



NAMAN HOWELL  
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ATTORNEYS AT LAW

MEMORANDUM

from

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**TO:** Travis County Judge and County Commissioners  
Board of Directors of  
Travis County Housing Finance Corporation

**DATE:** February 13, 2013

**RE:** Consideration of request to provide loans for developers of multifamily residential tax credit properties in the 2013 9% tax credit round

**Agenda Date:** February 19, 2013

Several developers have contacted the housing finance corporation staff regarding the possibility of the corporation and/or Travis County providing loans to the developers in order to assist the developers with obtaining additional points in the very competitive tax credit application process administered by TDHCA.

### 9% Tax Credit System

The 9% tax credit program is a Federal government program available to developers of affordable housing in their efforts to provide housing to low income residents. Essentially, a developer is awarded tax credits which it can then sell (or syndicate) in exchange for equity contributions which provide a portion of the funds to acquire and construct the project. In Texas, TDHCA administers the program and publishes a Qualified Allocation Plan (“QAP”) to set forth the rules on which it will base its awarding of 9% tax credits in Texas. The process is quite competitive and this year, the region which includes Travis County is expected to generate 18 applications with only 2 applications expected to be awarded tax credits (3 is possible but not likely). TDHCA’s plan sets out the standards which it will apply to award applicants points for various aspects of their project, such as sponsor characteristics, low-income set asides, tenant services, proximity to schools, community support, etc. The full QAP is online at <http://www.tdhca.state.tx.us/multifamily/htc/docs/13-QAP.pdf>.

A revised criteria for obtaining points this year is the provision of development funding by

a unit of general local government. Essentially, an applicant may gain a relatively large number of points by obtaining local support in the form of a development loan from the local government. For a proposed project in the county but outside of any city limits, that support can come from an entity such as TCHFC. For a project inside of a city, that support can come from the city or the county government.

### Developer Proposal

The developer proposal is for the developer to pledge a certificate of deposit or similar cash collateral to the governmental entity (the County or TCHFC) providing the loan, therefore there would be no risk to TCHFC or the County of nonpayment. The loan would be for a stated term of 5 years, however, these loans are generally repaid within 30 to 180 days of the developer closing on its funding and it is not anticipated that the loan would be outstanding for longer than 180 days. It is anticipated that the developer would pay an application fee, pay for all costs (legal, etc.) of documenting the loan and pay an origination fee in order to obtain the loan.

Tax Credit applications from the developers are due to TDHCA on March 1. The developers at this point would only need a letter stating that the developer has applied for funding. However, the staff does not want to provide the confirmation letter if the loan program is something that neither the Commissioners Court nor the Board of TCHFC desire to establish. The actual loan transaction would occur in August. The loans would only be made to developers who received allocation from TDHCA so, while TCHFC has received 3 inquiries from developers, there will not be 3 loans made.

cc: Karen Thigpen  
Andrea Shields  
John Hille



<b><u>Project Name</u></b>	<b><u>Address</u></b>	<b><u>City</u></b>	<b><u>Population Served</u></b>	<b><u># of Units</u></b>	<b><u>Unit Types</u></b>	<b><u>% of AMI</u></b>	<b><u>Approximate Loan Amount</u></b>
Windy Ridge Apartment Homes	10910 Ranch Rd 620	Austin (Unincorp)	Family/Vets	120	1, 2, 3BR	30, 50 & 60%	\$1,800,000
Cottages at Wildhorse Creek	11725 Murchison St	Manor	Family	80	1, 2, 3BR	30, 50 & 60%	\$66,000
The Hills of Pflugerville	Colorado Sands Dr	Pflugerville	Seniors	117	1, 2 BR	30, 50 & 60%	\$425,000

PROMISSORY NOTE

\$xxx



2013




FOR VALUE RECEIVED, Travis County Housing Finance Corporation ("*Maker*"), promises to pay to the order of  ("*Payee*"), at , or such other address as Payee may from time to time designate, the sum of xxxxxxxx DOLLARS (\$XXX) in legal and lawful money of the United States of America, together with interest thereon from date hereof at the rates describe below. Interest shall be computed on the basis of a 365 day year.

The interest rate due under this promissory note (the "*Note*") shall be equal to the lesser of (i) the Applicable Federal Rate or (ii) the Maximum Lawful Rate. The Applicable Federal Rate shall be determined on the date hereof. After maturity (whether by demand, acceleration or otherwise) until paid, interest shall accrue on the matured principal and accrued, but unpaid, interest at an annual rate equal to the Maximum Lawful Rate. Interest shall be computed on the basis of a 365 day year.


The term "Applicable Federal Rate," means the interest rate as provided by the Internal Revenue Service in Revenue Ruling 2012-20 that is effective as of the date hereof. The Applicable Federal Rate as of the date hereof is 0.24% per annum.

The term "Maximum Lawful Rate," means the greater of (i) the highest rate permitted by applicable Texas or United States law, or (ii) an annual rate equal to the weekly ceiling determined in accordance with the computation specified in the Texas Finance Code, as amended, as such weekly ceiling is in effect from time to time, but in no event greater than eighteen (18%) percent annually. Unless precluded by law, changes in the Maximum Lawful Rate created by statute or governmental action during the term of this Note shall be immediately applicable to this note on the effective date of such changes.

This promissory note (the "*Note*") is due and payable as follows, to-wit:

All principal and interest thereon shall begin to accrue on the Funding Date (as defined in that certain Term Loan Agreement between Maker and Payee dated as of ) and shall be due and payable upon the Maturity Date defined in that certain Term Loan Note as of  from  to Maker.

Payment of this Note is secured by, and the holder of this Note is entitled to the benefits of, all deeds of trust, mortgages, security agreements, assignments, lien instruments, guaranties, endorsements, or other agreements (the "*Collateral Agreements*") executed or created by any person or entity (including but not limited to Maker) to secure payment of this Note. Without limiting the foregoing, the Collateral Agreements include:

An Assignment and Pledge Agreement executed of even date herewith by Maker and  in favor of Lender.

If default occurs in the payment of any principal or interest when due hereunder, or upon the occurrence of any default or failure to perform any covenant, agreement or obligation to be performed under any Collateral Agreements, or upon Maker's insolvency or business failure, the appointment of a receiver of all or any part of Maker's property, an assignment for the benefit of creditors of Maker, a calling of a meeting of creditors of Maker, the commencement of any proceeding under any bankruptcy, insolvency or debtor relief laws by or against Maker or any guarantor or surety for Maker, the holder hereof may, at its option, declare the entirety of this Note, principal and interest, immediately due and payable, and pursue any and all other remedies available to it at law or in equity, but failure to do so at any time shall not constitute a waiver of such holder's right to do so at any other time. Failure to exercise this option upon any default shall not constitute a waiver of the right to exercise it in the event of any subsequent defaults.

Upon default in the payment of this Note or upon default in the performance of or compliance with any of the terms of any of the Collateral Agreements, and after any notice and grace required by this Note, at the option of Payee, the unpaid balance of this Note shall be matured, and if Maker defaults in the prompt payment of this Note when due or declared due, and this Note is placed in the hands of an attorney for collection, or suit is brought on the Note, or the Note is collected through probate, bankruptcy or other judicial proceedings, then Maker, jointly and severally if more than one, agrees and promises to pay all reasonable attorney's fees, court costs and collection expenses incurred by Payee.

If at any time and from time to time Payee is prevented from collecting the rate of interest and the fees specified in this Note by applicable law or governmental regulation, Payee shall be entitled to recoup the amount it would have otherwise been able to collect (the "*Recoupment Amount*") during such period when the recoupment will not violate applicable law or regulation (the "*Recoupment Period*"). During each Recoupment Period, Maker shall continue to pay the Maximum Lawful Rate until there has been paid under this Note, in addition to the interest at the applicable rate specified herein during such Recoupment Period, an amount equal to the Recoupment Amount. Interest collected by Payee during each Recoupment Period shall first be applied to payment of current interest due at the applicable rate specified in this Note and any remaining interest collected shall be applied to the Recoupment Amount. When Payee has recouped all of the Recoupment Amount, the interest rate payable by Maker shall revert to the applicable rate specified in this Note. In no event, however, shall the interest rate charged hereunder ever exceed the Maximum Lawful Rate and in the event of any prepayment of this Note, only that portion of the Recoupment Amount which has been earned through the date of prepayment shall be payable.

