



## **Travis County Commissioners Court Agenda Request Travis County Housing Finance Corporation**

**Meeting Date:** December 20, 2011

**Prepared By/Phone Number:** Andrea Shields, Manager/854-9116

**Elected/Appointed Official/Dept. Head:** Leroy Nellis, Acting County Executive, Planning and Budget

**Commissioners Court Sponsor:** Samuel T. Biscoe, President

**AGENDA LANGUAGE:** Consider and take appropriate action regarding Supplemental Indenture for Multifamily Housing Revenue Bonds (The Mountain Ranch Apartments Project) Series 1998.

**BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:** See attached backup.

**STAFF RECOMMENDATIONS:** Staff recommends approval.

**ISSUES AND OPPORTUNITIES:** None.

**FISCAL IMPACT AND SOURCE OF FUNDING:** None.

**REQUIRED AUTHORIZATIONS:** Andrea Shields, Manager/854-9116;  
Leroy Nellis, Acting County Executive, Planning and Budget/854-9066

**AGENDA REQUEST DEADLINE:** All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, [Cheryl.Aker@co.travis.tx.us](mailto:Cheryl.Aker@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.



**NAMAN HOWELL  
SMITH & LEE<sup>PLLC</sup>**  
ATTORNEYS AT LAW

*MEMORANDUM*

*from*

**William C. Blount**

(512) 479-0300

Fax (512) 474-1901

*E-mail: blount@namanhowell.com*

**TO:** Board of Directors of Travis County Housing Finance Corporation

**DATE:** December 13, 2011

**RE:** Request to approve transfer of Mountain Ranch Apartments

**Agenda Date:** December 20, 2011

We have received a request to approve a Supplemental Trust Indenture for the Corporation's Multifamily Housing Revenue Bonds (The Mountain Ranch Apartments Project) Series 1998. This request is related to the transfer of the apartments which was approved on November 29.

The Supplemental Indenture adds a debt service reserve fund of \$200,000 which the purchaser of the apartments is establishing as additional collateral for the bonds. The supplemental indenture will be approved by the sole bondholder as well.

I recommend approval of the supplemental indenture.

Please give me a call if you have any questions regarding this matter before Tuesday.

**cc:** Andrea Shields, w/o attachments  
Ladd Patillo, w/o attachments

RESOLUTION AUTHORIZING A SUPPLEMENTAL INDENTURE AND APPROVING THE FORM AND SUBSTANCE OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, Travis County Housing Finance Corporation ("TCHFC") is organized pursuant to the provisions of the Texas Housing Finance Corporations Act, Chapter 394, Texas Local Government Code, as amended (the "Act");

WHEREAS, TCHFC and Bank One, Texas, N.A., entered into an Indenture dated December 1, 1998, (the "Indenture") to secure the \$9,128,000 in original aggregate principal amount of Multifamily Housing Revenue Bonds (The Mountain Ranch Apartments Project) Series 1998 (the "Bonds") the net proceeds of which were loaned to the Developer to finance the multifamily residential rental development located in Travis County, Texas, (the "Project") pursuant to a loan agreement dated as of December 1, 1998, between TCHFC and the Developer;

WHEREAS, Collier Ranch Limited Partnership (the "Current Developer") and the Post Investment Group, LLC (the "New Developer") have entered into an agreement pursuant to which the New Developer is to acquire from the Current Developer the ownership of the Project, and in furtherance thereof, the New Developer desires to assume the obligations and liabilities of the Current Developer;

WHEREAS, the New Developer desires to create and fund a debt service reserve fund under the Indenture to additionally secure the Bonds;

WHEREAS, under the terms of the Indenture, TCHFC and the Trustee may enter into supplemental indentures from time to time to, among other purposes, subject to the lien of the Indenture additional revenues, properties, and collateral, without consent of the owners of the Bonds;

WHEREAS, the Board of Directors of TCHFC has determined it to be in the best interest of the Corporation to authorize, approve and enter into the First Supplemental Indenture (the "Supplemental Indenture") presented to the Board at this meeting;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF TCHFC THAT:

Section 1. - Approval of Form of Supplemental Indenture. The form and substance of the Supplemental Indenture are hereby approved and the officers of the Corporation are each hereby authorized to execute and deliver the Supplemental Indenture

Section 2. - Execution and Delivery of Other Documents. That the officers of the Issuer are each hereby authorized to execute, attest and affix the Issuer's seal to such agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 3. - Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the officers of the Issuer are each hereby authorized to make or approve such revisions in

the form of the documents hereby approved as, in the opinion of counsel to the Issuer, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; approval of such changes by the Issuer shall be indicated by such officers' execution of the documents.

