MEMORANDUM OF UNDERSTANDING

[5900 S. Pleasant Valley Apartments]

This Memorandum of Understanding (this "**MOU**") dated __________, 2023, including the Summary of Terms attached as Appendix A hereto, is between the Austin Housing Finance Corporation ("**AHFC")** and ____________, a ______________________ (the "**Developer**").

AHFC and Developer hereby agree to work cooperatively to develop, finance, construct, own (by leasehold estate) and operate the multifamily residential rental development described below, in accordance with the terms of this MOU:

> 5900 S. Pleasant Valley Apartments, a 90 to 100-unit multifamily rental housing development located at 5900 S. Pleasant Valley Road, Austin, Texas (Travis County) (the "**Development**").

In order to accomplish these purposes, the parties agree as follows:

AGREEMENTS:

A. Ownership Structure; Entitlements; Developer Guaranties

1. ________________________, a Texas limited partnership (the "**Partnership**"), will own the Development. AHFC Pleasant Valley Non-Profit Corporation, a Texas nonprofit corporation 100% controlled by AHFC, will serve as general partner (the "**General Partner**") of the Partnership. ___________________________, a ________________, will serve as an administrative limited partner (the "**Administrative Limited Partner**") of the Partnership. A to-be-named entity will serve as investor limited partner (and, if applicable, as a special limited partner) (collectively, the "**Investor Limited Partner**") of the Partnership. The General Partner shall have responsibility for the management of the Partnership, subject to the terms of the Partnership Agreement (as defined below), this MOU and a "Master Agreement" to be entered into among AHFC, the General Partner, the Developer and the Administrative Limited Partner prior to Closing (the "**Master Agreement**"). AHFC and the Partnership (or the General Partner) will execute a Ground Lease Option Agreement, relating to the granting of an exclusive option (the "**GLO**") by AHFC to the Partnership for the leasing of approximately 2.495 acres of land by AHFC to the Partnership.

2. The Developer's guaranty obligations may include a development deficit guaranty agreement, an operating deficit guaranty agreement, and a tax credit recapture guaranty agreement (collectively, the "**Guaranty Agreement**"). Neither AHFC nor the General Partner will provide any financial guaranties with respect to the Development or the obligations of the Partnership.

B. Tax Exemptions

The ownership structure described herein is intended to make the Development exempt from ad valorem taxes. The General Partner, or other affiliate of AHFC, may, if requested, to act as general contractor of the Development in order to make construction materials exempt from Texas sales tax.

C. Tax Credit and/or Bond Cap Applications; Financing

1. The Developer or the Partnership has applied, or will apply, for tax-exempt private activity bonds (the "**Bonds**") from the Texas Bond Review Board (the "**BRB**") and 4% low income housing tax credits ("**LIHTCs**") through the Texas Department of Housing & Community Affairs ("**TDHCA**") for the Development. The Developer or the Partnership has applied, or will apply, for 9% LIHTCs in 2024. If the 9% LIHTC application is not successful or if AHFC and Developer mutually agree to forgo the 9% application based on lack of competitiveness, the Developer will pursue financing the development with 4% LIHTC and Bonds. AHFC will be the issuer of the potential Private Activity Bonds for the Development, unless it is determined by mutual agreement of Developer and AHFC that pursuing bonds with a separate Issuer is more appropriate. The closing ("**Closing**") of the Development will occur when (i) the Partnership Agreement has been executed by the General Partner, the Administrative Limited Partner and the Investor Limited Partner, and (ii) for 9% LIHTCs the senior loan has been closed, or for 4% LIHTCs the Bonds have been issued. The Developer understands, acknowledges and agrees that (i) while the Board members of the General Partner will execute the TDHCA application for 9% and/or 4% LIHTCs for the Development, and if applicable, the BRB application for private activity bond volume cap for the Development, the Developer is wholly responsible for, and will certify to AHFC and the General Partner as to, the accuracy of the information set forth in all such application(s), and (ii) AHFC is involved in other developments that are seeking 9% LIHTCs and/or private activity bond cap/4% LIHTCs, and that such applications may be approved instead of the Development's application(s).

