

LOW INCOME HOUSING TAX CREDIT (LIHTC) RESOLUTION APPLICATION

Updated: December, 2023



CONTACT INFORMATION

Applicant's Name	Logan Schmidt	Property Owner	Praveen Kumar Katakam
Company	Roers Companies	Company	SM Landholdings, LLC
Applicant's Mailing Address	Two Carlson Parkway #400, Plymouth, MN 5447	Owner's Mailing Address	4324 Privacy Hedge Street, Leander, TX 78641
Applicant's Phone #	608-604-2163	Owner's Phone #	
Applicant's Email	logan.schmidt@roerscompanies.com	Owner's Email	katakam@gmail.com

PROPERTY INFORMATION

Subject Property Address: 2409 Old Bastrop Highway
Tax ID #: R 106007 Existing Zoning: CD-5
Legal Description: Lot _____ Block _____ Subdivision _____
Existing Use: Vacant Proposed Use: Multifamily

DESCRIPTION OF REQUEST

Project Name: Roers San Marcos Multifamily

Briefly Describe the Proposal (reason for choosing location, target population, property amenities or services, energy efficient components etc.) (Provide additional pages if needed):

This project is an 4% LIHTC project consisting of 60% AMI set-asides. (See text on next page)

Type of Housing Tax Credit Resolution:

Are you requesting to be exempt from local taxes?

☒ 4% Housing Tax Credit or ☐ 9% Housing Tax Credit

☐ Yes or ☒ No

DESCRIPTION OF UNITS

UNIT TYPE	MARKET RATE UNITS	AFFORDABLE UNITS	TOTAL
Number of Units		348	348
Percentage of Total Units		100%	100%

How many units are available to each income bracket listed below (i.e. rent level of tenants)?

≤ 20% AMI	≤ 30% AMI	≤ 40% AMI	≤ 50% AMI	≤ 60% AMI	≤ 70% AMI	≤ 80% AMI	Market Rate	Total Units
				348				

Describe the unit mix:

Efficiency	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Total Units
	14%	42%	44%		

How Many Accessible Units are Included: 25

(Response to “Briefly Describe the Proposal” on page 1 of the application form)

This project is an 4% LIHTC project consisting of 60% AMI set-asides. We currently have just affordable units planned, although we are opened to having a market rate portion included. This location has great access to nearby major roadways as well as great amenities/attractions nearby, including San Marcos High school and the San Marcos Premium Outlet Mall.

Criteria

Applications must fully meet at least five (5) of the eight (8) criteria below, including criteria #1, in order to receive a staff recommendation which is presented to the Workforce Housing Council Committee. Applications must also receive a recommendation from the Workforce Housing Council Committee prior to consideration by City Council.

Please Indicate which of the criteria your project is consistent with and explain. **Use additional pages if necessary.**

Criteria	Explanation
<input type="checkbox"/> 1. No exemption from local taxes is requested unless the project meets the criteria A-E outlined below. <input type="checkbox"/> A – A minimum of 15% of all units within the project shall be affordable to households at or below 30% percent of the AMI for the duration of the tax exemption. <input type="checkbox"/> B – A minimum of 10% of the units affordable to households at or below 30% of the AMI shall be ADA accessible. <input type="checkbox"/> C – A minimum of 35% of the units within a project that is not age-restricted shall include a minimum of three bedrooms in each unit. <input type="checkbox"/> D – The project shall include these criteria in the Texas Department of Housing and Community Affairs Land Use Restriction Agreement (LURA). <input type="checkbox"/> E – When considering a recommendation of support, preference should be given to projects that utilize a local entity for such tax exemptions.	
<input type="checkbox"/> 2. The proposed units address a housing need identified in the City's Housing Policy or the City's current consolidated plan for HUD programs, which can be found on the City's Website .	
<input type="checkbox"/> 3. The project is located within a high or medium intensity zone on the City's Preferred Scenario Map .	
<input type="checkbox"/> 4. The project is not proposed to develop under a legacy district on the City's current zoning map .	
<input type="checkbox"/> 5. The project is located within half (.5) mile walking distance from services such as grocery, medical facilities, and schools.	
<input type="checkbox"/> 6. The project is located within one quarter (.25) mile walking distance of a proposed or existing bus stop on a current or planned transit route. If the project is not located within one quarter (.25) mile walking distance of a proposed or existing bus stop on a current or planned transit route, a private shuttle service for residents is provided in accordance with TDHCA requirements.	
<input type="checkbox"/> 7. The project is renovating or redeveloping an existing multifamily complex or under-performing development.	
<input type="checkbox"/> 8. The project incorporates wraparound support services that provide flexible voluntary social, economic, or education benefits to the residents. Project should meet criteria A-D outlined below. <input type="checkbox"/> A – Meet the needs of the local community; <input type="checkbox"/> B – Utilize local support services and resources; <input type="checkbox"/> C – Exceed the minimum TDHCA requirements for amenities; and <input type="checkbox"/> D – Submit to the City the Project's TDHCA Application for Low Income Housing Tax Credits and includes the list of amenities in the Project's Land Use Restriction Agreement (LURA).	

Additional Considerations

In addition to the criteria outlined above, the following may be considered by staff and the Workforce Housing Council Committee as means for recommending approval or denial of a request:

Criteria	Explanation
<input type="checkbox"/> 1. Regardless of compliance with the above criteria, projects located where emergency response times fall out of the National Fire Protection Association (NFPA) standards and / or projects located within or in close proximity to the floodplain may receive a denial recommendation.	
<input type="checkbox"/> 2. Projects seeking tax exemption should <ul style="list-style-type: none">• Include an estimate of the tax revenues which will not be realized by the City, annually, over the life of the project.• Describe future plans for placing the property back on the tax roll, if applicable.	
<input type="checkbox"/> 3. For senior housing projects, inclusion of the following, additional, support service: presentations by the Capital Area Council of Governments (CAPCOG) Area Agency on Aging. Applicants must contact CAPCOG to arrange for a presentation of available services no less than once every other year and provide proof of this agreement with the application. https://www.capcog.org/divisions/area-agency-on-aging#areaagencyon-aging	
<input type="checkbox"/> 4. For senior housing projects, the distance to medical facilities will receive additional scrutiny. Applicants must indicate the nearest medical facilities and any additional transportation options which will be available to residents in the event of an emergency.	
<input type="checkbox"/> 5. Once approved, additional consideration will be given to applications which show compliance with the Strategic Housing Action Plan.	

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee \$1,000 plus \$100 per acre Technology Fee \$15 MAXIMUM COST \$5,015

Submittal of this digital Application shall constitute as acknowledgment and authorization to process this request.

EMAIL APPLICATION TO – PLANNINGINFO@SANMARCOSTX.GOV



LIHTC-23-01 Roers San Marcos Apartments Proposal

To whom it may concern,

Roers Companies is requesting to reopen the original application of LIHTC-23-01 to the city of San Marcos regarding our proposed multifamily apartment project at 2409 S Old Bastrop Highway. The proposed project will be a 4% LIHTC project with all unit set asides at 60% Area Median Income. At around 348 units, the unit mix will consist of one-, two- and three-bedroom units and include a variety of amenities including: community clubhouse, pool, dog run, fitness center, and resident supportive services.

This project will not be seeking exemption for local real estate taxes and is adjacent to many community attractions including the San Marcos High School and the San Marcos Premium Outlet Mall. We believe this project will add great value to the residents of San Marcos and provide quality housing to the community.

We look forward to working with the City of San Marcos on the process of bringing this project to fruition and are eager to kick this off.

Please reach out with any questions.

Sincerely,

Logan Schmidt
Developer
Roers Companies
Logan.schmidt@roerscompanies.com

Criteria:



1. No exemption from local taxes is requested unless the project meets the criteria A-E outlined below.

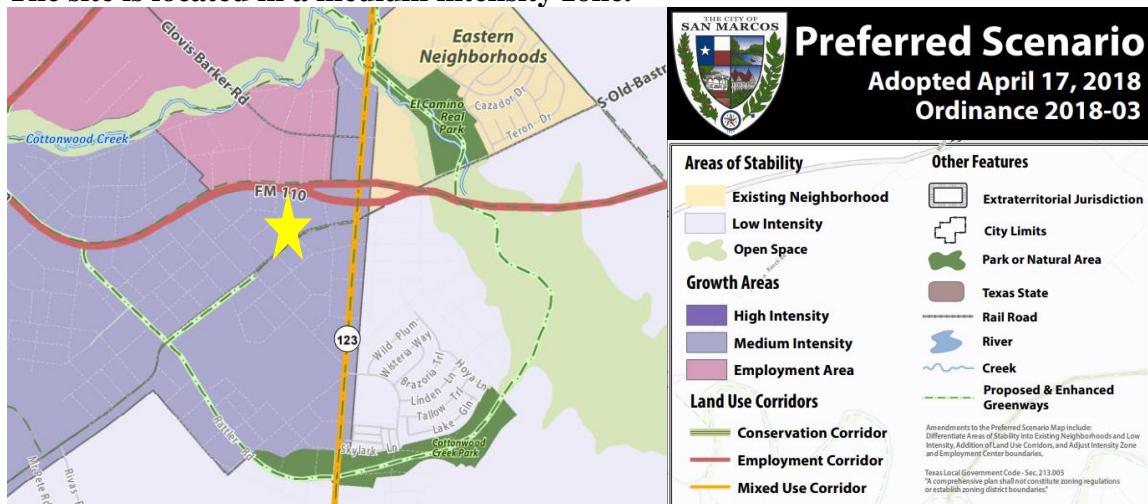
No Real Estate exemption requested.

2. The proposed units address a housing need identified in the City's Housing Policy or the City's current consolidated plan for HUD programs, which can be found on the City's Website.

Our project satisfies the need for "Displacement Prevention" as the 5 year Consolidated Plan lays out. It is said that "11% of San Marcos Residents who participated in the survey have a family member or friend living with them due to the lack of affordable housing. This proposed project will have every unit rent restricted at 60% AMI of Hays County. In an era where Market rents and the cost to live is rapidly increasing, these rents are unable to increase outside of the set-aside, which gives residents a place to live at a reasonable cost. This project will also include 1–3-bedroom units meaning both single individuals and families can benefit and live at this project.

3. The project is located within a high or medium intensity zone on the City's Preferred Scenario Map.

The site is located in a medium intensity zone.



4. The project is not proposed to develop under a legacy district on the City's current zoning map.

This project is not in a legacy district.



5. The project is located within half (.5) mile walking distance from services such as grocery, medical facilities, and schools.

Services within half a mile include: San Marcos High School, James Bowie Elementary, Ferguson Family Medical Practice, and New Life Christian Center. BB Market is very close to half a mile but recognize it may be difficult to walk there as it is across HWY 123. Because of this, we are in discussion to include an on-site food vestibule (Mini-Mart), that allows residents to purchase certain food items with ease.

6. The project is located within one quarter (.25) mile walking distance of a proposed or existing bus stop on a current or planned transit route. If the project is not located within one quarter (.25) mile walking distance of a proposed or existing bus stop on a current or planned transit route, a private shuttle service for residents is provided in accordance with TDHCA requirements.

The project will offer a private shuttle service 3x a week from 9AM-11AM and 5PM-7PM. This will go into the heart of the city and will allow residents to have easy access to various amenities in the city. The multiple timeslots per day gives residents multiple opportunities to occupy this shuttle and is above the 1x per chosen day TDHCA requires.

7. The project is renovating or redeveloping an existing multifamily complex or underperforming development. **N/A.**
8. The project incorporates wraparound support services that provide flexible voluntary social, economic, or education benefits to the residents. Project should meet criteria A-D outlined below.

A. Meet the needs of the local community;

This project will provide quality and affordable housing to the city of San Marcos which includes various amenities on-site as well as provides access to residents to interact with the community.

B. Utilize local support services and resources;

Roers will offer many services and resources to the residents as our goal is for our residents to prosper and succeed. Some of these include transportation, exercise classes and tutoring, and bi-monthly community events.



C. Exceed the minimum TDHCA requirements for amenities;

**TDHCA requires projects to meet 18 points for Common Amenities per the 2023 QAP.
This project is expecting to go above and beyond that number and score 27 points.**

D. Submit to the City the Project's TDHCA Application for Low Income Housing Tax Credits and included the list of amenities in the Project's Land Use Restriction Agreement.

This will be submitted at a later date.



PROPERTY OWNER AUTHORIZATION

I, Praveen Kumar Katakam (owner name) on behalf of

(company, if applicable) acknowledge that I/we
am/are the rightful owner of the property located at
2409 S Old Bastrop Highway (address).

I hereby authorize Logan Schmidt (agent name) on behalf of
Roers Companies (agent company) to file this application for
LIHTC Resolution Application (application type), and, if necessary, to work with
the Responsible Official / Department on my behalf throughout the process.

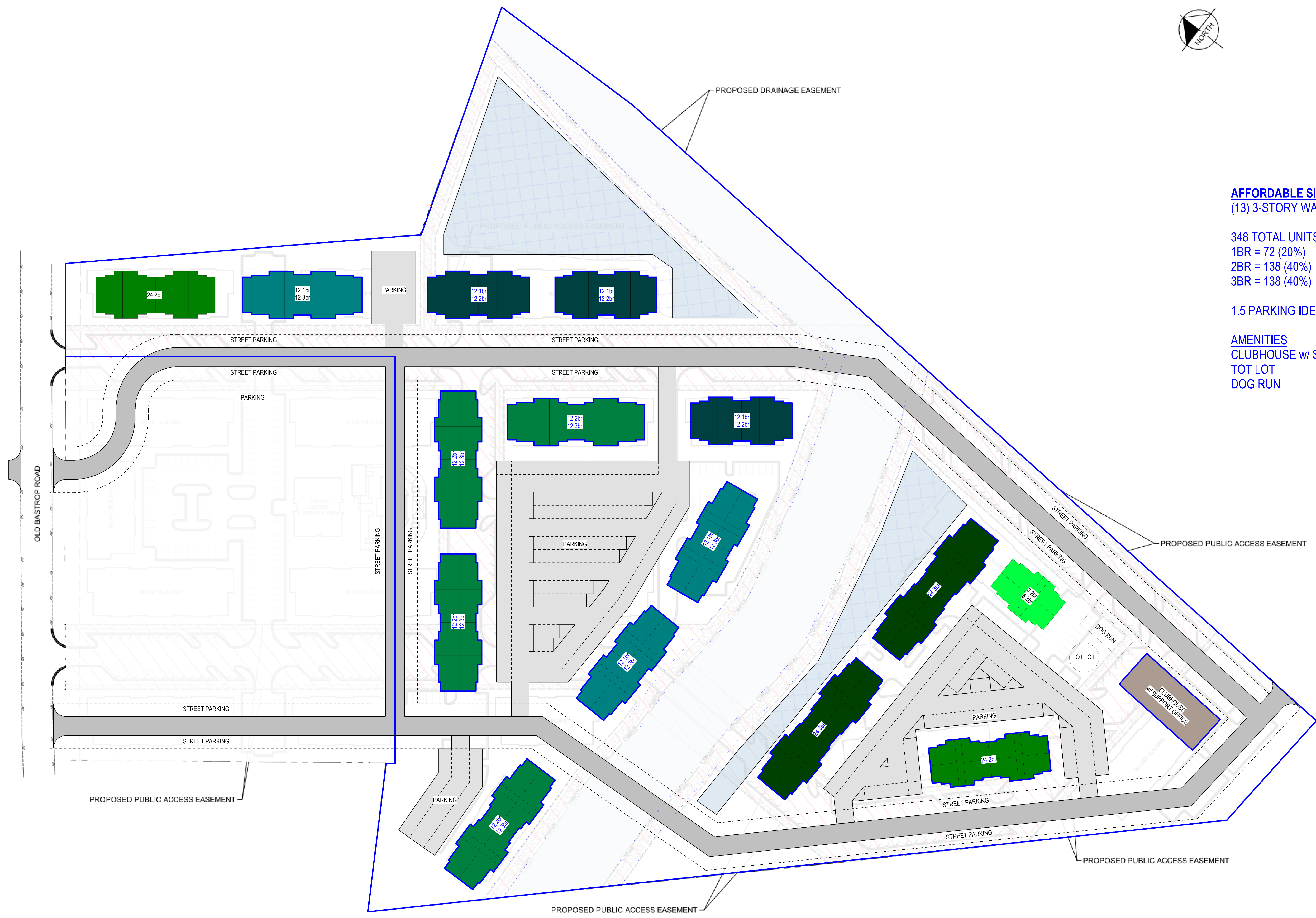
Signature of Owner:  Praveen Kumar Katakam Date: 6/28/2023