Upon default in the payment of this Note or in the performance of any obligation contained in any Collateral Agreements, and after any notice and grace required by this Note, this Note and all obligations contained in any Collateral Agreements shall become immediately due at the election of Payee. Maker and each surety, endorser, guarantor and any other party liable for payment of this Note, in whole or in part, hereby severally: (i) waive demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration, dishonor, and all other waivable notices, and diligence in collecting this Note or enforcing any of the Collateral Agreements; (ii) agree to any substitution, subordination, exchange or release of any party primarily or secondarily liable for payment of

this Note; (iii) agree that Payee shall not be required first to institute suit or exhaust Payee's remedies against Maker or others liable for payment of this Note or performance under any Collateral Agreement; and (iv) consent to any extension or postponement of time of payment of this Note and to any other indulgence with respect hereto without notice to any of them, Payee's failure to exercise Payee's option to accelerate upon any default shall not constitute a waiver of the right to exercise it in the event of any subsequent default.

*Limitation of Interest:* Maker confirms that Maker is not aware of any violation of applicable usury laws related to this note or any Collateral Agreement. The parties intend to conform strictly to the applicable usury laws and, to induce Payee to make a loan to Maker, Maker agrees that:

All existing or future agreements and transactions between Maker and the Payee are expressly limited so that under no circumstance shall the amount of Interest, as defined below, exceed the maximum legal rate allowed by applicable law.

If, under any possible construction of this Note or any Collateral Agreement, Excess Interest, as defined below, would otherwise be payable, any Excess Interest shall be automatically, as of the date of charging or payment, applied to a reduction of the principal balance of this Note and not to the payment of interest, or if the Excess Interest exceeds the unpaid principal balance of this Note it shall be refunded to Maker, and this Note and/or the Collateral Agreement shall be automatically reformed to reduce the Interest payable to the maximum legal rate without the necessity of execution of an amending document.

If Maker discovers that this Note or any of the Collateral Agreements may violate any applicable usury law, Maker shall notify Payee of the alleged violation and shall give Payee sixty days to cure the violation. During the sixty day notice and cure period, Maker shall not prosecute any claim or defense based upon a violation of applicable usury laws.

To the extent not prohibited by law, all Interest shall be amortized, prorated and spread, in equal parts, over the full stated term of this Note so that the actual rate of Interest is uniform through the term of this note.

"*Excess Interest*" shall mean all interest or fees charged, collected, or received in excess of the maximum legal rate of interest, including, but not limited to, those arising due to acceleration of maturity, late fees, prepayment, or demand for prepayment.

For purposes of this Limitation of Interest section, and only this section, the term "Interest" shall be all inclusive and shall mean the amount of interest contracted for, charged, or received by Payee from Maker, or any third party, for the use, forbearance, or detention of the principal of this Note.

If any installment becomes overdue for more than five (5) days, at Payee's option, five percent (5%) of the overdue installment amount will be charged in order to defray the expense of handling the delinquent payment.

Maker may prepay all or any part hereof at anytime without penalty, and interest shall immediately cease on all amounts so prepaid. All prepayments shall be applied first to accrued but unpaid interest, the balance to installments due hereon in inverse order of maturity.

This Note shall be governed by and construed in accordance with the laws of the State of Texas.

THIS NOTE AND THE INSTRUMENTS BEING EXECUTED ALONG WITH IT REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

**BALLOON WARNING**

This loan is payable in full at maturity. Maker must repay the entire principal balance of the loan and unpaid interest then due. Payee is under no obligation to refinance the loan at that time. Maker will therefore, be required to make payment out of other assets that Maker may own, or Maker will have to find another lender, which may be Payee, willing to lend Maker the money to pay the loan. If Maker refinances this loan at maturity, Maker may have to pay some or all of the closing costs normally associated with a new loan even if Maker obtains refinancing from Payee.

**MAKER:  
TRAVIS COUNTY HOUSING FINANCE  
CORPORATION**

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

EXHIBIT "B"

The Agreement has been released and the original certificate, or passbook or other evidence of the Collateral (if any) has been returned to Debtor.



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



## TERM LOAN AGREEMENT

\_\_\_\_\_ Bank  
Austin, Texas

Ladies and Gentlemen:

The undersigned, Travis County Housing Finance Corporation (the "*Borrower*"), has concurrently herewith borrowed from \_\_\_\_\_ Bank (the "*Lender*") the sum of LOAN AMOUNT (\$xxxxxxxx) (the "*Loan*"), payable on the Funding Date (as hereinafter defined) as evidenced by that certain Term Loan Note of the Borrower bearing even date herewith payable to the order of Lender (the "*Note*") in said principal amount and expressed to mature and to bear interest as set forth in, and otherwise in the form of, the note attached hereto as Exhibit A. The Borrower executes and delivers this Agreement to set forth and confirm the terms and conditions applicable to the Note and the covenants, agreements, representations and warranties of the Borrower made in connection therewith:

### SECTION 1. PAYMENTS.

Section 1.1. *Prepayments.* The Borrower shall have the privilege of prepaying the Note in whole or in part at any time and from time to time. All such prepayments shall be made upon not less than one (1) bank business day's prior notice to the Lender. Each prepayment shall be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date fixed for prepayment.

Section 1.2. *Payment of Fees.* The Borrower shall pay to the Lender on the date hereof (the "*Closing Date*"), an amount equal to 1% of the original principal amount of the Loan (the "*Lender Fees*").

Section 1.3. *Place and Application of Payments.* The Borrower hereby agrees to make all payments of the Lender Fees, the principal and interest and all other amounts payable hereunder and under the Note (collectively, the "*Obligations*") promptly when due and such amounts due to the Lender under the Note shall be paid in accordance with the Note and any amounts due to the Lender's attorney for fees and expenses incurred in connection with the Loan shall be paid to such attorney on the Closing Date. All such payments shall be made in lawful money of the United States of America, in immediately available funds at the place of payment, without set-off or counterclaim and without reduction for, and free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature imposed by any government or any political subdivision or taxing authority thereof.

Section 1.4. The proceeds of the Loan shall be payable by the Lender to the Borrower upon the demand of the Borrower on any business day on or before ►◄, 2013 (the "*Funding Date*"); provided, however, that ►◄, a Texas limited partnership ("►◄") has deposited collateral into the Account (as defined in the Bank Agreement) on or prior to the Funding Date pursuant to paragraph 4 of the Bank Agreement.

## SECTION 2. SECURITY.

Section 2.1. Collateral Documents. For the benefit of the Lender, as security for the payment of the Obligations, including without limitation, all principal of and interest on the Note, the Borrower and ►◄ hereby grant the Lender a lien on and security interest in the Account (as defined in the Bank Agreement), in each case whether now owned or existing or hereafter created, acquired or arising and has concurrently herewith executed and delivered that certain Assignment and Pledge Agreement, dated as of the Closing Date (the "*Bank Agreement*"), among ►◄ the Borrower and the Lender, granting the Lender a lien on and security interest in the Account.

Section 2.2. Further Assurances. The Borrower covenants and agrees that it shall comply with all of the terms and conditions of the Collateral Documents (as hereinafter defined) and that it shall, at any time and from time to time as requested by the Lender, execute and deliver such further instruments and do such other acts as the Lender may deem reasonably necessary or desirable to provide for or protect or perfect the lien and security interest of the Lender in the collateral security granted thereby.

## SECTION 3. REPRESENTATIONS AND WARRANTIES.

The Borrower represents and warrants to the Lender as follows:

Section 3.1. The Borrower is duly organized, validly existing, and in good standing under the laws of the State of Texas and is duly licensed or qualified and in good standing in all jurisdictions wherein the nature of its activities or business conducted or property owned or leased by it requires such qualification or licensing. The Borrower is in full compliance with the terms of this Agreement and has full right, power, and authority to enter into this Agreement, to borrow the sum evidenced by the Note, to grant a lien on and security interest in its property pursuant to the Collateral Documents, and to perform each and all of the matters and things provided for in this Agreement, the Note and the Collateral Documents. The execution and delivery of this Agreement, the Note and the Collateral Documents, and the observance and performance of any of the matters and things herein or therein set forth, will not violate or contravene any provision of law or of the organizational documents of the Borrower, or to the Borrower's knowledge of any indenture, loan agreement or other agreement of or affecting the Borrower or any of its property.