2. The Developer (as a co-developer) and AHFC or the General Partner or other AHFC affiliate (as a co-developer) will enter into a Development Agreement with the Partnership (in a form approved by the Investor Limited Partner) for the Development that will cover all aspects of the development of the Development, including the payment of the Developer Fee (as defined below), in a manner consistent with the provisions of this MOU.

3. For a 9% LIHTC transaction, the Developer shall be primarily responsible for (i) selecting the senior lender for the Development (the "**Senior Lender**"), subject to the approval of AHFC and (ii) negotiating the financial terms of the Senior Loan, provided that AHFC shall review and provided comments to the Senior Lender commitment letter/term sheet, and shall approve the financial terms of the Senior Loan. For a 4% LIHTC transaction, the Developer and AHFC shall be jointly responsible for (i) selecting the bond purchaser for the Development (the "**Bond Purchaser**"), and (ii) negotiating the financial terms of the Bonds. AHFC's bond counsel shall prepare the documents relating to the Bonds and the loan to be made to the Borrower from Bond Proceeds (the "Senior Loan"). Developer shall be responsible for reviewing and commenting on such documents. The Bonds may be issued in the form of a tax-exempt loan or a tax-exempt bond.

4. The Developer and AHFC shall be jointly responsible for the selection of the LIHTC investor (the "**LIHTC Investor**"), and the negotiation of the terms of the corresponding LIHTC equity investment (the "**Equity**"). The selection of the LIHTC Investor shall be based on a bidding process in which at least 3 bids are received. AHFC, the LIHTC Investor and the

Developer shall be jointly responsible for negotiating the terms of the Partnership Agreement (the "**Partnership Agreement**"). Neither AHFC nor the Developer will conduct negotiations or communications with the LIHTC Investor that do not include the other party, nor agree to any terms that are not in conformity with the terms of the MOU or its Appendix A without consent of the other party.

5. The Developer shall advance funds for pre-development costs, including the costs and fees associated with applying for the commitments from the Bond Purchaser and the LIHTCs, costs for a market study and Phase I environmental study, application fees, and such other costs that are necessary in order to advance the development of the Development (the "**Pre-Development Costs**"). All eligible Pre-Development Costs shall be reimbursed at Closing from the proceeds of the Bonds, the initial installment of Equity and/or any other available financing proceeds.

6. The developer fee (the "**Developer Fee**") for the Development is estimated to be $___________. The Developers shall be entitled to 75% of the Developer Fee and AHFC or the General Partner (or other AHFC affiliate) shall be entitled to 25% of the Developer Fee. The Developer Fee shall be paid to the Developer and AHFC (or its affiliate) on a pro rata basis.

7. The General Partner shall be entitled to a GP Management Fee and the Administrative Limited Partner shall be entitled to an ALP Fee, in each case as set forth in Appendix A hereto.

8. Annual cash flow and proceeds from the sale or refinancing of the Development shall be distributed in accordance with terms set forth in Appendix A.

9. AHFC may approve a loan to the Partnership in a total principal amount of up to a maximum principal amount of $__________ (the "**AHFC Loan**"). If approved, the AHFC Loan will be funded at Closing. The AHFC Loan proceeds are expected to be used for construction of the Development and the AHFC Loan will be secured on a subordinate basis to the Senior Loan under a subordinate leasehold deed of trust.

10. At Closing, AHFC (which will hold fee title to the land) will ground lease the land to the Partnership in accordance with the terms set forth in Appendix A.

11. The terms and provisions of this Agreement (including Appendix A) have been agreed to by the Developer and AHFC and will be reflected in the Bond Purchaser and Investor Limited Partner term sheets, the Partnership Agreement and other Development-related documents.

12. All Closing costs will be paid by the Partnership at Closing from Equity proceeds, and any other available and permitted sources of funds. None of AHFC, the General Partner, the Developer or the Administrative Limited Partner shall be responsible for providing funds to pay Closing costs.

