

**BEFORE THE
FLORIDA HOUSING FINANCE CORPORATION**

**NEW TRINITY TOWERS SOUTH
PRESERVATION ASSOCIATES, LLLP**

Petitioner,

vs.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

_____ /

FHFC Case No. 2015-031BP
FHFC RFA No. 2015-104
Petitioner's Application No. 2015-246C

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**FORMAL WRITTEN PROTEST AND PETITION FOR
FORMAL ADMINISTRATIVE PROCEEDINGS**

Pursuant to Sections 120.569 and 120.57(1) and (3), Fla. Stat., and Florida Housing Finance Corporation Request for Application (“RFA”) No. 2015-104, at Section Six, and Rules 28-106.205 and 67-60.009, Fla. Admin. Code; Petitioner NEW TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, (“Petitioner” or “Trinity Towers South”), an applicant for funding in Florida Housing Finance Corporation Request for Applications (“RFA”) No. 2015-104 for Housing Credit Financing for the Preservation of Existing Affordable Multifamily Housing Developments, hereby protests the proposed funding and eligibility decisions of Respondent Florida Housing Finance Corporation in RFA 2015-104; and particularly the determination of ineligibility of Petitioner’s Application No. 2015-246C. In support of this Protest and Petition, Petitioner state as follows:

Parties

1. The agency affected is the Florida Housing Finance Corporation (the “Corporation”, “Florida Housing,” or “FHFC”), whose address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The solicitation number assigned to this process

for the award of competitive federal law income housing tax credits (“tax credits” or “HC”) for the preservation of existing affordable multifamily housing is RFA 2015-104. By notice posted on FHFC’s website on August 7, 2015, copy attached hereto as Exhibit “A,” FHFC has given notice of its intent to find five (5) applications ineligible for consideration for funding, including Trinity Towers South. Further, on August 7, 2015, FHFC posted on its website notice of intent to award tax credits to six (6) applicants, excluding Trinity Towers South; a copy of that notice is attached hereto as Exhibit “B.”

2. Petitioner, New Trinity Towers South Preservation Associates, LLLP, (“Petitioner” or “Trinity Towers South”) is a Florida limited partnership, whose business address is 40 Court Street, Suite 700, Boston, MA 02108. For purposes of this proceeding, Petitioner’s address is that of its undersigned counsel, M. Christopher Bryant, Oertel, Fernandez, Bryant & Atkinson, P.A., P.O. Box 1110, Tallahassee, Florida 32302-1110, telephone number 850-521-0700, facsimile number 850-521-0720, email cbryant@ohfc.com.

3. Trinity Towers South submitted an application, assigned Application No. 2015-246C, in RFA 2015-104 seeking \$1,231,801 in annual allocation of housing credits to finance the Preservation of a 162-unit residential rental development for Elderly tenants (with 95% of the units set aside for low income residents, including 20% to be set aside for “Extremely Low Income” residents) in Brevard County, to be known as Trinity Towers South. Petitioner’s application was assigned lottery number 18 by Florida Housing. FHFC has announced its intention to award funding to six (6) other Developments, but not to Trinity Towers South.

Notice

4. On Friday, August 7, 2015, at approximately 10:03 a.m., Petitioner and all other participants in RFA 2015-104 received notice that FHFC intended to designate certain applications ineligible for funding, and to select certain other applicants for awards of tax credits (subject to satisfactory completion of the credit underwriting process, which is required of all applicants selected for funding). Such notice was provided by the posting of two spreadsheets, one listing the “eligible” and “ineligible” applications in RFA 2015-104 (copy attached as Exhibit “A”) and one identifying the applications which Respondent proposed to fund (copy attached as Exhibit “B”) on the Florida Housing website, www.floridahousing.org. Petitioner timely filed a Notice of Protest, with attachments, on Wednesday, August 12, 2015, at approximately 9:08 a.m., copy attached as Exhibit “C.” Petitioner’s Formal Written Protest and Petition for Formal Administrative Proceedings is being filed within 10 calendar days of that notice; the tenth day fell on Saturday, August 22, 2015, so by operation of Rule 28-106.103, Fla. Admin. Code, the filing deadline was extended to Monday, August 24, 2015.

Substantial Interest Affected

5. Petitioner’s substantial interests are being determined in the instant proceeding because Petitioner is an applicant for low income housing tax credit funding whose application was preliminarily denied funding. Florida Housing has proposed to find Petitioner’s application ineligible for consideration. If Petitioner was deemed eligible for consideration, it would be selected for funding based on its lottery number and the application of FHFC’s selection criteria contained in the RFA. Petitioner cannot develop its proposed development to include 162 low income tenant set-aside units for Elderly residents without the award of the requested housing credit funding. Even if Petitioner was able to renovate the Development through conventional

financing sources, the rent it would have to charge to service the debt on the development would make it unaffordable for low income tenants.

RFA 2015-104 Ranking and Selection Process

6. Through the RFA 2015-104 process, FHFC seeks to award up to an estimated \$6,210,000 in annual housing credits to qualified applicants seeking to preserve existing low income rental housing. Applicants request in their applications a specific dollar amount of housing credits to be given to the Applicant each year for a period of 10 years. Applicants typically sell the rights to that future stream of income tax credits (through the sale of almost all of the ownership interest in the Applicant entity) to an investor to generate the majority of the capital necessary to construct the development. The amount of housing credits an applicant may request is based on several factors, including but not limited to a certain percentage of the projected Total Development Cost; a maximum funding amount per development based on the county in which the development will be located; and whether the development is located within certain designated areas of some counties.

7. Florida Housing received 28 Applications seeking funding in RFA 2015-104. Developments were proposed in 17 different Counties, including four Developments in Brevard County. Because of the process employed by Florida Housing for this RFA, it is virtually impossible for more than one application to be selected for funding in any given County. Further, because of the amount of funding available for Counties, the typical amount of an applicant's Housing Credit request (generally \$0.6 to \$1.6 million, although some smaller developments requested lower amounts), and the number of Counties for which developments are proposed, many Counties will not receive an award of Housing Credit funding in this RFA. Currently, FHFC proposes to award funding to six (6) developments in six (6) different Counties.

8. Within RFA 2015-104, Florida Housing proposed to fund one application for an “Elderly Transformative Preservation” (“ETP”) Development. ETP developments provide a range of services for Elderly residents, and the applicant had to specifically designate that it was applying as an ETP applicant and provide detailed narrative descriptions of its proposed facilities and services. Such applications are scored using subjective scoring criteria, and are scored on a different point scale than non-ETP applicants (75 total points for ETP vs. 23 total points for non-ETP). Trinity Towers South did not apply as an ETP applicant; only two (2) of the twenty-eight (28) applicants applied as ETP applicants. ETP applicants could only be funded as an ETP applicant, and could not otherwise compete for a non-ETP funding slot.

9. For purposes of ranking and selecting applicants for funding, Florida Housing also took into consideration the applicant’s Demographic tenant commitment (Family, Elderly, or Person with Disability); whether the applicant’s Development will also be assisted with funding from certain Rural Development (“RD”) programs administered by the U.S. Department of Agriculture; and whether the Applicant was in a Large, Medium, or Small County.

10. The applications were received, processed, deemed eligible or ineligible, scored, and ranked, presumably pursuant to the terms of RFA 2015-104; FHFC Rule Chapters 67-48 and 67-60, Fla. Admin. Code; and applicable federal regulations. Applications are considered for funding only if they are deemed “eligible,” based on whether the Application complies with Florida Housing’s various content requirements. Of the 28 Applications submitted to FHFC in RFA 2015-104, 23 were found “eligible,” and five (5) were found ineligible. Trinity Towers South was found ineligible, as were four (4) other applicants. The two page spreadsheet created by Florida Housing, attached as Exhibit “A” identifies all eligible and ineligible applications (and other relevant information).

11. The first consideration in sorting eligible applications for funding is Application scores. As noted, non-ETP Applicants can achieve a maximum score of 23 points. All of the non-ETP applicants in RFA 2015-104 received a score of 23 points.

12. Many applicants achieve tie scores, and in anticipation of that occurrence FHFC designed the RFA and rules to incorporate a series of “tie breakers,” the last of which is randomly assigned lottery numbers. Lottery numbers have historically played a significant role in the outcome of FHFC’s funding cycles, and they were determinative of funding selections in this RFA.

13. FHFC employs a “Funding Test” to be used in the selection of applications for funding in this RFA. The “Funding Test” requires that the amount of tax credits remaining (unawarded) when a particular application is being considered for selection must be enough to fully fund that applicant’s request amount, and partial funding will not be given. The only exception is in the final category of RD-assisted applications funded; if sufficient funds are not available to fully fund the request of such an applicant, it will receive a “binding commitment” for the balance of its tax credit funding.

14. In selecting among eligible applicants for funding, FHFC also applies a “County Award Tally.” The County Award Tally is designed to prevent a disproportionate concentration of funded developments in any one county. Generally, before a second application can be funded in any given county, all other counties which are represented by an eligible applicant must receive an award of funding. As noted previously in this Petition, since there were 28 eligible applications submitted from 17 different counties in RFA 2015-104, there cannot be more than one applicant selected for funding from any given county.

15. The RFA specifies a Sorting Order for funding selection, with eligible applications first arranged from highest score to lowest. For non-ETP applicants, the highest score possible was a 23, and all applicants in RFA 2015-104 achieved a score of 23. Non-ETP Applicants with tied scores are separated as follows:

(1) First, by the Age of the Development, with Developments originally built in the year 1985 or earlier receiving a preference. (Trinity Towers South qualifies for this preference).

(2) Second, by Rental Assistance Level, with preference given to Applicants that receive a Rental Assistance Level of 1, 2, or 3 given preference over Applicants with a Rental Assistance Level of 4, 5 or 6. (Trinity Towers South has RA Level 1, so it qualifies for this preference.)¹

(3) Third, by a Concrete Construction Funding Preference, as outlined in the RFA. (Trinity Towers South qualifies for this preference.)

(4) Fourth, by a “Per Unit Construction Funding Preference,” which favors Applicants who propose Actual Construction Costs of at least \$32,500 per unit over those who do not. (Trinity Towers South qualifies for this preference.)

(5) Fifth, by a “Leveraging Classification” which ranks applications by the amount of housing credits requested per low income set-aside residential unit, subject to certain adjustments relating to the location of the Development.

Generally, the “most expensive” 10% of the eligible applicants on this adjusted

¹ Florida Housing assigns a “Rental Assistance” Level, from 1 to 6, to each Applicant. Generally, the greater the percentage or number of residential units in the Development that will receive rental assistance from certain programs administered by the U.S. Department of Housing and Urban Development or the U.S. Department of Agriculture, the higher its RA Level. For example, Developments in which all or all but 2 of the units will receive Rental Assistance, or in which at least 100 units (comprising more than 50% of the units) receive Rental Assistance, are classified as RA Level 1; Developments in which fewer than 10% of the units receive rental assistance are RA Level 6.

per-unit request basis are designated “Group B.” The remainder are “Group A,” and generally, Group A applicants are funded before Group B applicants. (Trinity Towers South would be a Group A applicant.)

(6) Sixth, by the Applicant’s RA Level, with RA Level 1 receiving the highest preference, RA Level 2 the next, and so on to RA Level 6 receiving the least preference. (Trinity Towers South, at RA Level 1, qualifies for this preference.)

(7) Seventh, by a Florida Job Creation Preference, which applies formulas adopted by Florida Housing to reflect the number of Florida jobs created per \$1 million of Housing Credit Allocation. (All eligible applicants in RFA 2015-104 qualified for this Preference, and Trinity Towers South would also have qualified for the preference.)

(8) Eighth, by Lottery Number. (Trinity Towers South was assigned No. 18; applications with lottery numbers [i.e., closer to zero] are selected before those with numbers.)

16. The RFA set out an order of funding selection for eligible applicants, after eligible applicants were ranked. That funding selection is as follows:

- (1) The highest ranked ETP application;
- (2) The highest ranked RD-assisted application in a Medium or Small County, regardless of Demographic group;
- (3) The highest ranked non-RD application serving the Family demographic, regardless of County size;
- (4) The highest ranked one or more non-RD applications serving the Elderly or Persons with Disability, regardless of County size;

(5) [or (6) or (7), in the event more than one non-RD Elderly or Disabled Applicant is selected at Step (4) above] If any funding remains, the highest ranked RD-assisted application that is of a different Demographic group than the one selected in step (2) above, regardless of County size; or, if no such application remains, then the highest ranked RD-assisted application regardless of Demographic commitment or County size.

Applicants in all but this last category will only be selected for funding if there are enough housing credits remaining at that step of the funding process to fully fund the applicant's housing credit request amount (the "Funding Test"). For this last category (highest ranked RD-assisted applicants), the selected applicant would receive the remaining housing credits plus a binding commitment to fund the balance from other Housing Credit sources.

17. Generally, as a result of the funding selection order, applicants in this RFA compete for funding only against other applicants in the same Demographic group with the same RD funding status. However, which applications are funded ahead of a given Demographic group or RD group will affect the amount of housing credits remaining for award to that group, and thus could affect whether sufficient funding remains to fully fund an applicant's housing credit request amount.

18. Following eligibility determinations and applications of funding preferences and the selection process, Florida Housing selected the following applicants for funding, by category, with the Housing Credit request amounts shown:

ETP:	2015-245CS, Landings at St. Andrew, Pasco County, \$1.51 million
Medium or Small County RD:	2015-261C, Orange City Flats (Elderly), Volusia County, \$657,124, Lottery No. 7

Non-RD Family:	2015-251C, Majestic Oaks, Alachua County, \$1.15 million, Lottery No. 6
Non-RD Elderly or Disabled:	2015-241C, St. Andrew Tower II, Broward County, \$1.66 million, Lottery No. 1
	2015-254C, Wedgewood Apartments, Palm Beach County, \$784,000, Lottery No. 20
RD Non-Elderly or RD Any Demo:	2015-258C, North Grove Apartments (family), Hillsborough County, \$273,955, Lottery No. 15

19. Trinity Towers South, if eligible, would have been considered for funding in the Non-RD Elderly or Disabled category. There were 8 Non-RD Elderly or Disabled applicants found eligible by Florida Housing, but all of those that ranked higher than Trinity Towers South (i.e., had better lottery numbers), requested \$1.66 million each, and there is only sufficient funding to fund one such \$1.66 million request (St. Andrew Tower II, 2015-241C). Trinity Towers South, at \$1,231,801, could be and would be fully funded if deemed eligible, even with St. Andrew Tower II being funded. Because Trinity Towers South's lottery number, at 18, is better than the lottery number of the current second funded Non-RD Elderly or Disabled applicant (254C Wedgewood Apartments, Lottery No. 20), Trinity Towers South would be funded instead of Wedgewood, if Trinity Towers South is deemed eligible.

Basis for Trinity Towers South's Alleged Ineligibility

20. Based on documents provided by Florida Housing pursuant to a public records request, Trinity Towers South was declared ineligible on three grounds, two relating to "site control" and one relating to financing for the proposed Development. The issues were summarized in Florida Housing staff's notes.

21. For site control, the reasons stated were:

“The 3/15/79 Lease is incomplete. Section 10 references an Exhibit B as ‘attached hereto.’ However, no Exhibit B to the Lease was provided.”

“The 7/22/14 Assignment of Ground Lease is incomplete. A signature of acceptance for the Assignee (City of Melbourne) was not provided.”

22. For financing, the following reasons were stated:

“Equity Commitment: The Applicant submitted an equity commitment that is not executed by the Applicant. Therefore, the commitment could not be considered.”

“Construction Analysis: The Applicant has a construction financing shortfall in the amount of \$1,695,705.00.”

“Permanent Analysis: The Applicant has a permanent financing shortfall in the amount of \$11,015,661.00.”

All three of the financing issues turn on the perceived problem with the equity commitment. The claimed construction and permanent financing shortfalls are the result of the equity commitment issue; if the equity commitment is valid, then there is no construction financing shortfall or permanent financing shortfall. The cited amounts for the construction and permanent financing shortfalls are exactly the amount of the tax credit equity proceeds, minus an already existing funding surplus in both the construction and permanent period.

23. The cited bases for ineligibility for the Trinity Towers South application should be overturned. They all are either contrary to the RFA, not supported by facts or logic, clearly erroneous, or constitute, at most, waivable minor irregularities which should be waived.

Site Control Documentation

24. Petitioner's site control documents submitted as Attachment 14 to its Application, consisted of a series of documents over time. Those documents are:

- (a) March 15, 1979 Ground Lease, with Board of County Commissioners of Brevard County, Florida as Landlord, and Trinity Towers South, Inc., as Tenant.
- (b) June 5, 2013, Assignment of Lease and Assumption Agreement, with Trinity Towers South, Inc., as Assignor, and Trinity Towers South Preservation Associates, LLLP, as Assignee.
- (c) July 22, 2014, Assignment of Ground Lease from Brevard County to City of Melbourne, with a Resolution of the Board of County Commission of Brevard County (dated July 22, 2014), and the Minutes of an October 14, 2014 meeting of the City of Melbourne City Council accepting assignment of the lease.
- (d) February 27, 2015, First Amendment to Lease Agreement between City of Melbourne as Landlord, and Trinity Towers South Preservation Associates, LLLP, as Tenant.
- (e) June 17, 2015, Assignment of Lease and Assumption Agreement with Trinity Towers South Preservation Associates, LLLP, as Assignor, and New Trinity Towers South Preservation Associates, LLLP, as Assignee.

