

**EXHIBIT B**

**FORM OF CONTRACT FOR LOAN GUARANTEE ASSISTANCE**

Draft

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**CONTRACT FOR LOAN GUARANTEE ASSISTANCE UNDER  
SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT  
OF 1974, AS AMENDED, 42 U.S.C. §5308**

**Date of Contract**\_\_\_\_\_

This Contract for Loan Guarantee Assistance ("Contract") is entered into between City of Laredo, Texas, as Borrower (the "Borrower"), and the Secretary of Housing and Urban Development ("Secretary"), as guarantor for the Guarantee made pursuant to section 108 ("Section 108") of title I of the Housing and Community Development Act of 1974, as amended (the "Act") and 24 CFR Part 570, Subpart M, of the promissory note executed contemporaneously herewith and numbered B-21-MC-48-0505 [Southern Hotel Affordable Housing Rehabilitation Project], in the Maximum Commitment Amount of \$4,115,000, and any amended note or note issued in substitution for such note and having the same note number (the "Note"). This is the *first* Contract under the Funding Approval ("Commitment") of the same number, which was approved by the Secretary on January 11, 2023. The funds paid or credited to the account of the Borrower pursuant to the Note are referred to herein as the "Guaranteed Loan Funds." The Note (including the Fiscal Agency Agreement and the Trust Agreement as defined in Section I.A. of the Note and incorporated therein) is hereby incorporated into the Contract. Terms used in the Contract with initial capital letters and not otherwise defined in the text hereof shall have the respective meanings given thereto in the Note. The Fiscal Agency Agreement and the Trust Agreement are sometimes collectively referred to herein as the "Fiscal Agency/Trust Agreements," and the Fiscal Agent and the Trustee respectively are sometimes collectively referred to as the "Fiscal Agent/Trustee."

**PART I**

- A. **The Note: Advances and Records.** The Note provides that Advances and Conversion Date Advances shall be made thereunder upon the written request of the Borrower and the approval of the Secretary, pursuant to this Contract and the Fiscal Agency Agreement. The Commitment Schedule attached to the Note represents the principal repayment schedule for the Maximum Commitment Amount of the Note. At all times, the total amount of all Advances and Conversion Date Advances under the Note for all Principal Due Dates shall not exceed the Maximum Commitment Amount of the Note. Prior to the Conversion Date (as defined in the Note, Section

I.A.), the total amount of Advances made by the Holder for each Principal Due Date under the Note shall not exceed the applicable Commitment Amount for such Principal Due Date set forth in the Commitment Schedule of the Note. Prior to the Conversion Date, the Borrower agrees that the Fiscal Agent pursuant to the Fiscal Agency Agreement shall record the date and amount of each payment and Advance under the Note and shall maintain the books and records of all Advances and Conversion Date Advances for each Principal Due Date, interest rates on Advances, payments, and Principal Amounts outstanding for each Principal Due Date. On and after the Conversion Date, the Borrower agrees that the Trustee pursuant to the Trust Agreement will maintain the books and records of all payments on the Note and all Principal Amounts and interest rates on such Principal Amounts (each as to be set forth on Schedule P&I to the Note). No advances of any kind may be made on the Note after its Conversion Date.

- B. **Borrower's Requests for Advances.** All requests for Advances or Conversion Date Advances by the Borrower under the Note shall: be in writing; specify the amount of the Advance requested; identify the Note by Borrower, number and Maximum Commitment Amount; be addressed to the Secretary at the address for notices specified in paragraph 12(f) of this Contract; be signed by an authorized official of the Borrower; and otherwise be in the form prescribed by the Secretary. Advances and Conversion Date Advances shall be requested and will only be approved and made in increments of not less than \$1,000 for any Principal Due Date. A request for an initial Advance under a Note, or a request for a Conversion Date Advance, shall be received by the Secretary at least ten Business Days prior to the Borrower's proposed Funding Date or Conversion Date, as applicable. All other requests for Advances shall be received by the Secretary not less than five Business Days prior to the proposed Funding Date. The Borrower may not deliver a Note or a request for an Advance or Conversion Date Advance to the Secretary more than two calendar months prior to the Borrower's proposed Funding Date. At least two Business Days prior to the proposed Funding Date or Conversion Date if the Borrower's request was timely received, or the next available Funding Date for which the request was timely received, the Secretary shall, except as otherwise provided in paragraph 11(c) or 12. hereof, deliver a corresponding Authorization Order or Advance Order (as applicable) to the Fiscal Agent in accordance with Section 2.03 or 2.04 of the Fiscal Agency Agreement for the applicable Funding Date or Conversion Date. If the Borrower requests an Advance or

Conversion Date Advance of less than the outstanding Maximum Commitment Amount under the Note, the Borrower may also specify in its written request the amount of the Advance or Conversion Date Advance to be allocated to each Commitment Amount or Principal Amount per Principal Due Date under the Note. If the Borrower does not specify how the Advance or Conversion Date Advance should be allocated among Commitment Amounts/Principal Due Dates, the Borrower hereby authorizes the Secretary to direct the Fiscal Agent to allocate the Advance to the respective Commitment Amounts or Principal Amounts in order of the earliest Principal Due Date(s).

- C. **Conversion; Public Offering.** On the Conversion Date (if any), trust certificates backed by the Note (and similar notes issued by other Section 108 borrowers) will be purchased for a purchase price of the full principal amount thereof by underwriters selected by the Secretary (the "Underwriters") pursuant to an Underwriting Agreement between the Underwriters and the Secretary, at a closing on such Conversion Date as determined by the Secretary and the Underwriters. The Borrower agrees that the interest rate at which the trust certificate of a specified maturity is sold to the Underwriters shall govern the interest rate inserted on the Conversion Date in Schedule P&I of the Note for the Principal Amount of corresponding maturity.
- D. **Guarantee Fee.** The Borrower shall pay to the Secretary a fee equal to 0.94% of each Advance to offset the credit subsidy cost of the guaranteed loan. This fee, which was announced on September 01, 2022, 87 Fed. Reg. 53662, for Section 108 loan guarantee disbursements under loan guarantee commitments awarded in FY 2023 is due to the Secretary no later than the time of the disbursement of each Advance to the Borrower. The fee is payable from allocations or grants which have been made to Borrower under Section 106 of the Act (including program income derived therefrom) or from other sources, but is only payable from Guaranteed Loan Funds if the fee is deducted from the Advance.
- E. **Consents.** By execution of this Contract, the Borrower ratifies and consents to the Secretary's selection of the Underwriters and authorizes the Secretary to negotiate with the Underwriters the terms of the Underwriting Agreement and of the public offering of interests in the trust certificates to investors (including the applicable interest rates). In addition, by execution hereof the Borrower ratifies and consents to the Secretary's selection of the Fiscal Agent/Trustee and agrees to the respective terms of the Fiscal Agency/Trust Agreements. If Advances have been

made in the Maximum Commitment Amount of the Note not less than ten Business Days prior to the proposed Conversion Date, or if the Borrower requests a Conversion Date Advance, the Borrower authorizes the Secretary to deliver Schedule P&I to the Note completed in accordance herewith to the Fiscal Agent/Trustee on the Conversion Date in accordance with the Fiscal Agency/Trust Agreements, concurrent with delivery of the Secretary's Guarantee of the trust certificates at the closing on the Conversion Date, and thereafter the Note shall be enforceable in accordance with its terms including Schedule P&I. In addition, the Secretary reserves the right to notify the Borrower not less than one calendar month in advance of a specified Conversion Date that the Note will be sold to the Underwriters on such date, if the Secretary in his or her sole discretion determines that market conditions or program needs require the participation in the proposed public offering of all or substantially all Borrowers with outstanding Advances.