Printed Name, Title: Praveen Kumar Katakam

Signature of Agent:  Date: 6/30/2023

Printed Name, Title: Logan Schmidt

Form Updated October, 2019



AFFORDABLE SITE
(13) 3-STORY WALK-UP BUILDINGS

348 TOTAL UNITS
1BR = 72 (20%)
2BR = 138 (40%)
3BR = 138 (40%)

1.5 PARKING IDEAL

AMENITIES
CLUBHOUSE w/ SUPPORT OFFICE
TOT LOT
DOG RUN

① Level 1
1" = 50'-0"



**22.60-Acre Tract
Hays County, Texas**

**D&A Job No. 2448-001
April 15, 2022**

**DESCRIPTION
For a 22.60-Acre Tract**

BEING A 22.60-ACRE TRACT OUT OF THE CYRUS WICKSON SURVEY, ABSTRACT NUMBER 474, THE JOHN FREDERICK GEISTER SURVEY, ABSTRACT NUMBER 203, THE FARNHAM FRYE SURVEY, ABSTRACT NUMBER 183 AND THE REBECCA BROWN SURVEY, ABSTRACT NUMBER 46, HAYS COUNTY, TEXAS, SAID 22.60-ACRE TRACT BEING COMPRISED OF TWO (2) TRACTS OF LAND DESCRIBED AS FOLLOWS: 1) A CALLED 20.62-ACRE TRACT, DESCRIBED AS TRACT 2, CONVEYED TO CAROLYN ANN LOGAN, RECORDED IN VOLUME 387, PAGE 447, OF THE DEED RECORDS OF HAYS COUNTY, TEXAS [D.R.H.C.T.], AND 2) A CALLED 2.00-ACRE TRACT, DESCRIBED AS TRACT 3, CONVEYED TO CAROLYN ANN LOGAN, RECORDED IN VOLUME 387, PAGE 447, D.R.H.C.T., SAID 22.60-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 3/8-inch iron rod found in the existing southeast right-of-way line of S. Old Bastrop Hwy, a variable width right-of-way, no record information found, for the northeast corner of a called 5.00-acre tract, conveyed to Ronald K. Logan and Eryn A. Logan, recorded in Volume 2222, Page 444, [D.R.H.C.T.], for the northwest corner of a called 0.9823-acre tract, recorded in Volume 1676, Page 440 (Document Number 00012588) [O.P.R.H.C.T.] and for the north corner of the tract described herein;

THENCE S42°26'42"E, with the northeast line of said 5.00-acre tract and said 0.9823-acre tract, a distance of 482.83 feet to a 3/8-inch iron rod found in a Hackberry for the **POINT OF BEGINNING** and for the southeast corner of said 5.00-acre tract, for a corner along the north line of said 20.62-acre tract and for an angle corner of the tract described herein;

THENCE N72°03'42"E, with the north line of said 20.62-acre tract, passing a 1/2-inch iron rod found at a distance of 163.21 feet, continuing for a total distance of 326.73 feet to a 1/2-inch iron rod found for the southeast corner of a called 1.506-acre tract, recorded in Volume 4556, Page 387 (Document Number 13005169) [O.P.R.H.C.T.], for a corner in the west line of a called 4.06-acre tract, recorded in Volume 847, Page 734 [O.P.R.H.C.T.] and for the northeast corner of the tract described herein;

THENCE with the east line of said 20.62-acre tract, the following two (2) courses:

- 1) S01°09'13"E, for a distance of 210.88 feet to a 1/2-inch iron rod with cap stamped "DOUCET" set for a corner on the east line of said 20.62-acre tract, for a corner in the west line of a called 3.1592-acre tract, recorded in Document Number 20038448 [O.P.R.H.C.T.] and for a corner of the tract described herein, and

[CONTINUED ON NEXT PAGE]



- 2) S04°20'31"W, passing a 1/2-inch iron rod found at a distance of 459.07 feet, for the southwest corner of a called 0.998-acre tract, recorded in Volume 5134, Page 261 (Document Number 15003827) [O.P.R.H.C.T.], same point being the northwest corner of a called 1.00-acre tract, recorded in Volume 1188, Page 879 [O.P.R.H.C.T.], passing a 1/2-inch iron rod found at a distance of 759.23 feet, for the southwest corner of a called 0.9987-acre tract, recorded in Document Number 19001169 [O.P.R.H.C.T.] and for the northwest corner of a called 1.33-acre tract, recorded in Volume 808, Page 143 of the Real Property Records of Hays County, Texas [R.P.R.H.C.T.], passing a 1/2-inch iron rod found at a distance of 1,108.74 feet, for the southwest corner of a called 1.00-acre tract, recorded in Volume 2361, Page 203 (Document Number 03038371) [O.P.R.H.C.T.] and for the northwest corner of a called 1.00-acre tract, recorded in Volume 2361, Page 200 (Document Number 03038370) [O.P.R.H.C.T.], continuing for a total distance of 1,258.44 feet to a 1/2-inch iron rod found for the southeast corner of said 20.62-acre tract, for the southwest corner of said 1.00-acre tract, same being in the north line of a called 1.26-acre tract, recorded in Volume 474, Page 310 [R.P.R.H.C.T.] and for the southeast corner of the tract described herein;

THENCE N85°18'19"W, with the south line of said 20.62-acre tract and with the north line of said 1.26-acre tract, a distance of 181.01 feet to a 8-inch wood corner fence post found for the southwest corner of said 20.62-acre tract, for the northwest corner of said 1.26-acre tract, same point being in the northeast line of a called 86.578-acre tract, recorded in Volume 2543, Page 876 (Document Number 04026929) [O.P.R.H.C.T.] and for the southwest corner of the tract described herein;

THENCE with the southwest line of said 20.62-acre tract and the northeast line of said 86.578-acre tract, the following two (2) courses:

- 1) N43°56'27"W, for a distance of 551.00 feet to a 1/2-inch iron rod with cap stamped "LAI" found, and
- 2) N43°38'36"W, for a distance of 619.16 feet to a 3/8-inch iron rod found for the west corner of said 20.62-acre tract, for the southwest corner of a called 2.19-acre tract, recorded in Volume 2723, Page 194 (Document Number 05019678) [O.P.R.H.C.T.] and for the west corner of the tract described herein;

THENCE N58°57'40"E, with the northwest line of said 20.62-acre tract and with the southeast line of said 2.19-acre tract, a distance of 203.41 feet to a 1/2-inch iron rod found for the southwest corner of said 2.00-acre tract, for the southeast corner of said 2.19-acre tract and for a corner of the tract described herein;

THENCE N37°07'47"W, with the southwest line of said 2.00-acre tract and the northeast line of said 2.19-acre tract, a distance of 434.74 feet to a 1/2-inch iron rod with cap stamped "DOUCET" set in the existing southeast right-of-way line of said S. Old Bastrop Hwy., for the northwest corner of said 2.00-acre tract, for the northeast corner of said 2.19-acre tract and for the northwest corner of the tract described herein;

THENCE N52°18'23"E, with the existing southeast right-of-way line of said S. Old Bastrop Highway and the northwest line of said 2.00-acre tract, passing a 1/2-inch iron rod found at a distance of 50.20 feet, continuing for a total distance of 284.68 feet to a 3/8-inch iron rod found for the north corner of said 20.62-acre tract, for the northwest corner of said 5.00-acre tract and for an angle corner of the tract described herein

[CONTINUED ON NEXT PAGE]




THENCE with the common line of said 5.00-acre tract and said 20.62-acre tract, the following three (3) courses:

- 1) S27°08'13"E, for a distance of 176.75 feet to a 3/8-inch iron rod found for an angle corner of the tract described herein,
- 2) S27°18'05"E, for a distance of 313.63 feet to a 1/2-inch iron rod with cap stamped "DOUCET" set for an angle corner of the tract described herein, and
- 3) N52°18'03"E, for a distance of 516.49 feet to the **POINT OF BEGINNING** of the tract described herein and containing 22.60-acres, more or less.

Notes:

Basis of bearings is the Texas Coordinate System, South Central Zone [4204], NAD83 (2011), Epoch 2010. All distances are surface values and may be converted to grid by dividing by the surface adjustment factor of 1.00013 using CP1 as a point of origin. Units: U.S. Survey Feet.

I, Christopher W. Terry, Registered Professional Land Surveyor, hereby certify that this description and accompanying exhibit of even date represent an actual survey performed on the ground.



Christopher W. Terry
Registered Professional Land Surveyor
Texas Registration No. 6649
Doucet & Associates
CTerry@DoucetEngineers.com
TBPELS Firm Registration No. 10105800

04/15/2022
Date





Exhibit “__”

7401B Highway 71 West, Suite 160
Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601

Doucetengineers.com

**5.000-Acre Tract
Hays County, Texas**

**D&A Job No. 2448-001
May 13, 2022**

**DESCRIPTION
For a 5.000-Acre Tract**

BEING A 5.000-ACRE TRACT OUT OF THE CYRUS WICKSON SURVEY, ABSTRACT NUMBER 474, HAYS COUNTY, TEXAS, SAID 5.000-ACRE TRACT BEING THAT SAME CALLED 5.00-ACRE TRACT, CONVEYED TO RONALD K. LOGAN AND ERYN A. LOGAN, RECORDED IN VOLUME 2222, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS [D.R.H.C.T.], SAID 5.000-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/8-inch iron rod found in the existing southeast right-of-way line of S. Old Bastrop Hwy, a variable width right-of-way, no record information found, for the northeast corner of said 5.00-acre tract, for the northwest corner of a called 0.9823-acre tract, recorded in Volume 1676, Page 440 (Document Number 00012588) of the Official Public Records of Hays County, Texas [O.P.R.H.C.T.] and for the northeast corner of the tract described herein;

THENCE S42°26'42"E, with the northeast line of said 5.00-acre tract and said 0.9823-acre tract, a distance of 482.83 feet to a 3/8-inch iron rod found in a Hackberry for the southeast corner of said 5.00-acre tract, for a corner along the north line of a called 20.62-acre tract, described as Tract 2, conveyed to Carolyn Ann Logan, recorded in Volume 387, Page 447, [D.R.H.C.T.] and for the southeast corner of the tract described herein;

THENCE with the common line of said 5.00-acre tract and said 20.62-acre tract, the following three (3) courses:

- 1) S52°18'03"W, for a distance of 516.49 feet to a 1/2-inch iron rod with cap stamped "DOUCET" set for the southwest corner of said 5.00-acre tract, for a corner along the north line of said 20.62-acre tract and for the southwest corner of the tract described herein,
- 2) N27°18'05"W, for a distance of 313.63 feet to a 3/8-inch iron rod found for an angle corner of the tract described herein, and
- 3) N27°08'13"W, for a distance of 176.75 feet to a 3/8-inch iron rod found in the existing southeast right-of-way line of S. Old Bastrop Hwy, for the northwest corner of said 5.00-acre tract and for the northwest corner of the tract described herein;

THENCE N52°27'25"E, with the existing southeast right-of-way line of S. Old Bastrop Hwy and the northwest line of said 5.00-acre tract, a distance of 387.54 feet to the **POINT OF BEGINNING** of the tract described herein and containing 5.000-acres, more or less.

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COMMITMENT YOU EXPECT.
EXPERIENCE YOU NEED.
PEOPLE YOU TRUST.



Notes:

Basis of bearings is the Texas Coordinate System, South Central Zone [4204], NAD83 (2011), Epoch 2010. All distances are surface values and may be converted to grid by dividing by the surface adjustment factor of 1.00013 using CP1 as a point of origin. Units: U.S. Survey Feet.

I, Christopher W. Terry, Registered Professional Land Surveyor, hereby certify that this description and accompanying exhibit of even date represent an actual survey performed on the ground.

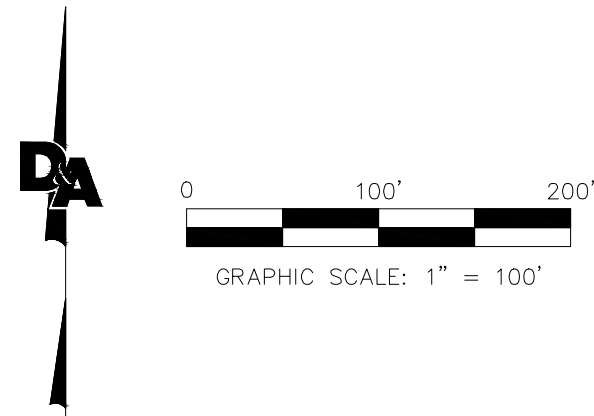
A handwritten signature in blue ink, appearing to read "Chris Terry", is written over a horizontal line.

05/13/2022

Date

Christopher W. Terry
Registered Professional Land Surveyor
Texas Registration No. 6649
Doucet & Associates
CTerry@DoucetEngineers.com
TBPELS Firm Registration No. 10105800







CATEGORIES OF SERVICES FOR LOCAL COMMUNITY PARTNERS SAN MARCOS, TEXAS

Roers San Marcos Apartments: Number of Units: 348

Adult Development

Texas Rent Relief
Community Action of
Central Texas

Job & Career Development

Gary Job Corps Center
Workforce Solutions of Hays County

Family Development

Giving Hope San Marcos
Victory Chapel

Neighborhood Development

San Marcos PD
San Marcos Optimus
Operation Turkey

Health & Nutrition

HEB
Central Texas Food Bank

Recreational Activities

Sunset Bowling Lanes
ZDT's Amusement Park
Krispy Kreme Doughnuts
Sunset Bowling Lanes
Toys for Tots
Wonder World Cave and Adventure Park

Youth Development

Boys and Girls Club of San Marcos
ABC Center
Dell's Children
Kipp Austin
Pajama Program

TDHCA #

NAME OF DEVELOPMENT

TARGET
POPULATION

4% OR 9%

DEAL TYPE

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

THIS DECLARATION OF LAND USE RESTRICTIVE COVENANTS/LAND USE RESTRICTION AGREEMENT FOR LOW-INCOME HOUSING TAX CREDITS (this "Declaration"), dated as of **DATE OF LURA**, is made by and between **DEVELOPMENT OWNER, A ENTITY TYPE** (together with its successors and assigns, the "Development Owner"), and the **TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**, a public and official agency of the State of Texas (together with any successor to its rights, duties and obligations, the "Department"), and is given by Development Owner as an inducement to the Department to allocate tax credits as a condition precedent to the determination that the Development, as defined herein, satisfies the requirements of the State of Texas's Qualified Allocation Plan and the allocation of low-income housing tax credits (the "Tax Credits") by the Department, pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated pursuant thereto. This Declaration incorporates the extended low-income housing commitment required by Section 42(h)(6) of the Code and is entered into in accordance with the provisions of Chapter 2306 of the Texas Government Code, (the "Act"), as may be amended from time to time.

WITNESSETH:

WHEREAS, the Development Owner is or shall be the Development Owner of a low income rental housing development, known as or to be known as **DEVELOPMENT NAME** (the "Development Improvements"), on real property located in the City of **CITY NAME**, County of **COUNTY NAME**, State of Texas, more particularly described in the "Legal Description" attached hereto as Exhibit A and incorporated herein by reference for all purposes (the "Development Land") (the Development Improvements and the Development Land being collectively referred to herein as the "Development");

WHEREAS, the Department has been designated by the Governor of the State of Texas as the housing credit agency for the State of Texas for the allocation of Tax Credits;

WHEREAS, the Development Owner has represented to the Department in the Development Owner's Low-Income Housing Tax Credit Application (the "Application"), authorized by the Department's Low-Income Rental Housing Tax Credit Rules, also known as the Department's "Qualified Allocation Plan" (Title 10, Part 1, Chapter 11 of the Texas Administrative Code), the Department's Uniform Multifamily Rules (Title 10, Part 1, Chapter 10 of the Texas Administrative Code), the Department's Enforcement Rules (Title 10, Part 1, Chapter 2 of the Texas Administrative Code), and the Department's Administration Rules (Title 10, Part 1, Chapter 1 of the Texas Administrative Code) (collectively, the "Department Rules"), that, among other things, the Development Owner shall lease **[100% OR OTHER (TO TWO DECIMAL PLACES)%]** of the Units in the Development to individuals or families whose income is 60% or less of the area median gross income (including adjustments for family size), as more specifically provided herein, such Application, and the representations and undertakings set forth therein, being incorporated by reference for all purposes][**(OR FOR AVERAGE INCOME ELECTIONS – DELETE THE FOLLOWING SECTION IF THIS IS NOT AVERAGE INCOME) [100%] [OR OTHER (TO TWO DECIMAL PLACES)%]** of the Units in the Development to individuals or families whose imputed incomes do not exceed an average of **(54%, 55%, 56%, 57%, OR 60%)** of the area median gross income (including adjustments for family size), as more specifically provided herein, such Application, and the representations and undertakings set forth therein, being incorporated herein by reference for all purposes];

WHEREAS, the Development Owner has represented to the Department in the Application that it will impose additional rent, occupancy, and ownership restrictions as shown in the "Additional Use Restrictions" attached hereto as Addendum B, "Additional Use Restrictions- Accessibility Requirements" attached hereto as Addendum C, "Additional Use Restrictions- Amenity Requirements" attached hereto as Addendum D, and "Additional Use Restrictions-Agreement to Offer a Right of First Refusal" attached hereto as Addendum E, each and all of which are incorporated herein by reference for all purposes;

WHEREAS, the Development Owner is subject to the regulatory and oversight powers of the Department and other terms and conditions of the Act;

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

WHEREAS, the Development Owner, under this Declaration, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy, and transfer of the Development shall be and are covenants running with the Development Land for the Term stated herein, are binding upon all subsequent owners and operators of the Development during such Term, and are not merely personal covenants of the Development Owner.