Section 3.2. There is no litigation or governmental proceeding pending, nor to the Borrower's knowledge threatened, against the Borrower which, if adversely determined, would result in any material adverse change in the financial condition or properties, business or operations of the Borrower. All tax returns required to be filed by the Borrower in any jurisdiction have, in fact, been filed, and all taxes, assessments, fees, and other governmental charges upon the Borrower or upon any of its property, income, or franchises, which are shown to be due and payable in such returns, have been paid. The Borrower does not know of any proposed additional tax assessments against it for which adequate provisions in accordance with generally accepted accounting principles have not been made on its books and records. Adequate provisions in accordance with generally accepted accounting principles for taxes on the books of

the Borrower have been made for all open years, and for its current fiscal year. No authorization, consent, license, or exemption from, or filing or registration with, any court or governmental department, agency or instrumentality, is or will be necessary to the valid execution, delivery or performance by the Borrower of this Agreement, the Note or the Collateral Documents.

Section 3.3. The Borrower is not a party to any contracts or agreements with any of its Affiliates (as defined herein) on terms and conditions which are less favorable to the Borrower than would be usual and customary in similar contracts or agreements between persons or entities not affiliated with each other.

Section 3.4. The Borrower is in compliance in all material respects with all applicable local, state and federal environmental, health and safety statutes and regulations, and, to its knowledge, has not acquired, incurred or assumed, directly or indirectly, any material contingent liability in connection with the release of any toxic or hazardous waste or substance into the environment. The Borrower is not the subject to any evaluation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Specified Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq.

Section 3.5. No Event of Default or Default (as hereinafter defined) has occurred and is continuing.

Section 3.6. The Borrower understands that neither the Lender nor any person representing the Lender has made any representation to it, or accepts any responsibility, with respect to whether the Loan or the Note qualifies Playa del Pueblo for the award of certain points by the Texas Department of Housing and Community Affairs pursuant to its Housing Tax Credit Program Qualified Allocation Plan and Rules.

#### SECTION 4. COVENANTS.

From and after the date hereof and so long as any amount remains unpaid on the Note, except to the extent compliance in any case or cases is waived in writing by the Lender, the Borrower hereby covenants and agrees with the Lender as follows:

Section 4.1 . Maintenance of Business. The Borrower shall preserve and keep in force and effect all licenses and permits necessary to the proper conduct of its business.

Section 4.2. [intentionally deleted].

Section 4.3. Taxes. The Borrower shall duly pay and discharge all taxes, assessments and governmental charges upon or against the Borrower or against any of its property before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith by appropriate proceedings.

Section 4.4. [intentionally deleted].

Section 4.5. [intentionally deleted].

SECTION 5. EVENTS OF DEFAULT AND REMEDIES.

Section 5.1. Anyone or more of the following shall constitute an "Event of Default" hereunder:

(a) default in the payment when due (whether by lapse of time, acceleration, or otherwise) of any principal of or interest on the Note or any fee, charge, obligation or other amount payable hereunder of the Borrower to the Lender, which such default is not remedied within ten (10) business days after the due date;

(b) default in the observance or performance of any of the covenants set forth in Section 4 hereof or in any of the Collateral Documents which such default is not remedied within thirty (30) days after notice to the Borrower by the Lender;

(c) default in the observance or performance of any other provision hereof which is not remedied within thirty (30) days after notice thereof to the Borrower by the Lender;

(d) monetary default shall occur under any evidence of indebtedness issued, assumed or guaranteed by the Borrower or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such indebtedness, or any such indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) subject to applicable notice, grace and cure periods;

(e) any representation or warranty made by the Borrower herein, or made by the Borrower in any statement or certificate furnished by it pursuant hereto, proves untrue in any material respect as of the date of the issuance or making thereof;

(f) dissolution or termination of existence of the Borrower;

(g) the Borrower becomes insolvent or bankrupt, or bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy law or laws for the relief of debtors are instituted against the Borrower and are not dismissed within ninety (90) days after such institution, or a decree or order of a court having jurisdiction in the premises for the appointment of a trustee, receiver or custodian for the Borrower, or for the major part of its property is entered and the trustee, receiver or custodian appointed pursuant to such decree or order is not discharged within ninety (90) days after such appointment; or

(h) the Borrower shall institute bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy law or laws for the relief of debtors or shall consent to the institution of such proceedings against it by others or to the entry of any decree or order adjudging it bankrupt or insolvent or approving as filed any petition seeking reorganization under any bankruptcy or similar law or shall apply for or shall consent to the appointment of a

receiver, trustee or custodian for it or for the major part of its property or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts as they mature or shall take any corporate action in contemplation or in furtherance of any of the foregoing purposes.

Section 5.2. When any Event of Default described in subsections 5.1(a) to 5.1(h) has occurred and is continuing, the Lender may, by notice to the Borrower, declare the Obligations, including without limitation, the principal of and the accrued interest on the Note to be forthwith due and payable, and thereupon the Note, including both principal and interest, and all fees and charges payable hereunder shall be and become immediately due and payable without further demand, presentment, protest or notice of any kind.

## SECTION 6. DEFINITIONS.

The following terms when used herein shall have the following meanings, such terms to be equally applicable to both the singular and plural forms of the terms defined:

*"Affiliate"* shall mean any person, firm, corporation or entity (herein collectively called a "Person") directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

*"Collateral Documents"* means the Bank Agreement and any security agreements, assignments, mortgages, deeds of trust, financing statements and other documents as shall from time to time secure the Note and the obligations of the Borrower hereunder.

*"Event of Default"* shall mean any event or condition identified as such in Section 5.1 hereof and the term "Default" shall mean any event or condition which constitutes an Event of Default.

Capitalized terms defined elsewhere in this Agreement shall, unless otherwise specified, have the meanings so ascribed to them in all provisions of this Agreement.

## SECTION 7. MISCELLANEOUS.

Section 7.1. Holidays. If any payment hereunder or under the Note becomes due and payable on a day which is not a bank business day, the due date of such payment shall be extended to the next succeeding bank business day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a bank business day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

Section 7.2. No Waiver, Cumulative Remedies. No delay or failure on the part of the Lender or on the part of the holder of the Note in the exercise of any power or right shall operate as a waiver thereof or as an acquiescence in any Default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Lender and of the holder of the Note are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have. All of the covenants, warranties and representations of the Borrower herein shall be in addition to and cumulative of all other covenants, representations and warranties of the Borrower contained in, or provided for in, any other instrument or document now or hereafter executed and delivered by the Borrower to or in favor of the Lender.

Section 7.3. Amendments, Etc. No amendment, modification, termination or waiver of any provision of this Agreement, the Bank Agreement or of the Note nor consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

Section 7.4. Costs and Expenses. The Borrower agrees to pay on demand all reasonable costs and expenses of the Lender incurred by the Lender in connection with an Event of Default or the enforcement of this Agreement, the Note, the Collateral Documents and the other instruments and documents to be delivered hereunder and in preserving or protecting or exercising the rights of the Lender hereunder or thereunder or with respect to any collateral security for the Note or other liabilities and in connection with any action, suit or proceeding brought against the Lender by any person or entity which arises out of the transactions contemplated hereby or thereby or out of any action or inaction by the Lender hereunder or thereunder, including all of the foregoing incurred in any bankruptcy, arrangement or reorganization proceeding involving the Borrower.

Section 7.5. Stamp Taxes. The Borrower agrees to pay on demand any documentary, stamp or similar taxes payable in respect of this Agreement or the Note, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit to it is then in use.

Section 7.6. Survival of Representations. All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement and of the Note and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

Section 7.7. Payments. The Borrower will promptly and punctually pay the principal of and interest on the Note without presentment of the Note and without any notation of any such payment being made on the Note.

Section 7.B. Addresses for Notices. All communications provided for herein shall be in writing and shall be deemed to have been given or made when served personally or when deposited in the United States mail addressed if to the Borrower at ►◄, or if to Lender at ►◄,

or at such other address as shall be designated by any party hereto in a written notice given to each party pursuant to this Section 7.8.

