

2. Subordination of Rights and Payments. Without limiting the foregoing, all of the rights of Subordinate Lender under the Subordinate Loan Documents in and to the Mortgaged Property and the proceeds thereof (including assignments of leases and rents, issues, accounts, profits and the rights with respect to insurance proceeds and condemnation awards) shall be expressly subject and subordinate: (a) to the rights of Senior Lender in and to the Mortgaged Property and the proceeds thereof (including assignments of leases and rents, issues, accounts, profits and rights with respect to insurance proceeds and condemnation awards) on the terms set forth in the Senior Loan Documents; and (b) to any and all advances made and other expenses incurred under, and as permitted in or by the Senior Loan Documents.

3. No Amendment of Subordinate Loan Documents. So long as any indebtedness to Senior Lender remains unpaid under the Senior Loan or the Senior Loan Documents, Subordinate Lender will not, without the prior written consent of Senior Lender, amend, modify or supplement any of the Subordinate Loan Documents, or agree to any amendment, modification or supplement thereof, if, as a result of such amendment, modification or supplement: (a) the rate of interest payable pursuant to any of the Subordinate Loan Documents would be increased; (b) the term or amortization period of any of the Subordinate Loan Documents would be shortened; (c) any of the regularly scheduled installments due under any of the Subordinate Loan Documents would be increased or accelerated; (d) the principal amount of indebtedness evidenced and secured by the Subordinate Loan Documents would be increased; (e) additional events of default would be created under any of the Subordinate Loan Documents or the Senior Loan Documents; or (f) any additional obligations would be imposed on Borrower.

4. Remitting Subordinate Loan Payments to Senior Lender. Notwithstanding anything to the contrary contained in the Subordinate Loan Documents, during the time any sum remains outstanding under the Senior Loan or the Senior Loan Documents, Borrower shall not make and Subordinate Lender shall not accept any payments of principal or interest in respect of the Subordinate Loan or Subordinate Loan Documents other than the regularly scheduled installments provided for in the Subordinate Loan Documents. Notwithstanding anything to the contrary contained in the Subordinate Loan Documents, upon notice provided by Senior Lender to Subordinate Lender and Borrower that a default has occurred under the Senior Loan Documents, Borrower shall not make and Subordinate Lender shall not accept any payments of principal or interest with respect to the Subordinate Loan or Subordinate Loan Documents. If any payments of principal or interest of the Subordinate Loan are made in violation of this Section, Subordinate Lender shall hold such funds in trust for Senior Lender and shall pay such funds over to Senior Lender for application towards the payment of the Senior Loan.

5. Agreements of Subordinate Lender. So long as any sum shall remain outstanding under the Senior Loan Documents:

(a) Subordinate Lender shall give Senior Lender a copy of each notice of default given to Borrower with respect to the Subordinate Loan Documents at the same time that Subordinate Lender gives such notice to Borrower.

(b) Subordinate Lender shall not, without the prior written consent of Senior Lender, declare a default under the Subordinate Loan, accelerate all or any part of the Subordinate Loan, or take any legal action to enforce the Subordinate Loan.

(c) If (i) the Senior Loan becomes due or is declared due and payable prior to its stated maturity, (ii) Borrower is in default under the Senior Loan Documents, or (iii) any distribution,

division or application, partial or complete, voluntary or involuntary, by operation of law or otherwise, of all or any part of the Mortgaged Property, assets or business of Borrower or the proceeds thereof, in whatever form, to any creditor or creditors of Borrower or to any holder of indebtedness of Borrower by reason of any liquidation, dissolution or other winding up of Borrower or its business, or of any receivership or custodianship for Borrower of all or substantially all of its Mortgaged Property, or of any insolvency or bankruptcy proceedings or assignment for the benefit of creditors or any proceeding by or against Borrower for any relief under any bankruptcy, reorganization or insolvency law or laws, federal or state, or any law, federal or state, relating to the relief of debtors, readjustment of indebtedness, reorganization, composition or extension, then, and in any such event, any payment or distribution of any kind or character, whether in cash, Mortgaged Property or securities which shall be payable or deliverable with respect to the Subordinate Loan from and after the occurrence of any of the events set forth in this Section 5 shall be held in trust by Subordinate Lender for the benefit of Senior Lender and shall forthwith be paid or delivered directly to Senior Lender for application to the payment of the Senior Loan to the extent necessary to make payment in full of all sums due under the Senior Loan to the remaining unpaid after giving effect to any concurrent payment or distribution to Senior Lender. In any such event, Senior Lender may, but shall not be obligated to, demand, claim and collect any such payment or distribution that would, but for these subordination provisions, be payable or deliverable with respect to the Subordinate Loan. In the event of the occurrence of any of the events set forth in this Section 5 and until either Senior Lender gives its written consent to Subordinate Lender or the Senior Loan shall have been fully paid and satisfied, no payment shall be made to or accepted by Subordinate Lender in respect of the Subordinate Loan.