13. None of AHFC, the General Partner or any other AHFC affiliate have any obligation to provide any funds (besides the AHFC Loan, if applicable) as a capital contribution, a loan or any other type of advancement of funds, or provide any guarantee, to the Bond Purchaser,

the Partnership, the Developer, the Administrative Limited Partner, the General Partner, the Investor Limited Partner, or any other person or entity, at any time with respect to the Development.

14. Neither AHFC nor the General Partner (nor any other AHFC affiliate) will be responsible for any federal tax consequences due to forgiveness of debt resulting from any restructuring that occurs as a result of, or relating to, non-payment of the Developer Fee or the Partnership's debts.

15. The General Partner is a governmental nonprofit corporation (established and controlled by AHFC) and will not make an irrevocable election under Internal Revenue Code section 168(h) or any other Code section or regulation to be treated as a taxable entity. See Appendix A.

D. <u>Construction and Management</u>

The General Partner, or other affiliate of AHFC, may serve as general contractor for the construction of the Development. __________________________ will serve as the prime subcontractor for the Development.

It is anticipated that ___________________________ will manage the Development and will have responsibility for the day-to-day management and operation, record keeping, and maintenance and upkeep of the Development. Any management entity other than _________________________ must be approved in writing by AHFC.

E. <u>Miscellaneous</u>

1. This MOU may be amended with the written consent of AHFC and the Developer.

3. Each party hereto is prohibited from assigning any of its interests, benefits or responsibilities hereunder to any third party or related third party, except that AHFC may assign its interests in whole or in part to the General Partner or other entity established and controlled by AHFC, without the prior written consent of the Developer.

4. The parties agree to execute such documents and do such things as may be necessary or appropriate to facilitate the consummation of this Agreement.

5. This MOU may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

6. THIS MOU SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, EXCLUSIVE OF CONFLICT OF LAWS PRINCIPLES.

7. In case any one or more of the provisions contained in this MOU for any reason are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or

unenforceability will not affect any other provision hereof, and this MOU will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8. The parties hereto submit exclusively to the jurisdiction of the state and federal courts of Austin, Travis County, Texas, and venue for any cause of action arising hereunder shall lie exclusively in the state and federal courts of Austin, Travis County, Texas.

9. The subject headings contained in this MOU are for reference purposes only and do not affect in any way the meaning or interpretation hereof.

10. This MOU shall continue until terminated upon the occurrence of one of the following conditions:

(i) The parties execute a mutual consent to terminate this MOU;

(ii) A party breaches its obligations under this MOU, the non-breaching party provides the breaching party notice of such breach and a thirty (30) day opportunity to cure, and the breaching party fails to do so; or

(iii) A party files for bankruptcy protection, makes an assignment for the benefit of creditors, has a receiver appointed as to its assets, or generally becomes insolvent.

Upon termination of this MOU under clause (i) above, the parties shall have no ongoing obligation to each other under the provisions of this MOU; provided that the Developer shall pay the fees and expenses of AHFC's outside counsel incurred prior to termination. Upon termination of this MOU under clause (ii) above, the non-breaching party shall have no ongoing obligation to the other party with respect to this MOU, but the breaching party shall pay the fees and expenses incurred by AHFC's outside counsel prior to termination.

11. The parties to this MOU acknowledge that, if the transaction is consummated (that is, the Closing occurs), the provisions of the Partnership Agreement and the Master Agreement, in that order, shall govern in the event of any conflict with this MOU.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

This Memorandum of Understanding is executed and effective as of the date above shown.