The entirety of Trinity Towers South's Attachment 14 is attached to this Protest as Exhibit "D."

"Missing" Exhibit to Lease

25. The fact that the Ground Lease is missing a referenced Exhibit B does not render the site control documents incomplete. The absence of the Exhibit is at most a waivable minor irregularity.

26. The reference to Exhibit B is not to a legal description of the parcel on which Trinity Towers South proposes to build. According to the Ground Lease itself, Exhibit B is only an access easement across the Trinity Towers South site. Many sites submitted to Florida Housing have access easements across them, and it does not prevent development of the site.

27. More importantly, though, the Trinity Towers South application is for the preservation of existing buildings. This will not be the redevelopment of a site by demolishing existing buildings and replacing them with new construction.

28. The footprint of the existing buildings will not change. The existing buildings, which have been on the site for over 30 years, do not encroach on the access easement; if the existing buildings do encroach on the easement, the easement right has been extinguished by the presence of the existing buildings by adverse possession. The preserved buildings will thus also not encroach on any valid access easement. As a result, a legal description for the access easement does not impact Petitioner's ability to engage in the preservation of the existing housing, and the absence of a legal description for the access easement does not impact Florida Housing's ability to evaluate the Trinity Towers South application.

29. Notably, Florida Housing has previously accepted as eligible an applicant who provided this exact documentation to establish control of this same site in two prior RFAs, in which this Developer, Preservation of Affordable Housing, Inc., and Applicant entities created by it have applied for funding. In RFA 2014-104, for Preservation of Existing Affordable Housing Developments, POAH's Crane Creek Preservation Associates, LLLP, applied to rehabilitate 162 units on this same parcel in Application 2014-352C. The earliest provided document in Crane Creek's "chain of title" for the parcel was the same March 15, 1979 Ground Lease between the Brevard County Board of County Commission and Trinity Towers South, Inc.

The Ground Lease referenced the same Exhibit B, and there was no Exhibit B attached. The relevant site control documentation requirements for RFA 2014-104 were identical to those in RFA 2015-104. Crane Creek was found eligible in RFA 2014-104. It was not funded in RFA 2014-104 because another eligible applicant from the same county had a better lottery number than Crane Creek, and the “County Test” (generally limiting awards of funding to no more than one Application per County) prevented a second Brevard application from being funded. But Florida Housing, on the identical facts concerning the referenced Exhibit B, accepted the 1979 Ground Lease (and the other site control documents).

30. Crane Creek Preservation Associates, LLLP, resubmitted this same proposed development site in another RFA in 2014: RFA 2014-111, SAIL Financing for Affordable Housing Developments to be used in Conjunction with Tax Exempt Bonds and Non-Competitive Housing Credits. Again, the Applicant’s “chain of title” began with the same 1979 Ground Lease, which was included in the Attachments and which referenced but did not attach the same “Exhibit B.” That Crane Creek application, designated number 2014-430S, had site control documentation that was in total slightly different than that in the prior Crane Creek application and the current Trinity Towers South application. Florida Housing found other elements of Crane Creek’s site control documentation insufficient, and found it ineligible for lack of site control for those reasons, but Florida Housing did not fail the Crane Creek site control documentation because of the Ground Lease Exhibit B issue. Again, Florida Housing did not find the Ground Lease deficient.

31. Florida Housing has twice already determined that the Ground Lease, without the referenced Exhibit B, is acceptable. Petitioner relied in good faith on those prior determinations in utilizing the 1979 Ground Lease, as presented, as the first document in its “chain of title” to

establish site control in the Trinity Towers South application. Florida Housing is equitably estopped from changing its position on the acceptability of the Ground Lease, even without an Exhibit B. For Florida Housing to now change its position, when Trinity Towers South is prohibited from amending or supplementing its application to address Florida Housing's new position on the acceptability of the Trinity Towers South Ground Lease, would be clearly erroneous, grossly unfair, inconsistent with the RFA, and contrary to competition.

Absence of Signature from Assignment of Ground Lease

32. The other cited basis for site control failure for Trinity Towers South is a claimed absence of a signature of acceptance for the Assignee (City of Melbourne). The City of Melbourne will occupy the position of Landlord for the Trinity Towers South development, as the Landlord under the original 1979 Ground Lease, Brevard County, assigned its rights as Landlord to the City.

33. Florida Housing's RFA does not require assignment of leases by landlords to a successor landlord to be signed by the successor landlord. Nor does Florida law require a signature of the successor landlord on such an assignment.

34. The assignment of the landlord's interest in the lease is analogous to a deed conveying ownership of real property. Deeds do not have to be signed by the grantee (recipient) of the deeded interest; only the grantor of the deeded interest must sign the lease. There is no dispute that the Assignment of Ground Lease was properly executed by the Board of County Commissioners of Brevard County.

35. In fact, a resolution of the Brevard County Board of County Commissioners authorizing assignment of the ground lease was included in the Trinity Towers South site control documentation. The resolution recites the County had already conveyed the property to the City

of Melbourne, and was assigning the ground lease since the City now owns the property in fee simple.

36. If there remained any doubt that the City of Melbourne accepted its role as the owner and landlord of the subject site, that doubt was erased by the existence of a copy of the minutes of an October 14, 2014 meeting of the City of Melbourne City Council. The City Council unanimously approved accepting a deed conveying the property and accepting assignment of the lease. These meeting minutes were included in the site control documentation submitted to Florida Housing with Petitioner's Application.

37. Further, the City of Melbourne executed a subsequent document in the "chain of title" as Landlord: a February 27, 2015 First Amendment to Lease Agreement. If there was any lingering doubt that the City of Melbourne had not accepted the role of Landlord for the subject site, the February 2015 Amendment to Lease Agreement should erase such doubt.

38. Rejecting the site control documentation because of the absence of the City's signature on an assignment of the landlord's interest imposes requirements not included in the RFA or in Florida law, and disclaiming the City's status as landlord is not supported by the facts and is contrary to the facts, and is clearly erroneous.

Equity Commitment Letter and Financing Shortfalls

39. Florida Housing has preliminary determined that Trinity Towers South's equity commitment letter, submitted as Attachment 25 to the Trinity Towers South application, should be rejected because it is allegedly not signed by the Applicant. The letter, copy attached to this Petition as Exhibit "E," is a two page letter from Boston Capital. All of the required terms of the equity commitment letter are on the first page of the letter, including the dollar amount and percentage of tax credits being purchased, the equity pay-in schedule, the total capital

contribution made by the investor, the amount paid in prior to completion of construction, and per credit price.

40. The second page of the letter is signed by a representative of Boston Capital, and by a Managing Director of POAH, Inc. POAH, or Preservation of Affordable Housing, Inc., is identified in Attachment 4 to the Trinity Towers South Application as the General Partner of the Applicant Entity, New Trinity Towers South Preservation Associates, LLLP. On the equity commitment letter, the typed name appearing above the signature line of the General Partner's representative is Trinity Towers East Preservation Associates Limited Liability Partnership.

41. The erroneous name appearing above the signature line is a clerical error only, and is a waivable minor irregularity. As indicated by the reference on the first page of the equity commitment letter, on Boston Capital letterhead, the letter was clearly concerning the Trinity Towers South development. The General Partner that signed the letter accepting the terms is the General Partner of the applicant for the Trinity Towers South development.

42. The dollar amounts contained in the letter match the dollar amounts in the Trinity Towers South Application, including for annual allocation request, HC equity proceeds paid prior to construction completion, and HC equity proceeds in the permanent period. It is not a situation where a letter intended for another application was inserted in the Trinity Towers South application.

43. Florida Housing Rule 67-60.002(6) defines "Minor Irregularity" as "a variation in a term or condition in an Application... that does not provide a competitive advantage or benefit not enjoyed by other Applicants, and does not adversely impact the interests of the Corporation or the public." Trinity Towers South gained no competitive advantage by the clerical error that resulted in an incorrect name above the signature line on the second page of a

letter that clearly concerned the Trinity Towers South application and was signed by authorized persons. Neither Florida Housing nor the public are adversely impacted by this minor clerical error, or the correction of it. It is a minor irregularity that can and should be waived.

Disputed Issues of Material Fact

44. Petitioner has initially identified the following disputed issues of material fact, which it reserves the right to supplement as additional facts become known to it:

(a) Whether the alleged omission from the original 1979 Ground Lease for the Trinity Towers South site of an Exhibit which allegedly described an access easement retained by the landlord detracts from Trinity Towers South's control of its site. Petitioner contends that it does not.

(b) Whether the alleged omission from the original 1979 Ground Lease for the Trinity Towers South site of an Exhibit which allegedly described an access easement retained by the landlord is a waivable minor irregularity. Petitioner contends that it is.

(c) Whether Florida Housing's prior acceptance of this same Ground Lease for this site, without the access easement exhibit, constitutes prior agency practice and creates an equitable estoppel, compelling acceptance of the same documentation now. Petitioner contends that it does.

(d) Whether the use of the site for the preservation of existing affordable housing would potentially infringe upon an access easement allegedly described in an Exhibit that was not provided. Petitioner contends that it does not, would not, and could not infringe on an alleged easement, and any conflicting easement right was extinguished by adverse possession.

(e) Whether a signature of the City of Melbourne, as landlord, was required on the assignment of the ground lease to it by the prior landlord, Brevard County. Petitioner contends that it was not.

(f) Whether the Trinity Towers South application contained proof of the City of Melbourne's acceptance of Brevard County's assignment to it of the landlord's interest in the subject site. Petitioner contends that it did.

(g) Whether the Trinity Towers South application contained proof of offer and acceptance of equity financing from Boston Capital. Petitioner contends that it did.

(h) Whether the identification of Trinity Towers East instead of New Trinity Towers South on the second page of the equity commitment letter is at most a waivable minor irregularity which afforded the Applicant no advantage over other applicants. Petitioner contends that it is.

Concise Statement of Ultimate Facts, Relief Sought, and Entitlement to Relief

45. As its concise statement of ultimate fact, Trinity Towers South asserts that it established site control in its application, demonstrated the existence of an equity commitment and adequate construction and permanent financing sources, and satisfies all selection criteria and preferences, and is entitled to be selected for funding. Any determination that it did not establish eligibility or does not satisfy all selection criteria and preferences, or is not entitled to be selected for funding, would be arbitrary (not supported by facts), capricious (contrary to facts), contrary to competition, clearly erroneous, and contrary to FHFC's RFA.

46. To the extent Florida Housing disputes any material factual allegations in this Petition, Petitioner demands that this Petition be forwarded to the Division of Administrative

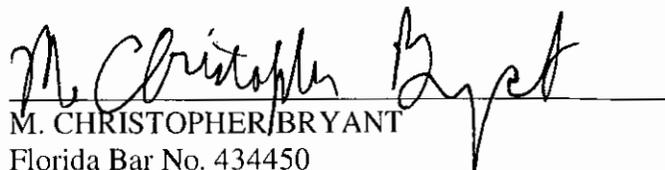
Hearings for Assignment of an Administrative Law Judge to conduct formal evidentiary proceedings, after affording the parties adequate time for case preparation and discovery.

47. Petitioner seeks entry of recommended and final orders finding it to be an eligible applicant, with a score of 23 points, satisfying all selection criteria, and entitled to be selected for funding. Trinity Towers South is entitled to this relief by the terms and conditions of the FHFC's RFA; by FHFC Rule Chapters 67-48 and 67-60, Fla. Admin. Code; and by Chapters 120 and 420, Florida Statutes, including but not limited to Sections 120.569, 120.57(1) and (3), Florida Statutes.

Request for Settlement Meeting

48. Pursuant to Section 120.57(3)(d), Fla. Stat., Trinity Towers South requests an opportunity to meet with Florida Housing to resolve this matter by mutual agreement within seven business days after filing. Trinity Towers South reserves the right to agree to extend the time for such a settlement meeting.

FILED AND SERVED this 24th day of August, 2015.



M. CHRISTOPHER BRYANT

Florida Bar No. 434450

OERTEL, FERNANDEZ, BRYANT

& ATKINSON, P.A.

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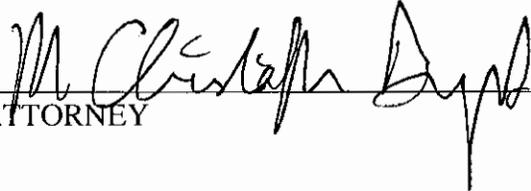
ATTORNEYS FOR NEW TRINITY TOWERS

SOUTH PRESERVATION ASSOCIATES, LLLP

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that the original of the foregoing Formal Written Protest and Petition for Formal Administrative Proceedings has been filed by hand delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, and a copy via Hand Delivery to the following this 24th day of August, 2015:

Hugh R. Brown, General Counsel
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Hugh.Brown@floridahousing.org



ATTORNEY

Application Number	Name of Development	County	County Site	Demo. Commitment	HC Request Amount	SAU Funding Request	Eligible for Funding?	Eligible for ETP Goal?	AD 515 Development?	Total Points	If non-ETP, Age of Development	If non-ETP, AD 1, 2, or 3?	Concrete Construction?	If non-ETP, Per Unit Construction Preference?	Increasing Character?	If non-ETP, AD Level	Final Job Creation Preference	Lottery Number
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Eligible Applications

2015-238C	Cathedral Townhouse	Duval	L	E	\$ 1,500,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	19
2015-240CS	St. Andrew Tower 1	Broward	L	ETP	\$ 2,110,000	\$ 2,000,000	Y	Y	N	60	N/A	N/A	Y	N/A	A	N/A	Y	26
2015-241C	St. Andrew Tower 2	Broward	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	1
2015-233C	Hites of Palmetto Phase 1	Palm Beach	L	F	\$ 1,293,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	8
2015-244C	Sales Drive Preservation	Leon	M	F	\$ 775,000	N/A	Y	N	N	21	Y	Y	Y	Y	A	1	Y	11
2015-245CS	Landings of St. Andrew	Polk	M	ETP	\$ 1,510,000	\$ 2,000,000	Y	Y	N	65	N/A	N/A	Y	N/A	A	N/A	Y	16
2015-247C	Trophy Towers East	Brevard	M	E	\$ 948,946	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	21
2015-249C	Melina Towers	Miami-Dade	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	28
2015-230C	St. Elizabeth Gardens	Broward	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	B	2	Y	3
2015-231C	Majestic Oasis	Alachua	M	F	\$ 1,150,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	6
2015-232C	Cathedral Towers	Duval	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	10
2015-238C	Hilltop Apartments	Madison	S	F	\$ 764,134	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	13
2015-234C	Wedgewood Apartments	Palm Beach	L	E	\$ 784,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	20
2015-235C	Jacksonville Townhouse Apartments	Duval	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	2
2015-236C	Colonial Pines Apartments	Lake	M	F	\$ 244,579	N/A	Y	N	Y	23	Y	Y	N	Y	A	1	Y	5
2015-237C	36th Street Villas	Indian River	M	E	\$ 316,766	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	12
2015-238C	North Grove Apartments	Worthborough	L	F	\$ 273,955	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	15
2015-239C	Woodcreek Apartments	Lake	M	E	\$ 266,560	N/A	Y	N	Y	23	Y	Y	N	Y	A	1	Y	22
2015-269C	Small Manor Apartments	Brevard	M	F	\$ 651,900	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	25
2015-261C	Orange City Flats	Volusia	M	E	\$ 637,124	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	7
2015-233C	Seminole Gardens	Seminole	M	F	\$ 1,090,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	17
2015-243C	St Johns River Apartments	Putnam	S	E	\$ 340,550	N/A	Y	N	Y	21	Y	Y	Y	Y	A	1	Y	27
2015-264C	Moore Landfill	Brevard	M	F	\$ 1,200,000	N/A	Y	N	N	23	Y	Y	Y	Y	B	1	Y	9

Application Number	Name of Development	County	County/State	Demo. Commitment	JIC Request Amount	Sec. Funding Request	Eligible for Funding?	Eligible for ETP Q047?	RD 113 Development?	Total Points	If non-ETP, Age of Development	If non-ETP, 6A 1, 2, or 3?	Concrete Construction?	If non-ETP, Permitted Construction Preference?	Leasing/Financing	If non-ETP, 6A Level?	Florida Job Creation Preference	Lottery Number
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Ineligible Applications:

2015-237C	Pinewood Apartments	Clay	M	E	274,424		N	N	Y	23	Y	N	Y	Y		6	Y	15
2015-239C	Smathers Preservation Phase One	Miami-Dade	L	E	1,103,000		N	N	N	23	Y	Y	Y	Y		1	Y	23
2015-242C	Pine Forest II Apartments	Brevard	S	F	187,422		N	N	Y	23	Y	N	Y	Y		6	Y	4
2015-246C	Timothy Tower South	Brevard	M	E	1,731,201		N	N	N	23	Y	Y	Y	Y		1	Y	15
2015-248C	Major 501K Preservation Phase One	Miami-Dade	L	E	1,660,095		N	N	N	23	Y	Y	Y	Y		1	Y	24

On August 7, 2015, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

Any unsuccessful Applicant may file a notice of protest and a formal written request in accordance with Section 120.5713, Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67A-02.005, F.A.C. Failure to file a protest within the time prescribed in Section 120.5713, Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Total HC Available for RFA	5	6,210,000
Total HC Allocated	5	6,035,079
Total HC Remaining	0	174,921

Application Number	Name of Development	County	County Site	Name of Contact Person	Name of Developer	Devel. Commitment	Total Permitted Units	HC Request Amount	Sub-Funding Request	Total Units	If non-ETP, Age Preference?	If non-ETP, AA 1, 2, or 3?	General Construction Preference?	If non-ETP, Per-Unit Construction Funding Preference?	Awarding Classification	If non-ETP, Rental Preference?	Final Job Order Preference?	County Number
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ETP Goal																		
2015-2453	Living of St. Andrew	Wade	M	Stuart E. Baruch	McDonald Church Residences	ETP	137	\$ 1,510,000	\$ 2,000,000	0	N/A	N/A	Y	N/A	A	N/A	Y	14

RD Development in Balance of Small County Goal																		
2015-2452	Orange Grove Hill	Volusia	M	Robert E. Tron	Two Needs Development, LLC	E	96	\$ 67,120	N/A	23	Y	Y	Y	Y	A	Y	Y	7

Non-RD Family Demographic Development Goal																		
2015-2516	Majestic Oaks	Alachua	M	Bilance E. Haffner	Southport Development, Inc. - Volusia construction office located in Florida x Southport Development Services, Inc.	F	172	\$ 1,150,000	N/A	23	Y	Y	Y	Y	A	Y	Y	6

Non-RD Development with Demographic of Elderly or Persons with a Disability																		
2015-2454	St. Andrew Tower II	Broward	L	Richard Wong	St. Andrew Tower II Development, LLC	E	219	\$ 1,660,000	N/A	23	Y	Y	Y	Y	A	Y	Y	1
2015-2544	Wingedwood Apartments	Palm Beach	L	Bilance E. Haffner	Southport Development, Inc. - Volusia construction office located in Florida x Southport Development Services, Inc.	E	80	\$ 786,000	N/A	23	Y	Y	Y	Y	A	Y	Y	20

OHM RD Development																		
2015-2562	Worm Grove Apartments	Hillsborough	L	Thomas F Ryan	Worm Development Corporation	F	31	\$ 278,355	N/A	23	Y	Y	Y	Y	A	Y	Y	15

On August 7, 2015, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to reject the above applications for funding and name the applicants to enter credit underwriting. Any unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 220.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60009, F.A.C. Failure to file a protest within the time prescribed in Section 220.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

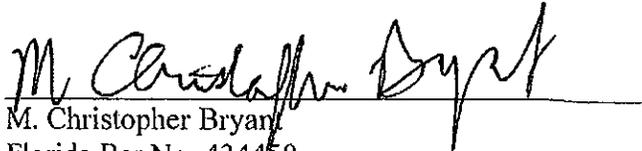
**BEFORE THE
FLORIDA HOUSING FINANCE CORPORATION**

RE: RFA 2015-104
Housing Credit Financing for the Preservation of Existing Affordable Multifamily Housing
Developments
New Trinity Towers South Preservation Associates, LLLP, Application No. 2015-246C

NOTICE OF PROTEST

Pursuant to Section 120.57(3), Fla. Stat.; Rule 67-60.009(2), Fla. Admin. Code; and RFA 2015-104 at Section Six, New Trinity Towers South Preservation Associates, LLLP, Application No. 2015-246C, hereby gives notice of its intent to protest the proposed awards of funding and proposed eligibility determinations contained on the RFA 2015-104 Review Committee Funding Recommendations, copy attached as Exhibit A, and the RFA 2015-104 Review Committee Eligibility and Ineligibility Determinations, copy attached as Exhibit B. Exhibits A and B were approved by the Florida Housing Finance Corporation Board of Directors on Friday, August 7, 2015, and were posted on the Corporation's website at 10:03 a.m. on that date.

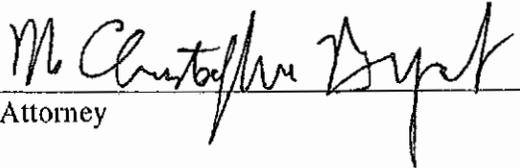
FILED this 12th day of August, 2015.



M. Christopher Bryant
Florida Bar No. 434450
Oertel, Fernandez, Bryant & Atkinson, P.A.
P.O. Box 1110
Tallahassee, Florida 32302-1110
Telephone: 850-521-0700
Telecopier: 850-521-0720
cbryant@ohfc.com
Attorneys for New Trinity Towers South
Preservation Associates, LLLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and one copy of the foregoing has been filed via Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, this 12th day of August, 2015.



Attorney

Total HC Available for RFA	5	6,210,000
Total HC Absorbed	5	6,018,078
Total HC Remaining	0	1,949,921

Application Number	Area of Development	County	County Seat	Name of Contact Person	Name of Developer	Demo. Commitment	Total Acre Available (Units)	HC Request Amount	SQL Requested	Total Points	If non-ETP, Age of Development (Years)?	If non-ETP, 2.2 or 3?	Complete Construction Permit?	If non-ETP, Air Unit Construction Permit?	Use of ETP Classification	If non-ETP, Critical?	Regulate Job	History Number
2015-340C	Landings at St. Andrew	Pinellas	St. Petersburg	Scott C. Burch	Pinellas County Redevelopment	ETP	187	\$ 1,510,000	\$ 2,000,000	65	N/A	N/A	Y	N/A	A	N/A	Y	14

RD Development in Medium or Small County Goal																		
2015-341C	Orange Key Fish	Volusia	M	Robert K. Trout	Two Rivers Development, LLC	E	96	\$ 657,124	N/A	29	Y	Y	Y	Y	A	1	Y	7

Non-RD Development with Demographic of Elderly or Persons with a Disability																		
2015-342C	Maple Oak	Alachua	M	Deanne E. Hedder	Southport Development, Inc. a Washington corporation doing business in Florida as Southport Development Services, Inc.	F	172	\$ 1,100,000	N/A	23	Y	Y	Y	Y	A	1	Y	6

Other RD Development																		
2015-343C	Wedgewood Apartments, Palm Beach	Palm Beach	L	Isabella Wong	St. Andrew Towers II Development, LLC	F	215	\$ 1,860,000	N/A	22	Y	Y	Y	Y	A	1	Y	1
2015-344C	Wedgewood Apartments, Palm Beach	Palm Beach	L	Brianne E. Hedder	Southport Development, Inc. a Washington corporation doing business in Florida as Southport Development Services, Inc.	F	40	\$ 794,000	N/A	24	Y	Y	Y	Y	A	1	Y	20

2015-345C	North Cove Apartments	Millborough	L	Thomas F. Ryan	Prime Development Corporation	F	31	\$ 223,925	N/A	23	Y	Y	Y	Y	A	1	Y	35
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On August 7, 2015, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion and staff recommendation to select the above applications for funding and invite the Applicants to enter credit underwriting. Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(9), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-80.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(9), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Application Number	Name of Development	County	County Size	Demo. Commitment	HC Request Amount	SALE Funding Request	Eligible for Funding?	Eligible for ETP (cash)?	RD 515 Development?	Total Points	If non-ETP, Age of Development	If non-ETP, RA 1, 2, or 3?	Concrete Construction?	If non-ETP, Part Unit Construction Funding Preference?	Leveraging Classification	If non-ETP, RA Level	Especially Job Creation Preference	Lottery number
2015-288C	Cathedral Townhouse	Duval	L	E	\$ 1,500,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	19
2015-240CS	St. Andrew Tower I	Broward	L	ETP	\$ 2,110,000	\$ 2,000,000	Y	Y	N	60	N/A	N/A	Y	N/A	A	N/A	Y	26
2015-241C	St. Andrew Tower II	Broward	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	1
2015-243C	Port of Palm Beach Phase I	Palm Beach	L	F	\$ 1,293,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	8
2015-244C	Bates Drive Preservation	Leon	M	F	\$ 775,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	11
2015-245CS	Landings of St. Andrew	Pasco	M	ETP	\$ 1,510,000	\$ 2,000,000	Y	Y	N	65	N/A	N/A	Y	N/A	A	N/A	Y	14
2015-247C	Triumph Towers East	Brevard	M	E	\$ 948,346	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	21
2015-249C	Marlin Towers	Miami-Dade	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	28
2015-250C	St. Elizabeth Gardens	Broward	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	B	2	Y	3
2015-251C	Maple Oaks	Alachua	M	F	\$ 1,150,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	6
2015-252C	Cathedral Towers	Duval	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	10
2015-253C	Million Apartments	Maniston	S	F	\$ 764,114	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	13
2015-254C	Wedgewood Apartments	Palm Beach	L	E	\$ 784,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	20
2015-255C	Jacksonville Townhouse Apartments	Duval	L	E	\$ 1,660,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	2
2015-256C	Colonial Point Apartments	Lake	M	F	\$ 244,579	N/A	Y	N	Y	23	Y	Y	N	Y	A	1	Y	5
2015-257C	16th Street Villas	Indian River	M	E	\$ 315,766	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	12
2015-258C	North Grove Apartments	Hillsborough	L	F	\$ 273,355	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	15
2015-259C	Woodliff Apartments	Lake	M	E	\$ 266,560	N/A	Y	N	Y	23	Y	Y	N	Y	A	1	Y	22
2015-260C	Shull Harbor Apartments	Broward	M	F	\$ 651,500	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	25
2015-261C	Orange City Pkbs	Volusia	M	E	\$ 657,124	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	7
2015-262C	Seminole Gardens	Seminole	M	F	\$ 1,060,000	N/A	Y	N	N	23	Y	Y	Y	Y	A	1	Y	17
2015-263C	St Johns River Apartments	Putnam	S	E	\$ 340,520	N/A	Y	N	Y	23	Y	Y	Y	Y	A	1	Y	27
2015-264C	Moore Landing	Brevard	M	F	\$ 1,200,000	N/A	Y	N	N	23	Y	Y	Y	Y	B	1	Y	9

Eligible Applications

Application Number	Name of Development	County	County Site	Demo. Commitment	HC Request Amount	SALE Funding Request	Eligible for Funding?	Eligible for ETP Grant?	RD 515 Development?	Total Pools	If non-ETP, Age of Development	If non-ETP, RA 1, 2, or 3?	Concrete Construction?	If non-ETP, Per Unit Construction Financing Preference?	Lowering Classification	If non-ETP, RA Level	Florida Job Creation Preference	Lottery Number
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Ineligible Applicants

2015-237C	Pinewood Apartments	Clay	M	E	274,424		N	N	Y	23	Y	N	Y	Y		6	Y	15
2015-239C	Smalbert Preservation Phase One	Miami-Dade	L	E	1,109,000		N	N	N	23	Y	Y	Y	Y		1	Y	23
2015-240C	Pine Forest II Apartments	Broward	S	F	389,422		N	N	Y	23	Y	N	Y	Y		6	Y	4
2015-246C	Trinity Towers South	Broward	M	E	1,231,801		N	N	N	23	Y	Y	Y	Y		1	Y	18
2015-249C	Haley Sofie Preservation Phase One	Miami-Dade	L	E	1,560,000		N	N	N	23	Y	Y	Y	Y		1	Y	24

On August 7, 2015, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to adopt the scoring results above.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-80.000, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

Attachment

14

ATTACHMENT 14: TRINITY TOWERS SOUTH SITE CONTROL

The site control documentation for this property consists of several documents. New Trinity Towers South Preservation Associates LLLP ("Assignee") is assuming Trinity Towers South Preservation Associates LLLP's ("Assignor's") interest in the existing Lease Agreement by and between the Board of County Commissioners of Brevard County, Florida, as landlord (the "Original Landlord"), and Trinity Towers South, Inc. ("Original Tenant"), as tenant, dated March 15, 1979. The Lease Agreement was assigned by Original Tenant to Seller through the enclosed "Assignment and Assumption of Lease Agreement" dated June 5, 2013. Additionally, the Original Landlord assigned its interest in the lease as landlord to the City of Melbourne, Florida as evidenced by the enclosed Resolution No. 2014-121, recorded on December 18, 2014. Finally, the Lease Agreement was amended through the enclosed First Amendment to Lease Agreement dated as of February 27, 2015.

The items described above are attached in the following reverse chronological order:

1. Assignment of Lease and Assumption Agreement by and between Trinity Towers South Preservation Associates LLLP and New Trinity Towers South Preservation Associates LLLP dated June 17, 2015.
2. First Amendment to Lease Agreement dated as of February 27, 2015 between the City of Melbourne, Florida and Trinity Towers South Preservation Associates LLLP
3. Resolution No.2014-121 evidencing the assignment of the Lease Agreement to City of Melbourne, recorded on December 18, 2014. Attached to this document is a copy of the original Lease Agreement.
4. Assignment and Assumption of Lease Agreement between Trinity Towers South Preservation Associates LLLP and Trinity Towers South, Inc. This Assignment includes a copy of the original Lease Agreement as Exhibit A.

**This instrument prepared by,
and after recording to be returned to:**

Lewis W. Berk, Esq.
c/o POAH
40 Court St., Ste 700
Boston, MA 02108

ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT ("Agreement") is made as of June ~~14th~~, 2015 (the "Effective Date"), by and between **TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP**, a Florida limited liability limited partnership, having an address of 40 Court Street, Suite 700, Boston, Massachusetts 02108 ("Assignor"), and **NEW TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP**, a Florida limited liability limited partnership, having an address of 40 Court Street, Suite 700, Boston, Massachusetts 02108 ("Assignee").

RECITALS

WHEREAS, the Board of County Commissioners of Brevard County, Florida ("**Original Landlord**") and Trinity Towers South, Inc., a Florida non-profit corporation ("**Original Tenant**") entered into a Lease Agreement dated as of March 15, 1979 and recorded on January 14, 1980 in Official Records Book 2214, Page 1640 of the Public Records of Brevard County, Florida (the "**Lease**") for certain real property located in Brevard County, Florida and legally described in Exhibit "A" (the "Real Property").

WHEREAS, the Lease was assigned by the Original Tenant to Assignor pursuant to that certain Assignment of Lease and Assumption Agreement entered into by Original Tenant and Assignor dated as of June 5, 2013 and recorded on June 7, 2013 in Official Records Book 6894, Page 798, of the Public Records of Brevard County, Florida;

WHEREAS, the Lease was assigned by Original Landlord, as landlord, to the City of Melbourne pursuant to that certain Assignment of Ground Lease by the Original Landlord and Acceptance by the City of Melbourne as recorded on December 18, 2014 in Official Records Book 7268, Page 1158 of the Public Records of Brevard County, Florida;

WHEREAS, the Lease was amended by that certain First Amendment to Lease Agreement between the City of Melbourne and the Assignor dated as of February 27, 2015, and recorded on February 27, 2015 in Official Records Book 7311, Page 43 of the Public Records of Brevard County, Florida; and

WHEREAS, Assignor desires to assign its interest under the Lease to Assignee, and Assignee has agreed to assume the obligations as tenant under the Lease, from and after the Effective Date, all on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the payment of Ten and 00/100 Dollars (\$10.00), and the mutual covenants and conditions herein contained, the receipt and sufficiency of which are

hereby acknowledged, the parties hereto (together, the "Parties," and each sometimes a "Party") hereby act and agree as follows:

1. **Assignment.** Assignor hereby assigns, sets over and transfers to Assignee, and Assignee hereby takes and accepts from Assignor, all of Assignor's rights, title and interest as tenant in, under and to the Lease and to all other rights, benefits and privileges accruing to the tenant thereunder from and after the Effective Date. Notwithstanding the foregoing, this assignment, and the assumption contemplated in section 2 below, shall only become effective upon 1) the closing of an award of 9% Low-Income Housing Tax Credits by Florida Housing Finance Corporation by January 1, 2016 and 2) delivery of notice of such assignment and assumption to the City of Melbourne. In the event that the above conditions are not satisfied, this Agreement shall be automatically terminated.

2. **Assumption of Obligations and Liabilities by Assignee.** Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of the obligations and liabilities of Assignor under the Lease, and to be bound by all of the terms, provisions and covenants of such Lease, to the extent arising or accruing from and after the Effective Date, including, without limitation, the requirement that the leased premises be used for the conduct of a Congregate Housing Facility or Affordable Housing in accordance with, and subject to the exceptions set forth in, Section 2 of the Lease, as amended by that certain First Amendment to Lease Agreement.

