



Completing the Agreement and Election Statement

The determination of the Applicable Percentage for a Tax-Exempt Bond Development shall be the earlier of the month in which each building is placed in service or at the election of the Development Owner the month in which the bonds were issued. In situations where bonds were issued at the end of the month, the Development Owner can claim the Applicable Percentage for that month provided the election is made not later than the 5th day after the close of such month.

If electing to lock the Applicable Percentage at the time the bonds are issued, the Development Owner should execute the following Agreement and Election Statement and return it simultaneously with the executed Determination Notice to the Department. If the bond closing has not occurred prior to the expiration of the Determination Notice then the Development Owner shall submit the executed Agreement and Election Statement with the documentation required sixty (60) days post closing as identified on the Department's website found here: <http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-4pct/index.htm>.



**AGREEMENT AND ELECTION STATEMENT FOR
HOUSING TAX CREDIT DEVELOPMENTS SUBSTANTIALLY FINANCED
WITH TAX-EXEMPT BOND OBLIGATIONS**

This Agreement and Election Statement for Housing Tax Credits ("**Agreement**") is made between ____ (the "**Development Owner**" or "**Owner**") and the Texas Department of Housing and Community Affairs ("**Department**"), pursuant to Section 42(b)(1)(A)(ii)(II) of the Internal Revenue Code of 1986 as amended ("**Code**"), for the purpose of irrevocably establishing the applicable percentage, as defined in Section 42(b)(1)(A) of the Code, with respect to ____ (the "**Development**"), TDHCA Development Number: ____, which is anticipated to be eligible for housing tax credits by the Department pursuant to Section 42(h)(4)(A) of the Code.

WITNESSETH:

WHEREAS, the Development Owner is or shall be the Owner of the Development located on real property in the City of ____, County of ____, State of Texas;

WHEREAS, the Department has been designated by the Governor of the State of Texas as the housing credit agency for the State of Texas for the allocation of tax credits pursuant to Section 42 of the Code;

WHEREAS, the Development Owner has financed or will finance 50% or more of the aggregate basis of any building and land on which the building(s) is located by a tax-exempt obligation as identified in Section 42(h)(4)(B) of the Code; and

WHEREAS, Department has issued a Determination Notice dated _____, 20_____, with respect to the Development, that the Development satisfies the requirements of the Department’s Rules, Title 10, Chapter 10 of the Texas Administrative Code and the Qualified Allocation Plan, Title 10, Chapter 11 of the Texas Administrative Code as required by Section 42(m)(1)(D) of the Code; and

WHEREAS, pursuant to Section 42(b)(1)(A)(ii)(II) of the Code, the Owner may elect to fix the applicable credit percentage that will apply to buildings in the Development for the month in which the tax-exempt obligations are issued; and

WHEREAS, the Owner has determined to make such election;

NOW, THEREFORE, in consideration of the premises set forth:

1. The Development Owner irrevocably elects, pursuant to Section 42(b)(1)(A)(ii)(II) of the Code, to fix the applicable credit percentage for the Development as the percentage prescribed by the Secretary of the Treasury for the month of _____, 20_____, which is the month in which the tax-exempt obligations were issued.

2. The Owner hereby represents that the percentage of the aggregate basis of the land and buildings of the Development that is financed with the proceeds of obligations described in Section 42(h)(4)(A) of the Code is, or is expected to be, as follows:

Building 1	__%	Building 3	__%	Building 5	__%
Building 2	__%	Building 4	__%	Building 6	__%

(Attach a schedule to identify additional buildings if necessary.)

3. The Development Owner hereby represents that (mark the appropriate box):

The Department has issued the tax-exempt bonds financing the Development;

or

An authority other than the Department has issued the tax-exempt bonds financing the Development.

4. The Development Owner acknowledges that this election is binding upon the Owner and all successors in interest to the Owner as Owners of the Development subject to compliance by the Owner with the requirements of Section 42 of the Code and the requirements of the Department, and acknowledges further that in making the feasibility determination required under Section 42(m)(2)(D) of the Code, the Department may use an applicable percentage that is less but not greater than the appropriate percentage for the month elected by the Owner pursuant to this Agreement.

EXECUTED to be effective as of the date in paragraph (1) above provided that execution hereof must not be later than the 5th day after the close of such month pursuant to Section 42(b)(1)(A)(ii)(II) of the Code.

DEVELOPMENT OWNER:

_____, a Texas limited partnership

By: _____, a Texas limited liability company, its general partner

By: _____, a Texas limited liability company, its managing member

By: _____
Signature, Title

THE STATE OF TEXAS §
§
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be _____ of _____, a Texas limited liability company, managing member of _____, a Texas limited liability company, general partner of _____ a Texas limited partnership, the limited partnership that executed the foregoing instrument, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited partnership, and that he executed the same as the act of such limited partnership for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20_____.

(Seal)

Notary Public, State of Texas