6. Collections Under this Agreement. Subordinate Lender hereby irrevocably authorizes and empowers Senior Lender to demand, sue for, collect and receive every such payment or distribution and give acquittance therefor and to file claims and take such other proceedings in Senior Lender's own name or in the name of Subordinate Lender or otherwise, as Senior Lender may deem necessary or advisable to carry out the provisions of this Agreement. Subordinate Lender hereby irrevocably authorizes and empowers Senior Lender, and irrevocably appoints Senior Lender, Subordinate Lender's attorney-in-fact to demand, sue for, collect and receive every such payment or distribution and give acquittance therefor and to file claims and take such other proceedings in Senior Lender's own name or in the name of Subordinate Lender or otherwise, as Senior Lender may deem necessary or advisable to carry out the provisions of this Agreement. Subordinate Lender hereby agrees to execute and deliver to Senior Lender such other limited powers of attorney, assignments, endorsements or other instruments as may be requested by Senior Lender in order to enable Senior Lender to enforce any and all claims upon or with respect to the Mortgaged Property, and to collect and receive any and all payments or distributions which may be payable or deliverable at any time upon or with respect to the Subordinate Loan or the Subordinate Loan Documents.

7. Modification of Senior Loan Documents. Subordinate Lender by this Agreement consents that at any time and from time to time and with or without consideration, without further consent of but with written notice to Subordinate Lender and without in any manner affecting, impairing, lessening or releasing any of the provisions of this Agreement, Senior Lender may extend credit or other financial accommodation or benefit and loan monies to or for the account of Borrower, and may renew, extend, change the manner, time, place and terms of payment of, otherwise alter the terms of, sell, exchange, release, substitute, surrender, realize upon, modify, waive, grant indulgences with respect to and otherwise deal with in any manner: (a) all or any part of the Senior Loan or Senior Loan Documents; (b) all or any of the agreements, documents or instruments evidencing, securing, guaranteeing or otherwise relating to all or any of the Senior Loan; (c) all or any part of the Mortgaged Property; and (d) any person at any time primarily or secondarily liable for all or any part of the Senior Loan and/or any of the Mortgaged Property, all as if this Agreement did not exist. This Agreement will not be affected, impaired or released by any delay or failure of Senior Lender to exercise any of its rights and remedies against



Borrower or any guarantor or under any of the Senior Loan Documents or against any collateral or security for the Senior Loan, by any failure of Senior Lender to take steps to perfect or maintain its lien on, or to preserve any rights to, any of the Mortgaged Property by any irregularity, unenforceability or invalidity of any of the Senior Loan or Senior Loan Documents or any part thereof or any security or guarantee therefor, or by any other event or circumstance which otherwise might constitute a defense available to, or a discharge of, Borrower or a subordinated creditor. Subordinate Lender hereby agrees that all payments received by Senior Lender may be applied and reapplied, in whole or in part, to the Subordinate Loan, as Senior Lender, in its sole discretion, deems appropriate. Subordinate Lender hereby waives demand, presentment for performance, protest, notice of dishonor and of protest with respect to the Senior Loan and/or the Mortgaged Property, notice of acceptance of this Agreement, notice of the making of any of the Senior Loan and notice of default under any of the Senior Loan Documents.

8. No Additional Rights. This Agreement is solely for the benefit of Senior Lender and will not give Borrower or any other person any right or remedy under this Agreement or by reason of this Agreement. Nothing in this Agreement will obligate Senior Lender to grant credit to, or continue financing arrangements with, Borrower.

9. No Waiver. No delay or failure on the part of Senior Lender to exercise any of its rights or remedies under this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, or any partial or single exercise thereof, will constitute a waiver under this Agreement. All such rights and remedies are cumulative and may be exercised singly or concurrently and the exercise of any one or more of them will not be a waiver of any other. No waiver of any of its rights and remedies under this Agreement, and no modification or amendment of this Agreement, will be deemed to be made by Senior Lender unless the same will be in writing, duly signed on behalf of Senior Lender, and each such waiver, if any, will apply only with respect to the specific instance involved and will in no way impair the rights and remedies of Senior Lender under this Agreement in any other respect at any other time.

10. Representations and Warranties of Subordinate Lender. Subordinate Lender represents and warrants to Senior Lender that:

(a) Subordinate Lender is the sole holder and owner of the Subordinate Loan and Subordinate Loan Documents and Subordinate Lender has not made any sale, assignment, pledge, encumbrance or other disposition of all or any part of the Subordinate Loan or the Subordinate Loan Documents, and the Subordinate Loan and the Subordinate Loan Documents are free from all encumbrances of any kind.

(b) This Agreement is the legal, valid and binding obligation of Subordinate Lender, enforceable in accordance with terms of this Agreement.

(c) This Agreement does not violate and is not in contravention of any other agreement, contract, rule, regulation, or statute to which Subordinate Lender is a party.

(d) The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower and/or Subordinate Lender shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, and each of the Subordinate Loan Documents provided by Borrower and/or Subordinate Lender is by this Agreement certified to be true, correct and complete.