3. **Indemnification by Assignor.** Assignor hereby indemnifies, defends and holds harmless Assignee, and its respective successors and assigns, from and against any claims, clauses, demands, losses, liabilities, costs, damages, fees and expenses related thereto, including reasonable attorneys' fees and costs sustained or incurred by Assignee, to the extent arising out of or in connection with Assignor's actions or inactions in connection with the Lease or as a result of Assignor's use of the Real Property demised under such Lease, to the extent arising prior to the Effective Date.

4. **Indemnification by Assignee.** Assignee hereby indemnifies, defends and holds harmless Assignor, and its respective successors and assigns, from and against any claims, clauses, demands, losses, liabilities, costs, damages, fees and expenses related thereto, including reasonable attorneys' fees and costs sustained or incurred by Assignor, to the extent arising out of or in connection with Assignee's actions or inactions in connection with the Lease or as a result of Assignee's use of the Real Property demised under such Lease, to the extent arising from and after the Effective Date.

5. **Governing Law.** This Agreement shall be deemed to be an agreement made under the laws of the State of Florida.

6. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of each of the Parties and their successors and assigns.

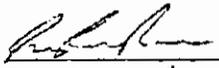
7. **Warranty of Signers.** Each individual executing and delivering this Agreement on behalf of a Party hereby represents and warrants to the other Party that such individual has been duly authorized and empowered to make such execution and delivery.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first above written.

Signed, sealed and delivered
in the presence of:

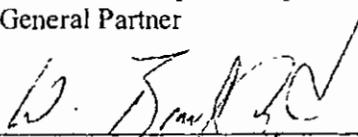

Print Name: Carlota Melo


Print Name: Sara Bryan Brinkman

ASSIGNOR:

TRINITY TOWERS SOUTH
PRESERVATION ASSOCIATES, LLLP, a
Florida limited liability limited partnership

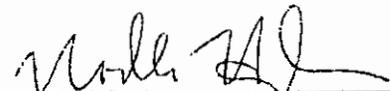
By: Preservation of Affordable Housing, Inc.,
an Illinois non-profit corporation, its
General Partner

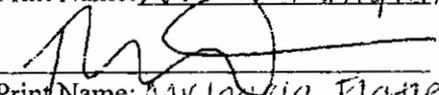
By: 
Name: W. Bart Lloyd
Its: Managing Director

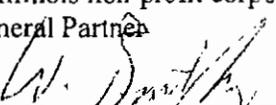
ASSIGNEE:

NEW TRINITY TOWERS SOUTH
PRESERVATION ASSOCIATES, LLLP, a
Florida limited liability limited partnership

By: Preservation of Affordable Housing, Inc.,
an Illinois non-profit corporation, its
General Partner


Print Name: Neelbe Humphries


Print Name: Michaela Flattery

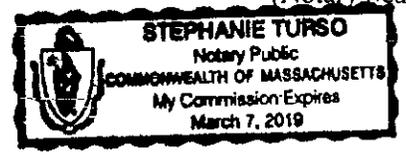
By: 
Name: W. Bart Lloyd
Its: Managing Director

STATE OF MA)
COUNTY OF Suffolk)

The foregoing instrument was acknowledged before me this 22nd day of June, 2015, by W. Bart Lloyd, as Managing Director of PRESERVATION OF AFFORDABLE HOUSING, INC., an Illinois non-profit corporation, as General Partner of NEW TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership. He/She is personally known to me or has produced _____ as identification.

Stephanie Turso
Notary Signature
Print Name: Stephanie Turso
Commission No.: _____
Commission Expires: 3-7-19

(Notary Seal)



MA
STATE OF ~~FLORIDA~~)
COUNTY OF Suffolk)

The foregoing instrument was acknowledged before me this 22nd day of June, 2015, by W. Bart Lloyd, as Managing Director of PRESERVATION OF AFFORDABLE HOUSING, INC., an Illinois non-profit corporation, as General Partner of TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership. He/She is personally known to me or has produced _____ as identification.

Stephanie Turso
Notary Signature
Print Name: Stephanie Turso
Commission No.: _____
Commission Expires: 3-7-19

(Notary Seal)

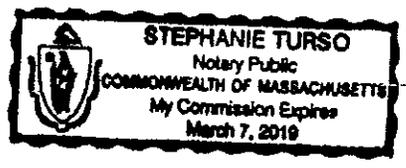


EXHIBIT A

Legal Description

The West 133 feet of Lot 5, the East 38.6 feet of the South 377 feet of Lot 5, the West 13.4 feet of the South 377 feet of Lot 6, and the East 68 feet of the West 81.4 feet of the South 258 feet of Lot 6, all North of Melbourne Avenue and Fee's Unrecorded Subdivision in Section 3, Township 28 South, Range 37 East, Brevard County, Florida.

Prepared By and Return To:

Robert Cheng, Esq.
Shutts & Bowen LLP
1500 Miami Center
201 S. Biscayne Blvd.
Miami, FL 33131

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this "*First Amendment*") is entered into as of the 27 day of February, 2015 (the "*Effective Date*") between the **CITY OF MELBOURNE, FLORIDA** ("*Landlord*") and **TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP**, a Florida limited liability limited partnership (together with its successors and assigns "*Tenant*").

WHEREAS, the Board of County Commissioners of Brevard County, Florida ("*Prior Landlord*") and Trinity Towers South, Inc., a Florida non-profit corporation ("*TTSI*") entered into a Lease Agreement dated as of March 15, 1979 and recorded on January 14, 1980 in Official Records Book 2214, Page 1640 of the Public Records of Brevard County, Florida (the "*Lease*") for certain real property located in Brevard County, Florida and legally described on Page 1 of the Lease (the "*leased premises*" or the "*Demised Premises*");

WHEREAS, the Lease was assigned by TTSI, as tenant, to Tenant pursuant to that certain Assignment of Lease and Assumption Agreement entered into by TTSI and Tenant dated as of June 5, 2013 and recorded on June 7, 2013 in Official Records Book 6894, Page 798, of the Public Records of Brevard County, Florida;

WHEREAS, the Lease was assigned by Prior Landlord, as landlord, to Landlord pursuant to that certain Assignment of Ground Lease by the Prior Landlord and Acceptance by the Landlord, as recorded on December 18, 2014 in Official Records Book 7268, Page 1158 of the Public Records of Brevard County, Florida; and

WHEREAS, Landlord and Tenant desire to enter into a modification of the Lease to incorporate certain provisions required by PNC BANK, NATIONAL ASSOCIATION, a national banking association (together with its successors and/or assigns, as their interest may appear ("*Lender*") in connection with a loan in the amount of \$3,300,000.00 being made by Lender to the Tenant (the "*Loan*").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Landlord and Tenant do hereby covenant, represent, warrant, and agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference. All capitalized terms used herein and not expressly defined herein shall have their meaning as set forth in the Lease.

2. Modifications.

(a) HUD Loan. Section 12 of the Lease is hereby amended and restated in its entirety to read as follows "Intentionally Omitted." All references in the Lease to the Department of Housing and Urban Development are hereby deleted.

(b) Tenant's Right to Mortgage the Lease. Notwithstanding anything to the contrary contained in the Lease, including, without limitation, the provisions of Section 8 of the Lease, Tenant shall have the absolute right to grant a mortgage (but only for the Loan) of Tenant's leasehold interest (the "*Leasehold Interest*") in the Demised Premises to Lender (the "*Leasehold Mortgage*"), without the prior consent of Landlord. Any other Leasehold Mortgages unrelated to the Loan, shall be subject to Landlord's approval, which shall not be unreasonably withheld. If Landlord fails to respond with its approval or objection to the proposed Leasehold Mortgage within thirty (30) Business Days after receipt thereof, Landlord's approval shall be deemed given to such request. Landlord shall have no approval rights with respect to the document(s) evidencing the Loan secured by the Leasehold Mortgage, but will be provided with copies of any amendments or modifications thereto or any restatements thereof and shall have a reasonable right of review thereof. Tenant may not modify any provisions of the Leasehold Mortgaged loan documents that increase the Loan, except for increases in the Loan that result from advances made by Lender to protect the security or lien priority of the Loan or cure a default under the Leasehold Mortgaged loan documents. Furthermore, Tenant shall obtain Landlord's prior written consent (not to be unreasonably withheld, conditioned or delayed) prior to encumbering its Leasehold Interest with any supplemental mortgages.

(c) Encumbrances. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding:

(i) Landlord shall not consent to any future mortgages (a "*Fee Mortgage*") in the fee estate in the demised Premises (the "*Fee Estate*") unless such Fee Mortgage expressly provides that it is subordinate and subject to the Tenant's interest under this Lease.

(ii) Tenant shall not be required to subordinate the Leasehold Interest to any Fee Mortgage obtained by Landlord.

(d) Tenant's Right to Assign the Lease. Notwithstanding anything to the contrary contained in the Lease, including, without limitation, the provisions of Section 7 of the Lease, and so long as the Loan is outstanding, Tenant and its successors and/or assigns shall have the right to: (A) assign the Leasehold Interest, so long as (1) Tenant provides Landlord with (i) written notice of such assignment, (ii) a copy of the assignment and assumption agreement pursuant to which such assignment was effectuated and (2) such assignee specifically assumes and agrees to comply with the use restrictions contained in Section 2 of the Lease, as amended hereby; and (B) sublet the entire Demised Premises under the Lease, so long as (1) Tenant provides Landlord with (i) written notice of such subletting, (ii) a copy of the subletting agreement pursuant to which such assignment was effectuated, and (2) such sublessee specifically assumes and

agrees to comply with the use restrictions contained in Section 2 of the Lease, as amended hereby; provided, however, the foregoing shall in no way restrict Tenant's right to lease individual residential units within the Demised Premises. In the event of any subletting, the Tenant/sublessor shall remain fully liable for performance of and compliance with all terms and conditions of the Lease, as amended from time to time.

(c) Foreclosure or Transfer in Lieu of Foreclosure. So long as the Loan is outstanding, Lender (or its nominee) may become the holder of the Leasehold Interest and succeed to Tenant's interest in the Lease by foreclosure of the Leasehold Mortgage or as a result of the assignment of the Lease in lieu of foreclosure, and any purchaser at any sale of the Leasehold Interest in any proceeding for the foreclosure of the Leasehold Mortgage or the assignee or transferee of the Leasehold Interest under any instrument of assignment or transfer in lieu of the foreclosure of the Leasehold Mortgage shall (A) only be liable for acts or omissions of the Tenant taking place during the period in which it had record title to the Leasehold Interest and (B) be deemed released from liability for the acts or omissions of past holders of the Leasehold Estate, except for the use restrictions contained in Section 2 of the Lease, as amended hereby

(f) Liability. Any liability of Lender and its assigns to the Landlord shall be limited to the value of their respective interests in the Leasehold Interest and the Lease and the value of the Demised Premises prior to any damage or destruction thereof.

(g) Damage or Destruction to Demised Premises. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding:

(i) if any portion of the Demised Premises shall be damaged or destroyed by casualty, Tenant shall repair or restore the Demised Premises as nearly as possible to the condition the Demised Premises were in immediately prior thereto, it being understood that Tenant's obligation to rebuild the Damaged Premises shall be limited to the amount of available casualty/hazard insurance proceeds. In such event neither party shall have the right to terminate the Lease, and the Lease shall continue in effect.

(ii) Upon the occurrence of any such casualty and so long as the Loan is outstanding, Tenant, promptly and with all due diligence, shall apply for and collect all applicable insurance proceeds recoverable with respect to such casualty, to be used as required in this Section g). Lender shall have the right to participate in adjustment of losses as to any casualty or hazard insurance proceeds. Any casualty or hazard insurance proceeds shall be paid directly to Lender or an independent trustee acceptable to Lender and Landlord to be used by Tenant as required in this Section g), and any remaining casualty or hazard insurance proceeds following the proper restoration reasonably acceptable to the Landlord shall be paid to Tenant (subject to the lien of the Leasehold Mortgage) rather than to the Landlord.

(iii) In the event that the Demised Premises are not repaired or restored pursuant to this Section g), the insurance proceeds received as the result of such

casualty shall be distributed as follows: (a) first, to Lender to the extent of any indebtedness then owed to Lender, (b) second, the value of Landlord's residual interest in the improvements (after accounting for Tenant's interest therein for the remainder of the Lease Term) to the landlord; and (c) third, the balance, if any, of such insurance proceeds shall be assigned or paid over to Tenant.

(h) Notice to Lender. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding, if any default by Tenant shall occur which entitles Landlord to undertake any remedy permitted thereunder, Landlord shall notify Lender of such default as a condition of the validity of the Landlord's exercise of any remedies for such default. All notices, demands and requests which are required to be given by the Landlord, to Lender shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed as follows:

PNC Bank, National Association
26901 Agoura Road, Suite 200
Calabasas Hills, California 91301
Attention: Loan Servicing Manager

With a copy to:

Troutman Sanders LLP
Troutman Sanders Building
1001 Haxall Point
Richmond, VA 23219
Attention: Nora Garcia Nickel, Esq.

(i) Lender's Rights on Default under Lease. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding, Lender shall have the right, but not the obligation, to cure a default for the Tenant's account within the time permitted to the Tenant, plus a reasonable additional time period (including time to obtain relief from any bankruptcy stay in the Tenant's bankruptcy) sufficient to enable Lender to either foreclose the lien of the Leasehold Mortgage or obtain the appointment of a receiver or secure other remedies necessary to enable Lender to cure the default. In the event the Lease contains any default that Lender cannot reasonably cure, so long as (A) Lender has diligently exercised its rights and remedies and cured any curable defaults within the applicable cure period, and (B) annual rent is being paid, then the Landlord must waive such non-curable default.

(j) Lease Termination. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding, in the event the Lease terminates for any reason (including rejection or deemed rejection in bankruptcy, Lender's inability to cure a default, merger of title or attempted surrender by the Tenant), Landlord shall enter into a new ground lease with Lender (or its nominee) on the same terms and conditions as the Lease, and with the same priority; provided, that the Landlord need not enter into a new lease (i) for longer than the term remaining in the Lease, or (ii) with the Tenant or other affiliate of POAH (as hereinafter defined) if the Tenant or other affiliate of POAH is Lender's nominee.

(k) Condemnation. Notwithstanding anything to the contrary contained in the Lease, including, without limitation, the provisions of Section 14 of the Lease, and so long as the Loan is outstanding:

(i) Any condemnation award to which the Tenant is entitled under applicable law shall be paid directly to Lender (or trustee for restoration in the case of partial awards); and

(ii) Any condemnation award payment to Lender or trustee, as applicable, must not be less than the total award minus the value of the Demised Premises that was taken pursuant to the condemnation (considered as unimproved, but encumbered by the Lease); and

(iii) The condemnation award is disbursed: (i) first to Landlord in the amount equal to the fair market value of the property taken, exclusive of improvements, (ii) to mortgagees in order of priority, (iii) to Tenant in the fair market value of the Leasehold Interest (minus the amount paid to Landlord) and (iv) to Landlord for the reversionary interest. Proceeds from a partial condemnation are held, during the term of the Loan by Lender, as condemnation trustee, and disbursed between Landlord and Tenant equitably according to the value of the land and improvements taken. Tenant is to use the proceeds of partial takings for restoration, subject to the terms of the documents evidencing and/or securing the Loan; and

(iv) In the case of a partial taking, Tenant shall rebuild and restore the improvements on the Demised Premises, unless Lender requires or consents to distribution of the proceeds. In such event, the proceeds must be applied first toward reduction of the Loan; and

(v) Lender shall have the right to supervise and control the receipt and disbursement of condemnation awards and participate in any condemnation proceedings and settlement discussions; and

(vi) Nothing in this subsection (k) shall be deemed or construed to limit Landlord's rights provided by law, as a municipal corporation, to exercise its power of eminent domain with respect to any or all of the Demised Premises.

(l) Rights of Tenant Requiring Lender Consent. Notwithstanding anything to the contrary contained in the Lease and so long as the Loan is outstanding, the following Tenant rights (if applicable) may not be exercised by Tenant without the express prior written consent of Lender and any exercise of the following rights of Tenant without the prior consent of the Lender are voidable at the option of the Lender:

(i) Right of the Tenant to treat the Lease as terminated in the event of the Landlord's bankruptcy under Section 365(h)(A)(i) of Chapter 11 of the U.S. Bankruptcy Code or any successor statute.

(ii) **Right of the Tenant to modify, restate, terminate, surrender or cancel the Lease.**

(m) **Estoppel Certificates.** Landlord shall promptly, but in no event more than thirty (30) days after written request, upon reasonable request by Lender, certify in writing that the Lease is in full force and effect, whether the Lease has been amended, that to Landlord's knowledge Tenant is not in default, and the date through which rent has been paid, or any other item reasonably requested by Lender.

