

**AGREEMENT FOR RESERVATION
OF LOW INCOME HOUSING TAX CREDITS**

THIS AGREEMENT is made and entered into on this day of , 2005 by and between Kansas Housing Resources Corporation ("Corporation") and ("Owner") to reserve low income housing tax credits in the annual amount of \$from the 2006 state per capita credit authorization for a residential rental housing development ("Project") located in, Kansas, as further described in Exhibit A, subject to the following conditions:

- A. This reservation is made in accordance with the provisions of Section 42 of the Internal Revenue Code and with the representations made in the Owner's application for tax credits. Owner acknowledges this grant of reservation is issued based on the representations, statements and conditions set forth in the Project's application for tax credits and is conditioned upon compliance with the terms and provisions of this Agreement. Owner agrees and conditions that receipt of such reservation for the amount stated above is good, sufficient and full consideration for the covenants and promises contained herein.
- B. This reservation is specifically made for the real estate described in Exhibit A. Any change in the location of the project requires a new application. The credits are not transferable without written authorization from the Corporation.
- C. The Owner covenants and agrees that the design and construction or rehabilitation of the units will comply with local building codes and the standards of the 2003 International Energy Conservation Code (IECC). Prior to construction start, the plans must be reviewed by a KHRC certified home energy rater to verify compliance with IECC and the provisions of the State Allocation Plan. Owner will also provide energy efficiency testing upon completion of the buildings. Owner further agrees that the architect for the project will certify that the design and specifications for the construction or rehabilitation of the buildings will comply with the standards of the IECC.

The Owner further agrees to comply with the Architectural Procedures And Minimum Development Standards established by the Corporation, which are incorporated by reference into this document. Failure to meet the minimum building standards will result in a penalty as enumerated in Exhibit D. The Corporation reserves the right to make recommendations for additional amenities or for quality standards, which may exceed local building codes. Owner agrees to attend a predevelopment conference with the Corporation prior to the commencement of construction.

- D. This reservation may be revoked by the Corporation without notice in the event construction does not commence before May 1, 2006. All of the conditions in the offer letter accompanying this agreement are incorporated into this document.
- E. The Owner shall provide all information required by the Corporation on or before December 29, 2006 to enable it to make a carryover allocation. The Owner must place the project in service or receive a carryover allocation by December 29, 2006. To receive a carryover allocation, 10% of the reasonably expected basis in the project must be expended prior to

December 29, 2006. This Reservation may be revoked by the Corporation, at any time, if in the sole judgment of the Corporation, the project will not or cannot either satisfy requirements for a carryover allocation or be placed in service by December 29, 2006.

- F. The Owner agrees that the Project, upon completion, and throughout the compliance period and extended use period, shall be operated and maintained in accordance with the characteristics and within the guidelines and specifications represented in the application and further described in Exhibit B attached hereto including, without limitation the following:
1. Targeting units for general occupancy.
 2. One unit is set-aside for a transitional, homeless family for a term of no more than 2 years per family during the period of this agreement.
 3. Set aside cash annually in a segregated account for replacement reserves in the amount of \$ per unit with annual increases of percent as shown on the pro forma attached to the application. Failure to fund or maintain such replacement reserves will result in the suspension of the Owner from all Corporation programs and a penalty as enumerated in Exhibit D. Withdrawals can be made only with prior approval from the Corporation.
 4. Amenities shall include but are not limited to:
- G. The Owner agrees, understands and acknowledges that the terms and provisions of this Agreement shall be incorporated within any carryover allocation of the tax credits granted to the Project along with the Declaration of Land Use Restrictive Covenants or similar documents to be recorded in the office of the Register of Deeds in the county where the Project is located. Owner agrees to execute, complete, file and cooperate in the completion and recording of all such documents.
- H. The Owner recognizes that the failure to maintain and operate the Project in compliance with the characteristics, qualifications and specifications set out above shall constitute a violation of the terms and provisions of the conditions for obtaining housing tax credits from the State of Kansas. Owner also acknowledges that the grant of a reservation of tax credits to this Project precludes and prevents the allocation and providing of tax credits to other projects within the State of Kansas. Failure of this Project to comply with the above specifications would impair and inhibit the development, completion and achievement of State housing goals and objectives and thus damage the State of Kansas, its citizens and the public good. All parties agree such damages are difficult or impossible to predict but include, among other items, the failure of certain other projects to be developed and completed at the time or in the manner otherwise possible had credits been allocated to them, the failure to achieve certain goals and objectives developed as part of the State's overall housing program and plans; the failure to serve, meet and satisfy certain population characteristics or needs to be benefited

