

LENDER PARTICIPATION AGREEMENT

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, PURSUANT TO THE GULF OPPORTUNITY ZONE ACT OF 2005, RESIDENCES LOCATED IN CERTAIN AREAS AFFECTED BY HURRICANE RITA, INCLUDING ALL OF HARRIS COUNTY, TEXAS, ARE TREATED AS TARGETED AREA RESIDENCES THROUGH DECEMBER 31, 2010. THEREFORE, RESIDENCES LOCATED ANYWHERE IN THE ELIGIBLE LOAN AREA ARE CONSIDERED TO BE TARGETED AREA RESIDENCES FOR FEDERAL TAX LAW AND ARE SUBJECT TO THE ELIGIBILITY REQUIREMENTS FOR TARGETED AREA RESIDENCES DESCRIBED IN THIS AGREEMENT AND THE PROGRAM MANUAL.

THIS AGREEMENT made and entered into as of the ____ day of _____, 20__, by and among The Southeast Texas Housing Finance Corporation (the “Administrator”), Harris County Housing Finance Corporation (the “Corporation”), whose address is c/o Vinson & Elkins L.L.P., First City Tower, 1001 Fannin Street, Suite 2500, Houston, Texas 77002-6760, and whose Taxpayer Identification Number is 52-1290770, and _____ (the “Lender”).

WHEREAS, the Corporation has established its 2010B Mortgage Credit Certificate Program (the “Program”) and has elected to issue Mortgage Credit Certificates by filing its election dated April 22, 2010 with the Internal Revenue Service; and

WHEREAS, the Corporation has appointed Administrator to administer the Program; and

WHEREAS, the Lender wishes to participate in the Program administered by the Administrator;

NOW, THEREFORE, in consideration of the promises set forth herein, the parties mutually agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. All capitalized terms used in this Agreement and not otherwise defined herein have the meanings attributed to them in the Program Manual attached hereto as Exhibit A.

Section 1.02 Forms. All forms specified by the text hereof or by reference to exhibits attached hereto shall be substantially as set forth herein, subject to such changes by the Corporation and/or the Administrator that do not alter the substantive rights of the parties hereto or of the holders of MCCs or as may be required by applicable laws hereafter enacted.

Section 1.03 Recitals, Table of Contents, Titles, and Headings. The terms and phrases used in the recitals of this Agreement have been included for convenience of reference only and the meaning, construction, and interpretation of such words and phrases for purposes of this Agreement shall be determined solely by reference to Section 1.01 hereof. The table of contents, titles, and headings of the articles and sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions

hereof and shall not be considered or given any effect in construing this Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation. Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Agreement, and all the terms and provisions hereof, shall be liberally construed to effect the purposes set forth herein and to sustain the validity of this Agreement.

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND COVENANTS

Section 2.01 Representations, Warranties, and Covenants of the Lender. The Lender represents and warrants to, and covenants with the Administrator and the Corporation, that:

(a) The Lender is duly organized, validly existing, and in good standing under the laws governing its creation and existence and is duly authorized and qualified to transact in the State any and all business contemplated by this Agreement and possesses all requisite authority, power, licenses, permits, and franchises to conduct its business and to execute, deliver, and comply with its obligations under the terms of this Agreement, the execution, delivery, and performance of which have been duly authorized by all necessary action.

(b) Neither the execution and delivery of this Agreement by the Lender nor the performance and compliance with the terms hereof by the Lender shall (i) violate the instruments creating the Lender or governing its operations, or (ii) violate any laws that could have any material adverse effect whatsoever upon the validity, performance, or enforceability of any of the terms of this Agreement applicable to the Lender, or (iii) constitute a material default (or an event that, with notice or lapse of time or both, would constitute a material default) under, or result in the breach of, any material contract, agreement, or other instrument to which the Lender is a party or that may be applicable to the Lender or any of its assets.

(c) The execution and delivery of this Agreement by the Lender in the manner contemplated herein and the performance and compliance with the terms hereof by it do not require the consent or approval of any governmental authority or, if such consent or approval is required, it has been obtained.

(d) This Agreement, and all documents and instruments contemplated hereby that are executed and delivered by the Lender, constitute and shall constitute valid, legal, and binding obligations of the Lender, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by applicable debtor relief laws or the discretion of courts in the granting of equitable relief.

(e) The Lender shall comply with the applicable non-discrimination provisions of the Civil Rights Act of 1964 (78 Stat. 252), the regulations issued pursuant to such Act, and Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, and Executive Order 11063, Equal Opportunity in Housing, and all applicable federal, State, and local non-discrimination laws.

(f) From time to time the Lender shall report, as more fully set forth in this Agreement, information relating to the Loans to the Corporation, the Internal Revenue Service,

and the Administrator, and shall do every act and thing that may be necessary or required to perform its duties under the Program Documents.