NOW, THEREFORE, in consideration of the premises set forth above, and of other valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Development Owner and the Department agree as follows:

SECTION 1 – DEFINITIONS

(a) Unless the context otherwise requires, and in addition to those terms defined in the recitals set forth above, capitalized terms used in this Declaration shall have the following meanings in this Section 1. Any capitalized terms not specifically mentioned in this Section 1 or any section, addendum or exhibit to this Declaration shall have the meaning as defined in the Department Rules, the Act or the Code, as applicable.

Act--Means Chapter 2306 of the Texas Government Code, as amended, or any corresponding provision or provisions of succeeding law as it or they may be amended from time to time.

Area Median Gross Income (AMGI)--Area median gross household income, as determined for all purposes under and in accordance with the requirements of Section 42 of the Code.

Board--Means the governing board of the Department.

Compliance Period--Means with respect to any building, the period of fifteen (15) taxable years beginning with the first day of the first taxable year of the Credit Period, pursuant to Section 42(i)(1) of the Code.

Control-- Means the term as defined in the Department's Qualified Allocation Plan.

Cost Certification--Means the cost certification procedures as described in the cost certification section of the Post Award Activities Manual published by the Department from time to time as applicable to the year of award (except where preempted by federal law or regulation), setting forth the documentation required for the Department to perform a feasibility analysis in accordance with Section 42(m)(2)(B) of the Code, as applicable, so that a final credit allocation may be determined.

Credit Period--Means with respect to any building, the period of ten (10) taxable years beginning with the taxable year in which the building is placed in service, or at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the first year of such period.

Department Compliance Monitoring Procedures--Means those procedures and requirements adopted or imposed by the Department, and modified by the Department from time to time in the Department's Rules, for the purpose of discharging its responsibilities pursuant to Section 42(m)(1)(B)(iii) of the Code to monitor compliance by the Development Owner and the Development with the provisions of Section 42 of the Code, provisions of state law, and provisions of the Department's Rules, and to notify the Service of instances of noncompliance.

Extended Use Period--Means, with respect to a building, the period beginning on the first day in the Compliance Period on which such building is part of a Qualified Low-Income Housing Project, and ending on the later of (i) the date specified by the Department in the "Additional Use Restrictions" attached to this Declaration as Addendum B, or (ii) the date which is fifteen (15) years after the close of the Compliance Period with respect to such building.

Fair Housing Sponsor Report--Means the annual report, also referred to as "Housing Sponsor Report", required by the Department as described in Section 2306.0724 of the Act or other report required by State or Federal law or regulation.

Gross Rent--Means all amounts paid by a Tenant for rent, determined in a manner consistent with Section 42(g)(2) of the Code. Gross Rent shall include any utility allowance prescribed by the Secretary.

Low-Income--Means, with respect to any Tenant, an income level not exceeding 50% or 60% of AMGI (or in the case of the Average Income Election, 20%, 30%, 40%, 50%, 60%, 70%, or 80%), as applicable, adjusted for family size, as provided in Section 4 hereof, unless an alternative income level shall be set forth in the "Additional Use Restrictions" attached in this Declaration as Addendum B.

Low-Income Tenant--Means a Tenant who, when the Tenant initially occupied a Unit, had an income qualifying as Low-Income. For so long as the Tenant occupies the particular Unit or another Unit in the same building, the Tenant will remain a Low-Income Tenant if the Tenant's income, upon the most recent income certification, does not exceed 140% of the applicable Low-Income limit (in the case of the Average Income Election, more than 140% of 60% AML if the Unit's designated income limit is 20%, 30%, 40%, 50% or 60%; or, more than 140% of the Unit's designated income if the Unit's designated income is 70% or 80%).

Low-Income Unit--A Unit that is occupied by a Low-Income Tenant that is intended or required to be occupied by a Low-Income Tenant.

Minimum Applicable Fraction--Means the percentage, with respect to a building in the Development, calculated as the lesser of the percentage of Units in such building which are Low-Income Units or the percentage of floor space of all Units in such building which are Low-Income Units, all calculated as required pursuant to Section 42(c)(1)(B) of the Code, which serves as the basis for the Department's allocation of Tax Credits to the building as provided in Section 4(c) hereof.

Principal--The term Principal is defined as any Person that will be capable of exercising Control (which includes voting board members) over a partnership, corporation, limited liability company, trust, or any other private entity. In the case of:

(A) Partnerships, Principals include all General Partners, Special Limited Partners and Principals with ownership interest who also possess factors or attributes that give them Control;

(B) Corporations, Principals include any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer and all other executive officers, and each stock holder having a 50% or more interest in the corporation and any individual Controlling such stock holder;

(C) Limited liability companies, Principals include all managers, managing members, members having a 50% or more interest in the limited liability company, any individual Controlling such members, or any officer authorized to act on behalf of the limited liability company;

(D) Non-profit Corporations or governmental instrumentalities (such as housing authorities), Principals include any officer authorized by the board of directors, regardless of title, to act on behalf of the corporation, including but not limited to the president, vice president, secretary, treasurer, all other executive officers, the Audit committee chair, the Board chair, and anyone identified as the Executive Director or equivalent; and

(E) Trusts, Principals include all beneficiaries that have the legal ability to Control the trust who are not just financial beneficiaries.

Rent-Restricted--Means, with respect to any Unit, that the Gross Rent with respect to such Unit is not more than thirty percent (30%) of the imputed income limitation applicable to such Unit pursuant to Section 42(g)(2)(C) of the Code.

Secretary--Means the Secretary of the Treasury of the United States.

Service--Means the United States Internal Revenue Service and any successor thereto.

State--Means the State of Texas.

Tenant--Means the individual or individuals constituting a household, entitled to occupy a Unit in the Development by lease or other legal relationship with the Development Owner.

Term--Means the length of time this Declaration shall remain in effect as set out in Section 5 herein.

Unit--Means any residential rental Unit in the Development constituting an accommodation, including a single room used as an accommodation, occupied on a non-transient basis, that contains complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation, as further provided at Section 3(f) herein.

(b) Any term or phrase which is used in this Declaration and not defined herein shall have the meaning, if any, assigned thereto in Section 42 of the Code, and if no meaning is assigned thereto in Section 42 of the Code, the meaning, if any, assigned in (i) the Department Rules or (ii) the Department's Definitions for Housing Program Activities applicable to the year of this award. Any term or phrase which is defined herein shall, unless the context shall clearly indicate otherwise, be interpreted in a manner consistent with the provisions and requirements of Section 42 of the Code.

SECTION 2 – RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

(a) The Development Owner shall, at its own cost and expense, cause this Declaration and all amendments hereto to be recorded and filed in the official real property records of the county in which the Development is located. Upon recording, the Development Owner shall immediately transmit to the Department a copy of the recorded executed Declaration stamped by the county clerk to show the date of recordation and the volume and page numbers of record where the recorded document may be found. The Development Owner acknowledges and agrees that the Department will not issue the Internal Revenue Service Form(s) 8609, evidencing final allocation of the Tax Credits to the Development, unless and until the Department has received a copy of the recorded, executed Declaration and that in addition to providing a copy of the recorded, executed Declaration, all other requirements attendant to the issuance of Form(s) 8609 must have been fulfilled to the Department's reasonable satisfaction.

(b) The Development Owner intends, declares, and covenants, on behalf of itself and all future owners and operators of the Development during the Term of this Declaration, that this Declaration and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the Development (i) shall be and are covenants running with the Development Land, encumbering the Development Land for the Term of this Declaration and binding upon the Development Owner's successors in title and all subsequent owners and operators of the Development Land, and (ii) shall bind the Development Owner (and the benefits shall inure to the Department and any past, present or prospective Tenant of the Development pursuant to Section 2306.185(d) of the Act) and its respective successors and assigns during the Term of this Declaration. The Development Owner hereby agrees that any and all requirements of the laws of the State of Texas to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and that any requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the Development Land. For the Term of this Declaration, each and every contract, deed or other instrument hereafter executed conveying the Development or portion thereof shall expressly provide that such conveyance is subject to this Declaration; provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Development or portion thereof provides that such conveyance is subject to this Declaration.

(c) The Development Owner shall obtain the written consent of any existing lienholder of record on the Development to this Declaration and the requirements hereof, including specifically the requirements of Section 5(b)(1) hereof and Section 5(c) hereof with respect to provisions which survive or may be revived after foreclosure, and such consent shall be in a form promulgated by the Department from time to time and shall be a condition precedent to the issuance by the Department of Internal Revenue Service Form 8609, evidencing final allocation of the Tax Credits. The Development Owner represents and warrants to the Department that attached hereto as Addendum A and made a part hereof is an executed and acknowledged "Consent and Subordination of Lienholder" from each existing lienholder, if any, as of the effective date hereof.

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

The Development Owner hereby represents covenants and warrants as follows:

(a) The Development Owner (i) is a **LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY)**, duly organized and validly existing in the State of **TEXAS**, and is duly authorized and qualified to transact in the State of Texas any and all business contemplated by this Declaration and the Department Rules; (ii) possesses all requisite power, authority, licenses, and permits to own its properties and assets and to conduct its business; and (iii) has all legal right, power and authority to execute and deliver this Declaration.

(b) The execution and performance of this Declaration by the Development Owner (i) will not violate or, as applicable, have not violated, any provision of law, rule or regulation, or any order of any court or other department of the State or governmental body, (ii) will not violate or, as applicable, have not violated, any provision of any indenture, agreement, mortgage, mortgage note or other instrument to which the Development Owner is a party or by which it or the Development is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Development Owner has, at the time of execution and delivery of this Declaration, good and indefeasible fee simple title to, or a leasehold interest extending at least ten years beyond the end of the Extended Use Period in, the premises constituting the Development, free and clear of any lien, charge, or other encumbrance, except those created by any loan documents relating to the Development, those which are created pursuant to this Declaration, and those which are otherwise permitted encumbrances and exceptions, as specifically set forth in "Permitted Encumbrances and Exceptions" attached hereto as Exhibit B and incorporated herein by reference for all relevant purposes.

(d) There is no action, suit, or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Development Owner, threatened, against or affecting the Development Owner or any of its properties or rights (including the Development) which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (including the business contemplated by this Declaration) or would materially and adversely affect its financial condition.

(e) The Development constitutes or will constitute a Qualified Low-Income Housing Project, as defined in Section 42(g) of the Code, and the Development Owner covenants, that commencing with the last day of the first year of the Credit Period and continuing throughout the Term of this Declaration, it shall at all times maintain the Development as a Qualified Low-Income Housing Project, as defined in Section 42(g) of the Code.

(f) Each Unit in the Development contains separate and complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation (unless the Development qualifies as a single-room occupancy Development) which is to be used on other than a transient basis as provided in Section 42(i)(3) of the Code.

(g) The Development Owner will comply fully at all times with the Department Rules and will cause the Development to comply fully at all times with the Department Rules.

(h) During the Term of this Declaration, the Development Owner covenants, agrees, and warrants that each Low-Income Unit is and will remain suitable for occupancy in accordance with regulations prescribed by the Secretary, taking into account local health, safety, and building codes.

(i) The Development Owner covenants that it will not, without prior written approval from the Department, sell, transfer, or exchange the Development or any portion thereof, nor will it sell, transfer, or exchange any portion of any building in the Development unless it sells, transfers or exchanges the entire building to the same person. Subject to the requirements of Section 42 of the Code and this Declaration, the Development Owner may sell, transfer, or exchange the entire Development or any building in the Development at any time, provided that the Development Owner shall require, as a condition precedent to any such sale, transfer or exchange, that the successor owner and operator assume, in writing, in an Owner's Certification or an "Agreement to Comply With the LURA" agreement acceptable to the Department, the Development Owner's obligations hereunder and under Section 42 of the Code, which Owner's Certification of Agreement to Comply with the LURA shall be delivered to the Department in executed form, along with any other documents required by the Department, prior to any approval of such sale, transfer, or exchange. Any attempt to sell, transfer, or exchange prior to the tender of the required executed Owner's Certification of Agreement to Comply with the LURA and the Department's prior written approval shall be null and void. This provision shall not act to waive or supersede any other restriction on or any other requirement relating to the sale, transfer, or exchange of the Development or any building in the Development. The Development Owner agrees that the Department may withhold approval of any sale, transfer, or exchange of the Development if the successor owner and operator fails to execute and deliver an Owner's Certification of Agreement to Comply with the LURA and other documents as required by the Department or if the Development Owner or the successor owner and operator otherwise acts in contravention of this Section 3(i) or Section 3(j) hereof. This Declaration and the covenants contained herein shall survive and be effective regardless of whether any such successor owner and operator or intended successor owner and operator shall have assumed them pursuant to an Ownership Transfer request and prior written approval from the Department. Regardless of who owns the Development, this Declaration remains in effect for the entirety of its stated term unless otherwise terminated under Section 5(b) hereof.

(j) The Development Owner agrees to notify the Department in writing forty-five (45) calendar days prior to any sale, transfer, or exchange of the entire Development or any building therein, and to provide to the Department a fully completed Ownership Transfer Form packet as directed under Section 10.406 of the Uniform Multifamily Rules and the Post Award Activities Manual, so the Department can determine the economic viability of any prospective successor and Development or building and whether such prospective successor is acceptable as Development Owner under the Department Rules. The Development Owner further agrees to notify the Department in writing forty-five calendar days prior to any change in the identity of a General Partner or other Principal of the Development Owner, and to provide to the Department all applicable information as directed under Section 10.406 of the Uniform Multifamily Rules and the Post Award Activities Manual so the Department can determine whether such party is acceptable in such role with the Development Owner under the Department Rules.

(k) The Development Owner shall not demolish any part of the Development or substantially subtract from any real or personal property of the Development or permit the use of any Unit for any purpose other than rental housing during the Term of this Declaration, unless required by law.

(l) The Development Owner represents, warrants, and agrees that if the Development, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Development Owner will use its best efforts to repair and restore the Development to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Development in accordance with the terms of this Declaration. Within thirty (30) days of the casualty loss, in whole or in part, the Development Owner shall provide written notice to the Department of such loss.

(m) The Development Owner warrants that it has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event, the requirements of this Declaration are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

(n) The Development Owner agrees, warrants, and covenants to comply with all law, ordinances, statutes, codes, orders, rules, regulations, and decrees of the United States, the State and any other Governmental Entity applicable to the Development Owner, including, without limitation, the following: the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*); the Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259); Equal Employment Opportunity Program (Executive Order 11246, as amended, and its implementing regulations at 41 CFR Part 60); Age Discrimination Act of 1975 (42 U.S.C. §6101 *et seq.*); Equal Credit Opportunity Act (15 U.S.C. §1691 *et seq.*); Fair Credit Reporting Act (15 U.S.C. §1681 *et seq.*); Fair Housing Act (42 U.S.C. §3601 *et seq.*); the Americans with Disabilities Act of 1990, as amended (P.L. 101-336; 42 U.S.C. §12101 *et seq.*); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Architectural Barriers Act of 1968 (42 U.S.C. §4151 *et seq.*); Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u); Executive Orders 11625, 12432 and 12138, as amended; the Copeland "Anti-Kickback" Act (18 U.S.C. §874 *et seq.*); the Davis-Bacon Act (40 U.S.C. §276a *et seq.*); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act. (40 U.S.C. §3701 *et seq.*); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4201 *et seq.*); the Housing and Community Development Act of 1974, as amended (42 U.S.C. §5301 *et seq.*); the National Environmental Policy Act (42 U.S.C. §4321 *et seq.*); ("NEPA"); the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §4821 *et seq.*); Chapters 91 and 92 of the Texas Property Code; Solid Waste Disposal Act (Chapter 361 of the Texas Health & Safety Code, formerly Tex. Rev. Civ. Stat. Ann. Art. 4477-7); Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363 of the Texas Health & Safety Code); County Solid Waste Control Act (Chapter 364 of the Texas Health & Safety Code); Texas Clean Air Act (Chapter 382 of the Texas Health & Safety Code); and Hazardous Communication Act (Chapter 502 of the Texas Health & Safety Code); Violence Against Women Act (42 U.S.C. §13925 *et seq.*) and such other applicable requirements of Governmental Entities as may be from time to time amended or superseded and all of their implementing regulations, as may be amended.