(e) Notices. All notices, demands and other communications (each, a “notice”) under or concerning this Agreement shall be in writing. Each notice shall be addressed to the intended recipient

at its address set forth below, and shall be deemed given on the earliest to occur of: (a) the date when the notice is received by the addressee if by personal delivery; (b) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (c) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section, the term "Business Day" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business. Any party to this Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

Lender: Lancaster Pollard Mortgage Company, LLC  
65 East State Street, Suite 1600  
Columbus, Ohio 43215  
Attention: USDA Servicing Department

with a copy to: Dinsmore & Shohl LLP  
191 West Nationwide Boulevard, Suite 300  
Columbus, Ohio 43215  
Attention: Jodi Diewald Dyer, Esq.

Subordinate Lender: Texas Department of Housing and Community Affairs  
P.O. Box 13941  
Austin, Texas 78711  
Attention: Manager of Multifamily Bonds

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Borrower: THF \_\_\_\_\_, LLC  
c/o The Related Companies, LP  
60 Columbus Circle, 18th Floor  
New York, NY 10023  
Attention: Matthew Finkle

with a copy to: Texas Housing Foundation  
1110 Broadway Street  
Marble Falls, TX 78654  
Attention: \_\_\_\_\_

with a copy to: Levitt & Boccio, LLP  
423 West 55th Street, 8th Floor  
New York, NY 10019  
Attention: David S. Boccio, Esq.

11. Successors. This Agreement shall be binding upon the parties to this Agreement, their heirs, legal representatives, successors and assigns.

12. Counterparts. This Agreement may be executed in any number of counterparts and by different parties to this Agreement in separate counterparts, each of which when so executed will be deemed to be an original and all of which taken together will constitute one and the same agreement. Any party so executing this Agreement by an electronic transmission shall promptly deliver an original executed counterpart, provided that any failure to do so shall not affect the validity of the counterpart executed by an electronic transmission. Signatures transmitted by electronic means shall be treated as original signatures.

13. Governing Laws. This Agreement shall be governed by and construed in accordance with the laws of the state where the Mortgaged Property is located. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the state where the Mortgaged Property is located, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

14. Waiver of Jury Trial. To the extent permitted by the laws of the state where the Mortgaged Property is located, the parties to this Agreement each waive any right to trial by jury in any action or proceeding relating to this Agreement or any actual or proposed transaction or other matter contemplated in or relating to any of the provisions of this Agreement.

*[Signatures on the Next Page.]*

**SUBORDINATION AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has executed this Subordination Agreement to be effective as of the date set forth above.

**SUBORDINATE LENDER:**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.**

a public and official agency of the State of Texas

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

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

Title: Duly authorized officer or representative

STATE OF TEXAS,  
COUNTY OF TRAVIS, SS:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2018, by \_\_\_\_\_, the duly authorized officer or representative of the Texas Department of Housing And Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.

\_\_\_\_\_  
Notary Public

*[Signatures Continue on the Next Page.]*

**SUBORDINATION AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has executed this Subordination Agreement to be effective as of the date set forth above.

**SENIOR LENDER:**

**LANCASTER POLLARD MORTGAGE COMPANY, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Ryan Miles, Senior Vice President

STATE OF OHIO,  
COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2018, by Ryan Miles, the Senior Vice President of Lancaster Pollard Mortgage Company, LLC, a Delaware limited liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public

*[Signatures Continue on the Next Page.]*

**SUBORDINATION AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has executed this Subordination Agreement to be effective as of the date set forth above.

**BORROWER:**

**THF [\_\_\_\_\_], LLC,**  
a Texas limited liability company

By: THF RD Master, LLC, a Texas limited liability company  
its Sole Member

By: THF RD Manager, LLC, a Texas limited liability company  
its Managing Member

By: THF Housing Development Corporation, a Texas non-profit corporation  
its Sole Member

By: \_\_\_\_\_  
Mark MayField, President

STATE OF TEXAS,

COUNTY OF \_\_\_\_\_, SS:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2018, by Mark Mayfield, as President of THF Housing Development Corporation, a Texas non-profit corporation, the Sole Member of THF RD Manager, LLC, a Texas limited liability company, the Managing Member of THF RD Master, LLC, a limited liability company, the Sole Member of THF [\_\_\_\_\_], LLC, a limited liability company, on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public

*[End of Signatures.]*

**SUBORDINATION AGREEMENT**

**Exhibit A**

**Description of the Land**

Attached.

Project Name: \_\_\_\_\_  
RHS Case No. \_\_\_\_\_

## LOAN DISBURSEMENT PROCEDURES AGREEMENT

This Loan Disbursement Procedures Agreement (this “Agreement”) is entered into as of \_\_\_\_\_, 2018, among **LANCASTER POLLARD MORTGAGE COMPANY, LLC**, a Delaware limited liability company (the “Lender”), **BF RELATED TEXAS, LLC**, a Delaware limited liability company (the “Bridge Lender”), **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State (the “Issuer”), **WILMINGTON TRUST, N.A.**, a national banking association (the “Trustee”), **[LIHTC Investor Member, LLC]**, a \_\_\_\_\_ (the “Tax Credit Investor”), and **THF [\_\_\_\_\_], LLC**, a Texas limited liability company (the “Borrower”).

### Recitals

A. Borrower intends to acquire and rehabilitate a multifamily housing project located in \_\_\_\_\_, \_\_\_\_\_ County, Texas, known as \_\_\_\_\_ (the “Project”).