AUSTIN HOUSING FINANCE
CORPORATION

By: ________________________________
Name: Rosie Truelove
Title: Treasurer

______________________, a
____

By: ________________________________
Name:
Title:

APPENDIX A

5900 S. PLEASANT VALLEY – SUMMARY OF TERMS

I. GENERAL TRANSACTION TERMS

(RELATING TO AUSTIN HOUSING FINANCE CORPORATION ("AHFC"), THE DEVELOPER (_______________), THE GENERAL PARTNER (AHFC Pleasant Valley Non-Profit Corporation (an AHFC affiliate)) ("GP"), THE ADMINISTRATIVE LIMITED PARTNER (a ___________, _______ affiliate) ("ALP") and a to-be-determined INVESTOR LIMITED PARTNER ("ILP"))

1. Principal Terms (Including Fees/Payments to AHFC, GP, ALP, and ILP)

Item	Amount(s)	Notes
Ownership Percentages	0.005% GP and 0.005% ALP	It is anticipated that GP and ALP will each own 0.005% capital interest in the tax credit partnership ("Owner").
Developer Fee	Approximately $___________ total (or 15% of final eligible development costs); $___________ deferred; 25% GP /75% ALP	ALP (or affiliated entity) and GP are co-developers; Developer Fee paid on 25% GP/75% ALP basis to co-developers. Expected to be paid in full 15 years after being placed-in-service. To obtain RHDA loan, at least 25% of the total Developer Fee must be deferred.
General Contractor/Fee Selection of Prime Subcontractor	$75,000	GP will serve as General Contractor to provide a Sales and Uses Tax Exemption, except in instances where the Developer qualifies. GP will charge a one-time fee, to be paid from closing funds. GP will have right to evaluate and approve Prime Subcontractor.
GP Management Fee	$25,000 per year, Years 1-2. Beginning Year 3, $30,000, with 3% annual inflation adjustment. Accrues and compounds if not paid.	Years 1-2 paid at closing. Year 3 and after paid from Cash Flow; senior in payment to other payments of fees and residual Cash Flow amounts payable to GP and ALP (as shown below in 5), including deferred Developer Fee payments. 3% inflation adjustment applied to the previous year's amount. Accrues if not paid at 3% compounded rate (but not lower than ILP senior fee accrual rate).
ALP Fee	$30,000 per year. 3% annual inflation adjustment starting in Year 3	Unpaid portion of annual fee (i.e., Cash Flow not available) accrues if not paid at 3% compounded rate (but not lower than ILP senior fee accrual rate).
Ground Lease Payments	Initial Upfront Rent Payment Equal to $100,000; $10,000 annual rent through end of 15-year compliance period, with 3% annual inflation adjustment. Paid as an above-the-line operating expense.	On the day of closing, AHFC leases the land to the Owner. Years 1-2 paid at closing. See 4.d below regarding rent payments after the end of the initial 15-year compliance period.
Repayment of AHFC Loan Principal	From 40% of available Cash Flow	Under the Cash Flow waterfall priority shown below (see 4 below), 40% of available Cash Flow will be used to repay principal of AHFC loan (assume 2% interest rate, 40 yr. term). Balance of AHFC loan due at