Section 4. - Incorporation of Preamble. That the recitals in the preamble of this Resolution are true, correct and complete and that each and all of such recitals and the findings therein are hereby incorporated by reference to the same extent as if set forth herein.

Section 5. - Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

**CERTIFICATION**

The above resolution, adopted by the Board of Directors of the Travis County Housing Finance Corporation at a meeting held on the 20th day of December, 2011, is hereby certified to be a true and correct copy of an official copy thereof on file among the official records of such Corporation.

WITNESS my hand and seal of office this 20th day of December, 2011.

\_\_\_\_\_  
Margaret Gomez, Secretary

## FIRST SUPPLEMENTAL INDENTURE

This FIRST SUPPLEMENTAL INDENTURE, dated as of December 1, 2011, between Travis County Housing Finance Corporation, a public nonprofit housing finance corporation organized and existing under the laws of the State of Texas (the "Issuer"), and The Bank of New York Mellon Trust Company, N.A., successor to Bank One, Texas, N.A., as trustee (the "Trustee"):

### WITNESSETH:

WHEREAS, the Issuer and Bank One, Texas, N.A., entered into an Indenture dated December 1, 1998, (the "Indenture") to secure the \$9,128,000 in original aggregate principal amount of Multifamily Housing Revenue Bonds (The Mountain Ranch Apartments Project) Series 1998 (the "Bonds") the net proceeds of which were loaned to the Developer to finance the multifamily residential rental development located in Austin, Travis County, Texas, (the "Project") pursuant to a loan agreement dated as of December 1, 1998, between the Issuer and the Developer;

WHEREAS, Collier Ranch Limited Partnership (the "Current Developer") and the Post Investment Group, LLC (the "New Developer") have entered into an agreement pursuant to which the New Developer is to acquire from the Current Developer the ownership of the Project, and in furtherance thereof, the New Developer desires to assume the obligations and liabilities of the Current Developer;

WHEREAS; the New Developer desires to create and fund a debt service reserve fund under the Indenture to additionally secure the Bonds;

WHEREAS, under the terms of the Indenture, the Issuer and the Trustee may enter into supplemental indentures from time to time to, among other purposes, subject to the lien of the Indenture additional revenues, properties, and collateral, without consent of the owners of the Bonds;

NOW, THEREFORE, in consideration of the premises and the mutual promises representations and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree to amend the Indenture as follows:

Section 1.     Establishment of Reserve Fund. In addition to the funds created under Section 6.1(a) of the Indenture, the Debt Service Reserve Fund is hereby created and established by amending Section 6.1(a) to include at the end of such subsection "; and (vi) the Debt Service Reserve Fund."

Section 2.     Debt Service Reserve Fund. In addition to the other fund provisions of Article VI of the Indenture, the Debt Service Reserve Fund provision below is hereby agreed

upon by the parties and the Indenture is amended by adding the following section at the end of Article VI:

“Section 6.13 Debt Service Reserve Fund.

(a) On the date of the closing of the acquisition of the Project, the New Developer shall deposit in the Debt Service Reserve Fund an amount equal to \$200,000.00. The amount of any withdrawal for the purpose of subsection (b) below shall be restored by the New Developer in no more than six substantially equal, consecutive, monthly installments, each payable on the last Business Day of the month, commencing with the month in which the withdrawal is made. In addition, if the fair market value of the investments in the Debt Service Reserve Fund is less than \$200,000.00 on any Interest Payment Date, the difference between \$200,000.00 and the fair market value of the Debt Service Reserve Fund shall be restored by the New Developer in no more than six equal, consecutive, monthly installments, each payable on the last Business Day of the month, commencing with the month in which the valuation revealing the deficiency is made.