B. The total costs of development of the Project, as determined by Lender and the United States Department of Agriculture, Rural Development (“USDA”), total [\$\_\_\_\_\_.00] (the “Costs of Development”).

C. Borrower has obtained a USDA-guaranteed, first-priority mortgage loan in the amount of [\$\_\_\_\_\_.00] from Lender (the “LPMC Loan”), which represents the primary financing for the Project.

D. Borrower is assuming USDA Section 515 Direct Loan in the original principal amount of [\$\_\_\_\_\_.00] in connection with the Project (the “USDA Loan”).

E. Borrower is depositing cash in the approximate amount of [\$\_\_\_\_\_.00] (the “Transferred Reserves”) into an escrow account maintained by Lender (the “Reserve for Replacements”), which amount will be available for application to certain Costs of Development with Lender’s prior approval.

F. Borrower has obtained an unsecured equity bridge loan in the principal amount of [\$\_\_\_\_\_.00] from Bridge Lender (the “Bridge Loan”), which will be allocated to pay certain Costs of Development in accordance with this Agreement and to make certain Collateral Payments (as defined below) to Trustee under the Bond Documents and to pay capitalized interest under the Bond Documents (the “Bridge Loan Funds”).

G. Issuer shall cause to be sold the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Related Rd Portfolio), Series 2018 in an amount not to exceed \$[20,000,000.00] (the “Bonds”) issued by Issuer pursuant a Loan Agreement dated as of November 1, 2018 (the “Bond Loan Agreement”). Under the Bond Loan Agreement, the proceeds of the sale of the Bonds (the “Bond Proceeds”) are to be deposited in the project fund established by the (the “Project Fund”) to be used for rehabilitation and equipping of the Project.

H. Tax Credit Investor is a member of Borrower pursuant to that certain Amended and Restated Operating Agreement of Borrower dated as of November 1, 2018 (the “Operating Agreement”), and will be contributing installments of tax credit proceeds to Borrower in the aggregate amount of



[\$\_\_\_\_\_.00] pursuant to the Operating Agreement, a portion of which will be contributed to Borrower to pay Costs of Development and a portion of will be contributed to fund the required escrows for the benefit of the Project (such amounts to be collectively, the “Tax Credit Equity”).

I. USDA requires that, in connection with the Project, each of Borrower, Bridge Lender, Issuer, Trustee, and Tax Credit Investor comply with the requirements set forth in the Guaranteed Rural Rental Housing Program Origination and Servicing Handbook, HB-1-3565 (the “USDA Requirements”), and by entering into this Agreement each of Borrower, Issuer, Trustee, and Tax Credit Investor agree to comply with the USDA Requirements.

J. The USDA Requirements require: (i) that Lender has the right to approve construction disbursements after considering any reported noncompliance by Tax Credit Investor if the Project is proceeding in compliance with approved plans and specifications; (ii) that Lender has sole authority to resolve differences in the inspection process and disbursement of the LPMC Loan Funds and the Bridge Loan Funds; and (iii) that Bridge Lender assumes the risk for any funds disbursed in excess of the amount approved by Lender and agrees to replenish the excess funds within 10 working days of notification by Lender.

K. Absent Lender’s agreement to an alternate method, the USDA Requirements require that disbursement of Borrower equity and the Bridge Loan Funds in connection with each approved Draw Request (as defined herein) must be made on a pro rata basis with LPMC Loan Funds based on the proportion of remaining Costs of Development projected to be funded by Borrower, the Bridge Loan, the Transferred Reserves and the LPMC Loan.

L. Borrower and Legacy Construction Services, LLC (the “General Contractor”) have entered into an AIA Document A101-2017 Standard Form of Agreement Between Owner and General Contractor where the basis of payment is a Stipulated Sum (the “Construction Contract”) with respect to construction and/or rehabilitation of the Project.

M. Execution of this Agreement by of Borrower, Bridge Lender, Issuer, Trustee, and Tax Credit Investor has been authorized by their respective officers, members, and managers, as applicable.

NOW, THEREFORE, the parties agree to the foregoing Recitals and as follows:

### **DESCRIPTION OF FUNDS**

1. Reserve for Replacements. Borrower will deposit (or cause to be deposited) the Transferred Reserves in the Reserve for Replacement at the Initial Closing. With Lender’s prior approval, funds will be subsequently disbursed from the Reserve for Replacements to partially fund subsequent approved Draw Requests.

2. USDA 515 Direct Loan. Pursuant to an [Assumption Agreement] dated as of November 1, 2018 between USDA and Borrower (the “USDA Assumption Agreement”), Borrower is assuming the USDA Loan. Borrower represents that the USDA Assumption Agreement is in full force and effect, and that Borrower is not in default under the USDA Assumption Agreement.

3. Bridge Loan. Pursuant to a [Loan Agreement] dated as of November 1, 2018 between Bridge Lender and Borrower (the “Bridge Loan Agreement”), Bridge Lender has agreed to make the Bridge Loan to Borrower. Bridge Lender and Borrower each represent that the Bridge Loan Agreement remains in full force and effect, and that Borrower is not in default thereunder. The Bridge Loan Funds will be disbursed to or on behalf of Borrower pursuant to the Bridge Loan Agreement for application to

certain Costs of Development, disbursements of which will be credited against the Borrower Portion of subsequent approved Draw Requests.