Item	Amount(s)	Notes
		maturity (balloon payment) or upon earlier repayment event provided in loan agreement.
Ongoing Cash Flow Split	50% GP/50% ALP (after any ILP distribution; max. 10% to ILP)	At bottom of the Cash Flow Waterfall Priority (see 5 below for detail), remaining cash flow will be split 50%/50% respectively between GP and ALP. Assuming ILP has a 10% split: 45% to GP and 45% to ALP.
Capital Transactions (Sale/Refi)	50% GP/50% ALP (after any ILP distribution; max ILP interest of 10%; GP share will not be reduced by ILP share if ILP share exceeds 10%). GP/ALP shares not to be reduced under "liquidation" provisions of Partnership Agreement.	Proceeds of refi may be used on capital needs, replenishment of reserves, reduction of debt, or other prudent investment in the Project as determined jointly by GP and ALP. Excess refi proceeds after any such investment will be distributed per listed percentages. GP controls whether there is a refi; Project sale is joint decision of GP/ALP, but consent of ALP may not be unreasonably withheld.
Selection of ILP and Maximum ILP Interests	ILP maximum equity interest -- 10% of Annual Cash Flow and 10% of Capital Transactions (Sale/Refinance Proceeds)	AHFC and Developer will jointly negotiate and approve selection of ILP; approval of either party not to be unreasonably withheld if conditions in MOU and Summary of Terms have been met; ILP must be selected by a bidding process conducted by AHFC and Developer, pursuant to a term sheet developed jointly and approved by Developer and AHFC that reflects the terms of this Summary of Terms. ALP will prepare an RFP to be sent to tax credit investors; GP must consent to the form and substance of the RFP. GP and ALP will agree to the list of potential investors/lenders. Minimum 3 bids must be solicited. Developer will provide a list of potential investor partners to AHFC; AHFC agrees to notify Developer within 10 business days if any investor on the list would be unacceptable to AHFC. AHFC has the right to add additional potential investor partners to the list.
Limited Partnership Agreement		GP and ALP will enter into an initial Limited Partnership Agreement prior to closing. GP and ALP will jointly negotiate the terms of an Amended and Restated Limited Partnership Agreement with the ILP; terms must reflect all the terms in this Summary of Terms and MOU, unless both GP and ALP agree to a change. Neither GP nor ALP will undertake separate negotiations or communications with the ILP to the extent those negotiations or communications are contrary to the terms provided in the MOU or the ILP Term Sheet or cover material terms not included in the MOU or ILP Term Sheet. GP and ALP will be included on all emails with ILP.
AHFC Option to Purchase Project under Ground Lease	Greater of FMV or Formula Price (Debt, Exit Taxes, Expected ALP and LP Economic Return Amounts)	AHFC will have option to purchase the Project ("compel title") at any time at greater of (i) FMV or (ii) Debt plus Exit Taxes plus the reasonable projected loss of economic benefit to the ILP and the ALP if the purchase is made during 15-year compliance period.

Item	Amount(s)	Notes
		This option will be in the Ground Lease and is required as one of the conditions to the RE Tax Exemption.
AHFC/GP Option and AHFC ROFR Beginning in Year 14 of Initial 15-year Compliance Period to Purchase Project or ILP Interest	Option Price: Project: Greater of (i) FMV or (ii) Debt plus Exit Taxes ILP Interest; Greater of (i) FMV or (ii) ILP Exit Taxes (for ROFR Price – see 6 below)	For further detail, see provisions below under 6.
Development Requirements		Developer shall design and develop the project at a height no greater than three stories within 30 feet of the eastern lot line of the property. Developer should be prepared to construct and finance a fence or wall at least six feet in height along the entirety of the eastern lot line, the design of which must be approved by AHFC. Developer shall be prepared to design and develop the building in such a manner to have no external balconies facing the eastern lot line of the property. To the degree that such access may be permitted, the Developer shall be prepared to design and permit the development such that no ingress, egress, and curb cut beyond that required for any fire access shall be made on the northern side of the property fronting Village Square Drive. Developer shall be prepared to develop, reserve, and maintain the southern half of the property within the Critical Water Quality Zone as an open space amenity for public use. Developer shall be prepared to explore opportunities with the Austin Economic Development Corporation to fund and incorporate non-residential civic or commercial ground floor space as part of the development.

NOTE: "Year 1" means the 1st year of the partnership; "Year 2" means the 2nd year of the partnership; etc.

2. Unit Mix (90 to 100 Total Units) [To be updated with final unit and income mix]
    a. At least 10% of total units restricted for households earning at or below 30% AMI
    b. At least 40% of total units restricted for households earning at or below 50% AMI
    c. At least 40% of total units restricted for households earning at or below 60% AMI
    d. Up to 10% of total units may be unrestricted
    e. At least 50% of total units shall be developed as multibedroom units (2 and 3+ bedroom units)

3. Projected Permanent Sources of Funds:

Permanent Tax-Exempt Loan
Tax Credit Equity
AHFC RHDA Subordinate Loan (if any)
Other Sources of Funds

Deferred Developer Fee	____________________
Total Sources	

If the foregoing projected sources of funds changes materially, or if the developer requests a larger loan from AHFC, AHFC reserves the right to amend this Summary of Terms including but not limited to the Initial Rent Payment, the Developer Fee, and the Cash Flow and Capital Transaction splits.