(b) Money on deposit in the Debt Service Reserve Fund shall be applied as follows:

(i) On the date of each required payment from the Revenue Fund, moneys in the Debt Service Reserve Fund shall be applied to cure any deficiency in the Revenue Fund;

(ii) Upon delivery of a certificate of an Authorized Representative of the Developer delivered to the Trustee, any amount in the Debt Service Reserve Fund in excess of \$200,000.00 on any valuation date shall be (A) transferred to the Revenue Fund and credited against the payments next becoming due on the Bonds or (B) applied as may be specified in such certificate if the certificate is accompanied by an opinion of Bond Counsel to the effect that such application will not cause interest on the Bonds to be includable in gross income for federal income tax purposes.”

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all of such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Indenture to be duly executed by their respective representatives, all as of the day and year first written above.

TRAVIS COUNTY HOUSING FINANCE CORPORATION

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

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

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

ATTEST:

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

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

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

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

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

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

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



THIS DOCUMENT PREPARED BY AND  
TO BE RETURNED TO:

Cliff Blount, Esq.  
Naman Howell Smith & Lee, P.L.L.C.  
8310 N. Capital of Texas Highway, Suite 490  
Austin, Texas 78731-1081

### **ASSIGNMENT AND ASSUMPTION AGREEMENT**

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "Assumption") is made and entered into as of the \_\_\_\_ day of December, 2011, by and among **TRAVIS COUNTY HOUSING FINANCE CORPORATION** (the "Issuer"), **COLLIER RANCH LIMITED PARTNERSHIP**, a Texas limited partnership (the "Current Developer"), and **POST MOUNTAIN RANCH, LLC**, a Delaware limited liability company (the "New Developer").

#### **WITNESSETH:**

**WHEREAS**, the Issuer issued \$9,128,000 in original aggregate principal amount of Multifamily Housing Revenue Bonds (The Mountain Ranch Apartments Project) Series 1998 (the "Bonds") pursuant to a Trust Indenture, dated as of December 1, 1998 (the "Indenture"), between the Issuer and The Bank of New York Mellon Trust Company, N.A., successor to Bank One, Texas, N.A., as trustee (the "Trustee") and loaned (the "Loan") the net proceeds of the sale of the Bonds to the Current Developer, pursuant to a Loan Agreement dated as of December 1, 1998, between the Issuer and the Current Developer (the "Loan Agreement"), which net Bond proceeds were used to finance a multifamily residential rental development located in Austin, Travis County, Texas, commonly known as Mountain Ranch Apartments, on the land described on Exhibit "A" attached hereto and by this reference expressly incorporated herein (the "Project"); and

**WHEREAS**, the Current Developer entered into a Regulatory and Land Use Restriction Agreement, dated as of December 1, 1998, with the Issuer and the Trustee (the "LURA"), which imposes certain restrictive covenants upon the Project in order to abide by certain requirements of the Issuer and to preserve the tax-exempt status of the interest payable on the Bonds under Section 103 of the Internal Revenue Code of 1986, as amended; and

**WHEREAS**, to secure repayment of the Loan, the Current Developer executed a Promissory Note dated December 1, 1998, payable to the Issuer, in the original principal amount of \$9,128,000 (the "Note"), and the Current Developer executed and delivered a Deed of Trust, Security Agreement, Assignment of Rents, and Financing Statement (the "First Mortgage") dated as of December 1, 1998 as recorded in the Official Public Records of Travis County, Texas in Volume 13336, Page 808 on December 23, 1998, with respect to the Bonds; and

**WHEREAS**, the Loan Agreement, the LURA, the Note and the First Mortgage as described above, together with any other security, loan and financing documents, agreements, instruments and certificates more particularly described on Exhibit "B" attached hereto and

incorporated herein by reference which evidence, secure or otherwise relate to the Bonds or the Project are herein referred to, collectively, as the "Bond Documents"; and

**WHEREAS**, the Current Developer and the New Developer have entered into an agreement pursuant to which the New Developer is to acquire from the Current Developer the ownership of the Project, and in furtherance thereof, the New Developer desires to assume the obligations and liabilities of the Current Developer (as more fully set forth herein) under the Bond Documents; and

**WHEREAS**, the Issuer has agreed to consent to the New Developer succeeding to the Current Developer's rights and obligations under the Bond Documents and has agreed to release the Current Developer from all obligations under the Bond Documents (subject to certain indemnities with respect thereto under this Assumption), subject to the New Developer's assumption of all obligations of the Current Developer under the Bond Documents pursuant to the terms and provisions of this Assumption.