(n) **No Merger.** So long as the Loan is outstanding, the Fee Estate and the Leasehold Interest shall not merge (*whether voluntary or involuntary or effected by the Landlord or the Tenant*) but shall remain separate and distinct, notwithstanding the acquisition of said Fee Estate and said Leasehold Interest by any single owner, and no such merger shall result in the termination of the Lease or an extinguishment of the Leasehold Mortgage.

(o) **Indemnification; Insurance.** Amend the first paragraph in the existing Section 5, **Indemnification of the Lease**, as follows. Language underlined is new text. Language stricken through is existing language to be deleted.

Indemnification: The Tenant and Preservation of Affordable Housing, Inc., an Illinois Not-for-Profit Corporation ("POAH"), agree ~~agrees~~ to indemnify and save harmless the Landlord, its officers, employees and agents, all in their official capacity, from any and all claims or loss arising from any claims of third parties by reason of:

(i) any accident or damage to any personal property happening on or about the ~~leased~~ ~~demised~~ premises, excepting only, however, accident or damage to the extent caused by the negligent acts or omissions or willful misconduct of the Landlord or its servants, agents or employees;

(ii) any and all costs, liabilities, expenses, losses, claims, damages, injuries, or obligations arising from or in connection with the use, storage, treatment, disposal, discharge, release, or other handling during treatment, disposal, discharge, release or other handling during the term of this Lease on the leased premises of any hazardous substances, hazardous wastes, toxic substances, asbestos, lead based paint, or other pollutants as now or in the future defined under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA")) or any other Federal, State of Florida or local law or regulation pertaining to the protection of the environment or employee safety and health, including but not limited to any and all liabilities or obligations in the nature of remedial action(s) that may be required of Landlord as a consequence of Tenant's activities on the Premises during the time that this Lease shall be in effect;

iii. any costs, liabilities, expenses, losses, claims, damages, injuries or obligations pertaining to the leased premises or the operation, repair, or maintenance, including but not limited to bodily injury (including death) property damage, or nuisance caused or alleged to be caused by Tenant (including Tenant's employees, agents, representatives, and invitees) or otherwise arising out of or connected with Tenant's ownership of the Lease or use of the leased premises or Tenant's activities on or about the leased premises;

iv. any fine, penalty, liability, or cost arising out of Tenant's violation of any law, ordinance, or governmental regulation applicable to Tenant's use or occupancy of the leased premise or Tenant's activities on or about the Premises;

v. any claims or liability for injuries, including death, of any person on the leased premises, excepting only, however, accident or damage to the extent caused by the negligent acts or omissions or willful misconduct of the Landlord or its servants, agents or employees;

vi. any conditions set forth in sub-paragraphs i. through v. caused or brought about by any person residing, whether part-time or full-time, on the leased premises;

vii. any violation of the public use restrictions set forth in the quit-claim deed from The School Board of Brevard County, Florida to the Board of County Commissioners of Brevard County, Florida, recorded on October 11, 1976, in Official Records Book 1669, Page 92, Public Records of Brevard County, Florida, regardless of the subordination of the reverter clause to any loan;

ix. any loss, claims, damages, or otherwise resulting caused by or arising from the actions of the Tenant with regard to any loan encumbering the leased premises, or any part thereof. Including but not limited to loan payments, costs of foreclosure, or attorneys' or paralegals' fees; and

x. any claims, assessments, or charge for any utilities, including but not limited to cable television.

Landlord and Tenant agree that the indemnification set forth in this paragraph (o) includes the payment of reasonable attorney's fees incurred by the Landlord due to the matters covered by this indemnification or defense of any claim, counterclaim, or affirmative defense. The indemnifications provided for herein are intended to provide Landlord with the broadest indemnification provided herein.

The covenants, and indemnifications contained in this Paragraph (o) shall survive the termination of the Lease between Landlord and Tenant, and all other indicia of the termination of the relationship between Landlord and Tenant; provided, however, neither Tenant nor POAH shall be responsible for any such claims, expenses or damages resulting personal injuries, including death, occurring after the termination of the Lease.

POAH joins in this Agreement for the limited purpose of joining in the provision of the indemnifications provided herein, whether the claims, losses, damages, or suits are brought about or in any way caused by POAH. POAH agrees that a separate consideration, adequate and sufficient, was received from Landlord for this indemnification. Any assignment or subletting of this Lease shall not act to terminate the covenant to indemnify as set forth in this Paragraph (c) by POAH and by Tenant, and the duty to indemnify as described herein on the part of both POAH and by Tenant, shall continue unabated after the assignment or subletting of this Lease.

Notwithstanding anything contained herein to the contrary, POAH's indemnification obligation under this First Amendment shall extend and cover only those matters which arise during such period of time as Trinity Towers South Preservation Associates, LLLP, a Florida limited liability limited partnership, is the tenant under the Lease and only if POAH is the General Partner of Tenant.

Insurance Requirements: Notwithstanding anything in the Lease, as amended, to the contrary, all requirements pertaining to insurance under the Lease (including requirements relating to amounts and types of coverages, deductibles and special endorsements) will be deemed satisfied if Borrower complies with the insurance requirements under the Lender's Leasehold Mortgaged loan documents for the Loan. All original policies of insurance required pursuant to the Leasehold Mortgaged loan documents will be held by Lender. Landlord shall be added as an additional insured solely for liability coverage.

Standard Commercial General Liability Insurance. Separate and independent from the foregoing indemnification paragraph above, the Tenant further agrees to maintain ~~carry~~ in force, at its own expense, throughout the term of the Lease, standard occurrence-based Commercial General Liability ~~public liability~~ insurance coverage on the leased premises, that has a policy limit of not less than \$1,640,000 per occurrence, with that includes a contractual ~~contract~~ liability endorsement coverage provision on the policy, with a that is underwritten by an insurance company deemed reasonably acceptable to the Landlord and/or with an A.M. Best's Financial rating of A or better with a financial quality rating of VII or better and licensed qualified to transact business in the State ~~state~~ in which the lease premises are located of Florida, and that has been endorsed to include the Landlord, the City of Melbourne, Florida, a Florida Municipal Corporation, as an "Additional Insured" - stipulating limits of liability of not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for an accident affecting any one (1) person; not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for an accident affecting more than one (1) person; and FIFTY THOUSAND DOLLARS (\$50,000.00) property damage. The Tenant shall provide evidence of an endorsement to such required Commercial General Liability Policy, whereby the Landlord, is added as an "Additional Insured."

Excess Commercial General Liability coverage. If the limit of liability required by the Commercial General Liability Policy provision above shall rely in any part upon any excess Commercial General Liability insurance carrier, the Tenant shall provide evidence satisfactory to the Landlord that its excess commercial general liability insurance coverage shall conform to and follow all risks of loss covered by the underlying, primary general liability coverage form required above. Such excess coverage, along with or in conjunction with any other commercial general liability insurance policy required by this Lease, shall provide annual aggregate and/or per occurrence limits equal to or is greater than \$1,640,000.

The foregoing policy limits shall be raised to an amount which is acceptable to the Landlord every five (5) years (one year=365 days) after October 15, 2014, on the anniversary date of this Lease (the "Adjustment Date") using the following formula. Beginning with the first Adjustment Date occurring at the end of the fifth year after October 15, 2014 and for each Adjustment Date thereafter (including any renewal terms, if any), the policy limits shall be adjusted every five (5) years and shall be equal to the policy limits in effect for the immediately preceding lease year of the Lease multiplied by a fraction, the numerator of which is the Index (hereinafter defined) most recently reported as of such Adjustment Date, and the denominator of which is the Index reported sixty (60) months earlier. By way of example, if the first Lease Adjustment Date period begins on October 15, 2014 and ends on October 15, 2019, the numerator of the fraction referred to above shall be the Index as of October 15, 2019 most recently reported, and the denominator shall be the Index on October 15, 2014.

For purposes of this paragraph, "Index" shall mean the index numbers of retail commodity prices designated "CONSUMER PRICE INDEX, ALL URBAN CONSUMERS, U.S. CITY AVERAGE, ALL ITEMS, not seasonally adjusted" (1982-1984=100), not seasonally adjusted, prepared by the Bureau of Labor Statistics of the U.S. Department of Labor. Any publication by either the U.S. Department of Labor or the U.S. Department of Commerce in which such index numbers are published shall be admissible in evidence in any legal or judicial proceeding involving this Lease without further proof of authenticity. In the event the U.S. Department of Labor ceases to prepare and to publish such retail commodity index numbers, the adjustment of Annual Rent thereafter shall be according to the most closely comparable commodity index published by the U.S. Department of Labor; and if such is not determined by that Department, then the most closely comparable commodity index as determined by agreement of Tenant and Landlord; and in the absence of agreement, then as determined by arbitration in accordance with the then existing rules of the American Arbitration Association in which three (3) arbitrators shall hear the matter. In the event the parties are unable to agree as to the increase in insurance limits, the Tenant shall every five (5) years increase the limits the same percentage the Consumer Price Index published by the U.S. Department of Labor has increased from the date the policy limits were last established. Insurance policies shall as a minimum be in an amount, and in such company or companies and in such form, and against such risks and hazards, as shall be approved by the Department of Housing and Urban Development. All insurance shall be maintained on an "occurrence" basis so long as premiums are available at commercially reasonable rates and in the event they are not Tenant shall be entitled to maintain insurance on a "claims made" basis.

Standard Building and Personal Property Insurance. Separate and independent from the foregoing indemnification paragraph above, the Tenant further agrees to maintain in force, at its own expense, throughout the term of the Lease, occurrence-based Commercial Building and Personal Property insurance coverage on the leased premises insuring the full replacement cost of the leased premises (exclusive of foundation, infrastructure and excavation costs), that is underwritten by an insurance company deemed reasonably acceptable to the Landlord and/or with an A.M. Best's Financial rating of A or better with a financial quality rating of VII or better and licensed to transact business in the State of Florida.

Notice of Cancellation. Tenant shall provide evidence demonstrating that at least thirty (30) days prior to any cancellation, non-renewal or change in coverage limits, each and every one of Tenant's insurance carriers contemplated by this Insurance Requirements section shall be

required to provide prior written notice to the Landlord. Proof of the required insurance shall be submitted to the Landlord annually in the form of a current copy of the policy declaration page. A Certificate of Insurance shall not be satisfactory proof of insurance. If the Tenant determines to use excess insurance policy coverage, excess policy coverage shall follow, track, and supplement the underlying primary coverage.

(p) Use. Amend the first paragraph in the existing Section 2. Use of the Lease, as follows. Language underlined is new text. Language stricken through is existing language to be deleted.

Use: The leased premises shall be used for the conduct of a Congregate Housing Facility or Affordable Housing, which shall be open to all persons who qualify in accordance with the eligibility criteria contained in Exhibit "A" attached to the First Amendment to Lease Agreement recorded in Official Records Book _____, Page _____, Public Records of Brevard County, Florida, which is attached hereto and made a part hereof by this reference, and there shall be no discrimination on the basis of race, religion, color, sex or national origin. In the event the Tenant modifies the use of the leased premises, such new use shall only be for a public purpose. The Tenant specifically understands that the Landlord received this property (the leased premises) from the School Board of Brevard County with a reverter clause, requiring the leased premises be used for a public purpose and the Tenant and its assigns and successors agrees to use the leased premises for a public purpose, so as not to trigger the reverter clause set forth in the quit-claim deed from The School Board of Brevard County, Florida to the Board of County Commissioners of Brevard County, Florida, recorded on October 11, 1976, in Official Records Book 1669, Page 92, Public Records of Brevard County, Florida, except as the same has been modified by a Subordination Agreement executed by the School Board on February 13, 1979.

3. Ratification. Except as modified by this First Amendment, the Lease shall be otherwise unmodified and considered in full force and effect, and the parties ratify and confirm the terms of the Lease, as modified hereby.

4. Entire Agreement; City as Landlord. The Lease and this First Amendment represent the entire agreement between the parties thereto. The Tenant hereby agrees and recognizes that the City of Melbourne, Florida, a Florida Municipal Corporation, is the Landlord, and that Brevard County has conveyed all its interest in this Lease to the City of Melbourne.

5. Benefit and Binding Effect. This First Amendment shall be binding upon and inure to the benefit of the parties to this First Amendment, their legal representatives, successors, and permitted assigns.

6. Amendment. This First Amendment may not be changed, modified, or discharged in whole or in part except by an agreement in writing signed by all parties to this First Amendment.

7. Conflict. In the event of any conflict between the terms of the Lease and this First Amendment, this First Amendment shall control.

8. Governing Law. This First Amendment shall be governed by, and construed in accordance with, the laws of the State of Florida.

9. Counterparts; Electronic Delivery. This First Amendment may be executed in counterparts, each of which, when executed, shall be deemed an original, and all of which shall be deemed one and the same instrument. Electronic transmission of signatures of the parties shall be deemed legally binding and enforceable against the parties.

11. Exhibits. Attached hereto is Exhibit "A" which is incorporated herein by reference. Exhibit "A" attached to the original Lease Agreement is hereby deleted and replaced with Exhibit "A" attached hereto.

[Signatures Commence on Next Page]

WITNESSES:

[Signature]
Print Name: Carolina Melo

[Signature]
Print Name: Alyson Stein

STATE OF MA)
COUNTY OF Suffolk) SS:

TENANT:

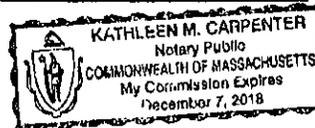
**TRINITY TOWERS SOUTH
PRESERVATION ASSOCIATES LLLP,
a Florida limited liability limited partnership**

By: Preservation of Affordable Housing,
Inc., an Illinois not for profit
corporation, its general partner

By: [Signature]
Name: Laura Venard
Title: Chief Financial Officer
Preservation of Affordable Housing, Inc.

~~2014~~ The foregoing instrument was acknowledged before me this 20 day of February, ~~2014~~, by Laura Venard, as CFO + Managing Director of Preservation of Affordable Housing, Inc., an Illinois not for profit corporation, the general partner of TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES LLLP, a Florida limited liability limited partnership, who is personally known to me or has produced _____ (type of identification) as identification.

Signature: Kathleen M Carpenter
Printed Name: Kathleen M Carpenter
Title: Notary Public
Commission Number: _____
My Commission Expires: _____



CONSENT and JOINDER

In consideration of Ten and 00/100 DOLLARS (\$10.00), the receipt and sufficiency all of which is hereby acknowledged, the undersigned hereby joins in and consents to the provisions in Section 2.(o) of the foregoing First Amendment to Lease Agreement and agrees to assume the duty and obligation to indemnify the City of Melbourne, Florida, and its officers, employees, and agents, in their official capacity.

WITNESSES:

PRESERVATION OF AFFORDABLE HOUSING, INC., an Illinois Not-for-Profit Corporation

[Signature]
Print Name: *Carla Molo*

By: *[Signature]*
Name: Laura Vennard
Title: Chief Financial Officer & Managing Director

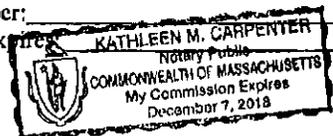
[Signature]
Print Name: *Lindsay Finkenbein*

(CORPORATE SEAL)

STATE OF MA)
COUNTY OF Suffolk) SS:

~~2014~~ The foregoing instrument was acknowledged before me this 20 day of February ~~2014~~, by Laura Vennard, as Chief Financial Officer and Managing Director of Preservation of Affordable Housing, Inc., an Illinois not for profit corporation, who is personally known to me or has produced _____ (type of identification) as identification.

Signature: *Kathleen M Carpenter*
Printed Name: Kathleen M Carpenter
Title: Notary Public
Commission Number: _____
My Commission Expires: _____



JOINDER

By executing the Joinder below, the undersigned hereby consents to the modifications in Section 2(a) of the foregoing First Amendment.

WITNESSES:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: Laurelei McKnight
Name: LAURELEI MCKNIGHT
Title: AUTHORIZED AGENT

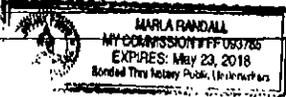
[Signature]
Print Name: Sandra Figueroa Davu

[Signature]
Print Name: Maria Randall

STATE OF Florida }
COUNTY OF Duval } SS:

The foregoing instrument was acknowledged before me this 25 day of February 2014, by Laurelei McKnight, as Authorized Agent of DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, who is personally known to me or has produced _____ (type of identification) as identification.

Signature: [Signature]
Printed Name: Maria Randall
Title: Notary Public
Commission Number: _____
My Commission Expires: _____



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EXHIBIT "A"

Affordable Housing Guidelines

1. Minimum of either (a) 20% of the total units at the leased premises (the "Units") are rented to tenants initially earning not more than 50% of area median income ("AMI"), or (b) 40% of the Units are rented to tenants initially earning not more than 60% of the AMI.
2. Of the Units "remaining" after (1), at least 75% of all Units (including the above units) must be rented to tenants initially earning not more than 80% of AMI.
3. Of the Units "remaining" after (1) and (2) above, such remaining units are rented to tenants initially earning not more than 120% of AMI.