(g) In connection with the transactions contemplated by the Program Documents, the Lender has not directly or indirectly contracted or entered into any agreement with any other Lender or any other person or institution (except the Corporation and the Administrator) with respect to any aspect of its participation in the Program, other than any agreement expressly authorized or permitted by this Agreement.

(h) The Lender agrees that, so long as it shall continue to serve in the capacity contemplated under the terms of the Program Documents, it shall remain in good standing under the laws governing its creation and existence and qualified under the laws of the State to do business in the State, and it shall not dissolve or otherwise dispose of all or substantially all of its assets.

(i) No information, certificate of an Officer, statement furnished in writing, or report required hereunder, delivered to the Administrator or the Corporation shall, to the knowledge of the Lender delivering same, contain any untrue statement of a material fact or omit to state a material fact necessary to make the information, certificate, statement, or report not misleading.

(j) The Lender is a bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or other financial institution that actively provides or intends and has the capacity to provide service or otherwise aids in the financing of mortgages on single family residential housing located within the Eligible Loan Area, or is a holding company of any of the foregoing.

(k) The Lender shall indemnify and hold harmless the Corporation and the Administrator, and their officers, directors, and employees against liability for any and all claims, causes of action, costs, and expenses (including attorneys' fees), judgments, fines, and penalties that may be related to or arise out of any violation of law or breach of this Agreement resulting from an act or omission of the Lender hereunder.

(l) The Lender shall not establish a minimum principal amount for Loans to be originated hereunder, nor shall it refuse to originate a Loan on the basis of the proposed Loan's size being uneconomical to the Lender.

(m) The Lender shall notify the Administrator upon receipt of an application from any employee or any spouse or person related to any employee of the Lender or the Administrator.

Section 2.02 Representations, Warranties, and Covenants of the Administrator. The Administrator represents and warrants to, and covenants with, Lender and the Corporation, that:

(a) The Administrator is a public non-profit housing finance corporation duly organized under the laws of the State of Texas and has full power and authority to enter into and perform the obligations of Administrator under the Administration Agreement and this Agreement.

(b) The execution and delivery of this Agreement and the Administration Agreement have been duly authorized and, upon execution by the other parties hereto and thereto, this

Agreement and the Administration Agreement shall constitute the legal, valid, and binding obligations of the Administrator enforceable against the Administrator in accordance with their terms, except as the enforcement thereof may be limited by applicable debtor relief laws.

(c) Neither the execution and delivery of this Agreement or the Administration Agreement by the Administrator in the manner contemplated herein or therein, nor the performance and compliance with the terms hereof and thereof by it, shall violate, in any material respect, any Texas and federal banking laws or any provision of the Administrator's organizational or governing documents.

(d) From time to time the Administrator shall, upon reasonable request, provide information relating to the MCCs to the Corporation and the Lender.

Section 2.03 Representations, Warranties, and Covenants Relating to the Qualification of the MCCs. The Corporation, the Administrator, and Lender hereby declare their understanding and intent that the MCCs shall be qualified mortgage credit certificates for federal income tax purposes pursuant to Section 25 of the Code, and hereby severally covenant not to knowingly take or permit any action that would impair such qualification or knowingly fail to take any action that would preserve such qualification. The Corporation, the Administrator, and Lender further recognize that Section 25 of the Code imposes certain requirements with respect to the Applicants and Loans for which MCCs are issued pursuant to the Program, including the following:

(a) that each Residence financed with a Loan under the Program shall be located within the Eligible Loan Area, which is the geographic limits of Harris County, Texas but not within the Cities of Baytown, Deer Park, Friendswood, Houston, La Porte, League City, Missouri City, Pasadena or Pearland (subject to change upon written notice from the Administrator);

(b) that each Residence financed with a Loan under the Program shall be a Residence that, at the time of issuance of the MCC, can reasonably be expected to become the Principal Residence of the Applicant within a reasonable period of time (not to exceed 60 days after the date of issuance of the MCC);

(c) that MCCs shall be issued only to Applicants who did not have an Ownership (other than a Residence being financed with the Loan) in a Principal Residence at any time during the three-year period ending on the date on which the Loan is executed; provided, however, that this requirement does not apply to MCCs issued in connection with Targeted Area Loans (including, through December 31, 2010, Residences located in the Rita Gulf Opportunity Zone) or in connection with the refinancing of a Qualified Subprime Loan;

(d) that each Residence financed with a Loan for which an MCC is issued shall have an Acquisition Cost not in excess of the applicable Acquisition Cost Limit;

(e) that each Loan for which an MCC is issued under the Program shall be made to a person who did not have an existing mortgage (whether or not paid off) on the Residence securing such Loan at any time prior to the issuance of the MCC, except for (i) a Qualified Subprime Loan being refinanced with a Loan or (ii) certain temporary initial financing for a mortgage securing a construction period loan, a construction bridge loan, or similar temporary initial construction financing initially incurred for the sole purpose of acquiring the Residence, initially incurred within twenty-four (24) months of the Closing Date, having an original term of twenty-four (24) months or less, and not providing for scheduled payments of principal during such term;