Note 1: If IRC section 42 is modified (such as new rules that increase eligible basis) and such change results in an increase to the Project's LIHTC equity payments, such increase in equity will be first applied to any funding gaps in the Project budget. After reducing any Project funding gaps, net remaining benefit from the increased equity will go equally towards reducing the AHFC Loan amount and decreasing the deferred developer fee (but not below 25% deferred). If the ILP equity pricing is more than $0.02 per credit higher than the current pro forma estimate ($0.___), then AHFC reserves the right to reduce the AHFC Loan amount by the increased equity in excess of that additional $0.02 per credit.

Note 2: AHFC may, in their sole discretion, recommend approval of a RHDA Subordinate Loan in an amount up to $__________. Any excess development proceeds at conversion (including but not limited to excess proceeds attributable to additional loans, grants or other subsidy amounts will go first toward funding excess construction costs, with remaining proceeds going on a 50-50 basis to reducing the Deferred Developer Fee (but not below 25% of the total Developer Fee amount (the minimum DDF required under the RHDA rules)), and second toward reducing the AHFC loan.

Note 3: The ALP commits to applying for additional permanent funding sources (e.g., FHLB, TDHCA MFDL, NHTF), and shall make a good faith effort to prepare and submit funding applications and all required materials necessary to be competitive for the award of the additional funding sources Any additional funding sources will reduce the AHFC RHDA Subordinate Loan.

4. Timeline (Expected)

The expected timeline for the development, financing, construction and conversion of the Development is as follows:

Event	Date
AHFC Submits Zoning Application	April 2023
Development Opportunity Awarded	July 2023
AHFC Approves GP Participation in Project	July 2023
Developer Applies for Bond Inducement	August 2023
Original MOU/SOT/Ground Lease Option Executed	October 2023
Developer Applies for PAB Volume Cap	October 2023
AHFC approves Inducement Resolution	November 2023
Zoning Approved	October 2023
Developer Submits Site Plan Application	November 2024
Developer Submits Pre-Application for 9% Tax Credits	January 2024*
Developer Applies for 9% Tax Credits	March 2024*
Developer Receives Bond Reservation	March 2024**
Developer Files 4% LIHTC Application	March 2024**

Site Development Permit Approved	May 2024
Developer and AHFC Approve Investor	2 months post-award
Bond – Loan/Tax Credit Closing	5 months post-award
Construction Completed	20 months post-close
Stabilization/Conversion	8 months after C.O.

*Does not apply if parties agree to forgo filing a 9% LIHTC application
**Subject to change based on results of the bond lottery

5. Land/Ground Lease
    a. AHFC owns the land in fee simple and AHFC or its affiliate will lease the land to the Partnership.
    b. Ground Lease term will be for 55 years.
    c. At any time after the end of the 15-year compliance period (approximately 17 years from closing), ALP may request an extension of the Ground Lease term, and AHFC or its affiliate, in its sole discretion, may grant an extension of the Ground Lease.
    d. For initial approximately 17-year period (2 years construction + 15-year compliance period), annual ground rent will be as shown in table above. After the 15-year compliance period, AHFC may charge rent in an annual amount determined by it in its sole and reasonable discretion; provided that any such rent amount will not reduce DCR below 1.35 and AHFC will consider in its determination the likelihood and timing of a resyndication of the development.
    e. Ground Lease rent is paid as an "above-the-line" operating expense of the development (and is not paid from Cash Flow).
    f. Under Ground Lease, as a requirement of the real estate tax exemption analysis, AHFC will have option to purchase the Project ("compel title") at any time as described in the table above.
    g. AHFC, in its sole discretion, may modify the foregoing ground lease rent amount terms, along with the AHFC loan repayment terms, if doing so helps to increase the investment yield for the investor limited partner, thereby improving the equity pricing for the development.