RESOLUTION NO. 2014 - 121

A RESOLUTION PURSUANT TO SECTION 125.38, FLORIDA STATUTES, AUTHORIZING THE ASSIGNMENT OF A GROUND LEASE TO COUNTY REAL PROPERTY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Brevard County, Florida (County), formerly owned certain real property described in Exhibit "A"; and

WHEREAS, the County has conveyed the property to the City of Melbourne, a Florida municipal corporation; and

WHEREAS, the Trinity Towers is located on the land described in Exhibit "A", which has been the subject of a ground lease between Trinity Towers South, Inc. and the County since 1979; and

WHEREAS, the County wishes to assign the ground lease to the City of Melbourne since the City now owns the real property in fee simple; and

WHEREAS, the County desires to cooperate with and assist the City of Melbourne in acquiring the real property,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The County hereby agrees to assign the attached ground lease relating to the real property described in Exhibit "A" to the City of Melbourne by the attached assignment.
2. The County has determined that the real property is needed for public purposes and uses that are presently located on the real property.
3. The County has determined that the real property is not needed for County purposes.
4. The real property interest is being transferred to the City of Melbourne without charge.
5. This Resolution shall become effective immediately upon its adoption.

This Resolution is PASSED AND ADOPTED this 22nd day of July, 2014

ATTEST:



STATE OF FLORIDA
 COUNTY OF BREVARD
 This is to certify that the foregoing is a true and correct copy of the original and official seal this 22nd day of July, 2014
 SCOTT ELLIS, Clerk of Circuit Court
 By:  D.C.

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

By: 
Mary Bolin Lewis, Chair

As approved by the Board on: July 22, 2014

EXHIBIT A

The West 133 feet of Lot 5, the East 38.6 feet of the South 377 feet of Lot 5, the West 13.4 feet of the South 377 feet of Lot 6 and the East 68 feet of the West 81.4 feet of the South 258 feet of Lot 6 all North of Melbourne Avenue and of Fee's Unrecorded Subdivision in Section 3, Township 28, Range 37, Brevard County, Florida;

ASSIGNMENT OF GROUND LEASE

Pursuant to the attached resolution adopted by the Board of County Commissioners on July 22, 2014, as adopted pursuant to section 125.38, Florida Statutes, BREVARD COUNTY, a political subdivision of the State of Florida, hereby assigns the ground lease attached hereto as Exhibit A to the CITY OF MELBOURNE, a Florida municipal corporation on this 22nd day of July, 2014.

BREVARD COUNTY

BY: _____

Mary Bolin Lewis, Chair
(As approved by the Board on July 22, 2014)



Signed, sealed and delivered in the presence of:

Christine Mulligan

Witness (Type or Print Name)

Christine Mulligan

Witness Signature

Donna Scott

Witness (Type or Print Name)

Donna Scott

Witness Signature

ACKNOWLEDGEMENT

**STATE OF FLORIDA
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this 22nd day of July,
2014 by Mary Bolin Lewis who is personally known to me or who has
produced _____ as identification and who did/did not take an oath.

Christine Mulligan

NOTARY PUBLIC

Christine Mulligan



No. _____

Type or Print Name

Commission

Commission

Expires: _____

LEASE AGREEMENT

THIS LEASE made this 15th day of March, 1979, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, hereinafter called "Landlord", and TRINITY TOWERS SOUTH, INC., hereinafter referred to as "Tenant", which Lorns "Landlord" and "Tenant" shall include, wherever the context admits or requires, the singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties;

WITNESSETH:

That the landlord, in consideration of the covenants of the Tenant, does hereby lease and demise unto the Tenant and the Tenant hereby agrees to take and lease from the Landlord, for the term hereinafter specified, the premises:

The West 133 feet of Lot 5, the East 38.6 feet of the South 377 feet of Lot 5, the West 13.4 feet of the South 377 feet of Lot 6 and the East 68 feet of the West 81.4 feet of the South 259 feet of Lot 6 all North of Melbourne Avenue and of Pec's Unrecorded Subdivision in Section 3, Township 28, Range 37, Brevard County, Florida;

hereinafter referred to as the "leased premises".

FOR THE TENANT TO HAVE AND TO HOLD commencing on the 1st day of April, 1978, for a term of ninety-nine (99) years from said commencement date until the 31st day of March, 2077.

The Lease is granted and accepted upon the foregoing and upon the following terms, covenants, conditions and stipulations:

1. Rent: The Tenant shall pay as annual rent for the leased premises the sum of ONE DOLLAR (\$1.00) per year; payable in advance on the first day of each and every year. The Tenant shall pay all taxes, assessments and other charges which are at any time during the lease term levied upon the leased premises or which arise in respect to the occupancy or use thereof.

THIS INSTRUMENT PREPARED BY:
BILL WALKER
SCHOOL BOARD ATTORNEY
P.O. BOX 1084
TITUSVILLE, FL. 32780

W. H. HARRIS & GEMBERT
P.O. BOX 829
TITUSVILLE, FLORIDA 32780

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2. Use: The leased premises shall be used for the conduct of a Congregate Housing Facility which shall be open to all persons who qualify in accordance with the eligibility criteria contained in Exhibit "A" which is attached hereto and made a part hereof by this reference, and there shall be no discrimination on the basis of race, religion, color, sex, or national origin. In the event the Tenant modifies the use of the leased premises, such new use shall only be for a public purpose. The Tenant specifically understands that the Landlord received this property from the School Board of Brevard County with a reverter clause requiring the leased premises to be used for a public purpose and the Tenant and its assigns and successors agrees to use the leased premises for a public purpose, except as the same has been modified by a Subordination Agreement executed by the School Board on February 13, 1979.

The Tenant at all times shall fully and promptly comply with all laws, ordinances and regulations of every lawful authority having jurisdiction of said premises, as such shall relate to the cleanliness, use and occupancy of said premises, and the Tenant will pay all cost and expenses incidental to such compliance, and will indemnify and save harmless the Landlord free of expense or damage by reason of any notice, violations or penalties filed against or imposed upon the premises, or against the Landlord as owner thereof, because of the failure of the Tenant to comply with any of the provisions contained in this section. The Landlord may, after ten (10) days notice to the Tenant, comply therewith, and the cost and expense of so doing may be paid by the Landlord, or may be charged against the Tenant as additional rent, becoming due upon demand. The Tenant agrees to indemnify and save harmless the Landlord from and against any and all judgments, decrees, penalties, costs and expenses, by reason of such non-compliance.

3. Utilities: The Tenant shall pay for all sewage disposal service, water, gas, heat, electric, telephone, garbage collection and public utilities furnished to or consumed by it, in or upon the demised premises during the term hereof. Landlord shall not be responsible or liable, however, in any way for the quality, impairment, interruption, stoppage or other interference with any of such utility services.

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4. Repairs: The Tenant shall, at its own cost and expense, maintain in good condition and repair any and all buildings which are located on the demised premises. Without limiting the generality of the foregoing, within such repair responsibility the Tenant shall be included, the air conditioning and heating equipment and the replacement of all broken glass with glass of the same size and quality as that broken.

5. Indemnification: The Tenant agrees to indemnify and save harmless the landlord from any and all claims or loss by reason of any accident or damage to any personal property happening on or about the demised premises, excepting, however, accident or damage caused by the negligent acts or omissions of the landlord or its servants, agents or employees. The Tenant further agrees to carry, at its own expense, public liability insurance coverage on the leased premises, with a contract liability endorsement on the policy, with a company qualified to transact business in the state in which the leased premises are located, stipulating limits of liability of not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for an accident affecting any one (1) person; not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for an accident affecting more than one (1) person; and FIFTY THOUSAND DOLLARS (\$50,000.00) property damage. This limit shall be raised to an amount which is agreed upon by the parties and the Department of Housing and Urban Development every five (5) years on the anniversary date of this lease. In the event the parties are unable to agree as to the increase in insurance limits, the Tenant shall every five (5) years increase the limits the same percentage the Consumer Price Index published by the U. S. Department of Labor has increased from the date the policy limits were last established. Insurance policies shall as a minimum be in an amount, and in such company or companies and in such form, and against such risks and hazards, as shall be approved by the Department of Housing and Urban Development.

6. Cleanliness and Nuisances: The Tenant shall at all times keep the interior and exterior of the building in a reasonably neat and orderly condition, shall not permit the premises or any portion thereof to be used for any illegal or unlawful purpose,

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will not make or suffer any waste of the premises or permit anything to be done in or upon the demised premises tending to create a nuisance thereon.

7. Assignment: The Tenant may not assign this lease or sublet the whole lease premises at any time during the term of this lease without such assignee or sublessee specifically assuming the public use obligations of paragraph two, except as the same is modified by the Subordination Agreement executed by the School Board.

8. Covenant Against Liens: The Tenant shall never, under any circumstances, have the power to subject the interest of the Landlord in the leased premises to any mechanic or material lien or liens of any kind. All persons who may hereafter during the life of the lease furnish work, labor, services or materials to the leased premises, on the request or order of the Tenant or any person claiming under, or by, or through the Tenant, must look wholly to the Tenant for compensation.

The Tenant covenants and agrees with the Landlord that the Tenant will not permit or suffer to be filed a claim against the interest of the Landlord in the leased premises. If during the lease term any liens of any kind are claimed or filed, it shall be the duty of the Tenant to cause the leased premises to be released from such claim.

The Tenant, however, may allow a mortgage to be filed against the Tenant's leasehold interest by the U. S. Department of Housing and Urban Development on the leased premises.

9. Site Plan Approval: The Tenant must receive the written approval of the Landlord as to the nature, size, type of construction, and location of all permanent facilities which are located on the leased premises, and for any major modification of such facilities. The Landlord will not unreasonably withhold its consent to any major modification of the leased premises which is consistent with the Tenant's use of the leased premises for the purposes described in paragraph 2 of this Lease Agreement.

10. Access: The Tenant understands and agrees that the Landlord and its assign shall have access from the adjacent property owned by the Landlord across the leased premises to Melbourne Avenue

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and New Haven Avenue. Such access shall be sufficient to provide for vehicular traffic including service vehicles. The route and limits of access reserved for the Landlord is shown in Exhibit "B" which is attached hereto and made a part hereof by this reference.

11. Construction: If the Tenant removes any building on the leased premises which encroaches on the Landlord's adjacent property, the Tenant shall remove the encroachment from the Landlord's property and fill and resod the Landlord's property.

12. HOD Loan: The Tenant is authorized to obtain a loan from the Department of Housing & Urban Development secured by a mortgage on this leasehold estate. The Tenant is also authorized to comply with the requirements of the Department of Housing & Urban Development prior to and subsequent to obtaining said loan.

If approved by the Department of Housing & Urban Development, Tenant may assign, transfer or sell his interest in the demised premises provided the assignee, transferee or purchaser specifically assumes the public use obligation for the leased premises contained in paragraph two:

Notwithstanding anything to the contrary contained herein the Tenant shall at all times have the right to convey its rights under this lease to the Department of Housing & Urban Development.

13. Severability: In the event a Court of competent jurisdiction declares any word, sentence, or paragraph of this Agreement as invalid, the rest of this Agreement shall remain in full force and effect.

14. Condemnation: If any or any part of the leased premises shall be taken by condemnation, what portion of any award attributable to the improvements or damage to the improvements shall be paid to the Department of Housing & Urban Development or otherwise disposed of as may be provided in the insured mortgage. Any portion of the award attributable solely to the taking of land shall be paid to the Landlord.

In the event of a negotiated sale of all or a portion of demised premises in lieu of condemnation, the proceeds shall be distributed as provided in cases of condemnation, but the approval of the Department of Housing & Urban Development shall be required as to the amount and division of the payment to be received.

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15. Permits: The landlord agrees that, within thirty (30) days after receipt of written request from Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the Tenant may do hereunder, and will also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the demised premises or of any improvements that may be erected thereon.

16. Default: Upon any default under this lease which authorizes the cancellation thereof by the Landlord, Landlord shall give notice to the Department of Housing & Urban Development, and the Department of Housing & Urban Development, its successors and assigns, shall have the right within any time within sixty (60) days from the date of such notice to correct the default and reinstate the lease unless Landlord has first terminated the lease as provided herein.

At any time after sixty (60) days from the date a notice of default is given to the Department of Housing & Urban Development, the Landlord may elect to terminate the lease and acquire possession of the demised premises: Upon acquiring possession of the demised premises Landlord shall notify the Department of Housing & Urban Development. The Department of Housing & Urban Development shall have ninety (90) days from the date of such notice of acquisition to elect to take a new lease on the demised premises. Such new lease shall have a term equal to the unexpired portion of the term of this lease and shall be on the same terms and conditions as contained in this lease, except that the Department of Housing & Urban Development's liability for ground rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to the Department of Housing & Urban Development within thirty (30) days after a request for such lease and shall deliver possession of the demised premises immediately upon execution of the new lease. Upon executing a new lease the Department of Housing & Urban Development shall pay to the Landlord any unpaid ground rentals due or that would have become due under this lease to the date of the execution of the new lease, including any

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taxes which were liens on demised premises and which were paid by Landlord, and any other charges due, less any net rentals or other income which Landlord may have received on account of this property since the date of default under this lease.

17. Notices: All notices, demands and requests which are required to be given by the Landlord, the Tenant, or the Department of Housing & Urban Development shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given. Notices shall be sent to the Landlord at County Administrator Courthouse Annex A, Titusville, Florida. Notices shall be given to the Tenant at 630 E. Strawbridge Ave., Melbourne, Florida, and Notices shall be sent to the Department of Housing & Urban Development at Peninsula Plaza, 601 Riverside Avenue, Jacksonville, Florida 32204.

18. Modification: This lease shall not be modified without the consent of the Department of Housing & Urban Development.

19. Waiver: The waiver by the Landlord of any of the Tenant's obligations or duties under this lease shall not constitute a waiver of any other obligation or duty of the Tenant under this lease.

IN WITNESS WHEREOF, the parties have executed and sealed this lease the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

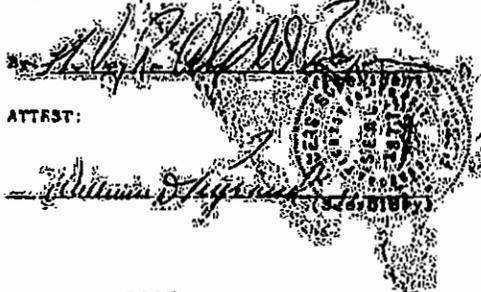

R. C. Vinland, Jr. (Clerk)

By 
D. Gene Roberts, Chairman (Landlord)

WITNESS:

TRINITY TOBACCO SOUTH, INC.




ATTEST:

William D. [Signature]
(Notary Public)

STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and in the County aforesaid to take acknowledgments, personally appeared JOHN ROBERTS and M. C. WINSTEAD, JR. Chairman and Clerk, respectively, of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA known as landlord (to be known to be the persons described in and who executed the foregoing instrument, and they acknowledged before me that they executed the same pursuant to authority vested in them by said Board.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of MARCH, 1970.



[Signature]
Notary Public, State of Florida
at Largo

STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and in the County aforesaid to take acknowledgments, personally appeared Walter Jones and William H. [unclear] as President and Secretary, respectively, of TRINITY TOWERS SOUTH, INC. to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of March, 1970.

(SEAL)

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA BY LAW
MY COMMISSION EXPIRES MAR. 23 1971
BOARD REG. NO. 1184 THE UNCLERK

[Signature]
Notary Public, State of Florida
at Largo

EXHIBIT "A"

1. ELIGIBILITY FOR OCCUPANCY: TRINITY TOWERS SOUTH, INC. is required to establish and maintain occupancy rules, rental rates, and charges necessary to insure maximum occupancy and use of this facility.
2. Eligibility Criteria of Occupant: The eligibility criteria for occupancy is as follows:
 - a. Families or persons shall be admitted regardless of race, creed, color, sex, or national origin.
 - b. Eligible occupants are:
 - (1) Persons who are 62 years of age or over;
 - (2) Families, the head of which (or spouse) is 62 years of age or over;
 - (3) Two related persons when both persons are 62 years of age or older;
 - (4) Two unrelated persons when both persons are 62 years of age or older.
 - c. Persons under age 62 who are not family members will be admitted as permanent residents only if their presence is essential for the physical care or economic support of the eligible occupant or occupants.
 - d. Handicapped single persons and families, the head of which (or spouse) is handicapped, also are eligible for occupancy. It must be determined, however, that the handicapped individual has a physical impairment which meets all of the following criteria:
 - (1) It is expected to be of long-continued and indefinite durations.
 - (2) It substantially impedes his/her ability to live independently.
 - (3) It is of such a nature that ability to live independently could be improved by more suitable housing conditions.
 - e. Developmentally disabled persons also shall be considered handicapped, but it is not required to admit developmentally disabled persons when such persons are so disabled that they are not capable of functioning within the program of the facility.
 - (1) A developmental disability is defined as a disability attributable to mental retardation, cerebral palsy, epilepsy, autism (or dyslexia resulting from these), or any other conditions closely related to mental retardation in terms of intellectual and adaptive problems.
 - (2) The handicap must originate before age 18, can be expected to continue indefinitely, and constitutes a substantial handicap.
 - f. The requirement limiting occupancy to senior citizens or the handicapped can be legally waived for a limited period, provided, (a) that a reasonable effort has been made to obtain occupancy by eligible persons, (b) the waiver is necessary to maintain the solvency of the project within a framework of reasonable rentals, and (c) the terms of the waiver stay within program objectives to the greatest extent possible.