by the maintenance of the Project in accordance with the above specifications and various other elements.

Therefore the Owner agrees in the event the Project fails to continuously operate in accordance with the terms and provisions of the above specifications throughout the compliance period and the extended use period that the Owner, shall be liable for the payment of liquidated damages as outlined in Exhibit D, said sum to be paid in full to the housing trust fund established and maintained by the Corporation. It is recognized and agreed by all parties hereto that the payment of said sum to said trust fund is a reasonable approximation of the amount of damages caused or created by said breach or default. It is further acknowledged and agreed hereto that said payment shall be made to the trust fund so that said funds may be utilized for the overall benefit and development of housing within the State of Kansas as a means and method of compensating the citizens of the State of Kansas for the failure to comply with the above specifications.

- I. The Owner shall maintain records and provide quarterly progress reports, compliance reports and other additional documentation as may be requested by the Corporation to monitor and verify compliance with the terms of this Agreement throughout the compliance period and extended use period. Such reports must include a separate cash flow statement setting forth in detail all deposits to and withdrawals, made with prior approval of the Corporation, from (including the date and purpose for such withdrawals) the replacement reserve fund required to be maintained under paragraph F.3 above. The Owner acknowledges that the maintenance of such records and the review of the same shall become part of the monitoring obligation for such Project in accordance with the allocation plan established and maintained by the Corporation. The project's site must also be made available for inspection by Corporation staff. The Corporation reserves the right to make changes in or to the nature, type, content and format of such reports from time to time.
- J. The Owner is cognizant that a 30-year Declaration of Land Use Restrictive Covenant will be filed of record, limiting the use of the project and rents, which may be charged.
- K. This Reservation is awarded by ranking the project according to the State Allocation Plan. Any change in the project, which would, in the sole judgment of the Corporation, significantly affect the scoring criteria, may be cause for recapture of the reserved amount.
- L. The credit amount reserved is calculated based on representations made in the Owner's application and generally will not be increased due to underestimated development costs, overestimated grant amounts, or lower equity contributions.
- M. The Corporation is required by federal law to allocate to a project only as much credit as is necessary to make sure the project will maintain economic viability. This decision shall be made solely on the Corporation's discretion, but in no way warrants or represents to any owner, lender, investor, or others that the project is, in fact, viable or feasible.