4. LPMC Loan. Pursuant to a Loan Agreement dated the date of this Agreement between Borrower and Lender (the "Loan Agreement"), Lender has agreed to make the LPMC Loan to Borrower for the Project. At Initial Closing (as defined herein), Lender will deposit the funds in the amount of the LPMC Loan into a construction escrow account held by Lender (the "Construction Escrow"). Funds disbursed or to be disbursed under the LPMC Loan will be disbursed from the Construction Reserve are hereinafter referred to as "LPMC Loan Funds". Notwithstanding any provision to the contrary herein, the LPMC Loan Funds will be disbursed in connection with each approved Draw Request, up to but not including the final advance of LPMC Loan Funds, in a manner to ensure that the USDA Requirements are maintained throughout the construction period.

5. Tax-Exempt Bond Proceeds.

(a) In connection with each approved Draw Request (as defined herein) until [\$\_\_\_\_\_00] of the Bond Proceeds have been disbursed, Lender and Borrower will make, or cause to be made, a collateral payment to Trustee in the aggregate amount of the approved Draw Request (the "Collateral Payment").

(b) All Draw Requests shall be made in accordance with the Loan Documents (as defined below) and Borrower shall provide to Tax Credit Investor and Trustee simultaneously with each Draw Request: (i) a copy of the Draw Request delivered to Lender; and (ii) if approved by Lender, a signed Disbursement Request (in the form attached as Exhibit B to the Bond Loan Agreement), in addition to the Draw Request submitted to the Lender pursuant to this Agreement. Each Draw Request shall specify the portion of such advance to be funded or reimbursed from Bond Proceeds (the "Bond-Funded Portion"). Subject to its approval of the Draw Request (including any required approval by USDA) and confirmation from Trustee that the fully executed Disbursement Request has been received, Lender and Borrower agree to deliver, or cause to be delivered, funds in the aggregate amount of the Bond-Funded Portion to Trustee as a Collateral Payment in exchange for disbursement by Trustee of an equal amount of Bond Proceeds from the Project Fund to pay the Bond-Funded Portion of the Draw Request. The Collateral Payments shall consist of either, (i) proceeds from the sale by Lender of pass-through certificates (the "GNMA Certificates"), in which case the Collateral Payments shall be delivered to Trustee promptly upon receipt of such proceeds by Lender, (ii) the LPMC Loan proceeds, or (iii) the Bridge Loan Funds, deposited on behalf of Borrower, in which case the Collateral Payments shall be delivered to Trustee promptly upon approval of the related Draw Request. Subject to, and in accordance with, the provisions of this Section, upon Trustee's receipt of a Collateral Payment, an equal amount of Bond Proceeds shall be immediately disbursed in accordance with the approved Disbursement Request. To the extent any approved Draw Request is not funded through an exchange of Collateral Payments for Bond Proceeds, Lender and Borrower shall cause such approved Draw Request to be funded from LPMC Loan proceeds, Bridge Loan Funds, and/or Borrower funds, as specified in the approved Draw Request; provided however, that Lender has no obligation under this Agreement to fund any Collateral Payment unless and until it has received and approved a Disbursement Request.

(c) Notwithstanding the foregoing and after the Bond Proceeds have been disbursed, all approved Draw Requests will be funded through the LPMC Loan, the Bridge Loan and/or the Borrower directly.

6. Loan Documents. The Bridge Loan Funds and LPMC Loan Funds may be referred to collectively herein as the "Funds". The terms of each Lender's loan agreement, promissory note, mortgage deed, and other documents, to the extent applicable, shall govern the rights and obligations

between that Lender and Borrower, unless this Agreement explicitly provides otherwise, it being the intent of the parties to comply with the USDA Requirements relative to the use of separate sources of Funds, and not to alter the terms of any Loan for the Project.

7. Tax Credit Equity. The Tax Credit Equity will be contributed by the Tax Credit Investor to Borrower pursuant to the Operating Agreement.

(a) An initial payment of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) of Tax Credit Equity shall be contributed to Borrower which may be applied to Costs of Development on or before Initial Closing. The initial payment and additional contributions by Tax Credit Investor to Borrower may be used for the Costs of Development in accordance with this Agreement, subject to the provisions of the Operating Agreement.

(b) Additional installments of Tax Credit Equity contributed to Borrower in the amounts set forth in the Operating Agreement upon completion of the applicable conditions set forth in the Operating Agreement (collectively, the “Additional Tax Credit Equity Deposits”). Each Additional Tax Credit Equity Deposit shall be applied to the capital account of Tax Credit Investor under the Operating Agreement, and each Additional Tax Credit Equity Deposit may be used for Costs of Development in accordance with this Agreement, subject to the provisions of the Operating Agreement.