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- (1) The waiver of the age eligibility requirement should be limited in time and scope to the narrowest extent considered necessary to achieve needed occupancy.
- (2) Waiver of the age requirement should be handled on a tenant-by-tenant basis rather than as built-in exceptions in the eligibility criteria, in order to avoid abuses and assure necessary supervision.
- (3) The waiver of the requirement limiting occupancy to senior citizens or the handicapped must receive the prior written approval of the landlord and such waiver must be made within a limited period of time.

3. Income Limitation: In addition to the above criteria, occupancy by persons and families shall be limited to those whose annual income at admission do not exceed the official maximum income limits established by the Secretary of Housing and Urban Development of the United States Government for the geographical area in which the project is located.

a. Income limits that the income of the family shall not exceed 135 percent of the Public Housing Admission requirements, or 80 percent of the median income, or 80 percent of the SMIR, whichever is highest.

b. In exceptional cases where physical default is foreseen or the survival of the project is threatened by competition from other projects or by the absence of sufficient market demand within the desired income level, the Department of Housing and Urban Development Area and Insuring Office Directors may increase or waive the admission income limits. Such increase or waiver shall require the prior written approval of the landlord. Such increase or waiver shall be limited to one year increments subject to subsequent review and renewal or cessation. During such periods, if any, the exception granted must be further conditioned to assure that preference shall always be given to those eligible under normal program criteria.

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Page 2 of Exhibit "A"



CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
OCTOBER 14, 2014

A regular meeting of the City Council was held in the City Council Chamber, 900 East Strawbridge Avenue, and was called to order at 6:30 p.m. by Vice Mayor Greg Jones.

1. The Invocation was given by Council Member Betty Moore.
2. Pledge of Allegiance.
3. Roll Call.

Present:	Mike Nowlin	Council Member, District 1
	Betty Moore	Council Member, District 2
	Yvonne Minus	Council Member, District 3
	John Thomas	Council Member, District 4
	Molly Tasker	Council Member, District 5
	Greg Jones	Vice Mayor, District 6
	Michael A. McNees	City Manager
	Paul R. Gougelman, III	City Attorney
	Shannon Lewis	Deputy City Manager
	Cathleen A. Wysor	City Clerk
	Cindy Dittmer	Community Development Director

Absent:	Kathy Meehan	Mayor (out of town)
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4. Proclamations and Presentations

Vice Mayor Greg Jones and Fire Chief Chuck Bogle presented a certificate of commendation to Robert Falis for his heroism and bravery in rescuing a man from a submerged vehicle on September 23. (Certificates were also prepared for Jon Brannon, Joseph Feller and Marcus Hamilton; however, they were not able to attend the Council meeting.)

The Vice Mayor read and presented the following proclamations:

- "Dysautonomia Awareness Month," October 2014; accepted by Julie Hosley.
- "William and Nora Wells Day," October 25, 2014; accepted by Jennifer Zegel, Chairman, Historic Preservation Board.

5. Approval of Minutes – September 25, 2014 budget public hearing and September 25, 2014 regular meeting.

Moved by Moore/Nowlin for approval. Motion carried unanimously.

6. City Manager's Report

7. Public Comments

Teresa Lopez, 2129 Royal Poinciana Boulevard, asked for an update on the \$6,500 that the

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
OCTOBER 14, 2014

17. COUNCIL ACTION RE: Acceptance of conveyance of property; acceptance of Lease as Landlord from Brevard County; approval of First Amendment to Lease and Estoppel Certificate with Trinity Towers South Preservation Associates, LLLP.

Attorney Gougelman explained that in 2012, the Board of County Commissioners at the City's request conveyed to the City the parking area that is located behind the old Melbourne High School/Henegar Center. The County recorded the deed; however, an error has been discovered in the legal description. The deed not only includes the parking lot, but it also includes the Henegar Center, which is currently titled in the name of the Brevard Regional Arts Group, and Trinity Towers South. Following discussions, the County has advised the City that it would like to convey Trinity Towers South and the parking area. Obviously, it doesn't want to convey the Brevard Regional Arts Group property since it doesn't have the ability to do that.

The first item is to confirm the acceptance of the title to the Trinity Towers South property and to the parking lot that is to the east of Trinity Towers South and behind the Henegar Center. The second issue is that in 1979 the Board of County Commissioners leased the Trinity Towers South property to Trinity Towers South, Inc. for the development of an elderly housing project. The project was ultimately built and is in operation today. The property was leased under a 99-year lease at \$1 per year. The County has also agreed to assign the lease to the City. The City will be the landlord under that lease.

In the middle of all these proceedings, Trinity Towers South, Inc. decided to sell its remaining lease interest to the Preservation for Affordable Housing. The entity is involved nationally in low income house for the elderly and other low income housing projects. An attorney representing the new entity is available in the audience for questions. There is also an estoppel certificate, which is an indication to the bank that the City considers the lease to be in good stead.

With regard to the amendment to the lease, Mr. Gougelman discussed revisions that have been made. He noted that the insurance provisions have been improved in the City's favor and indemnification has been provided.

Council Member Thomas asked if there are any potential pitfalls, beyond the liability.

Attorney Gougelman replied that Community Development and Engineering conducted a tour/inspection of the site. A lengthy phase one environmental audit of the property was undertaken by the tenant before the property was purchased in 2013. Engineering reviewed the audit and found no reason to believe that there are any environmental concerns. Asbestos was used in the construction, but the audit report doesn't view that as a significant problem. A title search was also conducted. A little vexing is that the lease the County signed in 1979 was probably not the most artfully drawn document. He closed by stating that the City is essentially getting the property for free.

Moved by Moore/Minus to confirm acceptance of a deed conveying the Trinity Towers South and parking lot property. Motion carried unanimously.

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
OCTOBER 14, 2014

Moved by Minus/Thomas to accept assignment of the lease on the Trinity Towers South property from Brevard County. Motion carried unanimously.

Moved by Moore/Minus to approve the First Amendment to Lease with Trinity Towers South Preservation Associates, LLLP, and an Estoppel Certificate with authorization for the City Attorney to make minor changes to the First Amendment to Lease to finalize the document. Motion carried unanimously.

18. COUNCIL DISCUSSION RE: Analysis of Pre-Annexation Agreements

Mrs. Dittmer reviewed the agenda report, located the properties on the map and read the recommendation. The following is an excerpt from the agenda report:

In June 2014, City Council requested that staff provide a status report on existing pre-annexation agreements. Thirty four agreements involve properties that are adjacent or will be once another property is annexed into the City. Eighty six properties are not currently adjacent. The report focuses on the properties that are adjacent.

The 34 pre-annexation agreements encompass approximately 4,096 acres of property and have a taxable value of approximately \$8,283,040. The properties include 27 single-family homes or lots, two churches, a VFW Post, an office condominium complex, vacant property in a business park, and two large undeveloped areas of land west of I-95 (Platt Family Ranch and M-135, LLC). Three of the 34 properties are very isolated from the City; therefore, they are not being recommended for annexation at this time.

Due to the advances in GIS technology, police and fire protection services can be provided to the majority of these properties, with the two agricultural properties west of I-95, more suitable to continue to be handled by the Sheriff's Agriculture and Marine Unit under a proposed MOU, until they are developed.

Moved by Tasker/Thomas to proceed with annexation of 29 properties with current pre-annexation agreements totaling 73.04 acres, and continue discussions with the Platt Family Ranch and M-135, LLC property owners to annex those properties in 2015.

Council Member Thomas thanked Council Member Tasker for bringing this item to Council's attention in June.

The question was called. Motion carried unanimously.

19. COUNCIL ACTION RE: Florida Inland Navigation District (FIND) for Waterway Assistance Program Grant funding.

Mrs. Dittmer reviewed the agenda report and read the recommendation. The following is an excerpt from the agenda report:

**This instrument prepared by,
and after recording to be returned to:**

Robert Cheng, Esq.
Shutts & Bowen LLP
1500 Miami Center
201 S. Biscayne Blvd.
Miami, Florida 33131

ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT ("Agreement") is made as of June 5, 2013 (the "Effective Date"), by and between **TRINITY TOWERS SOUTH, INC.**, a Florida non-profit corporation, having an address of 50 West Strawbridge Avenue, Melbourne, Florida 32901 ("Assignor"), and **TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP**, a Florida limited liability limited partnership, having an address of 40 Court Street, Suite 700, Boston, Massachusetts 02108 ("Assignee").

RECITALS

A. Assignor is the tenant under that certain Lease Agreement described in **Exhibit "A"** (the "Lease") with respect to the real property described in **Exhibit "B"** (the "Real Property").

B. Assignor desires to assign its interest under the Lease to Assignee, and Assignee has agreed to assume the obligations as tenant under the Lease, from and after the Effective Date, all on the terms and conditions set forth herein.

C. The Board of County Commissioners of Brevard County, Florida, Landlord under the Lease has agreed to consent to assignment and assumption of the Lease and to release Assignor from the Lease.

NOW, THEREFORE, in consideration of the payment of Ten and 00/100 Dollars (\$10.00), and the mutual covenants and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto (together, the "Parties," and each sometimes a "Party") hereby act and agree as follows:

1. **Assignment.** Assignor hereby assigns, sets over and transfers to Assignee, and Assignee hereby takes and accepts from Assignor, all of Assignor's rights, title and interest as tenant in, under and to the Lease and to all other rights, benefits and privileges accruing to the tenant thereunder from and after the Effective Date.

2. **Assumption of Obligations and Liabilities by Assignee.** Assignee hereby accepts the foregoing assignment and assumes and agrees to perform all of the obligations and liabilities of Assignor under the Lease, and to be bound by all of the terms, provisions and covenants of such Lease, to the extent arising or accruing from and after the Effective Date,

including, without limitation, the requirement that the leased premises be used for a public purpose in accordance with, and subject to the exceptions set forth in, Section 2 of the Lease.

3. **Indemnification by Assignor.** Assignor hereby indemnifies, defends and holds harmless Assignee, and its respective successors and assigns, from and against any claims, clauses, demands, losses, liabilities, costs, damages, fees and expenses related thereto, including reasonable attorneys' fees and costs sustained or incurred by Assignee, to the extent arising out of or in connection with Assignor's actions or inactions in connection with the Lease or as a result of Assignor's use of the Real Property demised under such Lease, to the extent arising prior to the Effective Date.

4. **Indemnification by Assignee.** Assignee hereby indemnifies, defends and holds harmless Assignor, and its respective successors and assigns, from and against any claims, clauses, demands, losses, liabilities, costs, damages, fees and expenses related thereto, including reasonable attorneys' fees and costs sustained or incurred by Assignor, to the extent arising out of or in connection with Assignee's actions or inactions in connection with the Lease or as a result of Assignee's use of the Real Property demised under such Lease, to the extent arising from and after the Effective Date.

5. **Governing Law.** This Agreement shall be deemed to be an agreement made under the laws of the State of Florida.

6. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of each of the Parties and their successors and assigns.

7. **Warranty of Signers.** Each individual executing and delivering this Agreement on behalf of a Party hereby represents and warrants to the other Party that such individual has been duly authorized and empowered to make such execution and delivery.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first above written.

Signed, sealed and delivered in the presence of:

ASSIGNOR:

TRINITY TOWERS SOUTH, INC., a Florida non-profit corporation

H. W. Williams-Thompson
Print Name: H. W. Williams-Thompson

Thomas A. Stollard
Print Name: Thomas A. Stollard

By: F. Stephen W. Easterday
Name: Fr Stephen W. Easterday
Its: President of the Board

ASSIGNEE:

TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership

Print Name: _____

Print Name: _____

By: Preservation of Affordable Housing, Inc., an Illinois non-profit corporation, its General Partner

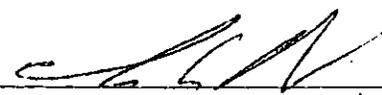
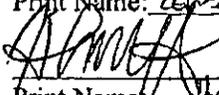
By: _____
Name: _____
Its: _____

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first above written.

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____


Print Name: LEWIS H. BERK

Print Name: Hannah M. Raff

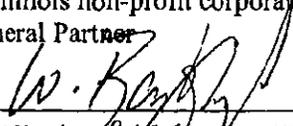
ASSIGNOR:

TRINITY TOWERS SOUTH, INC., a Florida non-profit corporation

By: _____
Name: _____
Its: _____

ASSIGNEE:

TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership

By: Preservation of Affordable Housing, Inc., an Illinois non-profit corporation, its General Partner
By: 
Name: W BARRY LLOYD
Its: MANAGING DIRECTOR

STATE OF Florida)
COUNTY OF Brevard)

The foregoing instrument was acknowledged before me this 4th day of June, 2013, by Fr. Stephen W. Easterday as President of TRINITY TOWERS SOUTH, INC., a Florida non-profit corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification.



Notary Signature
Print Name: _____
Commission No.: _____
Commission Expires: _____

(Notary Seal)

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by _____, as _____ of PRESERVATION OF AFFORDABLE HOUSING, INC., an Illinois non-profit corporation, as General Partner of TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership. He/She is personally known to me or has produced _____ as identification.

Notary Signature
Print Name: _____
Commission No.: _____
Commission Expires: _____

(Notary Seal)

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2013, by _____, as _____ of TRINITY TOWERS SOUTH, INC., a Florida non-profit corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification.

Notary Signature
Print Name: _____
Commission No.: _____
Commission Expires: _____

(Notary Seal)

COMMONWEALTH MASSACHUSETTS
~~STATE OF FLORIDA~~)
)
COUNTY OF SUFFOLK)

The foregoing instrument was acknowledged before me this 4th day of April, 2013, by W BART LLOYD, as MANAGING DIRECTOR of PRESERVATION OF AFFORDABLE HOUSING, INC., an Illinois non-profit corporation, as General Partner of TRINITY TOWERS SOUTH PRESERVATION ASSOCIATES, LLLP, a Florida limited liability limited partnership. He/She is personally known to me or has produced _____ as identification.

Patrick W. Niehaden

Notary Signature
Print Name: _____
Commission No.: _____
Commission Expires: _____

(Notary Seal)
PATRICK W. NIEHADEN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 4, 2014

EXHIBIT A

Lease Agreement

That certain Lease Agreement between the Board of County Commissioners of Brevard County, Florida (Landlord) and Trinity Towers South, Inc. (Tenant) dated March 15, 1979 and recorded on January 14, 1980 in Official Records Book 2214, Page 1640 of the Public Records of Brevard County, Florida.

EXHIBIT B

Legal Description

The West 133 feet of Lot 5, the East 38.6 feet of the South 377 feet of Lot 5, the West 13.4 feet of the South 377 feet of Lot 6, and the East 68 feet of the West 81.4 feet of the South 258 feet of Lot 6, all North of Melbourne Avenue and Fee's Unrecorded Subdivision in Section 3, Township 28 South, Range 37 East, Brevard County, Florida.

LEASE AGREEMENT

THIS LEASE made this 15th day of March, 1979, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, hereinafter called "Landlord", and TRINITY TOWERS SOUTH, INC., hereinafter referred to as "Tenant", which terms "Landlord" and "Tenant" shall include, wherever the context admits or requires, the singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

That the Landlord, in consideration of the covenants of the Tenant, does hereby lease and demise unto the Tenant and the Tenant hereby agrees to take and lease from the Landlord, for the term hereinafter specified, the premises:

The West 133 feet of Lot 5, the East 38.6 feet of the South 377 feet of Lot 5, the West 13.4 feet of the South 377 feet of Lot 6 and the East 68 feet of the West 81.4 feet of the South 258 feet of Lot 6 all North of Melbourne Avenue and of Fee's Unrecorded Subdivision in Section 3, Township 28, Range 17, Brevard County, Florida;

hereinafter referred to as the "leased premises".

FOR THE TENANT TO HAVE AND TO HOLD commencing on the 1st day of April, 1978, for a term of ninety-nine (99) years from said commencement date until the 31st day of March, 2077.

The Lease is granted and accepted upon the foregoing and upon the following terms, covenants, conditions and stipulations:

1. Rent: The Tenant shall pay as annual rent for the leased premises the sum of ONE DOLLAR (\$1.00) per year; payable in advance on the first day of each and every year. The Tenant shall pay all taxes, assessments and other charges which are at any time during the lease term levied upon the leased premises or which arise in respect to the occupancy or use thereof.