**NOW, THEREFORE**, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the promises and of the mutual covenants contained herein, the parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein.
2. **Definitions.** Any other capitalized term used in this Assumption not defined herein shall have the meaning ascribed to such term in the Bond Documents.
3. **Agreement to Transfer.** The Current Developer has agreed to transfer the Project pursuant to the terms of that certain Earnest Money Contract, dated as of October 26, 2011 (the "Purchase Agreement"), between the Current Developer and the New Developer, subject to the restrictions and limitations of the LURA, as well as the covenants, conditions, terms and obligations contained in the other Bond Documents.
4. **Assignment of Rights of Current Developer.** The Current Developer hereby grants, bargains, conveys, assigns and sets over unto the New Developer, its successors and assigns, all of the Current Developer's title, rights and benefits in, to and under the Bond Documents, without recourse, representation or warranty, express or implied, except as may be set forth in the Purchase Agreement.
5. **Assumption of Obligations and Release of Current Developer.**
  - (a) Assumption of Obligations. The New Developer does hereby accept the foregoing assignment and does hereby expressly assume and agree to assume, keep, perform and discharge when due, all covenants, obligations and liabilities of the Current Developer under the Bond Documents, including all obligations of the Current Developer under the Bond Documents prior to the date hereof, and all payments of principal, premium, if any, interest, fees (including without

limitation those payable to the Issuer and Trustee), costs and expenses, whether due or past due, and all other sums secured by or relating to the Bond Documents.

(b) Release of Current Developer. Upon the execution and delivery of this Assumption by the Issuer and the acknowledgment and consent of this Assumption by the Trustee, the Issuer and the Trustee (collectively, the "Releasing Parties"), each hereby releases the Current Developer from any and all of its obligations in favor of the Issuer and the Trustee under the Bond Documents, except for any obligations of the Current Developer relating to facts or circumstances arising prior to the date hereof under the Bond Documents or any obligations or liabilities of the Current Developer arising after the date hereof that resulted in whole or substantial part from any action or inaction of the Current Developer prior to the date hereof which constituted a breach by the Current Developer of its obligations under the Bond Documents, whether or not the effects of the damage of such acts or omissions are apparent or ascertainable on the date hereof. By execution of this Assumption or the acknowledgement and consent hereto, as the case may be, each of the Releasing Parties acknowledges that it has no pending, and to their knowledge, threatened claims against the Current Developer under the Bond Documents. By their execution of this Assumption or the acknowledgment and consent hereto, each of the Releasing Parties acknowledges and confirms that, as of the date hereof, to their respective actual knowledge (without any duty to investigate), (i) there exists no event of default under the Bond Documents, (ii) there exists no event which would give rise to an indemnification obligation by the Current Developer, (iii) there is no event that, with giving of notice, the passage of time, or both, would constitute an event of default or give rise to such an indemnification obligation, and (iv) there are no amounts past due or payable by the Current Developer to such party under any of the Bond Documents.