(f) that all owner financing financed by Loans for which an MCC is issued must be provided to Applicants (i) whose Anticipated Annual Family Income does not exceed the applicable Income Limits and (ii) whose Adjusted Gross Income does not exceed \$89,320;

(g) that no portion of the financing of the Residence is provided from a qualified mortgage bond or a qualified veterans' mortgage bond;

(h) that no interest on the certified indebtedness amount of the Loan will be paid to a person who is a "related person" to the MCC holder, as that term is defined in Section 144(a)(3)(A) of the Code and any Regulations promulgated thereunder; and

(i) that, in the event of an assumption of any Loan for which an MCC is issued under the Program, the requirements of subparagraphs (a) through (h), inclusive, shall be met with respect to such assumption at the time of such assumption. Any such assumption is subject to the approval of the Corporation and there is no obligation of Corporation to approve such assumption.

Section 25 of the Code further requires: (1) that the Corporation attempt in good faith to meet all such requirements before the MCCs are issued by placing restrictions in the Program Documents that permit the financing of Loans only in accordance with such requirements and by establishing reasonable procedures to ensure compliance with such requirements, including reasonable investigations by the Corporation or its agents, including the Lender and the Administrator, to determine that the Loans satisfy such requirements; (2) that all of the MCCs that are issued under the Program shall be issued in regard to eligible Residences as to which, at the time the MCCs are issued, all such requirements are met; and (3) that any failure to meet such requirements shall be corrected within a reasonable time after such failure is discovered by requiring repayment in full of the nonqualifying Loan or by replacing the nonqualifying Loan with a Loan meeting such requirements.

Section 1372.040 of the Allocation Act requires that the Corporation reserve for six months fifty percent of the funds available for loans outside the federally designated target areas to provide mortgages to individuals and families with incomes below eighty percent of the applicable median family income, as defined by Section 143(f)(4) of the Code.

Section 394.027(b) of the Act requires the Corporation to prepare and file a report no later than August 31, or such other date as may be required, of each year with the Texas Department of Housing and Community Affairs. Such report will be in the form prescribed by the Texas Department of Housing and Community Affairs and will include, with respect to each single family home mortgage loan made during the preceding 12 months ending June 30, the data reported by originating lenders under the Federal Home Mortgage Disclosure Act.

The Corporation, the Administrator, and the Lender each hereby covenant and agree to establish and follow reasonable procedures as set forth in the Program Documents to ensure compliance with the foregoing requirements.

The Corporation, the Lender, and the Administrator further agree that, to the extent the applicable Treasury regulations are amended, each of such parties will enter into an amendatory agreement that incorporates such amendments into this Agreement.

The covenants and requirements set forth in this Section 2.03 are intended solely to comply with the relevant provisions of the Code, the Allocation Act and the Act and are not intended to and do not

establish any Program requirements that are different from or less stringent than those set forth in Article III of this Agreement.

Section 2.04 Notice to Administrator. If, at any time, any representation or warranty of the Lender set forth in this Agreement would not be true and correct in all respects if made by the Lender at such time (regardless of whether such representation or warranty is actually made, deemed to be made, or required to be made at such time), such Lender shall immediately notify the Administrator of such fact and provide a full and accurate explanation thereof.

Section 2.05 Verification of Eligibility for Down Payment Assistance. The Lender hereby covenants and agrees to verify that any Applicant who receives down payment assistance under the DPAP has income that is less than 80% of area median income, adjusted for family size, and did not have an Ownership (other than the Residence being financed with the Loan) in a Principal Residence at any time during the one-year period ending on the date of issuance of the MCC. The current income limits are set forth in the table contained in Section V of the Program Manual and are subject to change annually.

ARTICLE III

ISSUANCE OF MCCS

Section 3.01 Agreement to Originate. Lender hereby agrees to use its best efforts to originate Loans which qualify for issuance of an MCC under the Program.

Section 3.02 Submission of Application and Issuance of Commitment Letters. The Lender shall comply in all respects with the loan processing procedures and program administration guidelines outlined in the Program Manual and should refer to the Program Manual for specific procedural requirements for submission. Applications for MCCs shall be accepted and processed on a first-come, first-served basis. With respect to each Application submitted to the Administrator for review, the Lender shall retain one (1) copy for its files.

Section 3.03 Submission Procedures; Loan Terms. All Loans originated by the Lender for which a Submission Package is submitted to Administrator for issuance of an MCC hereunder shall comply in all respects with all terms and provisions of this Agreement and the Program Manual, including those set forth in this Section 3.03.

(a) Origination Standards. The Lenders shall originate all Loans in accordance with the loan origination, eligibility, and credit underwriting standards of an FHA, VA, or conventional loan, as the case may be; provided, however, that a Loan to refinance a Qualified Subprime Loan may only be originated under the FHA Hope for Homeowners Program (12 U.S.C. 1701z-22).

(b) Loan Terms. Each Loan shall be made to an Applicant to provide financing for a Residence and shall be made in accordance with the Lender's normal underwriting practices.