Section 7.9. Headings. Section headings used in this Agreement are for convenience of reference only and are not a part of this Agreement for any other purpose.

Section 7.10. Severability of Provisions. Any provision of this Agreement, the Note and/or the Collateral Documents, which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 7.11. Counterparts. This Agreement may be executed in any number of counterparts, and by different parties hereto on separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

Section 7.12. Binding Nature, Governing Law, Etc. This Agreement, the Note and/or the Collateral Documents, shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of the Lender and the benefit of its successors and assigns, including any subsequent holder of the Note. This Agreement and the rights and duties of the parties hereto shall be construed and determined in accordance with the laws of the State of Texas. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. The Borrower may not assign its rights hereunder without the written consent of the Lender.

[Remainder of Page Intentionally Left Blank]

Draft Dated 2/20/2013

Upon your acceptance hereof in the manner hereinafter set forth, this Term Loan Agreement shall be a contract between us for the uses and purposes hereinabove set forth.

Dated as of ► ◀, 2013.

TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

BY: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Term Loan Agreement]



Accepted and agreed to as of the day and year last above written.



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

[Acceptance Page to Term Loan Agreement]

Exhibit A

PROMISSORY NOTE

\$XXXXXXXXXX



▶◀, 2013

FOR VALUE RECEIVED, Travis County Housing Finance Corporation ("Maker"), promises to pay to the order of ▶◀("Payee"), at ▶◀, or such other address as Payee may from time to time designate, the sum of ▶◀(\$XXXXXXXXXX) in legal and lawful money of the United States of America, together with interest thereon from date hereof at the rates describe below. Interest shall be computed on the basis of a 365 day year.

The interest rate due under this promissory note (the "Note") shall be equal to the lesser of (i) the Applicable Federal Rate or (ii) the Maximum Lawful Rate. The Applicable Federal Rate shall be determined on the date hereof. After maturity (whether by demand, acceleration or otherwise) until paid, interest shall accrue on the matured principal and accrued, but unpaid, interest at an annual rate equal to the Maximum Lawful Rate. Interest shall be computed on the basis of a 365 day year.

The term "Applicable Federal Rate," means the interest rate as provided by the Internal Revenue Service in Revenue Ruling 2012-20 that is effective as of the date hereof. The Applicable Federal Rate as of the date hereof is 0.24% per annum.

The term "Maximum Lawful Rate," means the greater of (i) the highest rate permitted by applicable Texas or United States law, or (ii) an annual rate equal to the weekly ceiling determined in accordance with the computation specified in the Texas Finance Code, as amended, as such weekly ceiling is in effect from time to time, but in no event greater than eighteen (18%) percent annually. Unless precluded by law, changes in the Maximum Lawful Rate created by statute or governmental action during the term of this Note shall be immediately applicable to this note on the effective date of such changes.

This promissory note (the "Note") is due and payable as follows, to-wit:

All principal and interest thereon shall begin to accrue on the Funding Date (as defined in that certain Term Loan Agreement between Maker and Payee dated as of ▶◀, 2013) and shall be due and payable upon the Maturity Date defined in that certain Term Loan Note as of ▶◀, 2013 from ▶◀. to Maker.

Payment of this Note is secured by, and the holder of this Note is entitled to the benefits of, all deeds of trust, mortgages, security agreements, assignments, lien instruments, guaranties, endorsements, or other agreements (the "Collateral Agreements") executed or created by any person or entity (including but not limited to Maker) to secure payment of this Note. Without limiting the foregoing, the Collateral Agreements include:

An Assignment and Pledge Agreement executed of even date herewith by Maker and ▶◀. in favor of Lender.

If default occurs in the payment of any principal or interest when due hereunder, or upon the occurrence of any default or failure to perform any covenant, agreement or obligation to be performed under any Collateral Agreements, or upon Maker's insolvency or business failure, the appointment of a receiver of all or any part of Maker's property, an assignment for the benefit of creditors of Maker, a calling of a meeting of creditors of Maker, the commencement of any proceeding under any bankruptcy, insolvency or debtor relief laws by or against Maker or any guarantor or surety for Maker, the holder hereof may, at its option, declare the entirety of this Note, principal and interest, immediately due and payable, and pursue any and all other remedies available to it at law or in equity, but failure to do so at any time shall not constitute a waiver of such holder's right to do so at any other time. Failure to exercise this option upon any default shall not constitute a waiver of the right to exercise it in the event of any subsequent defaults.

Upon default in the payment of this Note or upon default in the performance of or compliance with any of the terms of any of the Collateral Agreements, and after any notice and grace required by this Note, at the option of Payee, the unpaid balance of this Note shall be matured, and if Maker defaults in the prompt payment of this Note when due or declared due, and this Note is placed in the hands of an attorney for collection, or suit is brought on the Note, or the Note is collected through probate, bankruptcy or other judicial proceedings, then Maker, jointly and severally if more than one, agrees and promises to pay all reasonable attorney's fees, court costs and collection expenses incurred by Payee.

If at any time and from time to time Payee is prevented from collecting the rate of interest and the fees specified in this Note by applicable law or governmental regulation, Payee shall be entitled to recoup the amount it would have otherwise been able to collect (the "*Recoupment Amount*") during such period when the recoupment will not violate applicable law or regulation (the "*Recoupment Period*"). During each Recoupment Period, Maker shall continue to pay the Maximum Lawful Rate until there has been paid under this Note, in addition to the interest at the applicable rate specified herein during such Recoupment Period, an amount equal to the Recoupment Amount. Interest collected by Payee during each Recoupment Period shall first be applied to payment of current interest due at the applicable rate specified in this Note and any remaining interest collected shall be applied to the Recoupment Amount. When Payee has recouped all of the Recoupment Amount, the interest rate payable by Maker shall revert to the applicable rate specified in this Note. In no event, however, shall the interest rate charged hereunder ever exceed the Maximum Lawful Rate and in the event of any prepayment of this Note, only that portion of the Recoupment Amount which has been earned through the date of prepayment shall be payable.

Upon default in the payment of this Note or in the performance of any obligation contained in any Collateral Agreements, and after any notice and grace required by this Note, this Note and all obligations contained in any Collateral Agreements shall become immediately due at the election of Payee. Maker and each surety, endorser, guarantor and any other party liable for payment of this Note, in whole or in part, hereby severally: (i) waive demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration, dishonor, and all other waivable notices, and diligence in collecting this Note or enforcing any of the Collateral Agreements; (ii) agree to any substitution, subordination, exchange or release of any party primarily or secondarily liable for payment of

this Note; (iii) agree that Payee shall not be required first to institute suit or exhaust Payee's remedies against Maker or others liable for payment of this Note or performance under any Collateral Agreement; and (iv) consent to any extension or postponement of time of payment of this Note and to any other indulgence with respect hereto without notice to any of them, Payee's failure to exercise Payee's option to accelerate upon any default shall not constitute a waiver of the right to exercise it in the event of any subsequent default.

*Limitation of Interest:* Maker confirms that Maker is not aware of any violation of applicable usury laws related to this note or any Collateral Agreement. The parties intend to conform strictly to the applicable usury laws and, to induce Payee to make a loan to Maker, Maker agrees that:

All existing or future agreements and transactions between Maker and the Payee are expressly limited so that under no circumstance shall the amount of Interest, as defined below, exceed the maximum legal rate allowed by applicable law.

If, under any possible construction of this Note or any Collateral Agreement, Excess Interest, as defined below, would otherwise be payable, any Excess Interest shall be automatically, as of the date of charging or payment, applied to a reduction of the principal balance of this Note and not to the payment of interest, or if the Excess Interest exceeds the unpaid principal balance of this Note it shall be refunded to Maker, and this Note and/or the Collateral Agreement shall be automatically reformed to reduce the Interest payable to the maximum legal rate without the necessity of execution of an amending document.

If Maker discovers that this Note or any of the Collateral Agreements may violate any applicable usury law, Maker shall notify Payee of the alleged violation and shall give Payee sixty days to cure the violation. During the sixty day notice and cure period, Maker shall not prosecute any claim or defense based upon a violation of applicable usury laws.