(o) The Development Owner agrees to apply for and accept renewal of any rent subsidy contracts from which the Development benefits, if such subsidies are required or desirable to maintain the economic viability of the Development.

SECTION 4 – INCOME RESTRICTIONS/RENTAL RESTRICTIONS

The Development Owner represents, warrants, and covenants throughout the Term of this Declaration and in order to satisfy the requirements of Section 42 of the Code that at least **40%** or more of the Units in the Development are and will continuously be maintained as both Rent-Restricted and occupied by individuals whose income is **60%** or less of AMGI.

Alternative (for Average Income) – IF THIS IS NOT AVERAGE INCOME, DELETE THIS SECTION AND USE THE ABOVE PARAGRAPH ONLY: The Development Owner represents, warrants, and covenants throughout the Term of this Declaration and in order to satisfy the requirements of Section 42 of the Code that at least **40%** or more of the Units in the Development are both Rent-Restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective Unit.

(a) The determination of whether a Tenant is a Low-Income Tenant shall be made by the Development Owner according to Department Rules and Section 42 of the Code and guidance of the Service on the basis of the current income of such Low-Income Tenant. The Development Owner shall utilize forms as permitted from time to time by the Department for providing this certification. If, upon any such certification, the Tenant of a Low-Income Unit who was, at the last income certification, a Low-Income Tenant, is found no longer to be a Low-Income Tenant, such Unit will continue to be treated as a Low-Income Unit until the next available Unit of comparable or smaller size in the building in which such Unit is located is rented to a person who is a Low-Income Tenant. A Low-Income Unit that has been vacated will continue to be treated as a Low-Income Unit, provided that (i) reasonable attempts are made to rent the Unit and (ii) no other Units of comparable or smaller size in the Development are rented to persons who are not Low-Income Tenants.

(b) During the Compliance Period, in no case will a Unit be treated as a Low-Income Unit if all the Tenants of the Unit are students (as determined under Section 152(f)(2) of the Code); provided, however, that such rule shall not apply to the types of students identified at Section 42(i)(3)(D) of the Code. After the Compliance Period, student status will be monitored in accordance with Department Rules.

(c) The Development will contain a total of **NUMBER OF UNITS** (including Units occupied by a resident manager or other employee, such that they are not treated as "residential rental units" for purposes of Section 42 of the Code), of which **NUMBER OF LOW-INCOME UNITS** treated as residential rental Units will be Low-Income Units. The amount of Tax Credits allocated to the Development is based on the requirement that the Minimum Applicable Fraction for each building in the Development will be as specified, building-by-building, in "Minimum Applicable Fraction by Building" attached hereto as Addendum F. During the Term of this Declaration, Units at the Development shall be leased and rented or made available to members of the general public who qualify as Low-Income Tenants; such that each building in the Development shall at all times satisfy the Minimum Applicable Fraction for such building. The Development Owner's failure to ensure that each building in the Development complies with such requirement will cause the Department to report such fact to the Service and may result

in the reduction or recapture by the Service of Tax Credits, as well as other enforcement action by the Service and/or the Department. After the Compliance Period, the Minimum Applicable Fraction will be monitored in accordance with Department Rules.

(d) The Development and the Development Owner are subject to additional and/or modified requirements, as applicable, set forth in the "Additional Use Restrictions" attached hereto as Addendum B, "Additional Use Restrictions- Accessibility Requirements" attached hereto as Addendum C, "Additional Use Restrictions- Amenity Requirements" attached hereto as Addendum D, and "Additional Use Restrictions- Agreement to Offer a Right of First Refusal" attached hereto as Addendum E, which requirements are incorporated herein by reference and made a part hereof.

(e) The Development Owner shall not discriminate on the basis of race, color, national origin, religion, sex, familial status, or disability in the lease, use, or occupancy of the Development or in connection with the employment or application for employment of persons for the operation and management of the Development and shall not deny admission to any person exclusively on the basis of such person receiving rental assistance payments under a local, state, federal or other housing assistance program, including, but not limited to, Section 8 of the United States Housing Act of 1937 as amended.

(f) The Development Owner acknowledges that whether a Tenant is a Low-Income Tenant is a matter of fact, to be determined in accordance with applicable law, and the Development's Owner's determination as to such matter is not binding upon the Department or the Service.

(g) Throughout the Extended Use Period, the Development Owner shall not (i) evict or terminate the tenancy of a Tenant of any Low-Income Unit other than for good cause nor (ii) increase the gross rent with respect to a Low-Income Unit except as permitted by Section 42 of the Code.

SECTION 5 – TERM OF DECLARATION

(a) This Declaration shall become effective with respect to a building in the Development on the first day of the Compliance Period for such building and shall terminate on the last day of the Extended Use Period, unless this Agreement is earlier terminated pursuant to Section 5(b) hereof (the "Term"). The Term is subject to any modified or additional requirements set forth in the "Additional Use Restrictions" attached hereto as Addendum B, in which event the terms of this Agreement shall be modified as applicable.

(b) Notwithstanding subsection (a) above, but subject to any modified or additional requirements set forth in the "Additional Use Restrictions" attached hereto as Addendum B, in which event the terms of this Agreement shall be modified as applicable, the Extended Use Period of this Declaration shall terminate:

(1) with respect to any building in the Development, on the date such building is acquired by foreclosure (or instrument in lieu of foreclosure) and upon the recording of an instrument of termination of the Declaration in accordance with applicable law, unless the Secretary or his delegate determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such Extended Use Period. If an instrument terminating this Declaration fails to be recorded, subject to Section 5(c) hereof, the building shall remain subject to this Declaration, and the eligibility of such party to receive Tax Credits shall not be adversely affected, if such party continues to comply with Section 42 of the Code and the terms of this Declaration. The party acquiring a building by foreclosure (or instrument in lieu of foreclosure) shall bear the cost for recording the instrument terminating this Declaration.

(2) following the end of the Compliance Period, but not earlier than thirty (30) years following the date upon which the Development was first placed in service pursuant to the requirements of this Declaration, if the Development Owner has properly requested that the Department assist in procuring a "Qualified Contract", as defined in Section 42(h)(6)(F) of the Code, for the acquisition of a building and the Department is unable to present a Qualified Contract. To properly request the Department's assistance in procuring a Qualified Contract for the acquisition of a building, the Development Owner must follow the procedures outlined in the Department Rules.

(c) If this Declaration is terminated pursuant to subsection (b) above and notwithstanding anything herein to the contrary, the Tenant of any Low-Income Unit on the date of such termination shall be entitled to occupy such Unit in accordance with the provisions of this Declaration for a period of three (3) years following such termination date; provided, however, that upon a showing of good cause, such Tenant's tenancy may be terminated or such Tenant evicted.

SECTION 6 – ENFORCEMENT, ADMINISTRATION AND COMPLIANCE

(a) The Development Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code or this Declaration. Moreover, the Development Owner covenants to take any lawful action (including amendment of this Declaration as may be necessary in the sole opinion and at the request of the Department) to comply fully with the Code and with all applicable rules, rulings, policies, procedures, regulations, or other official statements promulgated or proposed by the United States Department of the Treasury, the Service, or the United States Department of Housing and Urban Development, from time to time, pertaining to the Development Owner's obligations under Section 42 of the Code and affecting the Development. Development Owner shall not violate any federal, state, or local laws, stated herein or otherwise, nor commit any illegal activity in the performance of or associated with the performance of this Declaration.

(b) The Development Owner acknowledges that the primary purpose for requiring compliance by the Development Owner with the restrictions provided in this Declaration is to assure compliance of the Development and by the Development Owner with Section 42 of the Code and the Department Rules, AND BY REASON THEREOF, THE DEVELOPMENT OWNER, IN CONSIDERATION FOR RECEIVING THE TAX CREDITS FOR THIS DEVELOPMENT, HEREBY AGREES THAT THE DEPARTMENT AND ANY INDIVIDUAL WHO MEETS THE APPLICABLE INCOME LIMITATION UNDER SECTION 42 OF THE CODE (WHETHER PROSPECTIVE, PRESENT OR FORMER TENANT) SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE DEVELOPMENT OWNER OF ITS OBLIGATIONS UNDER THIS DECLARATION IN A STATE COURT OF COMPETENT JURISDICTION.

(c) The Development Owner hereby agrees that the representations and covenants set forth herein may be relied upon by the Department and all persons interested in Development compliance under Section 42 of the Code.

(d) The Development Owner acknowledges that the Department is required, pursuant to Section 42(m)(1)(B)(iii) of the Code, (i) to monitor the Development Owner's and the Development's compliance with the requirements of Section 42 of the Code, and (ii) to notify the Service in accordance with the Code and the rules of the Service of any noncompliance which is found. The Development Owner agrees (I) to maintain records that substantiate and document such compliance, (II) to take all actions required by the Department pursuant to the Department Compliance Monitoring Procedures to assist or cooperate with the Department in monitoring such compliance, and (III) to pay the fee prescribed by the Department with respect to such monitoring.

(e) The Development Owner agrees that, pursuant to Section 2306.185(d) of the Act, the Department, tenants of the Development, or private parties may enforce the development restrictions in (i) Sections 3(o) and 4(e) hereof regarding tenant and management selection, (ii) Section 4(a)-(c) and Addendum B, "Additional Use Restrictions", hereof regarding rental restrictions and (iii) Section 6(i) hereof regarding mandatory deposits to fund necessary repairs. The Development Owner further acknowledges and agrees that any party which brings an action to enforce said development restrictions may utilize for such purposes any and all remedies available to the Department including the right to recover reasonable attorney fees if the party seeking enforcement of the restriction is successful.

(f) The Development Owner agrees the Department may, at reasonable times and upon adequate notice at any time during the construction, rehabilitation, or operation of the Development, enter and inspect the Development to evaluate its physical and financial condition, construction, rehabilitation, operation, management, and maintenance.

(g) The Development Owner agrees the Department may, at reasonable times and upon adequate notice, examine, and make copies of all books and records and request and receive from the Development Owner one (1) or more reports, relating to the ownership, operations, capitalization, reserve funds, income, expenses, and other financial and regulatory matters of the Development or the Development Owner. This includes compliance with the Annual Owner's Compliance Report, and Owner's Financial Certification in a form and timeline as prescribed by the Department at Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, or as otherwise required by the Department.

(h) The Development Owner agrees that the Department may at any time order it and/or its managing agent or Development manager to do whatever is necessary to comply with or refrain from violating an applicable law, ordinance, Department Rules, or term of an agreement regarding the Development, and that the Department may file and prosecute a complaint against a managing agent, Development manager, or the Development Owner for a violation of any applicable law or ordinance. The Development Owner acknowledges and agrees that, in the event that the Development Owner is found to have violated an applicable law, ordinance, Department Rules, or term of an agreement regarding the Development, the Department shall have the right, among other remedies and without limitation, to limit or deny participation by the Development Owner in any of the programs operated or administered by the Department; and/or assess appropriate administrative penalties and other sanctions.

(i) The Development Owner agrees to establish and maintain a reserve for replacement and repairs account in such initial amount and with such annual deposits required pursuant to Section 2306.186 of the Act. Upon a determination by the Department that the Development Owner has failed to maintain the Development in good and habitable condition and suitable for occupancy as herein required or has failed to establish or maintain such a reserve, the Owner agrees to enter into a Replacement Reserve Agreement with the Department for the benefit of the Development and establish or increase reserves as described under Department Rules in a reserve account held for the benefit of the Development Owner and the Development by a third party bank trustee. The Replacement Reserve Agreement will require the Department's approval prior to the disbursement of funds from the reserve. These provisions apply to any new Development Owner if the Development is transferred.

(j) The Development Owner agrees to indemnify and hold harmless the Board members, Department officers, directors and employees from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the Department as a result of any material inaccuracy in any of the representations and warranties contained in this Declaration, or as a result of any action or inaction by the Development Owner, including claims by third parties.

(k) The Development Owner agrees that should any claims, demands, suits, or other legal proceedings be made or instituted by any person against the Department which arise out of any of the matters relating to this Declaration, Development Owner will cooperate fully with the Department in the defense or other disposition thereof.

(l) The Development Owner agrees to furnish to the Department, within ten (10) days of receipt, copies of all correspondence between the Development Owner and the Service with respect to the Development, other than tax returns and routine, periodic reports filed with the Service.

SECTION 7 – FEES

(a) To compensate the Department for its responsibilities pursuant to the Act and the Code, the Development Owner shall pay to the Department an annual compliance monitoring fee for the first twelve (12) month period of this Declaration in the amount of \$40.00 per Low-Income Unit in the Development. The fee will be collected, retroactively if applicable, beginning with the first year of the credit period and will be invoiced upon receipt of the Development's cost certification. Subsequent anniversary dates on which the compliance monitoring fee payments are due will be determined by the month the first building is placed in service. Compliance fees may be adjusted from time to time by the Department.

(b) If the Department shall find the Development not to be in compliance with the terms hereof, the Development Owner shall pay to the Department (i) an additional administrative fee in an amount prescribed from time to time by the Department, which amount for the first twelve month period of this Declaration, shall not exceed \$25.00 per Unit (without regard to the number of Low-Income Units), for additional monitoring and enforcement activities undertaken with respect to the Development and (ii) all amounts required to reimburse the Department for its expenses in performing such additional monitoring and enforcement activities. The administrative fee payable in the event of noncompliance shall be in addition to, and distinct from, the amount due pursuant to Section 7(a) hereof, as well as any reimbursements of costs and legal fees to which the Department may be entitled as a result of judicial enforcement action, and such fee shall be payable without respect to whether the Department undertakes or succeeds in judicial enforcement activities, for a period of up to three (3) years following the Department's most recent finding of noncompliance with respect to the Development.

(c) For each successive twelve month period following the initial twelve (12) month period of this Declaration, the administrative fees payable to the Department hereunder shall be the amounts established for the most recent administrative fee, multiplied by the increase in the Consumer Price Index for All Urban Consumers ("CPI-U") published by the Bureau of Labor Statistics of the United States Department of Labor (or generally recognized successor to such Index) for the same twelve (12) month period of time.

(d) The Development Owner agrees that it will pay the annual compliance monitoring fee and the building inspection fee(s) at the times required by the Department and that it will pay all additional charges, fees, and expenses assessed hereunder by the Department within ten (10) calendar days of receipt of written notice of any such assessment.

SECTION 8 – MISCELLANEOUS

(a) Severability. This Declaration is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Declaration or the Application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Declaration and the Application of such provision to other persons or circumstances shall not be affected thereby, but rather shall remain in full force and effect and may be enforced to the greatest extent permitted by law and in the manner that best carries out the purposes of this Declaration.

(b) Notices. All notices to be given pursuant to this Declaration shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, delivered by hand, or delivered by any other method permitted by law, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

TO THE DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
P O Box 13941
AUSTIN, TEXAS 78711-3941
ATTN: ASSET MANAGEMENT DIVISION

TO THE DEVELOPMENT OWNER:

OWNER NAME
ADDRESS
CITY, STATE ZIP
ATTN:

The Department, and the Development Owner, may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

(c) Amendment. This Agreement may not be amended or modified except by written instrument executed by both Development Owner and Department, or their respective heirs, successors or assigns, which instrument shall not be an effective restrictive covenant running with the land until it is recorded in the real property records in the county where the Development is located. Upon request by the Department, the Development Owner agrees that it will take all actions necessary to effect any amendment of this Declaration which may be necessary in the Department's sole discretion to comply with the Code, and any and all applicable rules, regulations, policies, procedures, rulings or other official statements pertaining to the Tax Credits.

(d) Governing Law. This Declaration shall be governed by the laws of the State of Texas, and, where applicable, the laws of the United States of America.

(e) Survival of Obligations. The obligations of the Development Owner as set forth herein and in the Application shall survive the allocation of the Tax Credit and shall not be deemed to terminate or merge with the awarding of the allocation. Additionally, ongoing and operational representations shall survive for the term of this Declaration as described in the Qualified Allocation Plan.