(c) Fees and Charges. Upon receipt of an Application for an MCC, a Lender may charge an MCC Application Fee not to exceed \$75, appraisal fee, credit report fee, and similar fees, but only to the extent permitted by law and only to the extent such fees do not exceed the reasonable and customary amounts charged for mortgage loans for which no MCC is issued. At Closing, the Lender shall collect from each Applicant, on behalf of the Corporation, the MCC Program Participation Fee in the amount of 1% of the principal amount of the Loan, plus \$75. At Closing, the Lender may also collect its own origination fee, discount points and all reasonable

and customary charges paid or incurred by the Lender for hazard or mortgage insurance premiums, any FHA insurance or private mortgage guaranty insurance, survey, title insurance, appraisal fees, abstract and attorneys' fees, recording or registration charges, escrow fees, file preparation fees, credit reports, warehouse fees, and similar charges, but only to the extent permitted by law and only to the extent such charges do not exceed the reasonable and customary amounts charged by the Lender for mortgage loans for which no MCC is issued. The MCC Program Participation Fee will be disbursed to the Administrator for the benefit of the Corporation immediately upon Closing of the Loan. Any amounts collected by the Lender with respect to a Loan prior to the Closing Date from either the Applicant or the Seller shall be credited to the proper party at the Closing. The Lender will also be responsible for collecting the MCC Extension Fee, and the MCC Assumption or Refinancing Fee and submitting such fees to the Administrator as described in the Program Manual. The Lender will pay the MCC Resubmission Fee and the Late Fee to the Administrator as applicable in accordance with the Program Manual. No other fees, charges, or remuneration of any kind may be received by or on behalf of any Lender from any person in connection with a Loan under the Program.

(d) Verification of Eligibility Requirements. In order to ensure that each MCC is issued to an Applicant in connection with the financing of a Residence in accordance with Section 25 of the Code, each Lender shall use good faith and all due diligence in carrying out the following procedures with respect to each Loan:

(i) the Lender shall obtain an Affidavit of Applicant which may not have been executed more than three (3) months prior to the Closing, duly executed by the Applicant, and a Closing Affidavit duly executed by the closing attorney or closing agent (if any) or the Lender; in addition, at the Closing the Lender shall obtain the Reaffirmation of Applicant, duly executed by the Applicant;

(ii) the Lender shall review the contents of the Affidavit of Applicant, the Reaffirmation of Applicant, and the Closing Affidavit (if any) with the Applicant, and the closing attorney or closing agent, if any, respectively, prior to the execution thereof and verify that the requirements of Sections 2.03 and 3.03 hereof are satisfied;

(iii) the Lender shall obtain signed or certified copies of the Applicant's executed federal income tax return or other written evidence from the Internal Revenue Service acceptable to the Administrator for the three (3) years preceding the execution of the Loan (except that the Applicant's federal income tax return for the immediately preceding tax year shall not be required, unless already filed, before February 15 of the then current calendar year) and shall review same to verify that the Applicant did not claim deductions for taxes or interest on indebtedness with respect to a Principal Residence; provided, however, that, in lieu of one or more of such tax returns, the Lender may accept the Applicant's certification contained in the Affidavit of Applicant that the Applicant was not required to file such a return in accordance with Section 6012 of the Code during any one or more of the preceding three (3) years for which such return is unavailable; and provided further that, if the Residence is located in a Targeted Area (including, through December 31, 2010, the Rita Gulf Opportunity Zone) or if the Loan is to refinance a Qualified Subprime Loan, such documentation shall only be required for the one-year period immediately preceding the execution of the Loan;

(iv) the Lender shall perform such additional investigation as may be appropriate under the circumstances (including, but not limited to, personal or telephone interviews with the Applicant, examination of canceled checks or receipts evidencing

payment of rent, review of employment and utility records, and review of the purchase contract for or, in the case of the refinancing of a Qualified Subprime Loan, an appraisal of the Residence to determine the Acquisition Cost), to verify that the requirements of Section 25 of the Code as set forth herein are satisfied as of the date of the issuance of the MCC;

(v) the Lender shall review the draft settlement statement to assure that all fees and charges and settlement and financing costs comply with the requirements of this Agreement;

(vi) the Lender shall prepare, execute, and deliver the Certificate of Lender;

(vii) the Lender shall obtain and review evidence that the Residence is located in the Eligible Loan Area; and

(viii) the Lender shall carry out such additional verification procedures as may be reasonably requested by the Administrator or the Corporation.

The obligations of the Lenders pursuant to this paragraph 3.03(d) shall inure to the benefit of the Corporation and the Administrator.

(e) Acquisition Cost Limits. As set forth in Section 2.03(d) hereof, no Residence financed under the Program may have an Acquisition Cost in excess of the Acquisition Cost Limits.