- N. The credit amount reserved may be reduced or recaptured to comply with the Internal Revenue Code, Treasury Regulations, or any other laws or regulations affecting the Low Income Housing Tax Credit Program.
- O. The Corporation's examination of submitted documents in regard to this Reservation is done solely for its own purpose. The Corporation, by its reservation of tax credits, makes no representations to the Owner or anyone else regarding compliance with the Internal Revenue Code, Treasury Regulations, or any other laws or regulations, governing the Low Income Housing Tax Credit Program. The grant of reservation or carryover allocation does not confirm nor imply that the project or any requirements or characteristics thereof conform to the Internal Revenue Code or any regulations or rulings there under.
- P. No agent or employee of the Corporation shall be held personally liable concerning matters arising out of, or in relation to, the allocation of Low Income Housing Tax Credits.
- Q. Any change in the general partner or general manager status or its represented interest in the project requires the prior written approval of the Corporation. Any change in the property management company during the compliance period and extended use period requires the prior written approval of the Corporation.
- R. This reservation is made based on the rent structure shown in the application and detailed in Exhibit B. The rent to be paid to the Owner from all sources may not be increased in the first year or any subsequent year without the prior consent of the Corporation.
- S. The Owner agrees to comply fully with the requirements of the Fair Housing Act and as it may be amended. The Owner shall not refuse to lease any unit in the Project to a holder of a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder. The Owner further agrees to accept Section 8 certificate or voucher holders if the advertised rent is less than the fair market rent or, in the event the advertised rent is greater than the fair market rent, if the voucher holder is willing to pay the additional rent amount. The Owner agrees to not use a minimum income test in making this determination. The Owner may use other reasonable and prudent tests to determine tenant eligibility and acceptability.
- T. This Agreement shall be binding upon not only the parties hereto but also their respective successors and assigns. Each of the parties agree to execute whatever additional documents or instruments may be necessary or reasonable to effect and carry forth the purposes hereof including, but not limited to, affirmation of this Agreement as part of any carryover allocation request for the project and/or such instruments or documents as may be necessary or reasonable to incorporate the enclosed terms and provisions within the restrictive covenants and extended use agreement to be recorded as part of the easements and restrictions running with the land upon which the project is situated.
- U. This Agreement shall be governed and construed in accordance with and pursuant to the laws of the State of Kansas and, where applicable, the laws of the United States of America.

Terms used throughout this Agreement and not otherwise defined shall have the respective meanings set forth and defined in the Internal Revenue Code, Section 42.

- V. This Agreement shall become part of and act as a condition precedent to the receipt of a reservation of tax credits under the Internal Revenue Code, Section 42, from the Corporation.
- W. This document may not be amended, modified, revised, altered or changed except with the express written consent of the Corporation, including any amendment, alteration, revision, modification or change in this paragraph.
- X. THE PARTIES HERETO AGREE AND ACKNOWLEDGE THAT THE TERMS AND PROVISIONS OF THIS AGREEMENT ARE AN ESSENTIAL AND INTEGRAL PART OF THE ALLOCATION OF TAX CREDITS UNDER THE INTERNAL REVENUE CODE, SECTION 42, BY THE CORPORATION. FURTHER, THE PARTIES AGREE AND AFFIRM THAT ALL TERMS AND PROVISIONS HEREOF ARE REASONABLE AND NECESSARY TO HELP EFFECTUATE THE PURPOSES AND INTENT OF THE ALLOCATION PLAN ESTABLISHED BY THE CORPORATION. OWNER ACKNOWLEDGES THAT THE DUTIES, OBLIGATIONS AND COMMITMENTS HEREIN ARE REASONABLE AND APPROPRIATE, THAT THE RECEIPT OF A RESERVATION OF TAX CREDITS AND ULTIMATELY AN ALLOCATION (SUBJECT TO FULFILLMENT OF ALL OTHER CONDITIONS AND REQUIREMENTS FOR RECEIPT OF AN ALLOCATION) IS ADEQUATE AND SUFFICIENT CONSIDERATION FOR THE PROMISES AND COVENANTS HEREIN.

In the event Owner does not comply with one or more of the above conditions, the Corporation, in its sole judgment, may revoke this Reservation Agreement and recapture the affected tax credits.

The Corporation has relied upon the information submitted to it by the Owner and makes no representation or guarantees that the Owner will be eligible to receive tax credits, such determination resting solely with the Internal Revenue Service.

IN WITNESS WHEREOF the parties hereto have executed this Agreement effective as of the day and year first above written.

Kansas Housing Resources Corporation:

By: _____ Date: _____
Fred Bentley
Director of Rental Housing

State of Kansas)
) ss.
County of Shawnee)

This Agreement was subscribed, sworn to, and acknowledged by Fred Bentley, Director of Rental Housing for the Kansas Housing Resources Corporation, before me, a notary public, on this _____ day of _____, 2005.

Notary Public

Owner:

By: _____ Date: _____

State of)
) ss.
County of:)

This Agreement was subscribed, sworn to, and acknowledged by _____, before me, a notary public, on this _____ day of _____, 2005.