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**PART II****1. Receipt, Deposit and Use of Guaranteed Loan Funds.**

- (a) Except for funds deducted on the Conversion Date pursuant to paragraph 4(b) and fees and charges deducted by the Fiscal Agent/Trustee pursuant to paragraph 4(a), the Guaranteed Loan Funds shall be electronically transferred in accordance with the Borrower's instructions for deposit in a separate, identifiable account (the "Guaranteed Loan Funds Account") with a financial institution whose deposits or accounts are Federally insured. The Guaranteed Loan Funds Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Deposit Account" (**Attachment 1**) and shall be continuously maintained for the Guaranteed Loan Funds. Such a Letter Agreement must be executed when the Guaranteed Loan Funds Account is established, and an original of this Letter Agreement shall be submitted by the Borrower to the Secretary with this signed Contract.

The Borrower shall make withdrawals from said account only for payment of the costs of approved Section 108 activities, for transfer to the Loan Repayment Account or for the temporary investment of funds pursuant to this paragraph 1(a). Such temporary investment of funds into the Guaranteed Loan Funds Investment Account shall be required within fifteen calendar Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Guaranteed Loan Funds Account. At that time, any balance of funds in the Guaranteed Loan Funds Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof, held in the Guaranteed Loan Funds Investment Account.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with the cash requirements of the approved activities. In no event shall the investments mature on or after December 31, 2024 or have maturities which exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Guaranteed Loan Funds

Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Investment Account" (**Attachment 2**), which account shall be maintained for all Government Obligations purchased with funds from the Guaranteed Loan Funds Account. The Guaranteed Loan Funds Investment Account need only be established if and when the Borrower is required to invest, or otherwise invests, the Guaranteed Loan Funds in Government Obligations. Such Letter Agreement must be executed when the Guaranteed Loan Funds Investment Account is established. A fully executed copy of such Letter Agreement shall be submitted to the Secretary with this signed Contract. All proceeds and income derived from such investments shall be returned to the Guaranteed Loan Funds Account.

All funds in the Guaranteed Loan Funds Account or the Guaranteed Loan Funds Investment Account must be withdrawn and disbursed by the Borrower for approved activities by December 31, 2024. Any funds remaining in either Account after this date shall be immediately transferred to the Loan Repayment Account established pursuant to paragraph 6 of this Contract.

- (b) The Borrower shall by the fifteenth day of each month provide the Secretary with an electronic copy of a statement showing the balance of funds in the Guaranteed Loan Funds Account and the withdrawals from such account during the preceding calendar month, and an electronic copy of a statement identifying the obligations and their assignments in the Guaranteed Loan Funds Investment Account. Borrower shall e-mail the electronic copies to 108reports@hud.gov.
- (c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower in and to the Guaranteed Loan Funds and Guaranteed Loan Funds Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with Paragraph 10, or payment of any other obligations of the Borrower under this Contract or the Fiscal Agency/Trust Agreements.

**2. Payments Due on Note; Final Payment and Discharge.** The Borrower shall pay to the Fiscal Agent/Trustee, as collection

agent for the Note, all amounts due pursuant to the terms of the Note. In accordance with the Note and the Fiscal Agency/Trust Agreements, payment shall be made by 3:00 P.M. (New York City time) on the seventh Business Day (the "Note Payment Date") preceding the relevant Interest Due Date or Principal Due Date (each as defined in the Note). If any Note Payment Date falls on a day that is not a Business Day, then the required payment shall be made on the next Business Day. Payment may be made by check or wire transfer.

Upon final payment of all amounts due to Holders under the Note, including any payment made by the Secretary pursuant to the Guarantee, the Fiscal Agent/Trustee is required by the Fiscal Agency/Trust Agreements to return the Note to the Secretary. Upon final payment to the Secretary of any amounts due as a result of Guarantee Payments or otherwise due under this Contract, the Secretary will cancel and return the Note to the Borrower in discharge of the Borrower's obligations under the Note.

3. **Selection of New Fiscal Agent or Trustee.** The Secretary shall select a new Fiscal Agent or Trustee if the Fiscal Agent or Trustee resigns or is removed by the Secretary. The Borrower hereby consents in advance to any such selection and to any changes in the Fiscal Agency/Trust Agreements agreed to by any Fiscal Agent or Trustee and the Secretary, subject to paragraph 4(e) of this Contract.
4. **Payments Due Fiscal Agent or Trustee; Documents to the Secretary.**
  - (a) The Borrower agrees to pay the fees of the Fiscal Agent as required by Exhibit G to the Fiscal Agency Agreement, and any additional amounts that may be due pursuant to Section 6.01 of the Fiscal Agency Agreement. If not paid by the Borrower by any other means prior thereto, the Borrower agrees that any such fees or additional amounts that have been incurred prior to an Advance or a Conversion Date Advance may be deducted by the Fiscal Agent/Trustee from the proceeds of the Advance or Conversion Date Advance, as applicable.
  - (b) The Borrower agrees to pay the Borrower's share, as determined by the Secretary, of the customary and usual issuance, underwriting, and other costs related to the public offering and future administration of the Note and the trust certificates, as approved by the Secretary, including the cost of reimbursement and/or compensation of the Trustee pursuant to the Trust



Agreement, including Sections 3.11 and 7.01 thereof. In connection with the public offering on the Conversion Date, such payment shall either be made by wire transfer to the Trustee on the day prior to the Conversion Date or shall be deducted from the Guaranteed Loan Funds on the Conversion Date.

- (c) The Borrower shall submit to the Secretary not later than ten Business Days prior to the Funding Date for the initial Advance hereunder, or if not submitted earlier, prior to any Conversion Date or Public Offering Date applicable to the Note, this executed Contract, the executed Note, a request for an Advance or a Conversion Date Advance (as applicable) in proper form, and an opinion acceptable to the Secretary from the Borrower's counsel to the effect that: (i) the governing body of the Borrower has authorized by Ordinance, in accordance with applicable State and local law, the issuance of the Note and the execution of this Contract; (ii) the Note and this Contract are valid, binding, and enforceable obligations of the Borrower; (iii) the pledge of funds pursuant to 24 CFR 570.705(b)(2) and paragraph 5(a) of this Contract is valid and binding; and (iv) there is no outstanding litigation that will affect the validity of the Note or this Contract. In addition, the Borrower shall submit any other additional documents or opinions specifically required by this Contract (e.g., paragraph 5(c), or paragraph 15, et seq.), at the time required thereby.
- (d) The Borrower agrees to reimburse the Underwriters upon demand by the Secretary for the Borrower's share, as determined by the Secretary, of all reasonable out-of-pocket expenses (including reasonable fees and disbursements of counsel) incurred in connection with a proposed public offering, if the Underwriters incur such additional costs for the public offering because of any refusal, inability, or failure on the part of the Borrower timely to submit in acceptable form any document required by this Contract (including paragraph 4(c), or because of any withdrawal by the Borrower from the public offering, after the Borrower has submitted a request for a Conversion Date Advance hereunder. By execution and delivery of this Contract to the Secretary, the Borrower hereby expressly authorizes the Secretary to pay amounts due under this paragraph from funds pledged under paragraph 5(a) of this Contract.
- (e) The undertakings in paragraphs 3 and 4 of this Contract

are expressly subject to the requirement that the Fiscal Agency/Trust Agreements shall in no event require payment of fees or charges, reimbursement of expenses, or any indemnification by the Borrower from any source other than funds pledged pursuant to paragraphs 5 or 15 *et seq.* of this Contract.

5. **Security.** The Borrower hereby pledges as security for repayment of the Note, and such other charges as may be authorized in this Contract, the following:

- (a) All allocations or grants which have been made or for which the Borrower may become eligible under Section 106 of the Act, as well as any grants which are or may become available to the Borrower pursuant to Section 108(q).
- (b) Program income, as defined at 24 CFR 570.500(a)(or any successor regulation), directly generated from the use of the Guaranteed Loan Funds.
- (c) Other security as described in paragraph 15, *et seq.*
- (d) All proceeds (including insurance and condemnation proceeds) from any of the foregoing.
- (e) All funds or investments in the accounts established pursuant to paragraphs 1 and 6 of this Contract.

6. **Loan Repayment Account.**

- (a) All amounts pledged pursuant to paragraphs 5(b), 5(c), and 5(d) of this Contract shall be deposited immediately on receipt in a separate identifiable account (the "Loan Repayment Account") with a financial institution whose deposits or accounts are Federally insured. The Loan Repayment Account shall be established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Deposit Account" (**Attachment 1**) and shall be maintained for such pledged funds. The Loan Repayment Account need only be established if and when the Borrower receives amounts pledged pursuant to paragraph 5(b), 5(c) or 5(d). Such Letter Agreement must be executed when the Loan Repayment Account is established, and an original of this Letter Agreement signed by the Borrower and the financial institution shall be submitted by the Borrower to the Secretary with this signed Contract.

Borrower shall make withdrawals from said account only for the purpose of paying interest and principal due on the Note (including the purchase of Government Obligations in accordance with paragraph 10 hereof), for payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or for the temporary investment of funds pursuant to this paragraph, until final payment and discharge of the indebtedness evidenced by the Note, unless otherwise expressly authorized by the Secretary in writing. Such temporary investment of funds shall be required within three Business Days after the balance of deposited funds exceeds the amount of the Federal deposit insurance on the Loan Repayment Account. At that time, the balance of funds in the Loan Repayment Account exceeding such insurance coverage shall be fully (100%) and continuously invested in Government Obligations, as defined in paragraph 10 hereof.

All temporary investments, whether or not required as above, shall be limited to Government Obligations having maturities that are consistent with cash requirements for payment of principal and interest as required under the Note. In no event shall the maturities of such investments exceed one year. All such investments shall be held in trust for the benefit of the Secretary by the above financial institution in an account (the "Loan Repayment Investment Account") established and designated as prescribed in the attached form document entitled "Letter Agreement for Section 108 Loan Guarantee Program Investment Account" (**Attachment 2**), which account shall be maintained for all Government Obligations purchased with funds from the Loan Repayment Account. Such Letter Agreement must be executed when the Loan Repayment Investment Account is established. A fully executed copy of such Letter Agreement shall be submitted to the Secretary with this signed Contract. All proceeds and income derived from such investments shall be returned to the Loan Repayment Account.

- (b) Borrower shall by the fifteenth day of each month, provide the Secretary with an electronic copy of a statement showing the balance of funds in the Loan Repayment Account and the deposits and withdrawals of all funds in such account during the preceding calendar month and an electronic copy of a statement identifying the obligations and their assignments in the Loan

Repayment Investment Account. Borrower shall e-mail the electronic copies to [108reports@hud.gov](mailto:108reports@hud.gov).

- (c) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the Note, all right, title, and interest of the Borrower in and to the Loan Repayment and Loan Repayment Investment Accounts shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10 , or payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements.

**7. Use of CDBG, EDI or BEDI Funds for Repayment.** Any funds available to the Borrower under Section 106 of the Act (including program income derived therefrom) are authorized to be used by the Borrower for payments due on the Note, Optional Redemption (as defined in the Note), payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, or the purchase of Government Obligations in accordance with paragraph 10. Any funds specifically available to the Borrower for such payments or as a debt service reserve under an EDI or BEDI Grant Agreement pursuant to Section 108(q) of the Act which supports the eligible project(s) and activities financed by the Note may also be used therefor; any other use of Section 108(q) funds for such purposes shall require the prior written approval of the Secretary. Unless otherwise specifically provided herein or unless otherwise expressly authorized by the Secretary in writing, the Borrower shall substantially disburse funds available in the Loan Repayment or the Loan Repayment Investment Accounts before funds from grants under Section 106 of the Act are withdrawn from the U.S. Treasury for such purposes.

**8. Secretary's Right to Restrict Use of CDBG Funds to Repayment.** Upon a determination by the Secretary that payments required by paragraph 2 and/or paragraph 4 of this Contract are unlikely to be made as specified, the Secretary may give the Borrower notice that the availability to the Borrower of funds pledged under paragraph 5(a) of this Contract for purposes other than satisfaction of the pledge is being restricted. This restriction shall be in an amount estimated by the Secretary to be sufficient to ensure that the payments referred to in paragraph 2 and/or paragraph 4 hereof are made when due. This restriction may be given effect by conditioning the restricted amounts to prohibit disbursement for purposes other than satisfaction of the pledge at the time

such restricted funds are approved as grants, by limiting the Borrower's ability to draw down or expend the restricted funds for other purposes, and by disapproving payment requests submitted with respect to such grants for purposes other than satisfaction of the pledge.

9. **Secretary's Right to Use Pledged Funds for Repayment.** The Secretary may use funds pledged under paragraph 5(a) of this Contract or funds restricted under grants pursuant to paragraph 8 of this Contract to make any payment required of the Borrower under paragraph 2 and/or paragraph 4 , if such payment has not been timely made by the Borrower.
10. **Defeasance.** For purposes of this Contract, after the Conversion Date the Note shall be deemed to have been paid (defeased) if there shall have been deposited with the Trustee either moneys or Government Obligations (as defined below), which in the sole determination of the Secretary, mature and bear interest at times and in amounts sufficient, together with any other moneys on deposit with the Trustee for such purpose, to pay when due the principal and interest to become due on the Note. The Aggregate Principal Amount of the Note or any unpaid Principal Amount may be so defeased, in whole or in part, as of any Interest Due Date, or any other Business Day acceptable to both HUD and the Borrower. In accordance with the Note and the Trust Agreement, the Borrower shall give timely notice and written instructions to the Secretary and the Trustee concerning any principal amounts proposed to be defeased, including any Optional Redemptions proposed, which instructions shall be approved by the Secretary. If the unpaid Aggregate Principal Amount of the Note guaranteed pursuant to this Contract shall be defeased and deemed to have been paid in full, then the Borrower shall be released from all agreements, covenants, and further obligations under the Note.

"Government Obligation" means a direct obligation of, or any obligation for which the full and timely payment of principal and interest is guaranteed by, the United States of America, including but not limited to, United States Treasury Certificates of Indebtedness, Notes and Bonds - State and Local Government Series or certificates of ownership of the principal of or interest on direct obligations of, or obligations unconditionally guaranteed by, the United States of America, which obligations are held in trust by a commercial bank which is a member of the Federal Reserve System and has capital and surplus (exclusive of undivided profits) in excess of \$100,000,000, or an alternative approved by the Secretary in writing.

## 11. Default.

- (a) A Default under the Note and this Contract shall occur upon failure by the Borrower to:
  - (i) pay when due an installment of principal or interest on the Note; or
  - (ii) punctually and properly perform, observe, and comply with any covenant, agreement, or condition contained in:
    - (A) this Contract,
    - (B) any security agreement, deed of trust, mortgage, assignment, guarantee, or other Contract securing payment of indebtedness evidenced by the Note, or
    - (C) any future amendments, modifications, restatements, renewals, or extensions of any such documents.
- (b) The Borrower waives notice of Default and opportunity for hearing with respect to a Default under paragraph 11(a).
- (c) In addition to Defaults under paragraph 11(a), the Secretary may declare the Note in Default if the Secretary makes a final decision in accordance with the provisions of section 111 of the Act and 24 CFR 570.913 (or any successor provisions), including requirements for reasonable notice and opportunity for hearing, that the Borrower has failed to comply substantially with title I of the Act. Notwithstanding any other provision, following the giving of such reasonable notice, the Secretary may, in the Secretary's sole discretion pending the Secretary's final decision, withhold the guarantee of any or all obligations not yet guaranteed on behalf of the Borrower under outstanding commitments, suspend approval of any further Advances or Conversion Date Advances under the Note, and/or direct the Borrower's financial institution to: refuse to honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account initiated by the Borrower, and/or refuse to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account.