(f) RECAPTURE OF FEDERAL SUBSIDY OF LOANS. APPLICANTS MAY BE REQUIRED TO SHARE GAIN ON THE DISPOSITION OF THE RESIDENCE WITH THE FEDERAL GOVERNMENT. UNDER THE CODE, THE BENEFIT OF THE TAX CREDIT PROVIDED UNDER THE PROGRAM MUST BE “RECAPTURED” UPON DISPOSITION OF THE RESIDENCE WITHIN NINE (9) YEARS OF ITS ACQUISITION. THE RECAPTURE IS ACCOMPLISHED BY MEANS OF A TAX LEVIED ON THE APPLICANT AS PART OF HIS OR HER INDIVIDUAL TAX LIABILITY WHEN THE RESIDENCE IS SOLD OR TRANSFERRED. THE MAXIMUM AMOUNT OF THE RECAPTURE IS EQUAL TO 6.25% OF THE HIGHEST PRINCIPAL AMOUNT OF THE LOAN FOR WHICH THE APPLICANT WAS LIABLE. THIS MAXIMUM AMOUNT IS REDUCED PRO RATA TO REFLECT SHORTER OR LONGER THAN FIVE (5) YEAR HOLDING PERIODS, DECREASING TO ZERO FOR SALES OCCURRING NINE (9) YEARS OR MORE AFTER THE RECAPTURE PERIOD BEGINS. THE MAXIMUM AMOUNT IS ALSO REDUCED OR ELIMINATED FOR TAXPAYERS WHOSE INCOME AT THE TIME OF DISPOSITION OF THEIR RESIDENCE IS LESS THAN THE FEDERALLY PRESCRIBED INCOME LIMIT. THE RECAPTURE AMOUNT IS SUBJECT TO A LIMIT OF 50% OF THE AMOUNT OF THE GAIN REALIZED ON DISPOSITION OF THE RESIDENCE. THE RECAPTURE PROVISION DOES NOT APPLY TO DISPOSITION OF A RESIDENCE BY REASON OF DEATH OR TO ANY DISPOSITION OCCURRING MORE THAN NINE (9) YEARS AFTER THE APPLICANT BECOMES LIABLE IN WHOLE OR IN PART FOR THE PAYMENT OF THE LOAN. THE LENDERS MUST PROVIDE TO EACH APPLICANT, NOTICE (I) UPON ORIGINATION, THAT THE LOAN IS SUBJECT TO THE RECAPTURE PROVISIONS OF THE CODE, AND (II) WITHIN NINETY (90) DAYS OF ORIGINATION, OF THE FEDERALLY SUBSIDIZED AMOUNT AND THE MODIFIED AMOUNT APPLICABLE, DURING EACH OF THE NINE (9) YEARS FOLLOWING

THE ORIGINATION OF THE LOAN, BASED ON QUALIFYING INCOME FOR EACH CATEGORY OF FAMILY SIZE. SUCH NOTICES SHALL BE SUBSTANTIALLY IN THE FORM OF THE RECAPTURE TAX NOTICES TO APPLICANT ATTACHED HERETO AS EXHIBIT B. IF SUCH NOTICES ARE GIVEN TO AN APPLICANT AND NO MCC IS ACTUALLY ISSUED TO SUCH APPLICANT, THE LENDER SHALL GIVE PROMPT WRITTEN NOTICE TO THE APPLICANT THAT THE RECAPTURE PROVISIONS ARE NOT APPLICABLE. INFORMATION RETURNS REQUIRED TO BE SUBMITTED BY REAL ESTATE BROKERS UNDER SECTION 6045(E) OF THE CODE, AND STATEMENTS OF SUCH RETURNS FURNISHED TO CUSTOMERS, MUST INDICATE WHETHER THE SELLER'S LOAN WAS FEDERALLY SUBSIDIZED WITHIN THE MEANING OF THE RECAPTURE REQUIREMENTS.

(g) Prohibited Loans. No MCC will be issued in connection with a Loan financed with proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond.

Section 3.04 Prohibition of Discrimination. No Lender shall arbitrarily reject an application because of the location (except the requirement for location within the Eligible Loan Area) and/or age of the property, or in the case of a proposed Applicant, arbitrarily vary the terms of a loan or the application procedures therefor or reject a Loan applicant because of the race, creed, color, religion, national origin, age, sex, or marital status of such applicant. In accepting, evaluating, and acting upon such applications, Lenders shall comply, if applicable, with the Federal Equal Credit Opportunity Act and Regulation B promulgated thereunder.

Section 3.05 Issuance of MCC.

(a) Within 15 days after the respective Closing Date the Lender shall deliver to the Administrator, with respect to each Loan for which an MCC is to be issued, the Submission Package. Upon the submission of the Submission Package to the Administrator, the Lender shall submit to the Administrator all additional documents required by the Administrator. The Lender shall pay all costs of preparing and furnishing to the Administrator the Submission Package including original and certified copies of the respective documents and instruments described in the Exhibits hereto, and may recover such costs from the Applicant or the Seller to the extent permitted by Section 3.03(c) hereof.