(f) Interpretation. The Department's interpretation of this Declaration shall be controlling for purposes of determining whether (i) the Compliance Period and/or Credit Period has commenced, (ii) this Declaration has been terminated in accordance with Section 5 hereof, and (iii) the additional use restrictions as set forth in "Additional Use Restrictions" attached hereto as Addendum B, "Additional Use Restrictions- Accessibility Requirements" attached hereto as Addendum C, "Additional Use Restrictions- Amenity Requirements" attached hereto as Addendum D, and "Additional Use Restrictions- Agreement to Offer a Right of First Refusal" attached hereto as Addendum E, if and as applicable, have been complied with.

(g) Venue. Venue for any litigation regarding this Declaration shall be fixed in any court of competent jurisdiction in Travis County, Texas.

[OPTIONAL- (h) Subordination to HUD Regulatory Agreement. This Agreement is subject to the provisions of the HUD Rider to Restrictive Covenants attached hereto as Addendum G.]

IN WITNESS WHEREOF, THE DEVELOPMENT OWNER AND THE DEPARTMENT HAVE CAUSED THIS DECLARATION TO BE SIGNED BY THEIR DULY AUTHORIZED REPRESENTATIVES, AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE.

DEVELOPMENT OWNER:

OWNER NAME
A ENTITY TYPE

BY: **NAME OF GENERAL PARTNER (OR MANAGING MEMBER)**
A ENTITY TYPE, ITS GENERAL PARTNER

[BY: **NAME OF MANAGING MEMBER, OPTIONAL**
A ENTITY TYPE, ITS MANAGING MEMBER

BY: _____
NAME: _____
TITLE: _____

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE _____ OF _____, A _____, [SOLE/MANAGING MEMBER] OF _____, A _____, GENERAL PARTNER OF _____, A _____, THE LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY) THAT EXECUTED THE FOREGOING INSTRUMENT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF SAID LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY), AND THAT HE/SHE EXECUTED THE SAME AS THE ACT OF SUCH LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY) FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20_____.

(SEAL)

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF: _____
COUNTY OF: _____
MY COMMISSION EXPIRES: _____

DEPARTMENT:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
A PUBLIC AND OFFICIAL AGENCY OF THE STATE OF TEXAS

BY: _____
NAME: ROSALIO BANUELOS
TITLE: ITS DULY AUTHORIZED OFFICER OR REPRESENTATIVE

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED, ROSALIO BANUELOS, 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 SUCH AGENCY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20_____.

(SEAL)

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF TEXAS
COUNTY OF TRAVIS
MY COMMISSION EXPIRES: _____

JOINDER OF OWNER OF FEE TITLE IN DECLARATION

IN WITNESS WHEREOF, BY ITS EXECUTION BELOW, OWNER OF FEE TITLE HEREBY AGREES TO (1) ENCUMBER, RESTRICT, AND BIND ITS FEE SIMPLE TITLE TO THE DEVELOPMENT AND ANY AND ALL RIGHT, TITLE OR INTEREST WHICH OWNER OF FEE TITLE HAS IN OR TO ANY OF THE DEVELOPMENT LAND, (2) BE BOUND BY THE DECLARATION, AND (3) COMPLY WITH EACH AND EVERY TERM, CONDITION, COVENANT, AND AGREEMENT AS CONTAINED IN THE DECLARATION, TO THE SAME EXTENT AS IF OWNER OF FEE TITLE HAD BEEN THE NAMED DEVELOPMENT OWNER IN THE DECLARATION AND HAD EXECUTED THE DECLARATION. HOWEVER, OWNER OF FEE TITLE SHALL NOT HAVE ANY PERSONAL OR INDIVIDUAL LIABILITY WITH RESPECT TO THE DECLARATION, OR ANY OBLIGATIONS OR RESTRICTIONS EVIDENCED THEREBY OR ARISING THEREUNDER.

OWNER OF FEE TITLE:

[CORPORATION/ENTITY NAME],

A _____

By: _____
NAME: _____
TITLE: _____

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE _____ OF _____, A _____, THAT EXECUTED THE FOREGOING INSTRUMENT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF SAID [CORPORATION], AND THAT HE/SHE EXECUTED THE SAME AS THE ACT OF SUCH [CORPORATION], FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20 _____.

(SEAL)

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF: _____
COUNTY OF: _____
MY COMMISSION EXPIRES: _____

EXHIBIT A TO DECLARATION – LEGAL DESCRIPTION

For Review Only

For Review Only

EXHIBIT B – PERMITTED ENCUMBRANCES AND EXCEPTIONS

For Review Only

For Review Only

ADDENDUM A To DECLARATION – CONSENT AND SUBORDINATION OF LIENHOLDER

[TO BE EXECUTED BY EACH LIEN HOLDER ON THE DEVELOPMENT AS OF THE EFFECTIVE DATE OF THE DECLARATION.]

THE UNDERSIGNED LIEN HOLDER ("LIEN HOLDER") HEREBY CONSENTS TO THE EXECUTION BY DEVELOPMENT OWNER OF THE FOREGOING DECLARATION FOR [REDACTED] (THE "DEVELOPMENT IMPROVEMENTS").

LIEN HOLDER HEREBY SUBORDINATES ITS LIEN(S) TO THE RIGHTS AND INTERESTS CREATED PURSUANT TO SECTION 5(c) OF THE DECLARATION SUCH THAT A FORECLOSURE OF ITS LIEN(S) SHALL NOT EXTINGUISH SUCH RIGHTS AND INTERESTS.

LIEN HOLDER ACKNOWLEDGES AND AGREES THAT, PURSUANT TO SECTION 5(b)(1) OF THE DECLARATION, THE DECLARATION WILL TERMINATE ON THE DATE THE DEVELOPMENT IS ACQUIRED BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE, UPON THE RECORDING OF AN INSTRUMENT OF TERMINATION OF THE DECLARATION IN ACCORDANCE WITH APPLICABLE LAW (UNLESS IT IS DETERMINED THAT SUCH ACQUISITION IS PART OF AN ARRANGEMENT WITH BORROWER A PURPOSE OF WHICH IS TO TERMINATE SUCH PERIOD); PROVIDED, HOWEVER, LIEN HOLDER HEREBY ACKNOWLEDGES AND AGREES THAT THE ACQUISITION OF THE DEVELOPMENT BY ANY PARTY BY FORECLOSURE OR INSTRUMENT IN LIEU OF FORECLOSURE SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 5(c) OF THE DECLARATION, WHICH PROVISIONS SHALL CONTINUE IN FULL FORCE AND EFFECT FOR A PERIOD OF THREE (3) YEARS FROM THE DATE OF SUCH ACQUISITION; PROVIDED, FURTHER, THAT SUCH PROVISIONS SHALL NOT APPLY DURING SUCH PERIOD IF AND TO THE EXTENT THAT COMPLIANCE THEREWITH IS NOT POSSIBLE AS A CONSEQUENCE OF DAMAGE, DESTRUCTION, CONDEMNATION OR SIMILAR EVENT WITH RESPECT TO THE DEVELOPMENT.

EXECUTED TO BE EFFECTIVE ON THE EFFECTIVE DATE OF THE DECLARATION.

LIENHOLDER: _____

BY: _____
NAME: _____
TITLE: _____

THE STATE OF _____ §
COUNTY OF _____ §

I, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY, IN SAID STATE, HEREBY CERTIFY THAT _____, WHOSE NAME IS SIGNED TO THE FOREGOING INSTRUMENT, AND WHO IS KNOWN TO ME, ACKNOWLEDGED BEFORE ME ON THIS DAY, BEING INFORMED OF THE CONTENTS OF SUCH DOCUMENT, EXECUTED THE SAME VOLUNTARILY. GIVEN UNDER MY HAND, OFFICIAL SEAL THIS _____ DAY OF _____, _____.

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF: _____
COUNTY OF: _____
MY COMMISSION EXPIRES: _____

ADDENDUM B TO DECLARATION – ADDITIONAL USE RESTRICTIONS

MARKETING (10 TAC §11.204(1)(G) OF THE 2022 QAP)

For affirmative marketing activities, all affirmative marketing plans must provide affirmative marketing to persons with disabilities. For general marketing activities, the Development Owner will specifically market to veterans through direct marketing or contracts with veteran's organizations. The Development Owner will be required to identify how they will specifically market to veterans and report to the Department in the annual housing report on the results of the marketing efforts to veterans. Exceptions to this requirement must be approved in writing by the Department.

RENT AND OCCUPANCY RESTRICTIONS **[DELETE THIS SECTION IF AVERAGE INCOME AND USE THE PARAGRAPH BELOW INSTEAD]**

INCOME LIMIT	RENT LIMIT	NUMBER OF UNITS
30% OF AMI	30% OF AMI	
40% OF AMI	40% OF AMI	
50% OF AMI	50% OF AMI	
60% OF AMI	60% OF AMI	
MARKET	MARKET	

If at recertification the Tenant's household income exceeds the applicable limit, to maintain compliance, the owner agrees to follow recertification guidance in accordance with the Department Rules as amended from time to time

AVERAGE INCOME RESTRICTION **[DELETE THIS SECTION IF NOT AVERAGE INCOME AND USE THE PARAGRAPH ABOVE ONLY]**

The Development Owner has represented to the Department in the Development Owner's Application, authorized by the Department Rules, that among other things, the Development Owner shall lease **PERCENTAGE OF OVERALL LOW INCOME UNITS (TO TWO DECIMAL PLACES)** of the Units in the Development to individuals or families whose imputed incomes do not exceed an average of **(54%, 55%, 56%, 57%, OR 60%)** of the area median gross income (including adjustments for family size), as more specifically provided herein, such Application, and the representations and undertakings set forth therein, being incorporated herein by reference for all purposes.

LONGER EXTENDED USE PERIOD (10 TAC §11.9(E)(5) OF THE 2022 QAP)

In accordance with the Code, each Development is required to maintain its affordability for a fifteen (15) year Compliance Period and, subject to certain exceptions, an additional fifteen (15) year period. Development Owner indicates below that the Development will extend the affordability period beyond the thirty (30) years required in the Code as follows:

The Development will extend its affordability for **[five (5)][ten (10)][fifteen (15)]** years, resulting in an Extended Use Period of **[thirty-five (35)][forty (40)][forty-five (45)]** years.

MATERIAL PARTICIPATION BY QUALIFIED NONPROFIT ORGANIZATION (10 TAC §§11.5(1) AND 10 TAC 11.9(B)(2)(B) OF THE 2022 QAP)

Throughout the Compliance Period, the ownership structure of the Development Owner shall contain a Qualified Nonprofit Organization (as defined in Section 42(h)(5)(C) of the Code) with a greater than fifty percent (50%) controlling interest in the General Partner (in the case of a limited partnership, the Qualified Nonprofit Organization must be the manager of the Managing General Partner; in the case of a limited liability company, the Qualified Nonprofit Organization must be the Manager of the controlling Managing Member). For HUD 202 Rehabilitation projects which prohibit for-profit ownership, ownership will not be required for a nonprofit; however, the combined percentage of cash flow from operations and Developer Fee to the nonprofit organization must still equal at least fifty percent (50%), even if it is only attributable to one (1) of the two (2) categories. The Qualified Nonprofit Organization shall materially participate (within the meaning of Section 469(h) of the Code) in the development and operation of the Development throughout the Compliance Period, shall have experience directly related to the housing industry, and shall otherwise meet the requirements of Section 42(h)(5) of the Code and Section 2306.6729 and 2306.6706(b) of the Texas Government Code. The Principals of the Qualified Nonprofit Organization cannot be a Related Party to or Affiliate, including the spouse, of any Principals of the Applicant, Developer or Guarantor (excluding another Principal of said Qualified Nonprofit Organization). At the time this Declaration is filed, the Qualified Nonprofit Organization which shall own such interest and shall so materially participate in the development and operation of the Development is **[REDACTED]**. The Development Owner shall notify the Department (i) of any change in the status or role of such organization with respect to the Development and (ii) if such organization is proposed to be replaced by a different Qualified Nonprofit Organization, that Organization must meet the requirements of 42(h)(5) and Section 2306.6729 and 2306.6706(b) of the Texas Government Code at time of transfer.

OR

Throughout the Extended Use period, a Qualified Nonprofit Organization must be involved with the Development Services or in the provision of on-site resident services but will not qualify the Development as part of the Nonprofit Set-Aside. A Principal of the Nonprofit Organization cannot be a Related Party to or Affiliate, including the spouse, of any Principal of the Applicant, Developer or Guarantor (excluding another Principal of the Nonprofit Organization). The Development Owner shall notify the Department (i) of any change in the status or role of such organization with respect to the Development and (ii) if such organization is proposed to be replaced by a different Nonprofit Organization at time of transfer. At the time this Declaration is filed, the Nonprofit Organization is **[REDACTED]**.

HISTORICALLY UNDERUTILIZED BUSINESS (HUB) (10 TAC §11.9(b)(2)(A) OF THE 2022 QAP)

Throughout the Compliance Period, unless otherwise permitted by the Department as an amendment to this Declaration, the ownership structure of the General Partner of the Development Owner shall contain a HUB or HUBs certified by the Texas Comptroller of Public Accounts. [For HUD 202 Rehabilitation projects which prohibit for-profit ownership, ownership will not be required for a HUB; however, however, the combined percentage of cash flow from operations and Developer Fee to the HUB or HUBs must still equal at least fifty percent (50%), even if it is only attributable to one of the two categories.] The HUB or HUBs shall materially participate (regularly, continuously, and substantially provide services integral to the Development Team; providing services as an independent contractor is not sufficient) in the Development and operation of the Development throughout the Compliance Period and have experience directly related to the housing industry. The Development Owner must obtain prior approval from the Department before the HUB can be replaced. The Principals of the HUB cannot be a Related Party to or Affiliate, including the spouse, of any Principals of the Applicant, Developer or Guarantor (excluding another Principal of said HUB). At the time this Declaration is filed, the HUB which holds such interest in the ownership structure is [REDACTED].

OR

Throughout the Extended Use period unless otherwise permitted by the Department as an amendment to this Declaration, a HUB certified by the Texas Comptroller of Public Accounts must be involved with the Development Services or in the provision of on-site resident services. A Principal of the HUB cannot be a Related Party to or Affiliate, including the spouse, of any other Principal of the Applicant, Developer or Guarantor (excluding another Principal of said HUB). The Development Owner shall notify the Department (i) of any change in the status or role of such organization with respect to the Development and (ii) if such organization is proposed to be replaced by a different HUB at time of transfer. At the time this Declaration is filed, the participating HUB is [REDACTED].

SUPPORTIVE HOUSING DEVELOPMENT (10 TAC §11.1(d)(126) OF THE 2022 QAP)

Throughout the Extended Use Period, the Development will operate as a Supportive Housing Development. Supportive Housing is defined as a residential rental Development and Target Population meeting the requirements of subparagraphs (A) - (E) of this paragraph.