12. **Remedial Actions.** Upon a Default or declaration of Default under this Contract, the Secretary may, in the Secretary's

sole discretion, take any or all of the following remedial actions:

- (a) With any funds or security pledged under this Contract, the Secretary may: (i) continue to make payments due on the Note, (ii) make a prepayment under Section I.D. of the Note or make an acceleration payment with respect to the principal amount of the Note subject to Optional Redemption as provided in Section III of the Note, (iii) purchase Government Obligations in accordance with paragraph 10 of this Contract, (iv) pay any interest due for late payment as provided in the Note, this Contract, or the Fiscal Agency/Trust Agreements, (v) pay any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements, and/or (vi) pay any reasonable expenses incurred by the Secretary or the Fiscal Agent/Trustee as result of the Borrower's Default.
- (b) The Secretary may withhold the guarantee of any or all obligations not yet guaranteed or the disbursement of any or all grants not yet disbursed in full under outstanding guarantee commitments or grant approvals for the Borrower under Sections 108 and/or 106 of the Act.
- (c) The Secretary may withhold approval of any or all further Advances or Conversion Date Advances under the Note (if applicable); direct the Borrower's financial institution to refuse to: honor any instruments drawn upon, or withdrawals from, the Guaranteed Loan Funds Account or the Loan Repayment Account by the Borrower, and/or to release obligations and assignments by the Borrower from the Guaranteed Loan Funds Investment Account or the Loan Repayment Investment Account; and/or direct the Borrower and/or the Borrower's financial institution to transfer remaining balances from the Guaranteed Loan Funds Account to the Loan Repayment Account.
- (d) Until the Conversion Date, or with respect to amounts subject to Optional Redemption, the Secretary may accelerate the Note.
- (e) The Secretary may exercise any other appropriate remedies or sanctions available by law or regulation applicable to the assistance provided under this Contract or may institute any other action available under law to recover Guaranteed Loan Funds or to reimburse the Secretary for any payment under the Secretary's Guarantee or any reasonable expenses incurred by the Secretary as a result of the Default.

(f) All notices and submissions provided for hereunder shall be in writing (including by telex, telecopier or any other form of facsimile communication) and mailed or sent or delivered, as to each party hereto, at its address set forth below or at such other address as shall be designated by such party in a written notice to the other party hereto. All such notices and other communications shall be effective when received as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or five Business Days after deposit in the mail, postage prepaid; (iii) if sent by telex, upon receipt by the sender of an answer back; and (iv) if sent by telecopier, upon receipt.

The Secretary:

U.S. Dept. of Housing and Urban Development\_\_\_\_\_  
 Attention: Paul Webster, Director\_\_\_\_\_  
 Financial Management Division\_\_\_\_\_  
 451 7th Street SW, Room 7282\_\_\_\_\_  
 Washington, DC 20410\_\_\_\_\_

Borrower:

Community Development Department\_\_\_\_\_  
 Attention: Maria Tina Martinez, Director\_\_\_\_\_  
 1301 Farragut Transit Center, 3rd Fl, East Wing\_\_\_\_\_  
 Laredo, Texas 78040\_\_\_\_\_

13. **Limited Liability.** Notwithstanding any other provision of this Contract, the Fiscal Agency/Trust Agreements or the Note, any recovery against the Borrower for any liability for amounts due pursuant to the Note, the Fiscal Agency/Trust Agreements or this Contract shall be limited to the sources of security pledged in paragraph 5 or any Special Conditions of this Contract.
14. **Incorporated Grant Agreement.** The Contract and the Note are hereby incorporated in and made a part of the Grant Agreement authorized by the Secretary on September 22, 2021 under the Funding Approval for grant number B-21-MC-53-0020 to the Borrower. In carrying out activities with the Guaranteed Loan Funds hereunder, the Borrower agrees to comply with the Act and 24 CFR Part 570, as provided in Subpart M thereof.



# 15. **Special Conditions and Modifications:**

- (a) **Pledge of Security.** As provided for in paragraph 5(c) and (d) of this Contract, the Borrower pledges the following security (including insurance and condemnation proceeds therefrom) to secure the repayment of the Note and all other charges authorized in this Contract and in all related future contracts or amendments between Borrower and the Secretary pertaining to the Note:

- (i) Any and all rights, titles, and interests of the Borrower in and to the deposit account, maintained in the name of \_\_\_\_\_, having the account number \_\_\_\_\_, held at \_\_\_\_\_, a financial institution whose deposits or accounts are Federally insured (the 'Debt Service Reserve Account'), together with all amounts on deposit therein. The Debt Service Reserve Account is further described in the agreement entered into by the Borrower, \_\_\_\_\_, and the Secretary that is incorporated in its entirety into this Contract and included as **Attachment 5** to the Contract (the 'Deposit Account Control Agreement'). This Contract serves as a security agreement with regard to the Debt Service Reserve Account and all amounts on deposit therein.
- (ii) The security interests described in paragraph 15(d), as such collateral interests may be released or substituted in accordance with paragraph 15(e).

- (b) **Requirements on the Use of Guaranteed Loan Funds.**  
The Borrower shall use Guaranteed Loan Funds in connection with the Southern Hotel Affordable Housing Rehabilitation Project (the "Project") to carry out the activities described in subparagraphs (i) and (ii), subject to the requirements in subparagraph (iii):

- (i) Borrower shall use Guaranteed Loan Funds for housing rehabilitation pursuant to 24 CFR 570.703(h) in accordance with 570.202,
- (ii) Borrower shall use Guaranteed Loan Funds for the payment of fees charged by HUD pursuant to 24 CFR 570.712, in accordance with 24 CFR 570.703(n).

(iii) The Borrower agrees to comply with the requirements on the use of Guaranteed Loan Funds imposed by this Contract and the Commitment, including but not limited to:

- (A) Transfer of Guaranteed Loan Funds. Borrower shall not grant, loan, or otherwise transfer Guaranteed Loan Funds to, or use Guaranteed Loan Funds on behalf of, any entity other to pay the costs of directly carrying out the activities authorized under paragraph 15(b)(i)-(ii).
- (B) Intercreditor and Other Agreements. If HUD requirements made applicable by this Contract conflict with any other agreement governing the use of the Guaranteed Loan Funds, HUD's requirements on the use of Guaranteed Loan Funds shall control.

Without written approval by the Secretary, neither the Obligor nor Borrower shall enter or amend an intercreditor agreement, subordination agreement, or similar agreement that affects the Borrower's or HUD's rights under any Security Documents as defined in paragraph 15(f), including HUD's rights under liens described in paragraph 15(e) (each individually, an "Intercreditor Agreement"). Intercreditor Agreements approved by the Secretary, including amendments, must be in a form acceptable to the Secretary.

- (C) New Market Tax Credits. Without prior written approval by HUD, the Borrower shall not use Guaranteed Loan Funds for an activity that is part of a project in which New Market Tax Credits are a part of the financing structure or in which Guaranteed Loan Funds will be used to leverage or generate New Markets Tax Credits pursuant to Section 45(D) of the Internal Revenue Code. At the discretion of the Secretary, HUD's approval and any related conditions may be provided **Attachment 4**, as discussed below.
- (D) Alternative Collateral Security Arrangements. The Borrower shall not incur any obligations to be paid with Guaranteed Loan Funds which will

be subject to the alternative collateral or security arrangements described in paragraph 15(e)(ii) prior to the approval and memorialization of the alternative collateral or security arrangements in **Attachment 4**.

(E) Limitation on Tax-Exempt Bond Financing.