(b) The Administrator shall review such documents with respect to each MCC and shall approve or disapprove such Loan for issuance of an MCC. For any Loan with respect to which the Submission Package is deemed to be defective, or for any Applicant that is otherwise not eligible for issuance of an MCC in accordance with the terms of the Code and the Program Documents, the Administrator may return the Submission Package, with all documents submitted in accordance with this Section 3.05, to the Lender to be cured, if possible, or the Administrator, in its sole discretion, may hold such Submission Package pending correction of the defect as specified in a notice or other communication to the Lender. In order for an MCC to be issued hereunder, such Submission Package must be resubmitted in accordance with the procedures of this Section 3.05. The examination of a Submission Package by the Administrator hereunder shall not constitute a waiver of any warranty, representation, or covenant by the Lender, the Applicant, or any other party connected with the MCC, with respect to such MCC.

(c) For each Submission Package submitted by a Lender that is in compliance with all of the terms and conditions of this Agreement, for which the Submission Package has been prepared and presented to the Administrator in the form and manner required by this Section 3.05, for which sufficient MCC authority is available, and for which all of the other conditions

hereof have been satisfied, the Administrator shall issue an MCC in accordance with the Program Manual.

(d) Each Lender shall also provide to the Corporation or the Administrator such other reports or information regarding the Loans made in connection with the issuance of an MCC or the Applicants by such Lender as may be reasonably requested by any of them.

Section 3.06 Maintenance of Loan File. The Lender shall maintain a Loan file with respect to each Loan for which an MCC is issued under the Program hereunder for a minimum of three (3) years from the date the Loan is fully paid or otherwise terminated. Such files shall be kept at the Lender's regular place of business and shall be available for inspection for compliance with Program procedures or for any other reason at reasonable times and in a reasonable manner by the Administrator or the Corporation, as the case may be, and their respective agents. Thereafter, the Lender shall retain copies of such instruments or documents contained in the Loan file as it shall deem necessary or desirable.

Section 3.07 Defects.

(a) Following the issuance of any MCC, and notwithstanding the review of the Application or Submission Package pursuant to Section 3.05 hereof, if (i) any document constituting a part of the Application or Submission Package, in the sole judgment of the Administrator, is defective or inaccurate in any material respect, (ii) any such closing document shall not be valid and binding, or (iii) any representation or warranty of the Lender, in the sole judgment of the Administrator following issuance, is untrue or incorrect in any material respect (any of the foregoing being referred to as a "Defect"), such Lender shall cure such Defect within a period of sixty (60) days from the time it receives notice of the existence of such Defect or such shorter period as may be required by law or this Agreement. If any Defect cannot be cured within such sixty (60) day period, or such shorter period if applicable, the related MCC will be cancelled and the Lender hereby agrees to notify the Applicant of such cancellation within ten (10) days.

(b) Notwithstanding anything set forth in Section 3.07(a) above, in the event the Administrator, the Corporation, or the Lender becomes aware that such Loan or Applicant, as of the date of issuance of the MCC, did not satisfy the requirements of Section 25 of the Code as set forth herein and such MCC has not been cancelled, such party shall notify the Administrator, whereupon the Administrator shall provide written notice by certified mail, return receipt requested, to the Applicant declaring the MCC cancelled.

ARTICLE IV

REPORTS AND RECORD KEEPING

Section 4.01 Reports to IRS. The Lender hereby agrees to submit to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other location as is specified to the Lender by the Internal Revenue Service) (with copies to the Corporation), not later than January 31 of each year following the calendar year in which the Lender closes a Loan in connection with which an MCC is issued, the report required by Treasury Regulation Section 1.25-8T(a), in the form and format (currently Form 8329) required or permitted by Treasury Regulation Section 1.25-8T(a) as forth on Exhibit C attached hereto. The Lender may use and rely on the Affidavit of Applicant in the preparation of such report.

In the event that Treasury Regulation Section 1.25-8T(a) is amended following the Closing Date, such amendments shall be deemed to be incorporated into this Section 4.01 and Exhibit C shall be deemed to be revised accordingly (upon receipt by the Lender of written notice to such effect). The

Lender may obtain and rely on the advice of certified public accountants or nationally recognized bond counsel in carrying out its duties under this Section 4.01.

Section 4.02 Annual Report to TDHCA. The Lender hereby agrees to complete and submit to the Administrator, not later than July 10 of each year with respect to each Applicant who receives an MCC from such Lender, the information required by the Federal Home Mortgage Disclosure Act (12 CFR Part 203.4) or such other form or information in order to comply with Section 394.027(b) of the Act. The form of the annual report required to be filed by the Corporation may be downloaded from the Texas Department of Housing and Community Affairs' website, currently at <http://www.tdhca.state.tx.us/ppa/housing-center/pubs.htm#reports>.