Notary Public

Exhibit A

Legal Description

The said real property is situated within the State of Kansas, County of and is legally described as follows:

Exhibit B

The specifications and characteristics of this project as represented in the application are as follows:

1. The project shall consist of low-income units.
2. units are set-aside for general elderly occupancy.
3. One unit is set-aside for a transitional, homeless, elderly person for a term of no more than 2 years per person during the period of this agreement.
4. The low income rent structure for the project is:

	<u>Rent</u>	<u>Utility Allowance</u>	<u>Gross Rent</u>
One Bedroom (Units)			
One Bedroom (Units)			
One Bedroom (Units)			
Two Bedroom (Units)			
Two Bedroom (Units)			
Two Bedroom (Units)			

Rents may be increased with the prior written approval of the Corporation.

5. Annual replacement reserves for this project are:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1	9,600	9	11,249
2	9,792	10	11,474
3	9,988	11	11,703
4	10,188	12	11,937
5	10,392	13	12,176
6	10,600	14	12,320
7	10,812	15	12,566
8	11,028		

6. Amenities include but are not limited to:

Exhibit C

HOMELESS UNIT SET ASIDE GUIDELINES

1. Projects will notify local PHA's, social service agencies and other human service and housing agencies to inform them that a unit or units have been set aside for a transitional homeless family, a disabled homeless person or an elderly homeless person who is 62 years of age or older.
2. A list of families and persons meeting these criteria will be prepared by local agencies. Tenants for the homeless unit or units will be selected from this list. The social service provider will provide the project with a certification of homelessness for each family or person. The certification will be attached to the tenant income certification and verification forms and made available to KHRC.
3. Projects will agree to cooperate with the delivery of supportive services for the homeless unit tenants from local social service agencies.
4. The homeless set aside unit or units will be rotated every two years during the ten-year credit period. Eligible families or persons will have a maximum of two years of rent free or reduced rent housing before they will need to begin paying rent, vacate the unit or continue living in the unit with rental assistance. If the tenants continue living in the unit with rental assistance or begin paying rent another unit must be set aside as a homeless unit.
5. During this two year period if the person or family occupying the homeless set aside unit earns an income exceeding 60% of the area median gross income that unit will cease to be a homeless unit, the occupant will begin paying rent and another unit will be set aside as a homeless unit.
6. A project that reserves all units for the elderly and has project based assistance will be required to establish another homeless unit every two years during the ten year credit period. Tenants in the homeless unit receiving rental assistance through the government will not be considered as homeless after the two-year period is over but they may continue to reside in the unit.
7. In the event there are no eligible homeless families or persons during the period of lease up or at the beginning of any two year period during the ten year life of the credit, the homeless set aside unit may be leased to any eligible tenant at a net rent of no more than 30% of the tenant's income. However, when an eligible homeless family or person applies for tenancy, the next vacant unit must be made available for the homeless unit set aside.
8. Holders of tenant based certificates, vouchers or coupons are not eligible for the homeless unit.

Exhibit D

Violation Fees

1. Owner fails to pay annual monitoring fee by the required date: \$50 per qualifying unit.
2. Owner fails to submit the annual compliance report by the required date: \$50 per qualifying unit.
3. Owner fails to maintain targeting of units as represented in the application and agreed to in this Reservation of Low Income Housing Tax Credits: \$50 per qualifying unit.
4. Owner fails to maintain replacement reserves as committed in the pro forma and agreed to in this Reservation of Low Income Housing Tax Credits: \$500 per year.
5. Owner fails to maintain other promises and covenants made in the application and enumerated in Exhibit B of the Reservation of Low Income Housing Tax Credits: \$500 per violation.
6. Owner fails to meet the minimum development standards as agreed to in this Reservation of Low Income Housing Tax Credits: \$500 per unit.
7. Owner fails to maintain properties in accordance with Kansas rental housing laws and/or KHRC compliance regulations: \$50 per qualifying unit or episode.

Exhibit E

In accordance with the requirements of Kansas Housing Resources Corporation, the Owner hereby certifies that no identities of interest, direct or indirect, financial or other interest exists between or among any other member of the development team except as stated herein: