

TCAP LOAN ASSURANCES

Borrower hereby assures and certifies that:

- (A) It has duly adopted a resolution authorizing the filing of the application for Tax Credit Assistance Program financing, including all understandings and assurances contained herein, and directing and authorizing the general partner/corporate officer as the official representative of the borrower to act in connection with the application of funds provided under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) (“ARRA”) and to provide such additional information as may be required. *OFFICIAL RESOLUTION*
- (B) It shall comply with all of the terms and conditions of the Low Income Housing Tax Credit Program at Section 42 of the Internal Revenue Code, including, but not limited to, rent and income restrictions for the project. *LIHTC*
- (C) It shall comply with all of the terms and conditions of ARRA, and all applicable rules, regulations, guidelines, notices and rulings issued by the U.S. Department of Housing and Urban Development and/or the U.S. Treasury Department in connection with the programs established by ARRA. *ARRA*
- (D) It will comply with Title VI of the Civil Rights Act of 1964, P.L. 88-352 (42 U.S.C. 2000(d)) and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no persons in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the borrower receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided with the aid of federal financial assistance extended to the borrower, this assurance shall obligate the borrower or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits. *CIVIL RIGHTS/EEO*
- (E) It will comply with the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146 “Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.” *AGE*
- (F) It will comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8 “Nondiscrimination Based on Handicap in Federally Assisted Programs *HANDICAPPED PERSONS*

and Activities of the Department of Housing and Urban Development.”

Section 504 of the Rehabilitation Act of 1973 applies to all TCAP projects. For new construction projects and projects undergoing substantial rehabilitation, five percent of the units must be accessible to persons with mobility impairments and two percent of the units must be accessible to persons with hearing or vision impairments. (See 24 CFR 8.22.) Substantial rehabilitation for a multifamily rental project is defined in Section 24 CFR 8.23 as a project with 15 or more units for which the alterations would equal more than 75 percent of the replacement cost for the facility.

Modifications to projects to comply with Section 504 requirements are eligible costs under TCAP. However, compliance with Section 504 requirements may be infeasible or impracticable for some projects, depending on where they are in the development process. If a new construction or substantial rehabilitation project is underway or has already been completed, and it cannot be modified to meet the accessibility requirements established by Section 504, it is ineligible to receive TCAP assistance.

For projects in which the rehabilitation would not be considered substantial, the Section 504 provisions are applicable only to the maximum extent feasible, i.e., not required if it would impose undue financial and administrative burden. See 24 CFR 8.23. Borrower shall submit a request for such a determination to the Pennsylvania Housing Finance Agency (“PHFA”) for appropriate review and disposition.

- (G) It will comply with Executive Order 11625, October 13, 1971, and Executive Order 12432 which prescribe additional arrangements for developing and coordinating a national program for Minority Business Enterprise (36 FR 19967); and 24 CFR 85.36(e) which describes actions to be taken to assure that minority business enterprises are used when possible in the procurement of property and services.
- (H) It will comply with Executive Order 12138, May 18, 1979 (44 FR 29637) which creates a National Women’s Business Enterprise Policy; and 24 CFR 85.36(e) which describes actions to be taken to assure that minority business enterprises are used when possible in the procurement of property and services.
- (I) It will comply with the following regulations issued under the following Acts and other federal laws and regulations pertaining to labor standards:

*LABOR
STANDARDS*

- (1) The Davis-Bacon Act, P.L. 86-624, (40 U.S.C. 276a-5), as

amended, which requires contractors and subcontractors to pay prevailing wages to laborers and mechanics in compliance with the Davis-Bacon Act.

Under section 1606 of Division A of ARRA, contractors and subcontractors hired with ARRA funds are required to pay prevailing wages to laborers and mechanics in compliance with the Davis-Bacon Act. In the case of projects already under construction, it may be possible to obtain a determination, under 29 CFR 1.6(g), that Davis-Bacon requirements apply prospectively to the construction project, as of the date of the TCAP award.

- (2) The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as implemented at 24 CFR Part 21 “Government-Wide Requirements for Drug-Free Workplace (Grants)”). This statute prohibits the receipt of a grant from any federal agency unless the recipient agrees to provide and certify to a drug-free workplace.
- (3) Copeland “Anti-kickback” Act (40 U.S.C. 276c).
- (J) It will comply with the restrictions on lobbying in 31 USC 1352 and implementing regulations at 24 CFR Part 87 “New Restrictions on Lobbying”. This statute prohibits the use of funds appropriated by any act by the recipient of a federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with covered federal action. *LOBBYING*
- (K) It will comply with the National Environmental Policy Act and related laws and implementing regulations at 24 CFR Part 58 and will (i) supply PHFA with information necessary for it to perform any necessary environmental review of each property; and (ii) carry out mitigating measures required by PHFA or select alternate eligible property; and (iii) not acquire or otherwise carry out any project activities with respect to any eligible property until PHFA approval is received. *ENVIRONMENTAL REVIEW/
CLEARANCE*
- (L) It will comply with The Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations at 24 CFR Part 35 that are applicable to housing that receives federal assistance. These requirements may be amended and supplemented from time to time. *LEAD-BASED PAINT*
- (M) It is in compliance with and is not presently debarred, suspended, proposed for debarment, declared ineligible, or involuntarily excluded *DEBARMENT/
SUSPENSION*

from covered transactions by any federal department or agency pursuant to 2 CFR Part 2424 “Non-procurement Debarment and Suspension”.

- (N) It will comply with the Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 and the regulations at 24 CFR Part 107 (Equal Opportunity in Housing, which states that no person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings, in the provision of brokerage services, or in the availability of residential real estate-related transactions; and requires that borrower manages and operates the project in a manner to affirmatively further fair housing. Actions that the borrower undertakes to affirmatively further fair housing will be consistent with actions identified in any locally adopted fair housing analysis.
- (O) HUD has responsibility to affirmatively further fair housing in the programs it administers. PHFA will establish an affirmative fair housing marketing plan for its TCAP projects and require borrower to follow its plan when marketing TCAP units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. The affirmative marketing requirements and procedures adopted must include:
- (1) Methods for informing the public, owners and potential tenants about Federal fair housing laws and the PHFA’s affirmative marketing policy;
 - (2) Requirements and practices each owner must adhere to in order to carry out the PHFA’s affirmative marketing procedures and requirements;
 - (3) Procedures to be used by it to inform and solicit applications from persons in the housing market areas that are not likely to apply for the housing without special outreach. Special outreach, as appropriate, includes but is not limited to, the translation of marketing material for persons who are limited English proficient; the placement of translated marketing material in minority owned media; and the provision of meaningful access concerning the residential rental project (e.g. providing translated information about application procedures, tenancy and other project amenities);
 - (4) Records that will be kept describing actions taken by PHFA and by

FAIR HOUSING

owners to affirmatively market units and records to assess the results of these actions; and

(5) description of how it will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

(6) In addition, it shall comply with ongoing PHFA guidance regarding reporting and data collection, participation in outreach programs and use of ongoing tools such as the apartment locator and related programs for expansion of housing and employment opportunities in furtherance of fair housing.