Section 4.03 Record Keeping. In addition to the Loan file information which the Lender is required to maintain pursuant to Section 3.06 hereof, the Lender hereby agrees to retain the following information with respect to any MCC on its books and records for six (6) years following the year in which the loan was made:

- (a) The name, address (including the address of the Residence financed with the Loan), and taxpayer identification number of each holder of an MCC;
- (b) The name, address, and taxpayer identification number of the Corporation; and
- (c) The date the Loan for the Certified Indebtedness Amount is closed, the Certified Indebtedness Amount, and the Mortgage Credit Certificate Rate of such MCC.

ARTICLE V

TERMINATION AND LIABILITIES

Section 5.01 Lender Not to Resign. No Lender shall have the right to resign from the obligation and duties hereby imposed on it. No Lender shall have the right or privilege to assign or transfer its rights and duties hereunder.

Section 5.02 Involuntary Termination of Lender. The Corporation, upon the recommendation of the Administrator, may terminate this Agreement with respect to any Lender upon the happening of any one or more of the following events:

- (a) Any representation or warranty of the Lender to the Corporation or the Administrator shall be false in any material respect;
- (b) Failure of the Lender to comply in all respects with its obligations under this Agreement; or
- (c) Issuance or entry of a decree or order of a court, agency, or supervisory authority having jurisdiction in the premises appointing a conservator, receiver, or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities, or similar proceeding affecting the Lender or substantially all of its properties, or for the winding-up or liquidation of its affairs, if such decree or order shall have remained in force undischarged or unstayed for a period of sixty (60) days.

ARTICLE VI

MISCELLANEOUS

Section 6.01 Survival of Obligations and Covenants. Notwithstanding anything to the contrary herein, the expiration of this Agreement or the termination or resignation of the Lender under this Agreement shall not affect any obligations of the Lender under this Agreement, including, without limitation, obligations under Section 3.06 hereof. The representations, warranties, and covenants of Lender under Section 2.01 and 2.03 hereof shall continue without regard to any termination of Lender hereunder. Any indemnification to be provided by Lender pursuant to this Agreement shall survive the termination of such Lender hereunder.

Section 6.02 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original; provided, however, that all such counterparts shall together constitute one and the same instrument.

Section 6.03 Headings. The headings of the various sections of this Agreement have been inserted for convenience of reference only, and shall not be deemed to be a part of this Agreement.

Section 6.04 Governing Law. This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of Texas without regard to conflict of laws principles.

Section 6.05 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(SIGNATURE PAGE FOLLOWS)

THIS AGREEMENT is entered into as of the day and year written above.

ADMINISTRATOR:

THE SOUTHEAST TEXAS HOUSING FINANCE
CORPORATION

By: _____
Name: _____
Title: _____

CORPORATION:

HARRIS COUNTY HOUSING
FINANCE CORPORATION

By: _____
Name: _____
Title: _____

LENDER:

By: _____
Name: _____
Title: _____

EXHIBIT A - Program Manual
EXHIBIT B - Notice of Potential Recapture Tax
EXHIBIT C - Regulations and Reports

EXHIBIT A

PROGRAM MANUAL

PROVIDED SEPARATELY

EXHIBIT B

(To be completed by Lender and delivered to Applicant at the time of Closing of the Loan)

NOTICE OF POTENTIAL RECAPTURE TAX

Because you are receiving a mortgage credit certificate with your mortgage loan, you are receiving the benefit of a credit against your federal income tax. If you sell or otherwise dispose of your home during the next nine years, this benefit may be “recaptured.” The recapture is accomplished by an increase in your federal income tax for the year in which you sell your home. The recapture only applies, however, if you sell your home at a gain and if your income increases above specified levels.

You may wish to consult a tax advisor or the local office of the Internal Revenue Service at the time you sell your home to determine the amount, if any, of the recapture tax. Along with this notice, below you are being given additional information that will be needed to calculate the recapture tax.

**NOTICE OF MAXIMUM RECAPTURE TAX AND
METHOD TO COMPUTE TAX ON SALE OF HOME**

A. Introduction.

1. General. When you sell your home you may have to pay a recapture tax as calculated below. The recapture tax may also apply if you dispose of your home in some other way. Any references in this notice to the “sale” of your home also include other ways of disposing of your home. For instance, you may owe the recapture tax if you give your home to a relative.

2. Exceptions. In the following situations, no recapture tax is due and you do not need to do the calculations:

- (a) You dispose of your home later than nine years after you close your mortgage loan;
- (b) Your home is disposed of as a result of your death;
- (c) You transfer your home either to your spouse or to your former spouse incident to divorce and you have no gain or loss included in your income under Section 1041 of the Internal Revenue Code; or
- (d) You dispose of your home at a loss.

B. Maximum Recapture Tax. The maximum recapture tax that you may be required to pay as an addition to your federal income tax is \$_____ [insert the actual dollar amount resulting from the product of 6.25% multiplied by the highest principal amount of the mortgage loan]. This amount is 6.25% of the highest principal amount of your mortgage loan and is your federally subsidized amount with respect to the loan.