Without prior written approval by HUD, the Borrower shall not use Guaranteed Loan Funds for an activity or project that is financed in whole or in part with tax-exempt bonds.

(F) Prohibition on use of Guaranteed Loan Funds in connection with Eminent Domain.

The Borrower shall not use Guaranteed Loan Funds to acquire properties through the City's powers of eminent domain unless eminent domain is employed only for a "Public Use." Public Use shall not be construed to include economic development that primarily benefits private entities. Any use of Guaranteed Loan Funds for public facilities projects as described in 24 CFR 570.201(c), or other structures designated for use by the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of this paragraph.

(c) Debt Service Reserve Account and the Deposit Account Control Agreement.

- (i) Borrower shall deliver to the Secretary, contemporaneously with the delivery of this Contract and the Note, an original **Attachment 5** counterparts of the Deposit Account Control Agreement, signed by all parties other than the Secretary, which shall upon execution by the Secretary perfect the Secretary's security interest in the Borrower's Debt Service Reserve Account that is maintained with a financial institution whose deposits or accounts are Federally insured.
- (ii) Borrower shall deposit and maintain, collectively, within the Debt Service Reserve

Account, funds sufficient to establish an account balance not less than \$373,000 ("Necessary Account Balance"), such amount may be revised in the Secretary's sole discretion upon Conversion of the Note in accordance with paragraph (C).

- (iii) Borrower shall deposit amounts sufficient to satisfy the Necessary Account Balance within 30 days of the date of this Contract and maintain the Necessary Account Balance until the Note is fully paid and satisfied.
- (iv) Borrower shall only make withdrawals from the Debt Service Reserve Account for the purpose of paying principal and interest due on the Note and for the payment of other obligations of the Borrower under this Contract or the Fiscal Agency/Trust Agreements. If Borrower makes any withdrawals from the Debt Service Reserve Account for the purpose of paying principal and interest due on the Note or for the payment of other obligations of the Borrower under this Contract or the Fiscal Agency/Trust Agreements after the date by which the Borrower must deposit amounts sufficient to satisfy the Necessary Account Balance, Borrower shall replenish the Debt Service Reserve Account to the Necessary Account Balance within 30 calendar days. Notwithstanding the foregoing, the obligation of the Borrower to replenish the Debt Service Reserve Account to the Necessary Account Balance is limited to the funds pledged pursuant to paragraphs 5(a) and (b) of this Contract.
- (v) Borrower shall not incur, create, assume, or permit to exist, any lien or encumbrance on the Debt Service Reserve Account other than as provided in this Contract.
- (vi) Borrower shall by the fifteenth day of each month provide the Secretary with an electronic copy of a written statement showing the balance of funds in the Debt Service Reserve Account and the withdrawals from such account during the preceding calendar month. Borrower shall email the electronic copies to [108reports@hud.gov](mailto:108reports@hud.gov).
- (vii) Upon the Secretary giving notice that the Borrower is in Default under this Contract or the

Note, all right, title, and interest of the Borrower in and to the Debt Service Reserve shall immediately vest in the Secretary for use in making payment on the Note, purchase of Government Obligations in accordance with paragraph 10, or payment of any other obligation of the Borrower under this Contract or the Fiscal Agency/Trust Agreements.

- (viii) Alternative collateral or security arrangements may be requested by the Borrower and approved by the Secretary in writing. The alternative collateral shall be described in **Attachment 4** to this Contract, which may be updated from time to time to include all alternative collateral approved by the Secretary as security for the Note. The last dated **Attachment 4** that is agreed to and acknowledged by the signature of the parties identified in paragraph 12, their successors, or other authorized agents of the parties, is incorporated into this Contract and shall represent the agreement of the parties.

(d) Lien on Real Property and Associated Property Interests.

In order to secure the payment and performance of the obligations of the Borrower, the Borrower shall provide the Secretary with the collateral described or identified in (i) through (iii) subject to the requirements in (iv)(collectively, the "Collateral"). The pledges required by subparagraph (i) through (iii) below and security agreements, security documents, and financing statements required by subparagraph (iv), may be made in the instruments identified therein, or in a single instrument (individually or collectively, the "Mortgage, Assignment, Security Agreement, and Fixture Filing"), which shall be signed by the Borrower and shall contain any provisions the Secretary deems necessary.

- (i) A first positioned lien on the real property described in **Attachment 3**, including all water rights, air rights, and other real property interests, together with any fixtures located on and any personal property affixed to, installed in, or attached to the real property, whether now owned or here-after acquired (the

"Property"), established through an appropriate and properly recorded mortgage or deed of trust signed by the Borrower as mortgagor and securing repayment of the indebtedness evidenced by the Note, which shall contain such provisions as the Secretary deems necessary, and which must be in a form acceptable to the Secretary, including any subsequent amendments thereto.

- (ii) A first positioned lien security interest in any and all rights, titles, and interests in and to any leases covering the Property and any rents derived from the Property. Such rights, titles, and interests shall be the subject of an appropriate and properly recorded assignment of leases and rents, which shall be in a form acceptable to the Secretary, including any amendments thereto.
- (iii) A first positioned lien security interest in any and all rights titles, and interests in and to any permits, licenses, agreements, and other intangible personal property rights covering the Property, including but not limited to utility connection rights, or insurance policies held by the Borrower with respect to the Property, whether now owned or hereafter acquired, and which are used in connection with the maintenance, use, occupancy or enjoyment of the Property. Such rights, titles, and interests shall be the subject of an assignment of interest in licenses, permits, and other agreements, which shall be in a form acceptable to the Secretary, including any amendments thereto.
- (iv) The Borrower shall take all steps necessary to attach, perfect, and maintain the perfection and priority of its security interests, and security interests granted to the Secretary, in the Collateral described in (i) through (iii) above, unless otherwise required by **Attachment 4**. UCC Financing Statements shall be refiled by the Borrower as necessary to remain current and effective.

(e) Release of Collateral and Substitution or Pledging of Alternative Collateral.

- (i) If Borrower can demonstrate to the Secretary's satisfaction that all or a portion of the Collateral or Debt Service Reserve Account is not necessary to secure repayment of the Loan, the Borrower may request that such security interests be released by the Secretary. Borrower shall prepare a Lien Release (the "Lien Release") that shall be in a form approved by the Secretary. Upon its execution by the Secretary, the Lien Release shall represent the agreement of the parties and shall be incorporated into this Contract as an **Attachment 6** to this Contract.
- (ii) Alternative collateral or security arrangements may be requested by the Borrower and approved by the Secretary in writing. The alternative collateral shall be described in **Attachment 4** to this Contract, which may be updated from time to time to include all alternative collateral approved by the Secretary as security for the Note. The last dated **Attachment 4** that is agreed to and acknowledged by the signature of the parties identified in paragraph 12, their successors, or other authorized agents of the parties, is incorporated into this Contract and shall represent the agreement of the parties.

(f) Custodian Requirements.

Unless otherwise agreed to by the Secretary, the Borrower shall select a financial institution acceptable to the Secretary (the "Custodian") to act as custodian for the documents specified in paragraph 15(g) below (the "Security Documents"). The Borrower and the Custodian shall enter into a written agreement containing such provisions as the Secretary deems necessary. A fully executed copy of such agreement shall be forwarded to the Secretary contemporaneously with the delivery of Security Documents pursuant to paragraph 15(g) below.

(g) **Documents to be Delivered to Custodian.**

Not later than five business days after the execution of this Contract, the Borrower shall deliver to the Custodian the following:

- (i) The original recorded Mortgage, Assignment, Security Agreement, and Fixture Filing (which may consist of one or more instruments that contain the mortgage and assignments from the Borrower to HUD required by 15(d)(i),(ii), and (iii), and the related UCC Financing Statements, and fixture filings required by 15(d)(iv)), in a recordable form but unrecorded, all of which shall be in a form acceptable to the Secretary.

The original Mortgage, Assignment, Security Agreement, and Fixture Filing shall be accompanied by copies of all UCC Financing Statement filings made by the Borrower pursuant to 15(d)(iv).

- (ii) A mortgagee title policy, issued by a company and in a form acceptable to the Secretary, naming the Secretary as the insured party. The policy shall indicate that the Secretary has the security interest indicated in 15(d)(i).
- (iii) A certified survey with a legal description conforming to the title policy and the Mortgage, Assignment, Security Agreement, and Fixture Filing.
- (iv) An appraisal, or other form of valuation as approved by the Secretary, of the ownership interest in the Property specifying an estimate of the "as completed" fair market value that is acceptable to the Secretary.

The appraisal shall be completed by an appraiser who is certified by the state and has a professional designation (such as "SRA" or "MAI"), and it shall conform to the standards of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA").

- (v) A copy of the legal opinions described in paragraphs 4(c) and 15(h).



- (vi) A copy of the Deposit Account Control Agreement described in paragraph 15(c).

(h) **Legal Opinion Required.**

Borrower shall deliver to the Secretary, contemporaneously with the delivery of this Contract and the Note (and subsequently deliver copies to the Custodian, as required by paragraph 15(g)(v)), the following:

- (i) An opinion of the Borrower's counsel on its letterhead, addressed and satisfactory to the Secretary, that:
  - (A) The instruments specified in 15(d)(i)-(iii) are properly executed, valid and legally binding obligations, enforceable in accordance with their respective terms; and
  - (B) The provisions of this Contract, together with the Deposit Account Control Agreement in Attachment 5, shall upon execution by the Secretary create in the Secretary's favor, a valid, binding, and perfected security interest in all rights, titles, and interests of the Borrower in and to the Debt Service Reserve Account, and all amounts on deposit therein, in accordance with any applicable state and local laws.
- (ii) The opinion described in paragraph 4(c) of this Contract.

(i) **Additional Grounds for Default. Notice of Default. Restriction of Pledged Grants. Availability of Other Remedial Actions.**

- (i) The Borrower acknowledges and agrees that the Secretary's guarantee of the Note is made in reliance upon the availability of grants pledged pursuant to paragraph 5(a) (individually, a "Pledged Grant" and, collectively, the "Pledged Grants") in any Federal fiscal year subsequent to the Federal fiscal year ending September 30, 2022 to: (A) pay when due the payments to become due on the Note, or (B) defease (or, if permitted, prepay) the full amount outstanding on the Note. The Borrower further acknowledges and agrees that

if the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are unlikely to be available for either of such purposes, such determination shall be a permissible basis for any of the actions specified in paragraphs (ii)-(iv) below (without notice or hearing, which the Borrower expressly waives).

- (ii) Upon written notice from the Secretary to the Borrower at the address specified in paragraph 12(f) above that the Secretary (in the Secretary's sole discretion) has determined that Pledged Grants are unlikely to be available for either of the purposes specified in (A) and (B) of paragraph 15(i)(i) above (such notice being hereinafter referred to as the "Notice of Impaired Security"), the Secretary may limit the availability of Pledged Grants by withholding amounts at the time a Pledged Grant is approved or by disapproving payment requests (drawdowns) submitted with respect to Pledged Grants.
- (iii) If after 60 days from the Notice of Impaired Security the Secretary (in the Secretary's sole discretion) determines that Pledged Grants are still unlikely to be available for either of the purposes specified in (A) and (B) of paragraph 15(i)(i) above, the Secretary may declare the Note in Default and exercise any and all remedies available under paragraph 13. This paragraph (iii) shall not affect the right of the Secretary to declare the Note and/or this Contract in Default pursuant to paragraph 11 and to exercise in connection therewith any and all remedies available under paragraph 12.

All notices and submissions provided for hereunder shall be submitted as directed in paragraph 12(f) above.

- (iv) Borrower agrees that if the Secretary provides it with a Notice of Impaired Security, the Secretary may use Pledged Grants to prepay or defease the Guaranteed Loan in accordance with the terms of this Contract, if the Secretary determines, in the Secretary's sole discretion, that such actions are necessary.

- (v) The Secretary may exercise or enforce any and all other rights or remedies available by law or agreement, including issuing notice to take control of the Debt Service Reserve Account in accordance with the Deposit Account Control Agreement in **Attachment 5**, or any and all rights and remedies available to a secured party under the Uniform Commercial Code or in any of the Security Documents (as defined in paragraph 15(e)), against the Collateral, against the Borrower, or against any other person or property."

(j) **Texas-Specific Contractual Provisions.**

Notwithstanding any other provision of the Note or this Contract, and to assure compliance with Texas law the following provisions shall govern:

- (i) The Secretary shall not require the Note to be converted to a fixed-rate Note pursuant to Sections II and III thereof at an interest rate on any Principal Amount on Schedule P&I thereof that exceeds the maximum rate payable by the Borrower thereon under generally applicable Texas law, including Chapter 1204 of the Texas Government Code, as amended. This limitation on the interest rate on the principal of the Note also applies if the Note bears interest at a variable rate prior to a conversion to a fixed rate. In addition, the accrual of interest on unpaid interest shall be limited to the extent permissible under Texas law.
- (ii) Part I, paragraph C, of the Contract is amended to delete the last sentence thereof, and to insert the following two new sentences at the end:

"The Borrower agrees that the interest rate at which the trust certificate corresponding to a specified Principal Due Date on Schedule P&I of the Note is sold to the Underwriters shall be the interest rate inserted on the Conversion Date in Schedule P&I for the Principal Amount corresponding to such Principal Due Date. Such interest rate for each trust certificate shall be that rate which the Underwriters determine will enable

them to sell under then-prevailing market conditions such certificate, or interests therein, for 100% of the Principal Amount of such certificate."

- (iii) Paragraph 4(e) of the Contract is amended by deleting the paragraph as written in its entirety and substituting therefor the following:

"(e) The undertakings in paragraphs 3 and 4 of this Contract are expressly subject to the requirement that the Fiscal Agency/Trust Agreements shall in no event require payment of fees or charges, reimbursement of expenses or any indemnification by the Borrower from any source other than funds pledged pursuant to paragraphs 5(a) and (b) of this Contract."

- (iv) The provisions of the Fiscal Agency/Trust Agreements (including any future amendments thereto or any new fiscal agency or trust agreements in the future) relating to indemnification, standard of care, choice of law and disposition of unclaimed property as they concern the Borrower are subject to the limitations of this Contract and will be enforceable against the Borrower only to the extent permitted by Texas law. The Secretary further agrees that she will require the Fiscal Agent and Trustee to maintain the registration books referred to in section 5.01 of the Amended and Restated Master Fiscal Agency Agreement and in section 5.03 of the Trust Agreement in a form that can be converted to a writing and a copy of which can be provided to the Borrower in Texas within a reasonable time after request.

- (v) To the extent that a pledge of ad valorem tax is securing payment of all or a portion of the principal of and interest on the Note, acceleration of the maturity date of that portion of the Note shall not be available as a remedy in the event of a default by the Borrower under the Note or this Contract.

(k) **Severability and Counterpart Signature.**

- (i) If any one or more of the covenants, agreements, provisions, or terms of this Contract shall be for any reason whatsoever held invalid, then such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Contract and shall in no way affect the validity or enforceability of the other provisions of this Contract or of the Note or the rights of the Holder thereof.
- (ii) This Contract may be executed in any number of several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signature delivered by electronic means shall be deemed the equivalent of an original signature for all purposes.

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**THE UNDERSIGNED**, as authorized officials on behalf of the Borrower or the Secretary, have executed this Contract for Loan Guarantee Assistance, which shall be effective as of the date of execution hereof on behalf of the Secretary.