To the extent not prohibited by law, all Interest shall be amortized, prorated and spread, in equal parts, over the full stated term of this Note so that the actual rate of Interest is uniform through the term of this note.

"*Excess Interest*" shall mean all interest or fees charged, collected, or received in excess of the maximum legal rate of interest, including, but not limited to, those arising due to acceleration of maturity, late fees, prepayment, or demand for prepayment.

For purposes of this Limitation of Interest section, and only this section, the term "Interest" shall be all inclusive and shall mean the amount of interest contracted for, charged, or received by Payee from Maker, or any third party, for the use, forbearance, or detention of the principal of this Note.

If any installment becomes overdue for more than five (5) days, at Payee's option, five percent (5%) of the overdue installment amount will be charged in order to defray the expense of handling the delinquent payment.

Maker may prepay all or any part hereof at anytime without penalty, and interest shall immediately cease on all amounts so prepaid. All prepayments shall be applied first to accrued but unpaid interest, the balance to installments due hereon in inverse order of maturity

This Note shall be governed by and construed in accordance with the laws of the State of Texas.

THIS NOTE AND THE INSTRUMENTS BEING EXECUTED ALONG WITH IT REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES

BALLOON WARNING

This loan is payable in full at maturity. Maker must repay the entire principal balance of the loan and unpaid interest then due. Payee is under no obligation to refinance the loan at that time. Maker will therefore, be required to make payment out of other assets that Maker may own, or Maker will have to find another lender, which may be Payee, willing to lend Maker the money to pay the loan. If Maker refinances this loan at maturity, Maker may have to pay some or all of the closing costs normally associated with a new loan even if Maker obtains refinancing from Payee.

MAKER:  
TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

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

Name:

Title:

## TERM LOAN AGREEMENT

Travis County Housing Finance Corporation  
Austin, Texas

Dated: ►◄, 2013

Ladies and Gentlemen:

The undersigned, ►◄, a Texas limited partnership (the "*Borrower*"), has concurrently herewith borrowed from the Travis County Housing Finance Corporation (the "*Travis County HFC*" or the "*Lender*") the sum of ►◄ Dollars (\$XXXXXX) (the "*Loan*") as evidenced by that certain Term Loan Note of the Borrower bearing even date herewith payable to the order of the Travis County HFC (the "*Note*") in said principal amount and expressed to mature and to bear interest as set forth in, and otherwise in the form of, the note attached hereto as *Exhibit A* in connection with the development of an approximately ►◄ (the "*Project*"). The Borrower executes and delivers this Agreement to set forth and confirm the terms and conditions applicable to the Note and the covenants, agreements, representations and warranties of the Borrower made in connection therewith:

### SECTION 1. PAYMENTS.

*Section 1.1. Prepayments. (a) Mandatory.* All moneys received by the Lender from the Bank (as defined in Section 2.1 hereof) pursuant to the terms of this Agreement and the Bank Agreement (as defined in Section 2.1 hereof) shall be used to pay the Obligations (as defined below). Additionally, any applications of the money held in the Account (as defined in the Bank Agreement) to reduce the balance of the Bank Note (as defined in Section 2.1 hereof), shall be a credit against the balance due on the Note.

*(b) Voluntary.* The Borrower shall have the privilege of prepaying the Note in whole or in part at any time and from time to time without penalty All such prepayments shall be made upon not less than one bank business day's prior notice to the Lender. Each prepayment shall be made by the payment of the principal amount to be prepaid and accrued interest thereon to the date fixed for prepayment.

*Section 1.2. Payment of Fees.* The Borrower shall pay to the Lender (i) on the date hereof (the "*Closing Date*"), an amount equal to 5.25% of the original principal amount of the Loan, and (ii) for each full month the Loan is outstanding following the one year anniversary of the Closing Date, an amount equal to 0.4% of the remaining principal amount of the Loan calculated based on the outstanding principal amount thereof as of the first day of such month (collectively, the "*Lender Fees*"), payable, in the aggregate, to the Lender on the earlier of the Maturity Date or each January 15 and July 15 following the one year anniversary of the Closing Date so long as such Loan remains outstanding.

*Section 1.3. Place and Application of Payments.* The Borrower hereby agrees to make

all payments of the Lender Fees, the principal and interest and all other amounts payable hereunder and under the Note (collectively, the "*Obligations*") promptly when due and such amounts due to the Lender under the Note shall be paid in accordance with the Note and such amounts due to the Lender's attorney for fees and expenses incurred in connection with the Loan shall be paid to such attorney per the invoice submitted thereby. All such payments shall be made in lawful money of the United States of America, in immediately available funds at the place of payment, without set-off or counterclaim and without reduction for, and free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature imposed by any government or any political subdivision or taxing authority thereof.

## SECTION 2. SECURITY.

*Section 2.1. Collateral Documents.* For the benefit of the Lender, as security for the payment of the Obligations, including without limitation, all principal of and interest on the Note, the Borrower has concurrently herewith executed and delivered that certain Assignment and Pledge Agreement, dated as of the Closing Date (the "*Bank Agreement*"), among the Borrower, the Lender and ►◄(the "*Bank*"), granting the Lender and the Bank a lien on and security interest in the Account to secure that certain \$►◄ promissory note (the "*Bank Note*") executed by the Lender and payable to the order of the Bank of even date herewith.

*Section 2.2. Further Assurances.* The Borrower covenants and agrees that it shall comply with all of the terms and conditions of the Collateral Documents (as hereinafter defined) and that it shall, at any time and from time to time as requested by the Lender, execute and deliver such further instruments and do such other acts as the Lender may deem reasonably necessary or desirable to provide for or protect or perfect the lien and security interest of the Lender in the collateral security granted thereby.

## SECTION 3. REPRESENTATIONS AND WARRANTIES.

The Borrower represents and warrants to the Lender as follows:

*Section 3.1.* The Borrower is a limited partnership duly organized, validly existing, and in good standing under the laws of the State of Texas and is duly licensed or qualified and in good standing in all jurisdictions wherein the nature of its activities or business conducted or property owned or leased by it requires such qualification or licensing, including without limitation, the State of Texas. The Borrower is in full compliance with the terms of this Agreement and has full right, power, and authority to enter into this Agreement, to borrow the sum evidenced by the Note, to grant a lien on and security interest in its property pursuant to the Collateral Documents, and to perform each and all of the matters and things provided for in this Agreement, the Note, and the Collateral Documents; and the execution and delivery of this Agreement, the Note, and the Collateral Documents, and the observance and performance of any of the matters and things herein or therein set forth, will not violate or contravene any provision of law or of the organizational documents of the Borrower, or to the Borrower's knowledge of any indenture, loan agreement or other agreement of or affecting the Borrower or any of its property.

*Section 3.2.* There is no litigation or governmental proceeding pending, nor to the Borrower's knowledge threatened, against the Borrower which, if adversely determined, would result in any material adverse change in the financial condition or properties, business or operations of the Borrower. All tax returns required to be filed by the Borrower in any jurisdiction have, in fact, been filed, and all taxes, assessments, fees, and other governmental charges upon the Borrower or upon any of its property, income, or franchises, which are shown to be due and payable in such returns, have been paid. The Borrower does not know of any proposed additional tax assessments against it for which adequate provisions in accordance with generally accepted accounting principles have not been made on its books and records. Adequate provisions in accordance with generally accepted accounting principles for taxes on the books of the Borrower have been made for all open years, and for its current fiscal year. No authorization, consent, license, or exemption from, or filing or registration with, any court or governmental department, agency or instrumentality, is or will be necessary to the valid execution, delivery or performance by the Borrower of this Agreement, the Note or the Collateral Documents.

*Section 3.3.* The Borrower is not a party to any contracts or agreements with any of its Affiliates (as defined herein) on terms and conditions which are less favorable to the Borrower than would be usual and customary in similar contracts or agreements between persons or entities not affiliated with each other.

*Section 3.4.* The Borrower is in compliance in all material respects with all applicable local, state and federal environmental, health and safety statutes and regulations, and, to its knowledge, has not acquired, incurred or assumed, directly or indirectly, any material contingent liability in connection with the release of any toxic or hazardous waste or substance into the environment. The Borrower is not the subject to any evaluation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Specified Amendments and Reauthorization Act of 1986, 42 U.S.C. §9601 et seq.