**6. Representations and Warranties by New Developer.** The New Developer hereby affirms, represents and warrants that:

(a) The New Developer is a limited liability company validly organized and existing and in good standing under the laws of the State of Delaware and qualified to do business in the State of Texas and has full power and authority to purchase the Project, to enter into this Assumption and to execute, deliver and perform its obligations hereunder and under the Bond Documents;

(b) The Bond Documents shall constitute valid and binding agreements, enforceable against the New Developer in accordance with their terms;

(c) The New Developer has received no notice from the Current Developer of any uncured default or event of default under the Bond Documents or that any event has occurred which, with the giving of notice, the passage of time, or both, would become a default or event of default under the Bond Documents;

(d) The execution, delivery and performance of this Assumption and the performance by the New Developer of its obligations under the Bond Documents

assumed hereby: (i) have been duly authorized on behalf of the New Developer by all necessary action; (ii) do not and will not contravene any federal, state or local law, statute, ordinance, rule or regulation, or any judgment, decree or order of any federal, state or local court of competent jurisdiction or governmental body or agency by which the New Developer or its properties and assets, including the Project, are bound; (iii) do not and will not violate or result in a default under any agreement, contract, indenture, mortgage, deed of trust, security agreement or other instrument to which the New Developer is a party or by which its properties and assets, including the Project, are bound; (iv) do not and will not result in the creation or imposition of (or the obligation to create or impose) any lien, charge, security interest or encumbrance upon any properties or assets of the New Developer, including the Project, except as set forth in the Bond Documents; and (v) do not and will not violate the New Developer's organizational documents;

(e) There are no judgments outstanding against the New Developer, and there are no actions, suits, proceedings, inquiries or investigations, at law or in equity, or before or by any court, administrative agency, department or public body or arbitration panel, pending or, to the best knowledge of the New Developer, threatened against or affecting the New Developer, or, to the best knowledge of the New Developer, its assets and properties, including, but not limited to, the Project, nor, to the best knowledge of the New Developer, is there any basis therefor, wherein an unfavorable decision, ruling or finding would, in any way, adversely affect the New Developer's ability to comply with the Bond Documents or adversely affect the operation of the Project or any part thereof, which might result in any material adverse change in the business, operations, properties, assets, liabilities or condition (financial or otherwise) of the New Developer;

(f) To the best of the New Developer's knowledge, the New Developer is not in default in any material respect under any contract, mortgage, deed of trust, lease, loan or credit agreement, limited liability company or partnership agreement or other instrument to which the New Developer is a party or, to the best knowledge of the New Developer, by which it or its properties and assets, including, but not limited to, the Project, are bound; and

(g) To the best of the New Developer's knowledge, the Project is in compliance with all applicable laws and ordinances and rules and regulations of governmental bodies and agencies thereunder, and the New Developer is in compliance with all orders and judgments of any court or governmental body or agency of competent jurisdiction affecting the existence, power and authority of the New Developer and its operation and use of the Project.

The representations and warranties made by the New Developer in this Assumption, or pursuant hereto, shall survive the execution hereof.

**7. Representations and Warranties by Current Developer.** The Current Developer hereby affirms, represents and warrants that:

(a) To the best of Current Developer's actual knowledge, there are no facts or circumstances which, with the giving of notice or passage of time, or both, would constitute a violation of or default under any of its material obligations under the Bond Documents as of the date hereof;

(b) Exhibit "B" contains a true, correct and complete list of all documents that are currently in effect between the Current Developer and the Issuer or the Trustee relating to the Project;

(c) There has been no amendment to or other modification of the Indenture or the Bond Documents, other than as described in Exhibit "B"; and

(d) The execution, delivery and performance of this Assumption by the Current Developer, the performance by the Current Developer of its obligations under this Assumption, and the sale of the Project by the Current Developer to the New Developer: (i) have been duly authorized on behalf of the Current Developer by all necessary action; (ii) do not and will not contravene any federal, state or local law, statute, ordinance, rule or regulation, or any judgment, decree or order of any federal, state or local court of competent jurisdiction or governmental body or agency by which the Current Developer or its properties and assets, including the Project, are bound; (iii) do not and will not violate or result in a default under any agreement, contract, indenture, mortgage, deed of trust, security agreement or other instrument to which the Current Developer is a party or by which its properties and assets, including the Project, are bound; (iv) do not and will not result in the creation or imposition of (or the obligation to create or impose) any lien, charge, security interest or encumbrance upon any properties or assets of the Current Developer, including the Project; and (v) do not and will not violate the Current Developer's organizational documents.

The representations and warranties made by the Current Developer in this Assumption, or pursuant hereto, shall survive the execution hereof.