**DISBURSEMENT OF FUNDS,  
RESERVE FOR REPLACEMENTS, AND TAX CREDIT EQUITY**

8. Disbursement Schedule. Attached hereto as Exhibit A is the disbursement schedule for the Costs of Development (the “Disbursement Schedule”), which shall govern the disbursements of the Bridge Loan Funds, the Tax Credit Equity (subject to the provisions of the Operating Agreement), and the LPMC Loan Funds in accordance with the terms and conditions of this Agreement. Each approved Draw Request will be funded from LPMC Loan Funds in an amount not to exceed the Lender Portion of such approved Draw Request, with the balance of the approved Draw Request fully funded from Tax Credit Equity, Bridge Loan Funds, disbursements from the Reserve for Replacements or other Borrower funds. Notwithstanding the foregoing, the aggregate outstanding proportion of advanced LPMC Loan Funds to other funding sources at any time shall never be greater than 90% of aggregate drawn Costs of Development; provided that the aggregate amount of LPMC Loan Funds drawn as of Final Closing (as defined herein) shall not exceed the Lender Portion. The “Lender Portion” will be equal to the percentage obtained by dividing (a) the amount of the LPMC Loan over (b) the Costs of Development, or \_\_\_\_%. The “Borrower Portion” will be equal to 100%, minus the Lender Portion, or \_\_\_\_%.

9. Disbursement of LPMC Loan Funds, Bridge Loan Funds, and Reserve for Replacements.

(a) Initial Closing. The closing of the LPMC Loan is referred to herein as the “Initial Closing”. At the time of the Initial Closing: (i) Lender shall fund Construction Escrow with the full amount of the LPMC Loan Funds; (ii) Lender shall make a disbursement of LPMC Loan Funds, which amount shall be guaranteed by USDA on the initial Draw Request; and (iii) Bridge Lender shall make a disbursement of Bridge Loan Funds in an amount approved by Bridge Lender, in an aggregate amount equal to the Approved Draw (as defined herein) for Initial Closing.

(b) Subsequent Approved Draws. After the Initial Closing, subsequent disbursements of Bridge Loan Funds and the Tax Credit Equity shall be made in accordance with the Bridge Loan Agreement and the USDA Requirements. Each subsequent approved Draw Request up to but not including the final Draw Request shall be fully funded by LPMC Loan Funds, subject to the limitations set forth in Section 8, disbursements of Bridge Loan Funds, disbursements of the Reserve for

Replacements, and Borrower funds. Any undisbursed LPMC Loan Funds may be disbursed at Final Closing to fund the final approved Draw Request.

10. Disbursement Procedures.

(a) Project Inspections. Lender, Bridge Lender and Tax Credit Investor, and their respective agents shall have access to the Project at all reasonable times for the purpose of inspection of construction work and progress of work, provided that such inspection shall not unreasonably interfere with construction work. In advance of submission of a draw request that includes a Contractor's Requisition, Borrower shall schedule a Project inspection (each, a "Progress Inspection") to be attended by the General Contractor and Lender's inspecting architect (the "Lender's Architect"), and shall provide notice to Bridge Lender, Tax Credit Investor, and Lender in writing at least three business days in advance of each Progress Inspection. Each of Bridge Lender, Tax Credit Investor, and Lender shall have the right (but shall not be obligated) to attend any Progress Inspection. At a Progress Inspection, Lender's Architect shall inspect the construction of the Project and determine the percentage of completion for, and amount of, each Contractor's Requisition.

(b) Draw Documentation. Borrower shall initiate each request for a disbursement of Funds by delivering the following documentation to Lender (the "Draw Documentation") and concurrently providing a copy thereof to Bridge Lender and Tax Credit Investor:

(i) an executed request for the disbursement on the appropriate AIA form, together with supporting invoices and documentation, and a statement of the portion(s), if any, of the disbursement to be paid from each funding source, as applicable (the "Draw Request"); and

(ii) if the disbursement includes payment of amounts due to General Contractor under the Construction Contract (other than disbursements for bond premium or other fees), an executed Contractor's Requisition including therein an executed Prevailing Wage Certificate, and any supporting documentation required by Lender (the "Contractor's Documentation").

(c) Submission of Draw Requests to USDA. If requested or required by LPMC, upon receipt of satisfactory Draw Request and, if applicable, the Contractor's Documentation may be reviewed and/or approved by USDA. LPMC shall not be responsible for the content, completeness or sufficiency of the Draw Documentation, nor shall Lender be responsible for the servicing, administering, or monitoring of the Bridge Loan.

(d) Determination of Amount to be Disbursed. For Draw Requests that Lender is required (or requests) to approve, the amount of each disbursement of Funds, and funds held in the Reserve for Replacements shall be determined by Lender; however, prior to the approval of construction disbursements, Lender shall consider any comments received from Bridge Lender, Tax Credit Investor, and/or Borrower, and may consult with the Bridge Lender, Tax Credit Investor, and Borrower regarding the amount of any disbursement. Lender shall have sole authority to resolve differences or disputes in the Project inspection process and disbursement of the Funds, and funds held in the Reserve for Replacements.

(e) Funding of Approved Disbursement.

(i) For Draw Requests that Lender is required (or requests) to approve, Lender shall approve a Draw Request if the Draw Request and Contractor's Documentation is complete and if Lender determines that the draw conforms to the Disbursement Schedule and applicable USDA requirements. After a Draw Request is processed by Lender, and approved if satisfactory, Lender will send a copy of the original approved draw form (an "Approved Draw") to Bridge Lender, Borrower, and

Tax Credit Investor. The amounts approved by Lender shall be binding and conclusive on all parties, subject, however, to this Section.