*Section 3.5.* No Event of Default or Default (as defined herein) has occurred and is continuing.

*Section 3.6.* The Borrower understands that neither the Lender nor any person representing the Lender has made any representation to it or takes any responsibility with respect to whether the Loan or the Note qualifies the Borrower for the award of certain points by the Texas Department of Housing and Community Affairs pursuant to its Housing Tax Credit Program Qualified Allocation Plan and Rules.

#### SECTION 4. COVENANTS.

From and after the date hereof and so long as any amount remains unpaid on the Note, except to the extent compliance in any case or cases is waived in writing by the Lender, the Borrower hereby covenants and agrees with the Lender as follows:

*Section 4.1. Maintenance of Business.* The Borrower shall preserve and keep in force and effect all licenses and permits necessary to the proper conduct of its business.



*Section 4.2. Maintenance.* The Borrower shall maintain, preserve and keep its properties and equipment in good repair and working order and condition (ordinary wear and tear and casualty excepted), and shall from time to time make all needful and proper repairs, renewals, replacements, additions and betterments thereto so that at all times the efficiency thereof shall be fully preserved and maintained.

*Section 4.3. Taxes.* The Borrower shall duly pay and discharge all taxes, assessments and governmental charges upon or against the Borrower or against any of its property before the same become delinquent and before penalties accrue thereon, unless and to the extent that the same are being contested in good faith by appropriate proceedings.

*Section 4.4. Insurance.* The Borrower shall insure and keep insured, in good and responsible insurance companies, all insurable property owned by the Borrower which is of a character usually insured by companies similarly situated and operating like properties, against loss or damage from fire and such other hazards or risks as are customarily insured against by companies similarly situated and operating like property; and the Borrower shall similarly insure employers' and public liability risks in good and responsible insurance companies. The Borrower shall upon request of any Lender furnish a certificate setting forth in summary form the nature and extent of the insurance maintained by the Borrower pursuant to this Section 4.4.

*Section 4.5. Financial Reports.* The Borrower shall furnish to the Lender or its authorized representatives such information respecting the business affairs, operations and financial condition of the Borrower as may be reasonably requested and without any request shall furnish to the Lender promptly after knowledge thereof shall have come to the attention of any responsible officer of the Borrower, written notice of any threatened or pending litigation or governmental proceeding against the Borrower which would materially adversely affect the business and properties of the Borrower and/or the occurrence of any Default or Event of Default.

## SECTION 5. EVENTS OF DEFAULT AND REMEDIES.

*Section 5.1.* Any one or more of the following shall constitute an "*Event of Default*" hereunder:

(a) default in the payment when due (whether by lapse of time, acceleration, or otherwise) of any principal of or interest on the Note or any fee, charge, obligation or other amount payable hereunder or default in the payment when due of any other indebtedness or liabilities (whether direct, contingent or otherwise) of the Borrower owing to the Lender;

(b) default in the observance or performance of any of the covenants set forth in Section 4 hereof or in any of the Collateral Documents which such default is not remedied within thirty (30) days after notice to the Borrower by the Lender;

(c) default in the observance or performance of any other provision hereof

which is not remedied within thirty (30) days after notice thereof to the Borrower by the Lender;

(d) monetary default shall occur under any evidence of indebtedness issued, assumed or guaranteed by the Borrower or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such indebtedness, or any such indebtedness shall not be paid when due (whether by demand, lapse of time, acceleration or otherwise) subject to applicable notice, grace and cure periods;

(e) any representation or warranty made by the Borrower herein, or made by the Borrower in any statement or certificate furnished by it pursuant hereto, proves untrue in any material adverse respect as of the date of the issuance or making thereof;

(f) dissolution or termination of existence of the Borrower;

(g) the Borrower becomes insolvent or bankrupt, or bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy law or laws for the relief of debtors are instituted against the Borrower and are not dismissed within ninety (90) days after such institution, or a decree or order of a court having jurisdiction in the premises for the appointment of a trustee, receiver or custodian for the Borrower, or for the major part of its property is entered and the trustee, receiver or custodian appointed pursuant to such decree or order is not discharged within ninety (90) days after such appointment; or

(h) the Borrower shall institute bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy law or laws for the relief of debtors or shall consent to the institution of such proceedings against it by others or to the entry of any decree or order adjudging it bankrupt or insolvent or approving as filed any petition seeking reorganization under any bankruptcy or similar law or shall apply for or shall consent to the appointment of a receiver, trustee or custodian for it or for the major part of its property or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts as they mature or shall take any corporate action in contemplation or in furtherance of any of the foregoing purposes.

*Section 5.2.* When any Event of Default described in subsections 5.1(a) to 5.1(f), both inclusive, has occurred and is continuing, the Lender may, by notice to the Borrower, declare the Obligations, including without limitation, the principal of and the accrued interest on the Note to be forthwith due and payable, and thereupon the Note, including both principal and interest, and all fees and charges payable hereunder shall be and become immediately due and payable without further demand, presentment, protest or notice of any kind.

*Section 5.3.* When any Event of Default described in subsection 5.1(g) or 5.1(h) has occurred and is continuing, then the entire principal balance of the Note and all interest thereon

and all fees, charges and the other Obligations payable hereunder shall immediately become due and payable without presentment, demand, protest or notice of any kind.

## SECTION 6. DEFINITIONS.

The following terms when used herein shall have the following meanings, such terms to be equally applicable to both the singular and plural forms of the terms defined:

*"Affiliate"* shall mean any person, firm, corporation or entity (herein collectively called a *"Person"*) directly or indirectly controlling or controlled by, or under direct or indirect common control with, another Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

*"Collateral Documents"* means the Bank Agreement and any security agreements, assignments, mortgages, deeds of trust, financing statements, and other documents as shall from time to time secure the Note and the obligations of the Borrower hereunder.

*"Event of Default"* shall mean any event or condition identified as such in Section 5.1 hereof and the term *"Default"* shall mean any event or condition which constitutes an Event of Default.

Capitalized terms defined elsewhere in this Agreement shall, unless otherwise specified, have the meanings so ascribed to them in all provisions of this Agreement.

## SECTION 7. MISCELLANEOUS.

*Section 7.1. Holidays.* If any payment hereunder or under the Note becomes due and payable on a day which is not a bank business day, the due date of such payment shall be extended to the next succeeding bank business day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a bank business day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

*Section 7.2. No Waiver, Cumulative Remedies.* No delay or failure on the part of the Lender or on the part of the holder of the Note in the exercise of any power or right shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Lender and of the holder of the Note are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have. All of the covenants, warranties and representations of the Borrower herein shall be in addition to and cumulative of all other covenants, representations and warranties of the

Borrower contained in, or provided for in, any other instrument or document now or hereafter executed and delivered by the Borrower to or in favor of the Lender.

*Section 7.3. Amendments, Etc.* No amendment, modification, termination or waiver of any provision of this Agreement, the Bank Agreement or of the Note nor consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing and signed by the Lender and the Borrower. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

*Section 7.4. Costs and Expenses.* The Borrower agrees to pay on demand all reasonable costs and expenses of the Lender incurred by the Lender in connection with an Event of Default or the enforcement of this Agreement, the Note, the Collateral Documents, and the other instruments and documents to be delivered hereunder and in preserving or protecting or exercising the rights of the Lender hereunder or thereunder or with respect to any collateral security for the Note or other liabilities and in connection with any action, suit or proceeding brought against the Lender by any person or entity which arises out of the transactions contemplated hereby or thereby or out of any action or inaction by the Lender hereunder or thereunder, including all of the foregoing incurred in any bankruptcy, arrangement or reorganization proceeding involving the Borrower.

*Section 7.5. Stamp Taxes.* The Borrower agrees to pay on demand any documentary, stamp or similar taxes payable in respect of this Agreement or the Note, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit to it is then in use.

*Section 7.6. Survival of Representations.* All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement and of the Note and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

*Section 7.7. Payments.* The Borrower will promptly and punctually pay the principal of and interest on the Note without presentment of the Note and without any notation of any such payment being made on the Note.

*Section 7.8. Addresses for Notices.* All communications provided for herein shall be in writing and shall be deemed to have been given or made when served personally or within five (5) business days when deposited in the United States mail, sent by certified mail, return receipt requested, addressed if to the Borrower at ►◄, or if to the Travis County HFC at ►◄, Attention: ►◄ or at such other address as shall be designated by any party hereto in a written notice given to each party pursuant to this Section 7.8.