(A) Be intended for and targeting occupancy for households in need of specialized and specific non-medical services in order to maintain housing or transition into independent living;

(B) Be owned and operated by a General Partner that must:

(i) have supportive services provided by the Owner, an Affiliate of the Owner, or a Third Party provider if the service provider is able to demonstrate a record of providing substantive services similar to those proposed in the Application in residential settings for at least three (3) years prior to the beginning of the Application Acceptance Period;

(ii) secure sufficient funds necessary to maintain the Supportive Housing Development's operations throughout the entire Affordability Period;

(iii) provide evidence of a history of fundraising activities reasonably deemed to be sufficient to address any unanticipated operating losses;

(iv) provide a fully executed guaranty agreement whereby the Owner or its Affiliate assume financial responsibility of any outstanding operating deficits, as they arise, and throughout the entire Affordability Period, and

(v) have Tenant Selection Criteria that fully comply with 10 TAC §10.802 (regarding Written Policies and Procedures), which require a process for evaluation of prospective residents against a clear set of credit, criminal conviction, and prior eviction history that may disqualify a potential resident. This process must also follow 10 TAC §1.204 (regarding Reasonable Accommodations, and;

(I) The criminal screening criteria must not allow residents to reside in the Development who are subject to a lifetime sex offender registration requirement; and provide at least, for:

(-a-) Temporary denial for a minimum of seven (7) years from the date of conviction based on criminal history at application or recertification of any felony conviction for murder related offense, sexual assault, kidnapping, arson, or manufacture of a controlled substance as defined in §102 of the Controlled Substances Act (21 U.S.C. 802); and

(-b-) Temporary denial for a minimum of three years from the date of conviction based on criminal history at application or recertification of any felony conviction for aggravated assault, robbery, drug possession, or drug distribution;

(II) The criminal screening criteria must include provisions for approving applications and recertification despite the tenant's criminal history on the basis of mitigation evidence. Applicants/tenants must be provided written notice of their ability to provide materials that support mitigation. Mitigation may be provided during initial tenant application or upon appeal after denial. Mitigation may include personal statements/certifications, documented drug/alcohol treatment, participation in case management, letters of recommendation from mental health professionals, employers, case managers, or others with personal knowledge of the tenant. In addition, the criteria must include provision for individual review of permanent or temporary denials if the conviction is more than seven (7) years old, or if the applicant/resident is over fifty (50) years of age, and the prospective resident has no additional felony convictions in the last seven (7) years. The criteria must prohibit consideration of any previously accepted criminal history or mitigation at recertification, unless new information becomes available. Criminal screening criteria and mitigation must conform to federal regulations and official guidance, including HUD's 2016 Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records; and

(III) Disqualifications in a property's Tenant Selection Criteria cannot be a total prohibition, unless such a prohibition is required by federal statute or regulation (i.e. the Development must have an appeal process for other required criteria). As part of the appeal process the prospective resident must be allowed to demonstrate that information in a third party database is incorrect;

(C) Where supportive services are tailored for members of a household with specific needs, such as:

- (i) homeless or persons at-risk of homelessness;
 - (ii) persons with physical, intellectual, /or developmental disabilities;
 - (iii) youth aging out of foster care;
 - (iv) persons eligible to receive primarily non-medical home or community-based services;
 - (v) persons transitioning out of institutionalized care;
 - (vi) persons unable to secure permanent housing elsewhere due to specific, non-medical, or other high barriers to access and maintain housing;
 - (vii) Persons with Special Housing Needs including households where one (1) or more individuals have alcohol or drug addictions, Violence Against Women Act Protections (domestic violence, dating violence, sexual assault, and stalking), HIV/AIDS, or is a veteran with a disability; or
 - (viii) other target populations that are served by a federal or state housing program in need of the type and frequency of supportive services characterized herein, as represented in the Application and determined by the Department on a case-by-case basis;
- (D) Supportive services must meet the minimum requirements provided in clauses (i) - (iv) of this subparagraph:
- (i) regularly and frequently offered to all residents, primarily on-site;
 - (ii) easily accessible and offered at times that residents are able to use them;
 - (iii) must include readily available resident services or service coordination that either aid in addressing debilitating conditions, or assist residents in securing the skills, assets, and connections needed for independent living; and
 - (iv) a resident may not be required to access supportive services in order to qualify for or maintain tenancy in a rent restricted Unit that the household otherwise qualifies for; and,
- (E) Supportive Housing Developments must **PICK ONE AS APPLICABLE:** [not be financed, except for construction financing, , or a deferred-forgivable or deferred-payable construction-to-permanent Direct Loan from the Department, with any debt containing foreclosure provisions or debt that contains scheduled or periodic repayment provisions. A loan from a local government or instrumentality of local government is permissible if it is a deferred-forgivable or deferred-payable construction-to-permanent loan, with no foreclosure provisions or scheduled or periodic repayment provisions, and a maturity date after the end of the Affordability Period. For tax credit applications only, permanent foreclosable debt that contains scheduled or periodic repayment provisions (including payments subject to available cash-flow is permissible if sourced by federal funds, and otherwise structured to meet valid debt requirements for tax credit eligible basis considerations. In addition, permanent foreclosable, cash-flow debt provided by an Affiliate is permissible if originally sourced from charitable contributions or pass-through local government funds and the foreclosure provisions are triggered only by default on non-monetary default provisions. Developments meeting these requirements are not subject to 10 TAC §11.302(i)(4) & (5) (relating to Feasibility Conclusion). Any amendment to an Application or Underwriting Report resulting in the addition of debt prohibited under this definition will result in the revocation of IRS Form(s) 8609, and may not be made for Developments that have Direct Loans after a LURA is executed, except as a part of an approved Asset Management Division Work Out Development.] [be financed with debt that meets feasibility requirements under Subchapter D of Chapter 11, Part 1, Title 10 of the Texas Administrative Code without exemptions and must also be supported by project-based rental or operating subsidies for at least 25% of the Units, and meet all of the criteria in subclauses (I) - (VII) of this clause:
- (I) the Application includes documentation of how resident feedback has been incorporated into design of the proposed Development;
 - (II) the Development is located less than 1/2 mile from regularly-scheduled public transportation, including evenings and weekends;
 - (III) at least ten percent (10%) of the Units in the proposed Development meet the 2010 ADA standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 Federal Register 29671 for persons with mobility impairments;
 - (IV) multiple systems are in place for residents to provide feedback to Development staff;
 - (V) the Development will have a comprehensive written eviction prevention policy that includes an appeal process; and
 - (VI) the Development will have a comprehensive written services plan that describes the available services, identifying whether they are provided directly or through referral linkages, by whom, and in what location and during what days and hours. A copy of the services plan will be readily accessible to residents.]
- (F) Supportive housing Units included in an otherwise non-Supportive Housing Development do not meet the requirements of this definition.

ELDERLY DEVELOPMENT (10 TAC §11.1(d)(47) OF THE 2022 QAP)

This Development receives federal funding that has a requirement for a preference or limitation for elderly persons or households, but must accept qualified households with children. Throughout the Term, unless otherwise permitted by the Department in an amendment to this Declaration, this Development must operate as an Elderly Development as defined by the household definition and age restrictions imposed by the source of its federal assistance:

Elderly Preference Developments complete this section and delete the section below: NUMBER OF UNITS Units must contain or shall have a preference for a Household that [add elderly definition from the other fund source. Ask for a copy of the Regulatory Agreement or other document that includes the elderly definition and add the elderly definition from that Agreement and add something like the following statement as applicable: **An elderly preference development is a household that contains a household member that is disabled, or 62 years of age or older. This includes qualifying households with children.** If the Development ceases to receive federal assistance or if the restrictions of the federal assistance are changed, it must notify the Department and may be required to request an amendment to this Declaration.

Elderly Limitation Developments complete this section and delete the section above: This Development meets the requirements of the Housing for Older Persons Act ("HOPA") under the Fair Housing Act (42 U.S.C. §3601, as amended). Throughout the term, unless otherwise permitted by the Department in an amendment to this Declaration, this Development must be a Development which:

- As determined by the HUD Secretary, is specifically designed and operated to assist elderly persons as defined in and provided under any Federal, State, or local government programs; or
- Is intended for, and solely occupied by persons who are sixty-two (62) or older; or
- Is intended and operated for occupancy by at least one (1) person fifty-five (55) years of age or older per Unit, where at least eighty percent (80%) of the total housing Units are occupied by at least one (1) person who is fifty-five (55) years of age or older; and adheres to policies and procedures which demonstrate an intent by Development Owner and manager to provide housing for persons fifty-five (55) years of age or older.]

RESIDENT SUPPORTIVE SERVICES (10 TAC §11.9(c)(3)(A) AND 10 TAC §11.101(b)(7) OF THE 2022 QAP)

The Development Owner has been awarded points based on providing a combination of supportive services appropriate for the proposed residents through the Extended Use Period. The Development Owner may change, from time to time, the services offered; however, the overall points must remain the same. **No fees may be charged to the tenant for providing these services.** Services must be provided on-site or transportation to off-site services must be provided, the services should be those that directly benefit the Target Population of the Development, there must be adequate space for the intended services, and services offered should be accessible to all (e.g., exercise classes must be offered in a manner that would enable a person with a disability to participate). Services are intended to be provided by a qualified and reputable provider in the specified industry such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider. Unless otherwise noted, courses and services must be offered by an onsite instructor(s). Tenants must be provided written notice of the resident services elections made by the Development Owner. Owner must provide at a minimum total points worth of services ([10 points for 9%], [13 points if Application was submitted in the Nonprofit Set-Aside, see §11.9(b)(2)(C)((iii))], [8 points for 4%]) from the following list (the same service may not be used for more than one (1) scoring item):

(i) Transportation Supportive Services include:

- Shuttle, at least three (3) days a week, to a grocery store and pharmacy or a major, big-box retailer that includes a grocery store and pharmacy, OR a daily shuttle, during the school year, to and from nearby schools not served by a school bus system for children who live at the Development (3.5 points); and
- Monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point).

(ii) Children Supportive Services include:

- [INSTRUCTIONS: DELETE THIS OPTION IF NOT CHOSEN AT INITIAL APPLICATION.] Provide a High Quality Pre-Kindergarten (HQ Pre-K) program and associated educational space at the Development Site meeting the requirements of §11.101(b)(5)(C)(i)(I) (INSTRUCTIONS: Point value should be updated to half of the Development's required point value for Resident Services if selected at initial application: 4 – 5 points); and
- Twelve (12) hours of weekly, organized, on-site services provided to K-12 children by a dedicated service coordinator or third-party entity. Services include after-school and summer care and tutoring, recreational activities, character building programs, mentee opportunities, test preparation, and similar activities that promote the betterment and growth of children and young adults (3.5 points).

(iii) Adult Supportive Services include:

- Four (4) hours of weekly, organized, on-site classes provided to an adult audience by persons skilled or trained in the subject matter being presented, such as English as a second language classes, computer training, financial literacy courses, health education courses, certification courses, GED preparation classes, resume and interview preparatory classes, general presentations about community services and resources, and any other course, class, or presentation that may equip residents with new skills that they may wish to develop (3.5 points);
- 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) that also emphasizes how to claim the Earned Income Tax Credit (1 point);
- Contracted career training and placement partnerships with local worksource offices, culinary programs, or vocational counseling services; may include 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); and
- External partnerships for provision of weekly substance abuse meetings at the Development Site (1 point).

(iv) Health Supportive Services include:

- 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 resident. While it is possible that transportation may be

provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank (2 points);

- Annual health fair provided by a health care professional (1 point);
- Weekly exercise classes (offered at times when most residents would be likely to attend) (2 points); and
- 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).

(v) Community Supportive Services include:

- Partnership with local law enforcement or local first responders 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.) (2 points);
- Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);
- Twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes) (1 point);
- Twice monthly on-site social events (i.e., potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.) (1 point);
- Specific service coordination services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (3 points);
- 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);
- 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);
- A part-time resident services coordinator with a dedicated office space at the Development or a contract with a third-party to provide the equivalent of fifteen (15) hours or more of weekly resident supportive services at the Development (2 points); and
- Provision, by either the Development Owner or a community partner, of an education tuition- or savings-match program or scholarships to residents who may attend college (2 points).

[INSTRUCTIONS: DELETE THE BELOW PROVISION IF THE DEVELOPMENT ONLY RECEIVED 10 POINTS AND DID NOT ELECT TO PROVIDE OUTREACH AND EDUCATION SERVICES]

RESIDENT SERVICES – OUTREACH & EDUCATION (10 TAC§11.9(c)(3)(B) OF THE 2022 QAP)

The Development Owner will contact local nonprofit and governmental providers of services that would support the health and well-being of the Department's residents, and will make the Development community space available to them on a regularly-scheduled basis to provide outreach services and education to the tenants. The Development Owner may contact service providers on the Department list or contact other providers that serve the general area in which the Development is located.

[INSTRUCTIONS: DELETE THE FOLLOWING SECTION IF 4% BOND DEAL:]

TENANT POPULATIONS WITH SPECIAL HOUSING NEEDS (10 TAC§11.9(c)(6) OF THE 2022 QAP)

At least five percent (5%) of Units must be initially set aside for households where one (1) individual meets the definition of "Persons with Special Needs". "Persons with Special Needs may not be the same Units participating in the Section 811 Project Rental Assistance program and include all of the following:

- a "person with disability," as defined in 24 CFR §5.403; or
- has alcohol or drug addictions; or
- is a Colonia resident; or
- is a victim of domestic violence, dating violence, sexual assault, or stalking (as defined by the Violence Against Women Reauthorization Act of 2013 (42 U.S.C. §13925 et seq.)); or
- has HIV/AIDS; or
- is homeless; or
- is a veteran; or
- is a farmworker.
- The Development must have an initial minimum twelve (12)-month period during which Units must either be occupied by Persons with Special Needs or held vacant unless the Unit receives HOME funds from any source. The twelve (12)-month period will begin on the date each building receives its certificate of occupancy. For buildings that do not receive a certificate of occupancy, the twelve (12) month period will begin on the placed in service date as provided in the Post Award Activities Manual. After the twelve (12)-month period, the Development Owner will no longer be required to hold Units vacant for Persons with Special Needs, but will be required to continue to specifically market Units to Persons with Special Needs throughout the Compliance Period, unless specifically allowed otherwise by the Department in writing
- The Development must commit at least an additional 2% of the total Units to Persons referred from the Continuum of Care or local

homeless services providers for persons experiencing homelessness. The Department requires an initial **[six (6)][twelve (12)]**-month period (beginning on the same date as defined in the preceding section) during which Units must either be occupied by households referred from the Continuum of Care or local homeless services providers or held vacant, unless the Unit receives HOME funds from any source. Rejection of an applicant's tenancy for those referred may not be for reasons of credit history or prior rental payment history. The Development Owner is required to continue to provide quarterly notifications throughout the Compliance Period regarding available Units at the Development to the Continuum of Care and other homeless service providers local to the Development, unless specifically otherwise allowed by the Department in writing (1 point);

INSTRUCTIONS: DELETE THE FOLLOWING SECTION IF Points not chosen for C:] [

- At Application, the Development is located in a county with a population of 1 million or more, but less than 4 million, and is located not more than two miles from a veteran's hospital, veteran's affairs medical center, or veteran's affairs health care center, (which include all providers listed under the Veteran's Health Administration categories, excluding Benefits Administration offices, listed at this link https://www.va.gov/directory/guide/fac_list_by_state.cfm?State=TX&dnum=ALL) and the Development Owner agrees to provide a preference for leasing units in the Development to low income veterans (1 point).]

VETERAN IDENTIFICATION IN TENANT APPLICATIONS (SECTION 434.214, TX GOV'T CODE)

The tenant applications must provide a space for applicants to indicate if they are a veteran. In addition, the application must include the following statement: "Important Information for Former Military Services Members. Women and men who served in any branch of the United States Armed Forces, including Air Force, Army, Navy, Marines, Coast Guard, Reserves or National Guard, may be eligible for additional benefits and services. For more information please visit the Texas Veterans Portal at <https://veterans.portal.texas.gov/>."

[: DEVELOPMENTS IN FLOOD PLAINS (10 TAC §11.302(c)(2)(B) OF THE 2022 QAP)

Development Owner will maintain flood insurance for the buildings within the 100-year floodplain.]

ADDENDUM C TO DECLARATION – ADDITIONAL USE RESTRICTIONS – ACCESSIBILITY REQUIREMENTS

ACCESSIBILITY

The Development will comply with the accessibility requirements under Federal law, and as further defined in Title 10, Part 1, Chapter 1, Subchapter B of the Texas Administrative Code (§§2306.6722; 2306.6730).

ACCESSIBILITY REQUIREMENTS:

A minimum of ~~five percent (5%)~~ **ten percent (10%)** of the total dwelling Units (always rounded up if not a whole number) or at least one (1) Unit, whichever is greater, shall be made accessible for persons with mobility impairments. A Unit that is on an accessible route and is adaptable and otherwise compliant with 2010 ADA Standards for Accessible Design with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" *Federal Register* (79 FR 29671), meets this requirement. Accessible Units must, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the Development and site and shall be made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. An additional 2% of the total dwelling Units, or at least one (1) Unit, whichever is greater, shall be accessible for persons with hearing or vision impairments. The following Units are fully accessible in accordance with the 2010 ADA standards with the exceptions listed in 79 FR 29671:

Mobility Accessible: **[REDACTED]**

Hearing and Visual Impairment Accessible: **[REDACTED]**

Regardless of building type, all Units accessed by the ground floor or by elevator (the "affected units") (with the exception of buildings occupied for residential use on or before March 13, 1991, unless Units are newly constructed and are replacing demolished or uninhabitable Units), must comply with the visitability requirements below and design specifications for each item must comply with the standards of the Fair Housing Act Design Manual:

- (i) All common use facilities must be in compliance with the Fair Housing Design Act Manual;
- (ii) To the extent required by the Fair Housing Design Act Manual, there must be an accessible or exempt route from common use facilities to the affected Units; and
- (iii) Each affected Unit must include the features in (I) – (V) below:
 - (I) at least one zero-step, accessible entrance;
 - (II) at least one bathroom or half-bath with toilet and sink on the entry level. The layout of this bathroom or half-bath must comply with one of the specifications set forth in the Fair Housing Act Design Manual;
 - (III) the bathroom or half-bath must have the appropriate blocking relative to the toilet for the later installation of a grab bar, if ever requested by the tenant of that Unit;
 - (IV) there must be an accessible route from the entrance to the bathroom or half-bath and the entrance and bathroom must provide usable width; and
 - (V) light switches, electrical outlets, and thermostats on the entry level must be at accessible heights.