C. Actual Recapture Tax. The actual recapture tax, if any, can only be determined when you sell your home, and is the lesser of (1) 50% of your gain on the sale of your home, regardless of whether you have to include that gain in your income for federal income tax purposes, or (2) your recapture amount determined by multiplying the following three numbers:

- (i) \$ _____ [insert the actual dollar amount resulting from the product of 6.25% multiplied by the highest principal amount of the mortgage loan] (the maximum recapture tax, as described in paragraph B above),
- (ii) The holding period percentage, as listed in Column 1 in the Table, and
- (iii) The income percentage, as described in paragraph D below.

D. Income Percentage. You calculate the income percentage as follows:

- (i) Subtract the applicable adjusted qualifying income in the taxable year in which you sell your home, as listed in Column 2 in the Table, from your modified adjusted gross income in the taxable year in which you sell your home.

Your modified adjusted gross income means your adjusted gross income shown on your federal income tax return for the taxable year in which you sell your home, with the following two adjustments: (a) your adjusted gross income must be increased by the amount of any interest that you receive or accrue in the taxable year from tax-exempt bonds that is excluded from your gross income (under Section 103 of the Internal Revenue Code); and (b) your adjusted gross income must be decreased by the amount of any gain included in your gross income by reason of the sale of your home.

- (ii) If the amount calculated in (i) above is zero or less, you owe no recapture tax and do not need to make any more calculations. If it is \$5,000 or more, your income percentage is 100%. If it is greater than zero but less than \$5,000, it must be divided by \$5,000. This fraction, expressed as a percentage, represents your income percentage. For example, if the fraction is \$1,000/\$5,000, your income percentage is 20%.

E. Limitations and Special Rules on Recapture Tax.

1. If you give away your home (other than to your spouse or ex-spouse incident to divorce), you must determine your actual recapture tax as if you had sold your home for its fair market value.

2. If your home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if, within two years, you purchase additional property for use as your principal residence on the site of the home financed with your original subsidized mortgage loan.

3. In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage loan, the actual recapture tax is determined separately for them based on their interests in the home.

4. If you repay your loan in full during the four-year period following the day you close your subsidized mortgage loan and you sell your home during the nine-year recapture period, your holding period percentage may be reduced under the special rule in Section 143(m)(4)(C)(ii) of the Internal Revenue Code.

5. Other special rules may apply in particular circumstances. You may wish to consult with a tax advisor or the local office of the Internal Revenue Service when you sell or otherwise dispose of your home to determine the amount, if any, of your actual recapture tax. See Section 143(m) of the Internal Revenue Code generally.

TABLE

<u>Date that You Sell Your Home</u>	(Column 1) Holding Period <u>Percentage</u>	(Column 2) <u>Adjusted Qualifying Income</u>	
		Number of Family Members Living in Your Home <u>at the Time of Sale</u>	
		<u>2 or less</u>	<u>3 or more</u>
Before the first anniversary of closing (See note below)	20%	\$ _____ *	\$ _____ *
On or after the first anniversary of closing, but before the second anniversary of closing	40%	\$ _____ *	\$ _____ *
On or after the second anniversary of closing, but before the third anniversary of closing	60%	\$ _____ *	\$ _____ *
On or after the third anniversary of closing, but before the fourth anniversary of closing	80%	\$ _____ *	\$ _____ *
On or after the fourth anniversary of closing, but before the fifth anniversary of closing	100%	\$ _____ *	\$ _____ *
On or after the fifth anniversary of closing, but before the sixth anniversary of closing	80%	\$ _____ *	\$ _____ *
On or after the sixth anniversary of closing, but before the seventh anniversary of closing	60%	\$ _____ *	\$ _____ *
On or after the seventh anniversary of closing, but before the eighth anniversary of closing	40%	\$ _____ *	\$ _____ *
On or after the eighth anniversary of closing, but before the ninth anniversary of closing	20%	\$ _____ *	\$ _____ *

Note: Closing means the closing date for your loan.

*Lender: The actual notice to the applicant must provide the actual dollar figures for adjusted qualifying incomes for each of the years covered by the table. The entries in the first row are the highest qualifying incomes that, as of the date of the mortgage loan closing, would have met the low income requirement of Section 143(f) of the Code, taking into account whether the home financed with the subsidized mortgage loan is located in a targeted area as described in Section 143(j) of the Code (but determined without regard to Section 143(f)(3)(A) of the Code) or in a high housing cost area as described in Section 143(f)(5) of the Code. The entries in each subsequent row equal the entries in the immediately preceding row, times 1.05. The formula for determining these numbers is set forth in Section 143(m)(5) of the Code. Please refer to the "Worksheet to Compute Recapture Tax" provided by the Program Manager in order to complete Column 2.

Please acknowledge your receipt of a copy of this notice by signing below.

Signature of Applicant

Date

Signature of Applicant

Date

EXHIBIT C

REGULATIONS AND REPORTS

1. Form 8329
2. Treasury Regulation §1.25-8T