*Section 7.9. Headings.* Section headings used in this Agreement are for convenience of reference only and are not a part of this Agreement for any other purpose.

*Section 7.10. Severability of Provisions.* Any provision of this Agreement, the Note and/or the Collateral Documents, which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

*Section 7.11. Counterparts.* This Agreement may be executed in any number of counterparts, and by different parties hereto on separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

*Section 7.12. Binding Nature, Governing Law, Etc.* This Agreement, the Note and/or the Collateral Documents, shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of the Lender and the benefit of its successors and assigns, including any subsequent holder of the Note. This Agreement and the rights and duties of the parties hereto shall be construed and determined in accordance with the laws of the State of Texas. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. The Borrower may not assign its rights hereunder without the written consent of the Lender. The Borrower and Lender agree that jurisdiction and venue for all claims made under or in connection with this Agreement, the Note and the Collateral Documents shall lie exclusively in Texas.

[Remainder of Page Intentionally Left Blank]

Upon your acceptance hereof in the manner hereinafter set forth, this Term Loan Agreement shall be a contract between us for the uses and purposes hereinabove set forth as of the day and year first above written.

▶◀., a Texas Limited  
Partnership, as Borrower hereunder

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

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

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

{Signature Page for Term Loan Agreement}

Draft Dated 2/20/2013

Accepted and agreed to as of the day and year first above written.

TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

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

Name:

Title:

[Acceptance Page for Term Loan Agreement]

EXHIBIT A

▶◀.  
TERM LOAN NOTE  
FOR THE

TRAVIS COUNTY HOUSING FINANCE CORPORATION

▶◀XXXXXXXX

▶◀, 2013

FOR VALUE RECEIVED, ▶◀., a Texas limited partnership (the "*Borrower*"), hereby promises to pay to the order of Travis County Housing Finance Corporation (the "*Lender*"), at its office at ▶◀, Attention: ▶◀, or at such other place as the holder hereof may from time to time direct in writing, the principal sum of ▶◀ (\$XXXXXXXX) on, if not sooner paid, the later of (i) the date that is one year following the date of this Note and (ii) the date the Project is placed in service, as determined in accordance with the Cost Certification Procedures Manual promulgated by the Texas Department of Housing and Community Affairs (the "*Maturity Date*"), together with interest on such principal amount at the rates and payable in the manner and on the dates specified below.

The Borrower hereby promises to pay interest (computed on the basis of a year of 365 or 366 days, as the case may be for the actual number of days elapsed) at the office described above (or such other place as aforesaid) on the balance of principal remaining from time to time unpaid hereon at the rate of 0.24% per annum payable semiannually on each January 15 and July 15 and on the Maturity Date. The Borrower may prepay any or all of the then unpaid principal without penalty provided that any accrued and unpaid interest upon such principal shall be paid at the time of such prepayment. Upon the occurrence of an Event of Default (as defined in the Term Loan Agreement), such annual rate shall be the lower of the Highest Lawful Rate (as hereinafter defined) and 14% from the date of such Event of Default until the earlier of the curing of such Event of Default or the payment in full of all obligations hereunder.

This Note is issued under the terms and provisions of that certain Term Loan Agreement bearing even date herewith between the Borrower and the Lender (the "*Term Loan Agreement*"), and this Note and the holder hereof are entitled to all of the benefits provided for by the Term Loan Agreement or referred to therein, to which Term Loan Agreement reference is hereby made for a statement thereof. The principal installments and interest hereon may be declared due prior to their expressed maturities and voluntary prepayments may be made hereon, all as specified in the Term Loan Agreement. All capitalized terms not defined herein shall have the meaning ascribed thereto in the Term Loan Agreement.

Payment of this Note is secured by, among other things, (i) that certain Assignment and Pledge Agreement, dated as of ▶◀, 2013, among the Borrower, the Lender and ▶◀ and (ii) any other Collateral Document; and this Note and the holder hereof are entitled to all of the benefits and security afforded by the foregoing collateral documents, to which reference is hereby made for statement thereof.



The Borrower promises to pay all reasonable costs and expenses (including reasonable attorneys' fees) suffered or incurred by the holder hereof in collecting this Note or enforcing any rights in any collateral therefor. The Borrower hereby waives presentment for payment and demand. This Note shall be governed by, and construed in accordance with, the laws of the State of Texas.

It is expressly provided and stipulated that notwithstanding any provision of this Note or any other instrument evidencing or securing the loan evidenced hereby, in no event shall the aggregate of all interest paid by the Borrower to the Lender under this Note ever exceed the maximum nonusurious rate allowed to be charged or collected under applicable laws of the State of Texas and the United States of America (the "Highest Lawful Rate") on the principal balance of this Note from time to time advanced and remaining unpaid. In this connection, it is expressly stipulated and agreed that it is the intent of the Borrower and the Lender in the execution and delivery of this Note to contract in strict compliance with applicable laws. In furtherance thereof, none of the terms of this Note or any other instrument evidencing or securing the loan evidenced hereby, shall ever be construed to create a contract to pay for the use, forbearance or detention of money, at a rate in excess of the Highest Lawful Rate permitted to be charged of the Borrower under applicable laws. Borrower or any guarantors, endorsers or other parties now or hereafter becoming liable for payment of this Note shall never be liable for interest in excess of the Highest Lawful Rate, and the provision of this paragraph and the immediately succeeding paragraph shall govern over all other provisions of this Note and any installments evidencing or securing the loan evidenced hereby, should such provisions be in apparent conflict herewith.

▶ ◀ a Texas Limited  
Partnership, as Borrower hereunder

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

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

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

{ SIGNATURE PAGE TO THE TERM LOAN NOTE FOR THE  
TRAVIS COUNTY HOUSING FINANCE CORPORATION

## REPAYMENT DIRECTION

Pursuant to the terms of that certain Assignment and Pledge Agreement dated as of ►◄, 2013 (the "*Assignment Agreement*") by and among the Travis County Housing Finance Corporation ("TCHFC"), ►◄ ("►◄") and ►◄("►◄") ►◄ hereby directs ►◄ to apply the Collateral (as defined in the Assignment Agreement) in the Account (as defined in the Assignment Agreement) for repayment of the full principal balance of that certain Promissory Note (the "*Bank Note*") of TCHFC issued to ►◄ dated as of ►◄, 2013 in the principal amount of \$XXXXXXXXXX.

TCHFC acknowledges and agrees that it will, upon application of the Collateral for repayment of the Bank Note, provide a credit in the same amount to that certain Promissory Note (the "*TCHFC Note*") of ►◄ issued to TCHFC dated as of ►◄, 2013 in the principal amount of \$XXXXXXXXXX.

By execution of this Repayment Direction, ►◄ and TCHFC hereby agree to the following in connection with repayment of the Bank Note and the TCHFC Note on ►◄, 2013 (the "*Repayment Date*"):

1. ►◄ shall apply Collateral in the amount of \$XXXXXXX for repayment in full of the principal balance of the Bank Note. ►◄ shall waive any interest accruing on the Bank Note.
2. TCHFC shall issue a credit in the amount of \$XXXXXXX for repayment in full of the TCHFC Note. TCHFC shall waive any interest accruing on the TCHFC Note.
3. Pursuant to the Term Loan Agreement (the "*TCHFC Agreement*") dated as of ►◄, 2013 between ►◄ and TCHFC, upon application of the payments described above, the TCHFC Agreement and the TCHFC Note shall terminate.
4. Pursuant to the Term Loan Agreement (the "*Bank Agreement*") dated as of ►◄, 2013 between TCHFC and ►◄, upon application of the payments described above, the Bank Agreement and the Bank Note shall terminate.

IN WITNESS WHEREOF, Playa Del Pueblo, Ltd. and the Travis County Housing Finance Corporation have executed this Repayment Direction as of the Repayment Date.

▶◀, a Texas Limited Partnership, as borrower hereunder

By: ▶◀, a Texas limited liability company, its general partner

By: ▶◀ a Texas non-profit corporation, its sole member

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

TRAVIS COUNTY HOUSING FINANCE CORPORATION

BY: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, Playa Del Pueblo, Ltd. and the Travis County Housing Finance Corporation have executed this Repayment Direction as of the Repayment Date.