ADDENDUM D TO DECLARATION – ADDITIONAL USE RESTRICTIONS – AMENITY REQUIREMENTS

All of the following amenities must be compliant with state and federal laws, including but not limited to, fair housing laws, including Chapter 301 of the Texas Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. §3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. §2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, the Code Requirements for Housing Accessibility 2000 (or as amended from time to time) produced by the International Code Council and the Texas Accessibility Standards (Sections 2306.257 and 2306.6705(7) of the Act). In addition, Pursuant to Sections 2306.6722 and 2306.6730 of the Act, any Development supported with a Housing Tax Credit allocation shall comply with the accessibility standards that are required under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), and specified under 24 CFR Part 8, Subpart C and as further described in Title 10, Part 1, Chapter 1, Subchapter B of the Texas Administrative Code. At the time of cost certification, the owner will provide a certification from the Development engineer or architect that the above stipulations have been sufficiently met as required in the 2022 QAP.

THRESHOLD CRITERIA:

The owner has represented that the following amenities will be present at the property through the Extended Use Period. **No rent or fees may be charged for any of the amenities marked below throughout the Extended Use Period.** The amenities selected must be made available for the benefit of all residents and tenants must be provided written notice of the applicable required amenities for the Development.

MANDATORY DEVELOPMENT AMENITIES (10 TAC §11.101(B)(4) OF THE 2022 QAP)

Required of all developments unless expressly identified as not required

- All Bedrooms, the dining room and living room in Units must be wired with current cabling technology for data and phone(not required for Rehabilitation Developments);
- Laundry Connections (not required for Rehabilitation Developments or Supportive Housing);
- Exhaust/vent fans (vented to the outside) in bathrooms (not required for Rehabilitation Developments);
- Screens on all operable windows;
- Disposal and Energy-Star or equivalently rated dishwasher (not required for USDA Developments or Supportive Housing; Rehabilitation Developments exempt from dishwasher if one was not originally in the Unit);
- Energy-Star or equivalently rated Refrigerator (not required for Supportive Housing);
- Oven/Range (not required for Supportive Housing);
- Blinds or window coverings for all windows;
- At least one (1) Energy-Star or equivalently rated ceiling fan per Unit (not required for Supportive Housing);
- Energy-Star or equivalently rated lighting in all Units;
- All areas of the Unit (excluding exterior storage space on an outdoor patio/balcony) must have heating and air-conditioning;
- Adequate parking spaces consistent with local code (not required for Supportive Housing); if no local code, 1.5 spaces per Unit for non-Elderly Developments; 1 space per Unit for Elderly Developments. The minimum number of required spaces must be available to the tenants at no cost. If parking requirements under local code rely on car sharing or similar arrangements, the Owner must provide such services at no cost to the tenants throughout its term;
- Energy-Star or equivalently rated windows (for Rehabilitation Developments, only if windows are planned to be replaced as part of the scope of work); and
- Adequate accessible parking spaces consistent with the requirements of the 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 FR 29671, the Texas Accessibility Standards, and if covered by the Fair Housing Act, HUD's Fair Housing Act Design Manual.

SELECTION CRITERIA:

COMMON AMENITIES (10 TAC §11.101(B)(5) OF THE 2022 QAP)

Owner must provide a minimum of **[4][7][10][14][18][22]** total points worth of common amenities based on the size of the Development. The Development Owner may change, from time to time, the amenities offered; however, the overall points must remain the same. No rent or fees may be charged for any of the amenities selected below throughout the Extended Use Period. The amenities selected must be made available for the benefit of all residents, must be made available throughout normal business hours, must meet accessibility standards (including those adopted by the Department) and spaces for activities must be reasonably adequate based on Development size. Non-contiguous, scattered site housing (excluding non-contiguous single family sites) will have the test applied based on the number of Units per individual site and the amenities selected must be distributed proportionately across all sites. For a Development composed of non-contiguous single family sites, the Owner must provide a combination of unit and common amenities to equal the appropriate points specified under 10 TAC §11.101(B)(5) of the 2022 QAP for the Development size. In the case of additional phases of a Development, any amenities that are anticipated to be shared with the first phase development cannot be claimed for purposes of meeting this requirement for the second phase. The second phase must include enough points to meet this requirement that are provided on the Development Site, regardless of resident access to the amenity in another phase. All amenities must be available to all Units via an accessible route. Amenity items can be counted towards total point values only once and combined functions will only qualify for points under one category. Residents must be provided written notice of the Development Owner's elected amenities.

[INSTRUCTIONS: Delete this highlighted section entirely if not elected at initial application; if using this section, update numerical order of item topics below (e.g., Community Space for Resident Supportive Services becomes (ii), etc.):] (i) Community Space for Resident Supportive Services – High Quality Pre-Kindergarten (HQ Pre-K)

(I) Except in cases where more than 10% of Units in the Development are Supportive Housing SRO Units, Developments may receive half of points required under Common Amenities (§11.101(b)(5)(A)(i)-(vi)) by electing to provide a High Quality Pre-Kindergarten program and associated educational space at the Development Site (**INSTRUCTIONS: Points should be updated to reflect half of the minimum number of points required based on the number of units if the HQ Pre-K section applies): 2 – 11 points**). To qualify, all items below must be provided:

(a) Space & Design. The educational space for the HQ Pre-K must:

- Be provided on the Development site.
- Be a suitable and appropriately designed space for educating children that an independent school district or open-enrollment charter school can utilize to establish and operate a HQ Pre-K program.
- Include at a minimum a bathroom & large closet in the classroom space.
- Include appropriate design considerations made for the safety & security of the students, including limited and secure ingress and egress to the classroom space and satisfaction of the requirements of all applicable building code for school facilities.

(b) Educational Provider. The Owner must enter into an initial agreement as described below and provide evidence of initial and annual renewals to the Department upon request:

- The agreement must be between the Owner and one of the following: a) a school district, b) an open-enrollment charter school, c) an Education Service Center. Private schools and private childcare providers, whether nonprofit or for profit, are not eligible parties unless the private school or childcare provider has entered into a partnership with a school district or open-enrollment charter school to provide a HQ Pre-K program in accordance with Texas Education Code Chapter 29, Subchapter E-1.
- The agreement must reflect that the educational provider will provide an HQ Pre-K program at the Development at no cost to residents of the proposed Development and that is available for general public use, meaning students other than those residing at the Development may attend.
- The agreement must reflect a provision that the option to operate the HQ Pre-K program in the space at the Development Site will continue to be made available to the school or provider until such time as the school or provider wishes to withdraw from the location. This provision will not limit the Owner's right to terminate the agreement for good cause.
- The agreement must set forth the responsibility of each party regarding payment of costs to use the space, utility charges, insurance costs, damage to the space or any other part of the Development, and any other costs that may arise as the result of the operation of the HQ Pre-K program.
- The agreement must include provision for annual renewal, unless the education provider becomes defunct, the Owner terminates the agreement for good cause, or the educational provider elects to withdraw from the agreement and provision of services at the location.

- In the event an educational provider becomes defunct or elects to withdraw from the agreement and provision of services, the Owner terminates the agreement for good cause, or the educational provider elects to withdraw from the agreement, the Owner must notify the Texas Commissioner of Education at least 30 days prior to ending the agreement to seek out any other eligible parties under (10 TAC §11.101(b)(5)(C)(i)(I)(b)). If another interested open-enrollment charter school or school district is identified by the Texas Commissioner of Education or the Owner, the Owner must enter into a subsequent agreement with the interested party and continue to offer HQ Pre-K services. If another interested provider cannot be identified, and the withdrawing provider certifies to the Department that their reason for ending to agreement is not due to actions of the Owner, the Owner will not be considered to be in violation of its commitment to the Department. If the Owner is not able to find a provider, they must notify the Commissioner annually of the availability of the space.

(II) Community Space for Resident Supportive Services – Multifunctional learning and care center(s) or conference room(s) & Service provider office

- Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for children and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal fifteen (15) square feet times the total number of Units, but need not exceed two thousand (2,000) square feet in total. It must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets or cabinetry (4 points).
- Multifunctional learning and care center(s) or conference room(s) with the appropriate furnishings to deliver the Resident Supportive Services pertaining to classes or care for adults and selected by the Development Owner. The room(s) devoted to meeting this requirement must equal ten (10) square feet times the total number of Units, but need not exceed one thousand (1,000) square feet in total. It must be separate from any other community space but may include a full kitchen. The room(s) must include storage space, such as closets or cabinetry (2 points).
- Service provider in addition to leasing offices (1 point).

(III) Safety amenities include:

- Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (1 point).
- Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point).
- Twenty-four (24) hour, seven (7) days a week monitored camera/security system in each building. Monitoring may be on-site or off-site (2 points).
- Twenty-four (24) hour, seven (7) days a week recorded camera/security system in each building (1 point).
- The provision of a courtesy patrol service that, at a minimum, answers after-hour resident phone calls regarding noise and crime concerns or apartment rules violations and that can dispatch to the apartment community a courtesy patrol officer in a timely manner (3 points).

(IV) Health / Fitness / Play amenities include:

- Accessible walking/jogging path, equivalent to the perimeter of the Development or a length that reasonably achieves the same result, separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point).
- Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every forty (40) Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, 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 and allow for after-hours access (1 point).
- Furnished fitness center. Equipped with a variety of fitness equipment (at least one item for every twenty (20) Units). Choose from the following: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, stair-climber, dumbbell set, 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 and allow for after-hours access (2 points).
- One (1) Children's Playscape Equipped for five (5) to twelve (12) year olds, or one (1) Tot Lot. Must be covered with a shade canopy or awning intended to keep equipment cool, and provide shade and ultraviolet protection. Can only select if Two (2) Children's Playscapes (item below) is not selected (2 points).
- Two (2) Children's Playscape Equipped for five (5) to twelve (12) year olds, two (2) Tot Lots, or one of each. Must be covered with a shade canopy or awning intended to keep equipment cool, and provide shade and ultraviolet protection. Can only select if One (1) Children's Playscape (item above) is not selected (4 points);
- Horseshoe pit; putting green; shuffleboard court; pool table; or ping pong table, or similar equipment in a dedicated location accessible to all residents to play such games (1 point).
- Swimming pool (3 points).
- Splash pad/water feature play area (1 point).
- Sport Court or field (including, but not limited to, Tennis, Basketball, Volleyball, Soccer or Baseball Field) (2 points).

(V) Design / Landscaping amenities include:

- Full perimeter fencing that contains the parking areas and all amenities (excludes guest or general public parking areas) (2 points);
- Enclosed community sun porch or covered community porch/patio (1 point).
- 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).
- Shaded rooftop or structural viewing deck of at least five hundred (500) square feet (2 points).
- Porte-cochere (1 point).
- Lighted pathways along all accessible routes (1 point).
- A resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (which may be subject to local water usage restrictions) (1 point).

(VI) Community Resources amenities include:

- Gazebo or covered pavilion, or pergola with sitting area (seating must be provided) (1 point).
- Community laundry room with at least one (1) washer and dryer for every forty (40) Units (2 points).
- BBQ grill and picnic table with at least one (1) of each for every fifty (50) Units. Grill must be permanently installed (no portable grills) (1 point).
- Business center with workstations and seating internet access, one (1) printer and at least one (1) scanner which may be integrated with the printer, and either two (2) desktop computers or laptops available to check-out upon request (2 points).
- Furnished community room (2 points).
- Library with an accessible sitting area (separate from the community room) (1 point).
- Activity Room stocked with supplies (Arts & Crafts, board games, etc.) (2 points).
- Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points).
- Community Theater Room equipped with a fifty-two (52) in. or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to residents; and seating (3 points).
- High-speed Wi-Fi with advanced telecommunications capacity as determined under 47 U.S.C. 1302 or more with coverage throughout the clubhouse or community building (1 point).
- High-speed Wi-Fi with advanced telecommunications capacity as determined under 47 U.S.C. 1302 with coverage throughout the Development (2 points).
- Bicycle parking that allows for, at a minimum, one (1) bicycle for every five (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).
- Package Lockers or secure package room. Automated Package Lockers or secure package room provided at a location within the complex that can be accessed by residents 24/7 and at no charge to the resident. To qualify, there would need to be at least one (1) locker for every eight (8) residential Units (2 points).
- Recycling Service (includes providing a storage location and service for pick-up) (1 point).
- Community car vacuum station (1 point).

UNIT AND DEVELOPMENT CONSTRUCTION FEATURES (10 TAC §11.101(B)(6)(B) OF THE 2022 QAP)

The owner has represented that a combination of the following Unit, Development Construction, and Energy and Water Efficiency features will be present at the property through the Extended Use Period. Fees in addition to rent may not be charged for any of the amenities selected below throughout the Extended Use Period. Scattered site Developments must have a specific amenity located within each Unit to count for points. Developments electing Green Building Features that involve scattered sites must have green building features incorporated into each site to qualify for the point value. The following section identifies the Unit, Development Construction, and Energy and Water Efficiency features available for point election in the Qualified Allocation Plan under which the Development was awarded. The Development Owner may change, from time to time, the features offered; however, the overall points must remain the same or greater. The Owner must provide at a minimum **9|14** total points of Unit amenities from the following list and at least 2 of the total points must be provided from items selected under Energy and Water Efficiency Features:

- Covered entries (0.5 point);
- Nine foot ceilings in living room and all Bedrooms (at minimum) (1 point);
- Microwave ovens (0.5 point);
- Self-cleaning or continuous cleaning ovens (0.5 point);
- Storage room or closet, of approximately nine (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);
- Covered patios or covered balconies (0.5 point);
- Covered parking (may be garages or carports, attached or freestanding) and include at least one (1) covered space per Unit (1.5 points);
- High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);
- Built-in (recessed into the wall) shelving Unit (0.5 point);
- Thirty (30) year roof (0.5 point);

- Greater than thirty percent (30%) 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);
- 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);
- Walk-in closet in at least one (1) Bedroom (0.5 points);
- Electric Vehicle Charging Station (0.5 points);
- 48-inch upper kitchen cabinets (1 point);
- Kitchen island (0.5 points);
- Kitchen pantry with shelving (may include the washer/dryer Unit for Rehabilitation Developments only) (0.5 points);
- Natural stone or quartz countertops in kitchen and bath (1 point);
- Double vanity in at least one (1) bathroom (0.5 point);
- Hard floor surfaces in over fifty percent (50%) of Unit NRA (0.5 points);
- An Impact Isolation Class ("IIC") rating of at least fifty-five (55) and a Sound Transmission Class ("STC") rating of sixty (60) or higher in all Units, as certified by the architect or engineer of record (3 points);
- Green Building Features (Enterprise Green Communities, Leadership in Energy and Environmental Design ("LEED") Certification, 2018 International Green Construction Code, or International Code Council ("ICC") American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") – 700 National Green Building Standard Certification). For Enterprise Green Communities, the Development must incorporate all mandatory and optional items applicable to the construction type (e.g. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>. For 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). For ICC/ASHRAE – 700 National Green Building Standard, the Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain an NGBS Green Certification, regardless of the rating level achieved (i.e., Bronze, Silver, Gold, or Emerald) (4 points).

ENERGY AND WATER EFFICIENCY FEATURES (10 TAC §11.101(B)(6)(B) OF THE 2022 QAP)

- Energy-Star or equivalently rated refrigerator with icemaker (0.5 point);
- Energy-Star or equivalently rated laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);
- Recessed light-emitting diode ("LED") lighting or LED lighting fixtures in kitchen and living areas (1 point);
- Energy-Star or equivalently rated ceiling fans in all Bedrooms (0.5 points);
- U. S. Environmental Protection Agency ("EPA") WaterSense or equivalent qualified toilets in all bathrooms (0.5 points);
- EPA WaterSense or equivalent qualified showerheads and faucets in all bathrooms (0.5 points);
- 15 seasonal energy efficiency ratio ("SEER") heating, ventilation, and air conditioning ("HVAC") 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, or in Region 13, an efficient evaporative cooling system (1 point);
- 16 SEER HVAC for New Construction or Rehabilitation (1.5 points);
- A rainwater harvesting/collection system or locally approved greywater collection system (0.5 points);

ADDENDUM E TO DECLARATION – ADDITIONAL USE RESTRICTIONS –RIGHT OF FIRST REFUSAL

[Mark “Not Applicable” and delete section below if 4% bond deal]

AGREEMENT TO THE PROVISION OF RIGHT OF FIRST REFUSAL TO QUALIFIED ENTITIES

The Development Owner has agreed to provide a Right of First Refusal (“ROFR”) in accordance with §2306 of Texas Government Code and Title 10, Part 1 Chapter 10 of the Texas Administrative Code, the terms of which are further outlined below:

Development Owner agrees to the following terms to complete the ROFR process:

1. If at any time after the fifteenth year of the Compliance Period, the Development Owner determines to sell the Development, a notice of intent to sell the Development (“Notice of Intent”) must be submitted to the Department and the tenants of the Development. This Right of First Refusal Agreement will serve as evidence that the Development Owner agrees to provide to a “Qualified Entity” (as defined in Section 2306.6726(d)(2) of the Texas Government Code), a ROFR to purchase the Development at a price not less than the “Minimum Purchase Price” established under Section 42(i)(7)(B) of the Code.
2. ☐ (Only applicable if the box is checked.) The Development Owner has entered into an agreement to provide a right of first refusal to _____, a **Qualified Entity or tenant organization**. In the event that this organization is not operating when the Development Owner determines to sell the Development, the right of first refusal must be provided as otherwise directed in this Addendum E.
3. The Development Owner must provide a Notice of Intent to the Department and to such other parties as the Department may direct at that time. The Notice of Intent must be accompanied by the ROFR request documentation specified in §10.407(c). The Right of First Refusal Period (“ROFR Period”) will commence upon the Department's official posting of the Development for sale at the Minimum Purchase Price.
4. During the one-hundred eighty (180) days following the Development's commencement of the ROFR Period, the Development Owner may negotiate or enter into an agreement to sell the Development with the following parties in order of priority:
 - a. During the first sixty (60) days of the ROFR Period, only with a Qualified Entity that:
 - (i) is also approved by the Department as a community housing development organization (a “CHDO”), as defined for purposes of the federal HOME Investment Partnerships Program at 24 C.F.R. §92.2; or
 - (ii) if at the time of the ROFR offering, the authority or the corporation that owns the fee title to the Development Owner's leasehold estate is:
 - A. A public housing authority under Chapter 392 of the Local Government Code, or
 - B. A public facility corporation created by a public housing authority under Chapter 303 of the Local Government Code; or
 - (iii) controlled by an entity described by paragraphs (i) or (ii).
 - b. During the second sixty (60) days of the ROFR Period, only with a Qualified Entity that:
 - (i) is described in Section 2306.6706 of the Texas Government Code;
 - (ii) is controlled by an entity described in Section 2306.6706 of the Texas Government Code; or
 - (iii) is a tenant organization; and
 - c. During the last sixty (60) days of the ROFR Period, with any other Qualified Entity.
5. After (i) the Development Owner's submission of Notice of Intent and ROFR request documentation, (ii) the Department's posting of the Development for sale pursuant to the Right of First Refusal, and (iii) expiration of the ROFR Period, the Development Owner may negotiate or enter into an agreement to sell the Development to parties that are not prioritized under this Addendum E if:
 - a. the Development Owner did not receive any bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR Period;
 - b. a bona fide offer from a Qualified Nonprofit Organization or Qualified Entity was received at or above the posted ROFR offer price during the ROFR Period, the Development Owner accepted the offer, the Qualified Nonprofit Organization or Qualified Entity failed to close the purchase, the failure was determined to not be the fault of the Development Owner, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR Period;
 - c. a bona fide offer from a Qualified Nonprofit Organization or Qualified Entity was received at or above the posted ROFR offer price during the ROFR Period, the Qualified Nonprofit Organization or Qualified Entity was not approved by the Department during the ownership transfer review due to issues identified during the Previous Participation Review process, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR Period; or
 - d. an offer from a Qualified Nonprofit Organization or Qualified Entity was received at a price below the posted ROFR offer price during the ROFR Period, and the Development Owner received no other bona fide offers from a Qualified Nonprofit Organization or Qualified Entity during the ROFR Period at or above the posted ROFR offer price.

ADDENDUM E TO DECLARATION – ADDITIONAL USE RESTRICTIONS –RIGHT OF FIRST REFUSAL

[Mark "Not Applicable" and delete section below if 4% bond deal]

AGREEMENT TO THE PROVISION OF RIGHT OF FIRST REFUSAL TO TENANTS

The Development is single family detached homes on separate lots or is organized as condominiums under Chapter 81 or 82 of the Texas Property Code, and the Development Owner has agreed to provide a Right of First Refusal ("ROFR") in accordance with 10 TAC §11.9(e)(7)(B) of the 2022 QAP, the terms of which are further outlined below:

Development Owner agrees to offer a right of first refusal to tenants of the property to purchase the dwelling at the end of the Compliance Period. A de minimus amount of a participating tenant's rent may be attributed to the purchase of a Unit.

For Review Only

ADDENDUM F TO DECLARATION – MINIMUM APPLICABLE FRACTION BY BUILDING

BUILDING NUMBER	BUILDING IDENTIFICATION NUMBER (BIN)	MINIMUM APPLICABLE FRACTION
1.	TX-	
2.	TX-	
3.	TX-	
4.	TX-	
5.	TX-	
6.	TX-	
7.	TX-	
8.	TX-	
9.	TX-	
10.	TX-	
11.	TX-	
12.	TX-	
13.	TX-	
14.	TX-	
15.	TX-	
16.	TX-	
17.	TX-	
18.	TX-	
19.	TX-	
20.	TX-	
21.	TX-	
22.	TX-	
23.	TX-	
24.	TX-	
25.	TX-	
26.	TX-	
27.	TX-	
28.	TX-	
29.	TX-	
30.	TX-	
31.	TX-	
32.	TX-	
33.	TX-	
34.	TX-	
35.	TX-	
36.	TX-	
37.	TX-	
38.	TX-	

ADDENDUM G TO DECLARATION - HUD RIDER TO RESTRICTIVE COVENANTS

This RIDER TO RESTRICTIVE COVENANTS ("Rider") is made as of the effective date of the Restrictive Covenant, by _____, a [entity type] ("Borrower"), and the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas ("Agency").

WHEREAS, Borrower has obtained financing from _____, a [entity type] ("Lender"), for the benefit of the project known as _____ ("Project"), which loan is secured by a [name of security instrument] ("Security Instrument") dated as of _____, and recorded in the [Recorder's Office or other land records office] of _____ County, _____ ("Records") on _____ as Document Number _____, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Borrower has received an allocation of Low Income Housing Tax Credits from the Agency, which Agency is requiring certain restrictions be recorded against the Project;

WHEREAS, Borrower is entering into that certain Declaration of Land Use Restrictive Covenant/Land Use Restriction Agreement for Low-Income Housing Tax Credits ("Restrictive Covenants") with respect to the Project as more particularly described in Exhibit A To Declaration- Legal Description attached to the Restrictive Covenants, dated as of even date herewith and to be recorded in the Records;

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Restrictive Covenants be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Restrictive Covenants to the lien of the Mortgage Loan in accordance with the terms of this Rider.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

(a) In the event of any conflict between any provision contained elsewhere in the Restrictive Covenants and any provision contained in this Rider, the provision contained in this Rider shall govern and be controlling in all respects as set forth more fully herein.

(b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Borrower and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means _____, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Borrower pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act, 12 USC § 1701 *et seq.*, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the mortgage or deed of trust from Borrower in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

(c) Notwithstanding anything in the Restrictive Covenants to the contrary, except the requirements in 26 U.S.C. 42(h)(6)(E)(ii), to the extent applicable, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the "HUD Requirements"). Borrower covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or Restrictive Covenants. In the event of any conflict between the provisions of the Restrictive Covenants and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency's ability to enforce the terms of the Restrictive Covenants, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Borrower represents and warrants that to the best of Borrower's knowledge the Restrictive Covenants impose no terms or requirements that conflict with the National Housing Act and related regulations.

(d) In accordance with 26 U.S.C. 42(h)(6)(E)(i)(1), in the event of foreclosure, the Restrictive Covenants (including without limitation, any and all land use covenants and/or restrictions contained herein) shall terminate, with the exception of the requirements of 26 U.S.C. 42(h)(6)(E)(ii) above, to the extent applicable, or as otherwise approved by HUD. Upon notification from the Lender or HUD of the foreclosure, and payment of the recording fees, Agency will file a release of Restrictive Covenants.

(e) Borrower and the Agency acknowledge that Borrower's failure to comply with the covenants provided in the Restrictive Covenants does not and will not serve as a basis for default under the HUD Requirements, unless a separate default also arises under the HUD Requirements.

(f) [Except for the Agency's reporting requirement,] in enforcing the Restrictive Covenants the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available Surplus Cash, if the Borrower is a for-profit entity;
- ii. Available distributions of Surplus Cash and Residual Receipts authorized for release by HUD, if the Borrower is a limited distribution entity; [or]
- iii. Available Residual Receipts authorized for release by HUD, if the Borrower is a non-profit entity[.]; [or]
- iv. A HUD-approved collateral assignment of any HAP contract.]

(g) For so long as the Mortgage Loan is outstanding, Borrower and Agency shall not further amend the Restrictive Covenants, with the exception of clerical errors or administrative correction of nonsubstantive matters, without HUD's prior written consent.

(h) Subject to the HUD Regulatory Agreement, the Agency may require the Borrower to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Restrictive Covenants, provided, however, that Borrower's obligation to indemnify and hold the Agency harmless shall be limited to available Surplus Cash and/or Residual Receipts of the Borrower.

(i) Notwithstanding anything to the contrary contained herein, it is not the intent of any of the parties hereto to cause a recapture of the Low Income Housing Tax Credits or any portion thereof related to any potential conflicts between the HUD Requirements and the Restrictive Covenants. Borrower represents and warrants that to the best of Borrower's knowledge the HUD Requirements impose no requirements which may be inconsistent with full compliance with the Restrictive Covenants. The acknowledged purpose of the HUD Requirements is to articulate requirements imposed by HUD, consistent with its governing statutes, and the acknowledged purpose of the Restrictive Covenants is to articulate requirements imposed by Section 42 of the Code. In the event an apparent conflict between the HUD Requirements and the Restrictive Covenant arises, the parties and HUD will work in good faith to determine which federally imposed requirement is controlling. It is the primary responsibility of the Borrower, with advice of counsel, to determine that it will be able to comply with the HUD Requirements and its obligations under the Restrictive Covenants.

The statements and representations contained in this Rider and all supporting documentation thereto are true, accurate, and complete. This certification has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring a multifamily loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law,

which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

For Review Only

BORROWER:

OWNER NAME

A ENTITY TYPE

By: **NAME OF GENERAL PARTNER (OR MANAGING MEMBER)**
A ENTITY TYPE, ITS GENERAL PARTNER

[By: **NAME OF MANAGING MEMBER, [OPTIONAL]**
A ENTITY TYPE, ITS MANAGING MEMBER

By: _____
NAME: _____
TITLE: _____

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED _____, KNOWN TO ME TO BE THE _____ OF _____, A _____, [SOLE/MANAGING MEMBER] OF _____, A _____, GENERAL PARTNER (OR MANAGING MEMBER) OF _____, A _____, THE [LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY)] _____ THAT EXECUTED THE FOREGOING INSTRUMENT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THE SAME WAS THE ACT OF SAID LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY), AND THAT HE/SHE EXECUTED THE SAME AS THE ACT OF SUCH LIMITED PARTNERSHIP (OR LIMITED LIABILITY COMPANY) FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20_____.

(SEAL)

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF: _____
COUNTY OF: _____
MY COMMISSION EXPIRES: _____

AGENCY:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS,
A PUBLIC AND OFFICIAL AGENCY OF THE STATE OF TEXAS

By: _____
NAME: ROSALIO BANUELOS
TITLE: ITS DULY AUTHORIZED OFFICER OR REPRESENTATIVE

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED, ROSALIO BANUELOS, 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 SUCH AGENCY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ DAY OF _____, 20____.

(SEAL)

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC, STATE OF TEXAS
COUNTY OF TRAVIS
MY COMMISSION EXPIRES: _____



Two Carlson Parkway | Suite 400 | Plymouth, MN 55447

roerscompanies.com

LIHTC-23-01 Roers San Marcos Apartments

To whom it may concern,

Roers Companies LLC (nor any affiliate entity) will not be requesting a Real Estate Tax Exemption for the Roers San Marcos Multifamily project along S Old Bastrop Hwy.

Sincerely,

Logan Schmidt
Developer
Roers Companies
Logan.schmidt@roerscompanies.com





March 13, 2024

City Council
City of San Marcos
630 East Hopkins Street
San Marcos, Texas 78666

Re: Ad Valorem Property Tax Exemption
Roers San Marcos Multifamily Project

Ladies and Gentlemen:

We have acted as counsel for Roers Companies Project Holdings LLC, a Minnesota limited liability company (together with its affiliates, “Roers”), and its subsidiary Roers San Marcos Apartments Owner I LLC, a Minnesota limited liability company (“Owner”), with respect to Owner’s intended construction and development of a 348-unit multifamily residential rental development to be located at 2409 South Old Bastrop Highway, San Marcos, Texas 78666 (the “Project”).

This letter is to confirm that Roers and the Owner do not intend to apply for a property tax exemption pursuant to Section 394.905 of the Texas Local Government Code, or any other property tax exemption, for the Project.

On or about February 21, 2024, the Owner submitted a private activity bond allocation application to the Texas Bond Review Board (such application, the “Application”). The Application included the following questions:

- Does the [Owner] currently have exemption from ad valorem taxation?
- If not, does the [Owner] plan to seek abatement from ad valorem taxation?
- Does the [Owner] plan to attempt a partnership with an organization that is currently exempt from ad valorem taxation?

In the Application, Roers answered each above question with “No.” An excerpt of the Application showing the above-listed questions and their answers is attached hereto as Exhibit A.

Section 394.905 of the Texas Local Government Code provides that the property of a housing finance corporation is exempt, as public property used for public purposes, and the property of a housing finance corporation is exempt from all license fees, recording fees, and other taxes imposed by the State or any political subdivision of the State.

Consistent with the Application, no housing finance corporation is intended to have an equitable interest in the Project or the Owner. As such an interest is required for an ad valorem tax exemption under Section 394.905 of the Texas Local Government Code, such ad valorem tax exemption (along with any other property tax exemption) would not be available to the Project or Owner.

This letter is being provided solely for purposes of clarifying municipal approvals application materials submitted to the City of San Marcos with respect to the Project, and does not constitute a legal opinion regarding the availability of a property tax exemption pursuant to Section 394.905 of the Texas Local Government Code, or any other property tax exemption, for the Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Winthrop & Weinstein, P.A.", written in a cursive, flowing style.

WINTHROP & WEINSTINE, P.A.

EXHIBIT A

Excerpt from Application

28492527v2

Do not staple

4. DEVELOPER INFORMATION:

Developer Name & Mailing Address	Contact Name, Phone, Fax, & E-mail
Roers Companies 2 Carlson Parkway #400 Plymouth, Minnesota 55447	Logan Schmidt Phone: (608) 604-2163 Email: logan.schmidt@roerscompanies.com

5. BORROWER/USER INFORMATION:

Entity Name & Mailing Address	Contact Name, Phone, Fax, & E-mail
Roers San Marcos Apartments Owner I LLC 2 Carlson Parkway #400 Plymouth, Minnesota 55447	Logan Schmidt Phone: (608) 604-2163 Email: logan.schmidt@roerscompanies.com

Does the Borrower currently have exemption from ad valorem taxation?	No
If not, does the Borrower plan to seek abatement from ad valorem taxation?	No
Does the Borrower plan to attempt a partnership with an organization that is currently exempt from ad valorem taxation?	No

If the borrower/user is a partnership, list each person or entity in the partnership below.

NOTE: A Franchise Tax Account Status from the Comptroller of Public Accounts of Texas MUST be provided for EACH partner listed below. If a partner is identified as a to-be-formed entity, a Franchise Tax Account Status MUST be provided for the parent entity of the to-be-formed partner.

If a Limited Liability Corporation (LLC), list all members below:

Name	Contact Person & Phone
Roers San Marcos Apartments Managing Member I LLC	Logan Schmidt; (608) 604-2163

If the borrower/user is identified as a to-be-formed entity, list at least one related entity or an entity that will be a component of the borrower below.

OR, if the borrower/user has been formed, list a related entity to the borrower that may be listed as the Purchaser/Buyer on the Earnest Money Contract or Owner of the Property that will assign the Property to the borrower/user:

Name	Contact Person & Phone
Roers Acquisitions LLC	Logan Schmidt; (608) 604-2163