THIS INSTRUMENT PREPARED BY:
BILL WALKER
SCHOOL BOARD ATTORNEY
P.O. BOX 1044
TITUSVILLE, FL. 32780

↓
WILLIAM C. GEHRICH
P.O. BOX 820
Melbourne, Florida 32901

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2. Use: The leased premises shall be used for the conduct of a Congregate Housing Facility which shall be open to all persons who qualify in accordance with the eligibility criteria contained in Exhibit "A" which is attached hereto and made a part hereof by this reference, and there shall be no discrimination on the basis of race, religion, color, sex, or national origin. In the event the Tenant modifies the use of the leased premises, such new use shall only be for a public purpose. The Tenant specifically understands that the Landlord received this property from the School Board of Brevard County with a reverter clause requiring the leased premises be used for a public purpose and the Tenant and its assigns and successors agrees to use the leased premises for a public purpose, except as the same has been modified by a Subordination Agreement executed by the School Board on February 13, 1979.

The Tenant at all times shall fully and promptly comply with all laws, ordinances and regulations of every lawful authority having jurisdiction of said premises as such shall relate to the cleanliness, use and occupancy of said premises, and the Tenant will pay all cost and expenses incidental to such compliance, and will indemnify and save harmless the Landlord free of expense or damage by reason of any notice, violations or penalties filed against or imposed upon the premises, or against the landlord as owner thereof, because of the failure of the Tenant to comply with any of the provisions contained in this section. The Landlord may, after ten (10) days notice to the Tenant, comply therewith, and the cost and expense of so doing may be paid by the Landlord, or may be charged against the Tenant as additional rent, becoming due upon demand. The Tenant agrees to indemnify and save harmless the Landlord from and against any and all judgments, decrees, penalties, costs and expenses, by reason of such non-compliance.

3. Utilities: The Tenant shall pay for all sewage disposal service, water, gas, heat, electric, telephone, garbage collection and public utilities furnished it or consumed by it, in or upon the demised premises during the term hereof. Landlord shall not be responsible or liable, however, in any way for the quality, impairment, interruption, stoppage or other interference with any of such utility services.

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4. Repairs: The Tenant shall, at its own cost and expense, maintain in good condition and repair any and all buildings which are located on the demised premises. Without limiting the generality of the foregoing, within such repair responsibility the Tenant shall be included, the air conditioning and heating equipment and the replacement of all broken glass with glass of the same size and quality as that broken.

5. Indemnification: The Tenant agrees to indemnify and save harmless the Landlord from any and all claims or loss by reason of any accident or damage to any personal property happening on or about the demised premises, excepting, however, accident or damage caused by the negligent acts or omissions of the Landlord or its servants, agents or employees. The Tenant further agrees to carry, at its own expense, public liability insurance coverage on the leased premises, with a contract liability endorsement on the policy, with a company qualified to transact business in the state in which the leased premises are located, stipulating limits of liability of not less than THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) for an accident affecting any one (1) person; not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for an accident affecting more than one (1) person; and FIFTY THOUSAND DOLLARS (\$50,000.00) property damage. This limit shall be raised to an amount which is agreed upon by the parties and the Department of Housing and Urban Development every five (5) years on the anniversary date of this lease. In the event the parties are unable to agree as to the increase in insurance limits, the Tenant shall every five (5) years increase the limits the same percentage the Consumer Price Index published by the U. S. Department of Labor has increased from the date the policy limits were last established. Insurance policies shall as a minimum be in an amount, and in such company or companies and in such form, and against such risks and hazards, as shall be approved by the Department of Housing and Urban Development.

6. Cleanliness and Nuisances: The Tenant shall at all times keep the interior and exterior of the building in a reasonably neat and orderly condition, shall not permit the premises or any portion thereof to be used for any illegal or unlawful purpose,

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will not make or suffer any waste of the premises or permit anything to be done in or upon the demised premises tending to create a nuisance thereon.

7. Assignment: The Tenant may not assign this lease or sublet the whole lease premises at any time during the term of this lease without such assignee or sublessee specifically assuming the public use obligations of paragraph two, except as the same is modified by the Subordination Agreement executed by the School Board.

8. Covenant Against Liens: The Tenant shall never, under any circumstances, have the power to subject the interest of the Landlord in the leased premises to any mechanic or material lien or liens of any kind. All persons who may hereafter during the life of the lease furnish work, labor, services or materials to the leased premises, on the request or order of the Tenant or any person claiming under, or by, or through the Tenant, must look wholly to the Tenant for compensation.

The Tenant covenants and agrees with the Landlord that the Tenant will not permit or suffer to be filed a claim against the interest of the Landlord in the leased premises. If during the lease term any liens of any kind are claimed or filed, it shall be the duty of the Tenant to cause the leased premises to be released from such claim.

The Tenant, however, may allow a mortgage to be filed against the Tenant's leasehold interest by the U. S. Department of Housing and Urban Development on the leased premises.

9. Site Plan Approval: The Tenant must receive the written approval of the Landlord as to the nature, size, type of construction, and location of all permanent facilities which are located on the leased premises, and for any major modification of such facilities. The Landlord will not unreasonably withhold its consent to any major modification of the leased premises which is consistent with the Tenant's use of the leased premises for the purposes described in paragraph 2 of this Lease Agreement.

10. Access: The Tenant understands and agrees that the Landlord and its assign shall have access from the adjacent property owned by the Landlord across the leased premises to Melbourne Avenue

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and New Haven Avenue. Such access shall be sufficient to provide for vehicular traffic including service vehicles. The route and limits of access reserved for the Landlord is shown in Exhibit "B" which is attached hereto and made a part hereof by this reference.

11. Construction: If the Tenant removes any building on the leased premises which encroaches on the Landlord's adjacent property, the Tenant shall remove the encroachment from the Landlord's property and fill and resod the Landlord's property.

12. HUD Loan: The Tenant is authorized to obtain a loan from the Department of Housing & Urban Development secured by a mortgage on this leasehold estate. The Tenant is also authorized to comply with the requirements of the Department of Housing & Urban Development prior to and subsequent to obtaining said loan.

If approved by the Department of Housing & Urban Development, Tenant may assign, transfer or sell his interest in the demised premises provided the assignee, transferee or purchaser specifically assumes the public use obligation for the leased premises contained in paragraph two.

Notwithstanding anything to the contrary contained herein the Tenant shall at all times have the right to convey its rights under this lease to the Department of Housing & Urban Development.

13. Severability: In the event a Court of competent jurisdiction declares any word, sentence, or paragraph of this Agreement as invalid, the rest of this Agreement shall remain in full force and effect.

14. Condemnation: If any or any part of the leased premises shall be taken by condemnation, that portion of any award attributable to the improvements or damage to the improvements shall be paid to the Department of Housing & Urban Development or otherwise disposed of as may be provided in the insured mortgage. Any portion of the award attributable solely to the taking of land shall be paid to the Landlord.

In the event of a negotiated sale of all or a portion of demised premises in lieu of condemnation, the proceeds shall be distributed as provided in cases of condemnation, but the approval of the Department of Housing & Urban Development shall be required as to the amount and division of the payment to be received.

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15. Permits: The landlord agrees that, within thirty (30) days after receipt of written request from Tenant, it will join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work which the Tenant may do hereunder, and will also join in any grants for easements for electric, telephone, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the demised premises or of any improvements that may be erected thereon.

16. Default: Upon any default under this lease which authorizes the cancellation thereof by the Landlord, Landlord shall give notice to the Department of Housing & Urban Development, and the Department of Housing & Urban Development, its successors and assigns, shall have the right within any time within sixty (60) days from the date of such notice to correct the default and reinstate the lease unless Landlord has first terminated the lease as provided herein.

At any time after sixty (60) days from the date a notice of default is given to the Department of Housing & Urban Development, the Landlord may elect to terminate the lease and acquire possession of the demised premises. Upon acquiring possession of the demised premises Landlord shall notify the Department of Housing & Urban Development. The Department of Housing & Urban Development shall have ninety (90) days from the date of such notice of acquisition to elect to take a new lease on the demised premises. Such new lease shall have a term equal to the unexpired portion of the term of this lease and shall be on the same terms and conditions as contained in this lease, except that the Department of Housing & Urban Development's liability for ground rent shall not extend beyond their occupancy under such lease. The Landlord shall tender such new lease to the Department of Housing & Urban Development within thirty (30) days after a request for such lease and shall deliver possession of the demised premises immediately upon execution of the new lease. Upon executing a new lease the Department of Housing & Urban Development shall pay to the Landlord any unpaid ground rentals due or that would have become due under this lease to the date of the execution of the new lease, including any

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taxes which were liens on demised premises and which were paid by Landlord, and any other charges due, less any net rentals or other income which landlord may have received on account of this property since the date of default under this lease.

17. Notices: All notices, demands and requests which are required to be given by the Landlord, the Tenant, or the Department of Housing & Urban Development shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given. Notices shall be sent to the Landlord at County Administrator Courthouse Annex A, Titusville, Florida. Notices shall be given to the Tenant at 650 E. Strawbridge Ave., Melbourne, Florida. and Notices shall be sent to the Department of Housing & Urban Development at Peninsular Plaza, 661 Riverside Avenue, Jacksonville, Florida 32204.

18. Modification: This lease shall not be modified without the consent of the Department of Housing & Urban Development.

19. Waiver: The waiver by the Landlord of any of the Tenant's obligations or duties under this lease shall not constitute a waiver of any other obligation or duty of the Tenant under this lease.

IN WITNESS WHEREOF, the parties have executed and sealed this lease the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

R. C. Winstead, Jr.
R. C. Winstead, Jr., Clerk

By: D. Gene Roberts
D. Gene Roberts, Chairman (Landlord)

WITNESS:

TRINITY TOWERS SOUTH, INC.

Calvin G. ...
...

By: ...
ATTEST:

William D. ...



STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized in the State and in the County aforesaid to take acknowledgements, personally appeared D. GENE ROBERTS and R. C. WINSTEAD, JR., Chairman and Clerk, respectively, of the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA known as Landlord, to be known to be the persons described in and who executed the foregoing instrument, and they acknowledged before me that they executed the same pursuant to authority vested in them by said Board.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of MARCH, 1970.



Bernard H. Pender
Notary Public, State of Florida
at Large

My Commission Expires: May 10, 1981

STATE OF FLORIDA)
COUNTY OF BREVARD)

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized in the State and in the County aforesaid to take acknowledgements, personally appeared Alex W. Boyce and William D. Penland, as President and Secretary, respectively, of TRINITY TOWERS SOUTH, INC., to me known to be the persons described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of March, 1970.

Roger Childs
Notary Public, State of Florida
at Large

(SEAL)

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES MAR. 29 1981
ISSUED BY GENERAL THE UNDERSECRETARY

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EXHIBIT "A"

1. Eligibility for Occupancy: TRINITY TOWERS SOUTH, INC. is required to establish and maintain occupancy rules, rental rates, and charges necessary to insure maximum occupancy and use of this facility.
2. Eligibility Criteria of Occupant: The eligibility criteria for occupancy is as follows:
 - a. Families or persons shall be admitted regardless of race, creed, color, sex, or national origin.
 - b. Eligible occupants are:
 - (1) Persons who are 62 years of age or over;
 - (2) Families, the head of which (or spouse) is 62 years of age or over;
 - (3) Two related persons when both persons are 62 years of age or older;
 - (4) Two unrelated persons when both persons are 62 years of age or older.
 - c. Persons under age 62 who are not family members will be admitted as permanent residents only if their presence is essential for the physical care or economic support of the eligible occupant or occupants.
 - d. Handicapped single persons and families, the head of which (or spouse) is handicapped, also are eligible for occupancy. It must be determined, however, that the handicapped individual has a physical impairment which meets all of the following criteria:
 - (1) It is expected to be of long-continued and indefinite durations.
 - (2) It substantially impedes his/her ability to live independently.
 - (3) It is of such a nature that ability to live independently could be improved by more suitable housing conditions.
 - e. Developmentally disabled persons also shall be considered handicapped, but it is not required to admit developmentally disabled persons when such persons are so disabled that they are not capable of functioning within the program of the facility.
 - (1) A developmental disability is defined as a disability attributable to mental retardation, cerebral palsy, epilepsy, autism (or dyslexia resulting from these), or any other conditions closely related to mental retardation in terms of intellectual and adaptive problems.
 - (2) The handicap must originate before age 18, can be expected to continue indefinitely, and constitutes a substantial handicap.
 - f. The requirement limiting occupancy to senior citizens or the handicapped can be legally waived for a limited period, provided, (a) that a reasonable effort has been made to obtain occupancy by eligible persons, (b) the waiver is necessary to maintain the solvency of the project within a framework of reasonable rentals, and (c) the terms of the waiver stay within program objectives to the greatest extent possible.

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- (1) The waiver of the age eligibility requirement should be limited in time and scope to the narrowest extent considered necessary to achieve needed occupancy.
 - (2) Waiver of the age requirement should be handled on a tenant-by-tenant basis rather than as built-in exceptions in the eligibility criteria, in order to avoid abuses and assure necessary supervision.
 - (3) The waiver of the requirement limiting occupancy to senior citizens or the handicapped must receive the prior written approval of the landlord and such waiver must be made within a limited period of time.
3. Income Limitation: In addition to the above criteria, occupancy by persons and families shall be limited to those whose annual incomes at admission do not exceed the official maximum income limits established by the Secretary of Housing and Urban Development of the United States Government for the geographical area in which the project is located.
- a. Income limits that the income of the family shall not exceed 135 percent of the Public Housing Admission requirements, or 80 percent of the median income, or 80 percent of the BMR, whichever is highest.
 - b. In exceptional cases where physical default is foreseen or the survival of the project is threatened by competition from other projects or by the absence of sufficient market demand within the desired income level, the Department of Housing and Urban Development Area and Insuring Office Directors may increase or waive the admission income limits. Such increase or waiver shall require the prior written approval of the landlord. Such increase of the waiver shall be limited to one-year increments subject to subsequent review and renewal or cessation. During such periods, if any, the exception granted must be further conditioned to assure that preference shall always be given to those eligible under normal program criteria.

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Page 2 of Exhibit "A"

Exhibit D
Page 60 of 60

Attachment

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Boston Capital

June 5, 2015

Mr. Charlie Adams
Preservation of Affordable Housing, Inc.
40 Court Street, Suite 700
Boston, MA 02108

RE: New Trinity Towers South Preservation Associates Limited Liability Limited Partnership (the "Partnership")
Trinity Towers South Apartments, Melbourne, FL (the "Property")

Dear Charlie:

Boston Capital ("BC") is pleased to submit an offer to purchase the federal low income housing tax credits which will be allocated to the Property located at 615 E New Haven Ave., in Melbourne, Brevard County, Florida 32901, should the Partnership be successful in receiving tax credits. The offer is subject to the terms and conditions outlined herein and changes in market conditions. Based on an annual federal LIHTC allocation of \$1,231,801 and BC's 99.99% interest in the Partnership, BC would purchase a total of \$12,316,778 of low income housing tax credits. BC would make capital contributions to the limited partnership totaling \$11,702,113 based on a per credit price of \$0.95, payable as follows:

\$1,755,317 (15%) upon the latest to occur of (i) tax credit reservation, (ii) closing of the construction financing, (iii) receipt of a commitment acceptable to BC for the permanent financing or (iv) admission of BC;

\$7,606,373 (65%) upon the latest to occur of (i) Completion Date, (ii) Cost Certification or (iii) October 1, 2016

\$1,755,317 (15%) upon the latest to occur of (i) Initial 100% Occupancy or (ii) closing of any applicable permanent financing; and

\$585,106 (5%) upon the latest to occur of (i) Rental Achievement or (ii) State Designation

The amount of equity to be paid prior to construction completion shall be \$1,755,317.

- Current underwriting terms require a minimum of six months of projected operating expenses plus six months of secured debt services funded into an operating reserve. Replacement reserves in a minimum amount of \$400 per unit per year.

This offer is subject to full underwriting and committee approval upon receipt of a credit award based on prevailing market conditions.

Boston Capital

Mr. Charlie Adams
June 5, 2015
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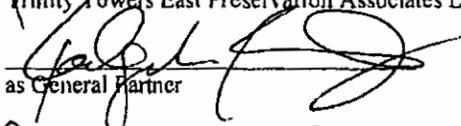
Please feel free to call me at (617) 624-8866, if you have any questions. We very much look forward to the opportunity to assist you with this tax credit development and to hearing from you.

Sincerely,



Laura Surdel
Vice President, Acquisitions

Accepted on the 17th Day of June 2015 for
Trinity Towers East Preservation Associates Limited Liability Limited Partnership



as General Partner

Rodger L. Brown, Jr.
Managing Director of ROAH, Inc.