**8. Maintenance of Project.** The New Developer agrees to keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected as part of the Project, in good condition and repair (normal wear and tear excepted), will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Project or any part thereof.

The New Developer agrees to operate the Project so that it conforms in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities of Act of 1990.

**9. No Novation.** It is the intent of the parties that this Assumption shall *not* constitute a novation. This Assumption is not a modification of the Bond Documents and all of the Bond Documents shall remain in full force and effect except that references in

any of said documents to "Company," "Maker," "Mortgagor," "Borrower," "Developer," or "Debtor" shall be deemed to be references to the New Developer.

10. **Payment of Fees.** The New Developer and the Current Developer hereby agree to pay all fees, costs and expenses incurred by the Issuer, the Majority Owner and the Trustee (including, but not limited to, reasonable attorneys' fees, financial advisory fees and credit underwriting fees) in connection with the preparation and delivery of this Assumption and any other documents executed simultaneously herewith.

11. **Consents of the Issuer and the Trustee.** The Issuer, and the Trustee (at the direction of the Majority Owner), hereby consent to the acquisition of the Project by the New Developer, the assignment to the New Developer of the Current Developer's rights and benefits under the Bond Documents, and the assumption by the New Developer of the Current Developer's obligations under the Bond Documents, in accordance with the terms hereof. This consent shall not constitute a waiver of or course of dealing with respect to any requirements set forth in the Bond Documents concerning the operation of the Project or subsequent transfers or mortgages of the Project.

12. **Consent of Majority Owner.** Freddie Mac, in its capacity as registered owner of 100% of the Bonds, hereby consents to the sale of the Project to the New Developer and consents to the assumption by the New Developer of all the obligations of the Current Developer under the Bond Documents. This consent shall not constitute a waiver of or course of dealing with respect to any requirements set forth in the Bond Documents concerning the operation of the Project or subsequent transfers or mortgages of the Project.

13. **Severability.** If any provision of this Assumption shall be held to be invalid, illegal or unenforceable, such provision shall be deemed to be omitted from this Assumption and the validity, legality and enforceability of the remaining portions hereof shall in no way be affected or impaired by such holding, but such holding shall affect the validity, legality or unenforceability of such provision under other, dissimilar facts or circumstances.

14. **Notices.** Any notices to be given to the Current Developer may be given to the New Developer at the following address:

To the New Developer:           Post Investment Group, LLC  
8205 Santa Monica Blvd., Suite #1-298  
Los Angeles, CA 90046  
Attention: Jason Post  
Telephone: (310) 625-9292  
Facsimile: (310) 861-8983

With a copy to:                   Claudia L. Crocker  
2301 S. Capital of Texas Highway, Building J-120  
Austin, Texas 78746

Telephone: (512) 327-4222  
Facsimile: (512) 327-8846

To the Current Developer: Collier Ranch Limited Partnership  
c/o The Related Companies, L.P.  
60 Columbus Circle, 20th Floor  
New York, New York 10023-5800  
Attention: Stephen Young  
Telephone: (212) 801-1006  
Facsimile: (212) 801-1062

With a copy to: Locke Lord LLP  
2200 Ross Avenue, Suite 2200  
Dallas, TX 75201  
Attention: Michael Petersilia, Esq.  
Telephone: (214) 740-8690  
Facsimile: (214) 756-8690

**15. Miscellaneous.**

(a) Paragraph headings used herein are for convenience only and shall not be construed as controlling the scope of any provision hereof.

(b) This Assumption shall be governed by and construed in accordance with the laws of the State of Texas.

(c) As used herein, the neuter gender shall include the masculine and feminine genders, and vice versa, and the singular shall include the plural, and vice versa, as the context demands.

(d) This Assumption shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns; provided, however, nothing contained herein shall authorize the New Developer to assign its interest in the Project or the Bond Documents except in strict accordance with the provisions of the Bond Documents.

(e) Except as expressly modified herein, the Bond Documents shall remain in full force and effect.