City of Laredo, Texas  
BORROWER

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT

BY: \_\_\_\_\_  
(Signature)

Claudia I. Monterrosa  
(Name)

Deputy Assistant Secretary  
for Grant Programs  
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**LETTER AGREEMENT FOR**  
**SECTION 108 LOAN GUARANTEE PROGRAM**  
**DEPOSIT ACCOUNT**

\_\_\_\_\_  
Name of Institution (and Branch)

\_\_\_\_\_  
Street

\_\_\_\_\_  
City, State, Zip Code

\*\*\*\*\*

☐ This account is established for funds received by the Borrower under Note(s) guaranteed by the United States Department of Housing and Urban Development (HUD) under the Section 108 Loan Guarantee Program **(Guaranteed Loan Funds Account)**.

☐ This account is established for repayment of the Note(s) guaranteed by HUD under the Section 108 Loan Guarantee Program **(Loan Repayment Account)**.

☐ This account is established as a debt service reserve under the Section 108 Loan Guarantee Program **(Debt Service Reserve Account)**.

You are hereby authorized and requested to establish a deposit account to be specifically designated:

"The City of Laredo, Texas, as Trustee of United States Department of Housing and Urban Development." All deposits made into such account shall be subject to withdrawal therefrom by the Borrower named below, unless and until HUD provides you with a notice that it is assuming control over the account. Thereafter withdrawals may not be made by the Borrower. Within a reasonable period of time, not to exceed two business days, after your receipt of such notice from HUD, you shall so prevent such Borrower withdrawals and, if requested by HUD in writing, shall thereafter forward monthly to HUD, to an account it specifies in its notice, the collected and available balance in such account.

You are further authorized, after receipt of the notice from HUD, to refuse to honor any instrument drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by you. You are permitted, however, to debit from

the account your customary fees and charges for maintaining the account and the amount of any deposits that are made to the account and returned unpaid for any reason.

Such account shall also be subject to your standard agreement and documents relating to the opening and maintenance of bank accounts with you. In the event of any conflict between this Letter Agreement and such agreements and documents, this Letter Agreement shall control.

This letter is submitted to you in duplicate. Please execute the duplicate copy of the certificate below, acknowledging the existence of such account, so that we may present the copy signed by you to HUD.

Name of Borrower: City of Laredo, Texas

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Signature]

Name and Title: \_\_\_\_\_

\*\*\*\*\*

The undersigned institution certifies to the United States Department of Housing and Urban Development (HUD) that the account identified is in existence in this institution under account number: \_\_\_\_\_, and agrees with the Borrower named above and HUD to promptly comply with HUD's notice in the manner provided in the above letter, but in no event to exceed two business days. The undersigned institution further agrees, after receipt of the HUD notice as set forth above, to refuse to honor any instruments drawn upon or withdrawals from such account by parties other than HUD. In no instance shall the funds in the deposit account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by the institution, except as set forth above. Deposits in this institution are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration up to statutory limits.

Name of Institution: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

Name and Title: \_\_\_\_\_



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**LETTER AGREEMENT FOR**  
**SECTION 108 LOAN GUARANTEE PROGRAM**  
**INVESTMENT ACCOUNT**

---

Name of Institution (and Branch)

---

Street

---

City, State, Zip Code

\*\*\*\*\*

☐ This account is established to hold obligations and their assignments, such obligations having been purchased with funds from the Guaranteed Loan Funds Account (**Guaranteed Loan Funds Investment Account**).

☐ This account is established to hold obligations and their assignments, such obligations having been purchased with funds from the Loan Repayment Account (**Loan Repayment Investment Account**).

☐ This account is established to hold obligations and their assignments, such obligations having been purchased with funds from the Debt Service Reserve Account (**Debt Service Reserve Investment Account**).

You are hereby authorized and requested to hold obligations and assignments of those obligations in trust for the United States Department of Housing and Urban Development (HUD) in an account specifically designated:

"The City of Laredo, Texas, as Trustee of United States Department of Housing and Urban Development." All obligations and assignments shall be subject to release to the Borrower named below, unless and until HUD provides you with a notice that it is assuming control over the account. Thereafter, releases may not be made by the Borrower. Within a reasonable period of time, not to exceed two business days, after your receipt of such notice from HUD, you shall so prevent such Borrower releases and, if requested by HUD in writing, shall thereafter forward monthly to HUD, to an account it specifies in its notice, the collected and available balance in such account.

You are further authorized, after receipt of the notice from HUD, to refuse to honor any request for release of the obligations and assignments from such account by parties other than HUD. In no instance shall the obligations in this account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by you. You are permitted, however, to debit from the account your customary fees and charges for maintaining the account and the amount of any deposits that are made to the account and returned unpaid for any reason.

Such account shall also be subject to your standard agreement and documents relating to the opening and maintenance of bank accounts with you. In the event of any conflict between this Letter Agreement and such agreements and documents, this Letter Agreement shall control.

This letter is submitted to you in duplicate. Please execute the duplicate copy of the certificate below, acknowledging the existence of such account, so that we may present the copy signed by you to HUD.

Name of Borrower: City of Laredo, Texas

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Signature]

Name and Title: \_\_\_\_\_

\*\*\*\*\*

The undersigned institution certifies to the United States Department of Housing and Urban Development (HUD) that the account identified is in existence in this institution under account number: \_\_\_\_\_, and agrees with the Borrower named above and HUD to promptly comply with HUD's notice in the manner provided in the above letter, but in no event to exceed two business days. The undersigned institution further agrees, after receipt of the HUD notice as set forth above, to refuse to honor any request for release of the obligations and assignments from such account by parties other than HUD. In no instance shall the obligations in the account be used to offset funds which may have been advanced to, or on behalf of, the Borrower by the financial institution, except as set forth above. Deposits in this institution are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration up to the statutory limits.

Name of Institution: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature)

Name and Title: \_\_\_\_\_

## **ATTACHMENT 3**

### **Legal Property Description**

**Situated in Webb County, Texas and being AR.  
Lot Number THREE (3) and the EAST 20'  
of Lot Number TWO (E. 20' of 2), in Block<sup>Sign</sup>  
Number SEVENTY-THREE (73), WESTERN  
DIVISION of the City of Laredo.**

Draft

**ATTACHMENT 4**  
**Alternative Collateral**

Draft

(a) Borrower shall use the Guaranteed Loan Funds from \_\_\_\_\_ Project Note for \_\_\_\_\_ Project determined by the HUD \_\_\_\_\_ Field Office to be eligible under 24 CFR 570.703(\_\_\_\_).

(b) As security for the \_\_\_\_\_ Project Note and such other charges as may be authorized in the Contract, the Borrower shall provide a security interest in \_\_\_\_\_.

(c) Borrower shall deliver the following to the Secretary, contemporaneously with its execution of this Attachment 3 for the \_\_\_\_\_ Project Note, and, as required by paragraph 15(e), to the Custodian no later than (5) business days after the Borrower draws Guaranteed Loan Funds made available through the \_\_\_\_\_ Project Note from the Guaranteed Loan Funds Account:

- 1.
- 2.
- 3.

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**ATTACHMENT 5**  
**DACA**

Draft

## DEPOSIT ACCOUNT CONTROL AGREEMENT

THIS DEPOSIT ACCOUNT CONTROL AGREEMENT ("Agreement") is made and entered into as of \_\_\_\_\_, by the \_\_\_\_\_, a municipal corporation (the "Debtor"), and the SECRETARY OF HOUSING AND URBAN DEVELOPMENT (the "Secured Party"), and \_\_\_\_\_ (the "Bank"), collectively the Parties (the "Parties").