6. Cash Flow Waterfall Priority (Annual)[1]
    a. Replenishment of Operating Deficit/Replacement Reserves, making capital improvements and/or additional deposits to replacement reserves
    b. Repayment of ILP/GP/ALP Operating Loans, Capital Repair Loans and ALP guaranty payments
    c. ILP Asset Management Fee
    d. GP Management Fee (see table above)
    e. ALP Fee (see table above)
    f. Deferred Developer Fee
    g. Repayment of AHFC Loan (see table above) (from 40% of Cash Flow)
    h. Accrued ILP Asset Management and GP Management Fees
    i. Ongoing Cash Flow Split (see table above)

7. Option/ROFR to Purchase Project or ILP Interest at End of 15-Year Compliance Period
    a. <u>Option</u>. Beginning in year 14 of the initial 15-year compliance period, AHFC and GP will each have an option ("Option") to (i) purchase the Project for a price equal to the greater of (A) FMV determined by

[1] Cash Flow is net operating income (net revenues less operating expenses), less senior debt service).

appraisal (taking into account any and all remaining affordability restrictions) or (B) Project debt plus projected ILP and ALP exit taxes; or (ii) purchase the ILP's interest and the ALP's interest for an amount equal to the greater of (A) the FMV of ILP's interest and ALP's interest determined by appraisal (taking into account any and all remaining affordability restrictions) or (B) projected ILP and ALP exit taxes. Option will be for 4 years beginning in year 14 of the initial 15-year compliance period and ending in year 17.

b. ROFR. Beginning in year 14 of the 15-year initial compliance period, if an offer to purchase the Project is made (except pursuant to the Option), AHFC will have a ROFR to (i) purchase the Project for an amount equal to Project debt plus any projected ILP and ALP exit taxes (pursuant to the safe harbor formula under IRC section 42(i)(7)), or, at AHFC's option, or (ii) if permitted under Section 42 (not currently permitted) purchase the ILP interest and the ALP interest for an amount equal to any projected ILP and ALP exit taxes. The ROFR will have no expiration period.

c. Limitation on Assignment of ILP interest; ILP Put Option. ILP will have no right to sell its interest to a nonaffiliated party except (i) with the written consent of GP and ALP which will not be unreasonably withheld or (ii) under an ILP put option to sell the ILP interest to GP for $100.

d. Continued Affordability. Following any purchase under a or b, the Project will continue to be subject to existing affordability restrictions for the balance of the applicable extended use period (under the TDHCA LURA), and the restrictions set forth in the Bond LURA (if applicable), the AHFC RHDA LURA, the Ground Lease and any other applicable affordability restrictions.

8. Operating Deficit Reserve

a. The Operating Deficit Reserve will be based on six (6) months of operating expenses and hard debt service (currently estimated at $__________) and will be fully funded by conversion.

b. If the Operating Deficit Reserve decreases below the required amount (prior to any release date allowed in the LPA), it will be restored using Cash Flow, as shown above in the Cash Flow Waterfall Priority. On any release date (not expected to occur before exit of ILP), the Operating Deficit Reserve can be reduced to $__________, with the remainder to be distributed as follows:
    - 70% to the Replacement Reserve
    - 15% to the GP
    - 15% to the ALP

c. Upon re-syndication, the balance (if any) will be used to fund the new operating deficit reserve.

d. Any released amount from Operating Deficit Reserve (in addition to release described above) will be split 50%/50% between GP and ALP.

9. Replacement Reserve

a. Will be funded at $300/unit per year beginning the first year the Project is placed in service. Reserve amount per unit will increase 3% per year. No maximum. AHFC requires developments to have well-capitalized reserves to address any and all large maintenance expenditures, so that the Project can operate smoothly and in great condition for the long-term, without having to unnecessarily and prematurely re-syndicate at year 15.

b. To be used for significant rehabilitation expenditures only (qualified items to be specified in the Limited Partnership Agreement) and only with GP consent; provided that GP approval will not be required for (i) any GP-approved budget item to be funded from the Replacement Reserve or (ii) any qualified replacement expenditure of $10,000 or below. GP will be notified of any Replacement Reserve expenditure in excess of $5,000.

c. Balance to be released only upon sale or liquidation (or be used to fund new operating reserve in a resyndication). GP and ALP will share any released amount on a 50%/50% basis

d. Any released amount from Operating Deficit Reserve (in addition to release described above) will be split 50%/50% between GP and ALP.