**16. Multiple Counterparts.** This Assumption may be executed in one or more counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

**17. Acknowledgement of Remedies.** New Developer consents and agrees that the Trustee for the benefit of the Majority Owner, or its successors or assigns, shall

be entitled to exercise any remedy against it or to take any action with respect to the Project as set forth in the Bond Documents as if the New Developer were the developer or borrower therein, regardless of the capacity or designation utilized to refer to the developer or borrower therein, for any breaches or defaults under the Bond Documents on or after the date hereof.

18. **Indemnification.** New Developer agrees to indemnify and hold the Issuer, Trustee and Majority Owner, and their respective members, directors, agents and employees harmless from and against all actions, costs, damages, expenses, liabilities or losses of any kind (including reasonable attorneys' fees incurred in connection with the investigation, settlement, litigation or appeal or otherwise incurred in connection therewith) suffered by the Issuer, Trustee or Majority Owner, or their respective members, directors, agents or employees, as a result of any claim or threatened claim made by any third party resulting from New Developer's execution of this Assumption or its purchase and ownership of the Project from Current Developer.

[Remainder of page intentionally left blank]



**IN WITNESS WHEREOF**, the Issuer has caused this Assumption to be signed in its name by its President; the Current Developer has caused this Assumption to be signed in its name by one of its authorized officers; and the New Developer has caused this Assumption to be signed in its name by one of its authorized officers, all as of the time, day and year first above written.

“ISSUER”

TRAVIS COUNTY HOUSING FINANCE CORPORATION

By: \_\_\_\_\_  
Name: Samuel T. Biscoe  
Title: President

STATE OF TEXAS            )  
                                          )SS:  
COUNTY OF TRAVIS        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Samuel T. Biscoe, President of the Travis County Housing Finance Corporation, and a public nonprofit housing finance corporation existing under the laws of the State of Texas on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Texas  
My commission expires \_\_\_\_\_

(seal)

*[Signature continued on the following page]*

“NEW DEVELOPER”

POST MOUNTAIN RANCH, LLC, a  
Delaware limited liability company

By: Post Mountain Ranch MM, LLC,  
its Managing Member

By: \_\_\_\_\_  
Jason Post, Manager

STATE OF CALIFORNIA     )  
                                          ) SS:  
COUNTY OF LOS ANGELES )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Jason Post, the Manager of POST MOUNTAIN RANCH MM, LLC, a Delaware limited liability company, the Managing Member of Post Mountain Ranch, LLC, a Delaware limited liability company, on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

(seal)

*[Signatures continued on the following page]*

“CURRENT DEVELOPER”

COLLIER RANCH LIMITED PARTNERSHIP,  
a Texas limited partnership

By: COLLIER RANCH GP, LLC, a Texas  
limited liability company, its general partner

By: \_\_\_\_\_  
Name: Stephen F. Young  
Title: Vice President

STATE OF NEW YORK    )  
                                  )SS:  
COUNTY OF NEW YORK )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Stephen F. Young, who is Vice President of COLLIER RANCH GP, LLC, a Texas limited liability company, the general partner of COLLIER RANCH LIMITED PARTNERSHIP, a Texas limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public, State of New York  
My commission expires \_\_\_\_\_

(seal)

*[Signatures continued on the following page]*

ACKNOWLEDGEMENT AND CONSENT OF TRUSTEE

The undersigned hereby acknowledges the execution and delivery of the Assignment and Assumption Agreement dated as of the \_\_\_ day of \_\_\_\_\_, 2011, by and among the Issuer, the Current Developer and the New Developer, and, at the direction of the Majority Owner, does hereby consent to the execution and delivery thereof and the transfer of the ownership of the Project to the New Developer.

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TEXAS            )  
                                          )SS:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_, as Vice President of THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association, on behalf of said association.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My commission expires \_\_\_\_\_

(seal)



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**EXHIBIT "B"**

**BOND DOCUMENTS**

(as defined in the body of the Assumption, unless otherwise defined below)

1. LURA
2. Loan Agreement
3. Note
4. First Mortgage
5. Assignment of Leases, Rents and Other Income dated as of December 1, 1998 from the Current Developer to the Trustee
6. Environmental Indemnity Agreement dated as of December 1, 1998 among Current Developer and others for the benefit of the Trustee