▶◀, a Texas Limited Partnership, as borrower hereunder

By: ▶◀, a Texas limited liability company, its general partner

By: ▶◀ a Texas non-profit corporation, its sole member

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

TRAVIS COUNTY HOUSING FINANCE CORPORATION

BY: \_\_\_\_\_  
Name:  
Title:

## ASSIGNMENT AND PLEDGE AGREEMENT

This Assignment and Pledge Agreement (the "*Agreement*") is executed by Travis County Housing Finance Corporation ("*Debtor*") and ▶◀., a Texas limited partnership ("*Owner*") this ▶◀th day of ▶◀, 201▶◀ to secure the payment of that certain ▶◀and No/IOO Dollars (\$XXXXXXXX) promissory note (the "*Note*") of even date herewith executed by Debtor and payable to the order of ▶◀ ("*Lender*").

### ASSIGNMENT AND PLEDGE

For value received, Debtor and Owner hereby assign and transfer to Lender, and Debtor and Owner hereby give to Lender a security interest in the following account:

Name of Account: ▶◀.  
Account Number: ▶◀  
Depository Institution: ▶◀  
Collateral Amount: \$▶◀

together with any renewals or substitutions of the above described account. This account will be referred to herein as the "*Collateral*". The Collateral is held with ▶◀, ▶◀, Texas ▶◀. The Collateral includes all funds now in the Account listed above, plus all additions of any kind and from any source (the "*Account*"), made at any time before the release of this Agreement in writing.

This Agreement is made to secure the payment of the following described debt, plus all extensions, renewals, modifications and substitutions thereof:

\$▶◀ promissory note (the "*Note*") of even date herewith executed by Travis County Housing Finance Corporation and payable to the order of ▶◀, a copy of which is attached hereto as Exhibit "A".

Debtor and Owner hereby agree to the following terms and conditions:

1. This Agreement will continue in full force and effect until Lender executes a written release (a copy of which is attached hereto as Exhibit "B") and Lender shall not be required to release this Agreement and return the Collateral to Debtor until the Note and all related obligations of Debtor to Lender are paid in full.
2. During the term of this Agreement, Owner shall have the right to direct the Lender to apply all or a portion of the Collateral from the Account for the sole purpose of applying the Collateral to amounts due and owing to the Lender pursuant to the Note.
3. No joint owner, beneficiary, surviving spouse or representative of Debtor's or Owner's estate shall have any rights in the Collateral in the event of Debtor's or Owner's death or dissolution until the Note and all related obligations of Debtor to Lender are paid in full.

4. Collateral in the amount of \$▶ ◀ shall be deposited into the Account prior to any advances on the Note.

5. If the Note is in default according to its terms, the Lender shall have the unilateral right to withdraw all or any part of the Collateral and apply the amount so withdrawn toward the payment of the Note and all related obligations of Debtor to Lender, even if the withdrawal causes a penalty. Lender can exercise this right with notice to Debtor or Owner.

6. During an event of default, Debtor and Owner hereby appoint Lender as Debtor's and Owner's attorney in fact to exercise the rights granted to Lender herein.

7. Debtor and Owner hereby represent and affirm to Lender that no other person or entity has any rights in all or any part of the Collateral and further, that no part of the Collateral is exempt or protected by law from this Agreement.

8. The rights and remedies granted to Lender herein are in addition to any rights and/or remedies stated in any other agreements.

9. Debtor and Owner shall be personal liable for the warranties and representations made respectively by Debtor and Owner in this Agreement.

10. Debts secured by this Agreement (whether specifically listed or not) include all sums that could possibly be due under the Note.

11. Intentionally deleted.

12. By signing this Agreement, Debtor and Owner accept the terms of this Agreement and acknowledge receipt of a copy of this Agreement.

Effective as of the date first stated above.

[signatures on following pages]

DEBTOR:  
TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

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

OWNER:

▶◀, a Texas Limited  
Partnership, as Borrower hereunder

By: ▶◀, a Texas  
limited liability company, its general partner

By: ▶◀, a Texas non-profit corporation,  
its sole member

By: ▶◀

ACKNOWLEDGED AND AGREED:

▶◀

By: \_\_\_\_\_  
Name: Vice President – Lending

Draft Dated 2/20/2013

EXHIBIT "A"

Copy of executed Note



CLOSING DIRECTIONS OF  
TRAVIS COUNTY HOUSING FINANCE CORPORATION



The undersigned, Travis County Housing Finance Corporation., (the "TCHFC"), has borrowed from and promised to pay to the order of ►◄ (the "Lender") the principal sum of ►◄ (\$xxxxxxxx) pursuant to the terms of that certain Term Loan Note (the "Note") of the Borrower dated as of ►◄, 2013 (the "*Closing Date*"). The TCHFC hereby directs the Lender to allocate the proceeds of the Note as follows:

(i) \$xxxxxxxx to the TCHFC on the Closing Date via wire transfer pursuant to the following wire instructions:

BANK ►◄  
BNF =  
RFB =  
OBI =  
Participant Name:  
ABA Number:

(ii) \$xxxxxxxx to ►◄ via wire transfer pursuant to the following wire instructions:

Bank ►◄  
ABA Bank Number ►◄  
Account Name: ►◄  
Account Number ►◄  
Reference Number ►◄

(iii) \$xxxxxxxx shall be retained by the Lender, ►◄ of which shall be attributable to the Bank Fees pursuant to the Term Loan Agreement between the TCHFC and the Lender and \$►◄ of which shall be attributable to Lender underwriting and legal fees.

IN WITNESS WHEREOF, the Borrower has executed these Closing Directions as of the Closing Date.

TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

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

ACKNOWLEDGED AND AGREED:



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

Draft Dated 2/20/20013

IN WITNESS WHEREOF, the Borrower has executed these Closing Directions as of the Closing Date.

TRAVIS COUNTY HOUSING FINANCE  
CORPORATION

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

ACKNOWLEDGED AND AGREED:



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

CLOSING DIRECTIONS OF ► ◄

Travis County Housing Finance Corporation  
Austin, Texas

The undersigned, ► ◄., a Texas limited partnership (the "Borrower"), has borrowed from and promised to pay to the order of Travis County Housing Finance Corporation (the "Lender") the principal sum of ► ◄ (\$xxxxxxxx) pursuant to the terms of that certain Term Loan Note (the "Note") of the Borrower dated as of ► ◄, 2013 (the "Closing Date"). The Borrower hereby directs the Lender to allocate the proceeds of the Note as follows:

(i) \$xxxxxxxx to the Borrower on the Closing Date via wire transfer pursuant to the following wire instructions:

BANK ► ◄  
ACCOUNT NAME: ► ◄.  
ACCOUNT NUMBER: ► ◄  
ROUTING NUMBER: ► ◄  
ABA WIRE NUMBER: ► ◄

(ii) \$xxxxxxxx shall be retained by the Lender and attributed to the payment of legal fees incurred in connection with the Note, payable by the Borrower from proceeds of the Note as of the Closing Date.

(iii) \$xxxxxxxx shall be retained by the Lender as payment by the Borrower of the Lender Fees pursuant to the terms of the Term Loan Agreement.

IN WITNESS WHEREOF, the Borrower has executed these Closing Directions as of the Closing Date.

▶◀., a Texas Limited  
Partnership, as Borrower hereunder

By: ▶◀, LLC, a Texas  
limited liability company, its general partner

By: ▶◀Corporatjon, a Texas non-profit  
corporation, its sale member

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

ACKNOWLEDGED AND AGREED:

TRAVIS COUNTY HOUSING FINANCE:  
CORPORATION

By  
Name:  
Title:

IN WITNESS WHEREOF, the Borrower has executed these Closing Directions as of the Closing Date.

▶◀., a Texas Limited  
Partnership, as Borrower hereunder

By: ▶◀, LLC, a Texas  
limited liability company, its general partner

By: ▶◀Corporatjon, a Texas non-profit  
corporation, its sale member

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

ACKNOWLEDGED AND AGREED:

TRAVIS COUNTY HOUSING FINANCE:  
CORPORATION

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