(ii) Lender shall fund the Approved Draw amount from the LPMC Loan Funds (subject to the limitations set forth in Section 8) and other sources, without adjustment, promptly after receipt of a copy of the Approved Draw; provided, however, that Lender shall not be obligated to fund its share of any disbursement unless and until (i) Lender has received an endorsement to the mortgage loan title policy issued with respect to the LPMC Loan which is in form and substance reasonably satisfactory to Lender and (ii) Title Company has confirmed in writing or by email to Lender that Title Company has, in its account, good funds representing any Borrower's funds which may be required to fund such Approved Draw available for disbursement.

(f) Objections to Draws. Any Lender, the Tax Credit Investor, or the Borrower may object to an approved Draw Request within 14 days of the date of receipt by such party of a copy of such approved Draw Request (the "Objection Period"). Such objection shall be in writing sent to Lender, shall be sent simultaneously to the other parties hereto, and shall specifically set forth any objections, the reasons therefor and the amounts which are the subject of such objection. Lender shall consider any comments received during the Objection Period and shall consult with the parties as Lender deems appropriate. Lender may extend the Objection Period as it deems appropriate. Such objection, if determined by Lender to be valid, shall result in appropriate adjustment to a subsequent draw. Lender shall have sole authority to resolve any disputes regarding such objections.

(g) Excess Disbursement of Funds. As required by Lender, Bridge Lender assumes the risk for any Bridge Loan Funds disbursed in excess of the amounts approved for disbursement by Lender under the procedures in this Agreement (collectively, an "Excess Disbursement"). Bridge Lender agrees that the entire amount of Bridge Loan Funds shall be available for disbursement pursuant to this Agreement notwithstanding any such Excess Disbursement.

(h) Disbursement at LPMC Loan Closing. The procedures set forth above in this Section 10 shall not apply to the initial disbursement of the LPMC Loan Funds, the Bridge Loan Funds or the initial installment of Tax Credit Equity.

(i) Guarantee Required for Disbursement of LPMC Loan Funds. Notwithstanding anything to the contrary contained in this Agreement, no disbursements shall be made of the LPMC Loan Funds unless the amount disbursed is covered by USDA's loan guarantee.

(j) Funding Shortfalls. The parties acknowledge that the uses of LPMC Loan Funds, Bridge Loan Funds, and Tax Credit Equity are restricted in accordance with the applicable agreements, statutes, regulations, administrative, and contractual requirements governing the allocation and disbursement of such funds. Due to the restrictions on funding with respect to the various sources of funds required under this Agreement, and due to the limitations on the amounts of disbursements of Bridge Loan Funds, Tax Credit Equity, and LPMC Loan Funds provided in this Agreement, there may be instances when Bridge Loan Funds and LPMC Loan Funds cannot be used to fund certain payments required in an approved Draw Request. Any payments which are required to be made in connection with an approved Draw Request, and for which available Bridge Loan Funds, Tax Credit Equity, and LPMC Loan Funds, or any combination thereof, may not be used, are referred to as "Funding Shortfalls". Borrower shall be solely responsible for paying any Funding Shortfalls and shall deposit with the Title Company on or before the date of funding by the other Lender(s) hereunder, funds sufficient to pay any such Funding Shortfalls to enable the Title Company to pay all payees identified in the approved Draw Documentation the amounts due in full.

## **CONSTRUCTION CONTRACT RETAINAGE**

11. The parties acknowledge that the Construction Contract requires a retainage with respect to payments made under the Construction Contract (other than for bond premium or other fees). The retainage amount shall be disbursed from time to time as authorized pursuant to Lender's approval of such disbursements; provided that any such disbursement made from LPMC Loan Funds shall be subject to insurance thereof by Lender and receipt by Lender of title endorsements reasonably satisfactory to Lender.

## **FINAL CLOSING**

12. At the time of the Lender's final draw of the LPMC Loan (the "Final Closing"), LPMC Loan Funds in the amount approved by Lender shall be disbursed.

## **PLANS AND SPECIFICATIONS; CHANGE ORDERS**

13. Plans and Specifications. Lender shall retain a master set of Plans and Specifications for the Project pursuant to its rules and regulations, which master set shall be approved by Lender and initialed by Borrower and General Contractor prior to commencement of construction, with such changes as may be approved by Lender and consistent with applicable codes (the "Master Set"). The parties agree that the Construction Contract shall be based upon the Master Set, and, in the event of conflict between the Master Set and any other set of plans or specifications, the terms and requirements of the Master Set shall control.

14. Change Orders. Tax Credit Investor and each Lender shall have the right to review change orders as they are requested and provide comments to Lender and the other parties. Change orders will be subject to Lender's review and approval in accordance with applicable USDA Requirements. All proposed change orders must be in writing and signed by Borrower, Architect, General Contractor, Lender, and a USDA representative before the work involved in the change is started or the costs are included in a Draw Request. Although Tax Credit Investor and Bridge Lender may review and comment on proposed change orders, none of the approvals of Tax Credit Investor or Bridge Lender thereof shall be required.

## **MISCELLANEOUS**

15. Federal Labor Standards.

(a) The parties hereto acknowledge that because the LPMC Loan is to be guaranteed by USDA, and includes funds that will be used for payment of a portion of the costs under the Construction Contract, the Construction Contract is subject to federal labor standards requirements as set forth in the Davis-Bacon Act (40 U.S.C. 276a, et seq.) and related acts, and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327, et seq.) (collectively, the "Federal Labor Standards"). USDA Requirements provide for Lender to monitor and enforce Federal Labor Standards for projects participating in the USDA; however, in instances where Bridge Lender provides funding to projects such as this Project, each may have an obligation to monitor and enforce Federal Labor Standards. To avoid duplication of efforts and for efficiency in project management, Lender and Bridge Lender each agree that Lender will be solely responsible to monitor and enforce Federal Labor Standards for the Project (including the overtime pay requirements of the Contract Work Hours and Safety Standards Act that would not be applicable if not for the federal funding), and that Bridge Lender shall not be responsible or liable for any statutory and/or regulatory requirements relative to Federal Labor Standards compliance.

(b) If requested, Lender shall provide to any party hereto, in a timely manner following written request, copies of documents relative to Lender's monitoring and enforcement of the Federal Labor Standards for the Project.

(c) The parties hereto acknowledge that Lender has determined the appropriate Davis-Bacon wage determination for the Project.

(d) Bridge Lender does not, by the provisions of this Section 15, waive its right to participate in administrative or legal proceedings relative to Federal Labor Standards for the Project; however, Bridge Lender has no obligation to do so.

16. Notices. All notices shall be in writing and sent to the addresses below and shall be deemed to have been sufficiently given or served when personally delivered, two days after such notice is deposited in the U.S. mail, by registered or certified mail, or one day after such notice is deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced. Such addresses may be changed by notice to the other party given in the same manner provided in this Section.

Lender: Lancaster Pollard Mortgage Company, LLC  
65 East State Street, Suite 1600  
Columbus, Ohio 43215  
Attention: USDA Servicing

with a copy to: Dinsmore & Shohl LLP  
191 West Nationwide Boulevard, Suite 300  
Columbus, Ohio 43215  
Attention: Jodi Diewald Dyer, Esq.

Bridge Lender: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Tax Credit Investor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Borrower: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

17. Captions. The headings and captions in this Agreement are included for convenience of reference only and shall not limit or alter the terms of this Agreement.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

19. Counterparts. This Agreement may be executed in multiple counterparts and, when executed by all parties, shall be binding on the parties hereto notwithstanding that not all of the parties

may have signed the same counterpart. Lender is authorized to combine signature pages from separate counterparts to constitute a single instrument (with one or multiple originals) evidencing execution by each party. This document shall not be binding or have any force or effect unless and until executed by each party.

20. Entirety; No Binding Effect Prior To Execution. This Agreement and any exhibits attached hereto contain the entire agreement between the parties as to the matters contained herein. Any oral representations or oral modifications concerning this Agreement shall be of no force and effect. Notwithstanding legislative approval, any representations to the contrary, or other facts, the parties are not bound to the provisions of this Agreement prior to full and final execution of this document by all parties.

21. USDA Requirements Take Precedence. For so long as the Project is subject to a loan guarantee by USDA, Bridge Lender may not assert any claims against the Project or Borrower, or income of the Project or Borrower, or the LPMC Loan Funds, or any reserve or deposit required by Lender for any claims arising in connection with the Bridge Loan, its sole recourse being as set forth in the applicable bridge loan documents.

*[Signatures on the Next Page.]*



**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**LENDER:**

**LANCASTER POLLARD MORTGAGE COMPANY, LLC**  
a Delaware limited liability company

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

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

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

*[Signatures Continue on the Next Page.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**BRIDGE LENDER:**

**BF RELATED TEXAS, LLC,**  
a Delaware limited liability company

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

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

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

*[Signatures Continue on the Next Page.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**ISSUER:**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS.**

a public and official agency of the State of Texas

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

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

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

*[Signatures Continue on the Next Page.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**TRUSTEE:**

**WILMINGTON TRUST, N.A.,**  
a national banking association

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

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

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

*[Signatures Continue on the Next Page.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**TAX CREDIT INVESTOR:**

\_\_\_\_\_,  
a \_\_\_\_\_

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

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

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

*[Signatures Continue on the Next Page.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Signature Page**

IN WITNESS WHEREOF, the undersigned has caused this Loan Disbursement Procedures Agreement to be executed as of the date set forth above.

**BORROWER:**

**THF [\_\_\_\_\_], LLC,**  
a Texas limited liability company

By: THF RD Master, LLC, a Texas limited liability company  
its Sole Member

By: THF RD Manager, LLC, a Texas limited liability company  
its Managing Member

By: THF Housing Development Corporation, a Texas non-profit corporation  
its Sole Member

By: \_\_\_\_\_  
Mark MayField, President

*[End of Signatures.]*

**LOAN DISBURSEMENT PROCEDURES AGREEMENT**

**Exhibit A**

**Disbursement Schedule**

Attached.