10. Capital Repair Loan

a. In the event that capital repair costs exceed what is available in the project's Replacement Reserve account, ALP would have the option to make a loan ("Capital Repair Loan") to the Owner to cover the excess capital costs from a capital reserve fund maintained by ALP. Any such Capital Repair Loan would be repayable from cash flow as set forth in the waterfall above.

11. Real Estate and Sales Tax Exemption Summary

a. <u>RE Tax Exemption</u>. 100% property tax exemption based on ownership by AHFC of land and improvements. The gross property tax liability over a 30-year period assuming a 3% per annum growth rate, would be $__________.

b. <u>Sales Tax Exemption</u>. AHFC will act as General Contractor except in instances when the Developer qualifies for a Sales and Uses Tax Exemption. The gross sales tax savings during the construction period is estimated at $__________.

10. Other Provisions

a. <u>No IRC Sec. 168(h) Election</u>. The GP is a governmental nonprofit corporation and is not, and will not become, a 501(c)(3) entity. The GP (or any affiliate) will not make an IRC sec. 168(h) election and will not form an LLC affiliate or any other entity that will elect to be a taxable entity. The GP Cash Flow and Capital Transaction interests stated above must be expressly included in the Limited Partnership Agreement (the GP will not accept these in a side agreement) and therefore "bonus" depreciation rules may not be available for certain portions of Project assets (such as equipment, for which there may be no "bonus depreciation" for residential rental real estate structures). The ILP term sheet will contain the necessary provisions and they will not be added later in the Limited Partnership Agreement. This is not a negotiable item -- AHFC will not create a taxable entity to allow a fairly minor benefit to the ILP through bonus depreciation and slightly accelerated depreciation. The lesser depreciation can be taken into account in the ILP's pricing for the tax credits.

b. <u>Summary of Terms to be Included in Limited Partnership Agreement</u>. All terms set forth in this Summary of Terms must be expressly included in the Limited Partnership Agreement.

c. <u>MOU and Master Agreement</u>. AHFC and the Developer will enter into a Memorandum of Understanding (MOU) as soon as practicable after the completion of this Summary of Terms (which will be attached as Exhibit A to the MOU). In addition, AHFC and ALP will enter into a "Master Agreement" that includes various matters including indemnification by ALP and Developer of GP and AHFC for the negligent acts of Developer or GP.

d. <u>Payment of AHFC Outside Counsel Fees and Expenses</u>. AHFC/GP outside legal counsel will be paid for its legal fees and expenses related to the Project at the time of closing of the bond and tax credit financings. If the MOU is terminated by the developer for any reason prior to such closing, the developer shall reimburse AHFC (or pay counsel directly) for the legal fees and expenses incurred by such outside legal counsel to the date of termination.

e. <u>No Additional Payments to ALP or ALP Affiliates</u>. Neither ALP nor its affiliates will receive, directly or indirectly, from the Owner or from any other person, any fee, commission, compensation or other consideration relating to the Project, except for the payment of fees and distributions to the ALP set forth in this Summary of Terms, except as approved in writing by AHFC.

II. AHFC TAX-EXEMPT BOND RELATED FEES (4% LIHTC transaction)

1. $5,000 bond application fee.

2. 0.50% initial one-time fee (based on initial bond principal amount). Estimated initial bond principal of $__________ (fee of $__________). Not inclusive of AHFC's bond counsel's fees.

3. An annual bond monitoring fee equal to greatest of $1,200 <u>or</u> $12 per unit <u>or</u> .03% of the bonds outstanding. Bond compliance is required for a minimum of 15 years (even if no tax-exempt bonds are outstanding). After the 15-year period, if no bonds are outstanding, no annual bond monitoring fee will be due. The first two years of annual bond monitoring fees are due at closing, for a total of $__________ x .03% x 2 = $__________.