The Parties agree, effective the dated date set forth above, as follows:

A. Pursuant to that certain CONTRACT FOR LOAN GUARANTEE ASSISTANCE UNDER SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, 42 U.S.C. § 5308 of even date herewith, between the Debtor and Secured Party, as amended, supplemented or otherwise modified from time to time (the "Contract"), Secured Party has agreed to approve the Debtor's Section 108 loan guarantee, and Debtor has granted Secured Party a security interest in a deposit account maintained by Bank for Debtor.

B. Debtor has established the following deposit account with Bank (whether one *or more*, individually and collectively, the "Deposit Account"):

Name in Which Account is Maintained	Branch in which Account is Maintained / Routing Number	Account Number
_____ _____	_____, _____ Branch	_____

C. The parties hereto desire to enter into this Agreement in order to set forth their respective rights and obligations with respect to the Deposit Account and all funds on deposit therein from time to time and to perfect Secured Party's security interest in the Deposit Account.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth and included in the Contract and Section 108 Note ("Section 108 Loan Documents), the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effectiveness. This Agreement shall take effect immediately upon its execution by all parties hereto and shall supersede any deposit account control agreement or similar agreement in effect with respect to any Deposit Account.

2. Control of Deposit Account by Secured Party.

(a) Bank will comply with all instructions it receives originated by Secured



Party directing disposition of the funds in the Deposit Account without further consent by Debtor. Bank will not permit the withdrawal or other disposition of any funds in the Deposit Account except as expressly provided in this Agreement.

(b) Until such time as Secured Party delivers a Notice of Exclusive Control (in form substantially the same as attached hereto as Exhibit A and incorporated herein by this reference) to Bank, Bank shall comply with instructions directing the withdrawal, payment, transfer or other disposition of funds in the Deposit Account ("Disposition Instructions") originated by Debtor which Debtor is entitled to give concerning the Deposit Account. Nothing in the foregoing shall, or shall be construed to, limit, impair, or otherwise adversely affect any of Secured Party's rights or remedies under the Contract. A "Notice of Exclusive Control" is a written notice from Secured Party to Bank that Secured Party is thereby exercising exclusive control over the Deposit Account and the funds therein; for an example, see Sample Exhibit A. Secured Party may, at any time at which there exists a "Default" (as defined in the Contract) under the Contract, deliver to Bank a Notice of Exclusive Control.

(c) Within a reasonable time after Bank receives a Notice of Exclusive Control, but in all events no later than three (3) business days after such receipt, and until the Secured Party has rescinded or withdrawn such Notice of Exclusive Control: (i) Bank will comply solely with instructions originated by Secured Party with respect to the Deposit Account and any and all funds therein, including, without limitation, any withdrawals from the Deposit Account or any other disposition thereof, without further consent by Debtor and (ii) Bank will cease, without further consent of Debtor, complying with Disposition Instructions concerning the Deposit Account or funds on deposit therein originated by Debtor or the representatives of Debtor. Without in any way limiting the foregoing, in the event of any dispute between Secured Party and Debtor (including, but not limited to, as to whether a Default exists), Bank shall, in all circumstances after a Notice of Exclusive Control has been given, follow the directions of the Secured Party and shall not follow the directions of the Debtor.

(d) If Secured Party believes a Default exists, Secured Party is entitled to give a Notice of Exclusive Control and Bank is obligated to follow the directions of Secured Party in respect of the Deposit Account, without any right or duty to inquire as to whether a Default in fact exists under the Contract. If it is later concluded that no Default existed at the time the Notice of Exclusive Control was given, Debtor will have as its sole remedy against Secured Party a claim only for any actual damages caused by the giving of such Notice of Exclusive Control, subject to the limitations set forth in the Contract.

(e) Debtor shall notify Secured Party of any money judgments against Debtor that could result in a garnishment action.

(f) Bank shall give Secured Party notice of the receipt of any garnishments and give Secured Party sufficient time (minimum of 30 days) to seek an injunction or otherwise take steps to stop the payment being made to the garnishing creditor.

3. Fees. Debtor shall be responsible only for those usual and customary service charges, transfer fees, and account maintenance fees (collectively, "Fees") of Bank in connection

with the Deposit Account that would otherwise exist in the absence of this Agreement. Secured Party shall not have any responsibility or liability for the payment of any Fees.

4. Representations and Warranties. The Bank represents and warrants to the Secured Party that the Bank (i) is an organization engaged in the business of banking, (ii) maintains the Deposit Account as a demand deposit account(s) in the ordinary course of the Bank's business and (iii) has not entered into any currently effective agreement with any person under which the Bank may be obligated to comply with Disposition Instructions originated by a person other than the Debtor or the Secured Party. The Bank will not enter into any agreement with any person under which the Bank may be obligated to comply with Disposition Instructions originated by a person other than the Debtor or the Secured Party.

5. Priority of Secured Party's security interest. Bank subordinates in favor of Secured Party any security interest, lien, or right of setoff Bank may have, now or in the future, against the Deposit Account or funds in the Deposit Account, except that Bank will retain its prior lien on funds in the Deposit Account for Fees pursuant to Section 3.

6. Setoff. Except for Fees of Bank payable pursuant to Section 3 hereof, Bank hereby agrees that Bank will not exercise or claim any right of setoff or security interest or banker's lien against the Deposit Account or any deposit therein, and Bank hereby further waives any such right or lien that it may have against any funds deposited in the Deposit Account.

7. Limits of Bank's Liability.

(a) Bank will not be liable to Debtor for any expense, claim, loss, damage or cost ("Damages") arising out of or relating to its performance under this Agreement other than those Damages which result directly from Bank's acts or omissions constituting actual negligence or willful misconduct.

(b) Notwithstanding any of the other provisions in this Agreement, in the event of the commencement of a case under then applicable federal or state law providing for the relief of debtors or the protection of creditors by or against Debtor, Bank may act as Bank deems necessary to comply with all applicable provisions of governing statutes and shall not be in violation of this Agreement as a result.

(c) Bank shall be permitted to comply with any writ, levy order or other similar judicial or regulatory order or process concerning the Deposit Account and shall not be in violation of this Agreement for so doing.

8. Indemnity.

(a) To the extent permitted under Texas law, Debtor will indemnify Bank, its officers, directors, employees, and agents against claims, liabilities, damages, and expenses arising out of this Agreement or the Deposit Account (including reasonable attorneys' fees and disbursements and the reasonable estimate of the allocated costs and expenses of in-house legal counsel and staff), except to the extent such claims, liabilities, or expenses are caused by Bank's

actual negligence or willful misconduct.

(b) Notwithstanding anything set forth in this Agreement to the contrary, Secured Party shall not be subject to or obligated in any manner under any indemnification obligations in this Agreement in the event Secured Party takes control of the Deposit Account.

9. Termination. This Agreement may be terminated by Debtor only upon delivery to Bank of a written notification jointly executed by Debtor and Secured Party. This Agreement may be terminated by Secured Party at any time, upon its delivery of written notice to Debtor and Bank. This Agreement may be terminated by Bank at any time on not less than 30 days' prior written notice delivered to Debtor and Secured Party. Upon delivery or receipt of such notice of termination by Bank, Bank will immediately transmit to such deposit account as Secured Party may direct all funds, if any, then on deposit in the Deposit Account. If Secured Party notifies Bank that Secured Party's security interest in the Deposit Account has terminated, this agreement will immediately terminate.

10. Notices. Any notice or document required or permitted to be delivered hereunder shall be in writing and shall be effective upon (i) delivery, if personally delivered or sent by overnight courier, or (ii) three business days after mailing, if mailed. All notices shall be personally delivered, delivered by overnight courier, or sent by United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties hereto at the respective addresses set forth on the signature pages, or at such other address as they have theretofore specified by written notice delivered in accordance herewith. Any party hereto, at any time, by written notice given to the others in accordance with this Section, may designate a different address to which such communications shall thereafter be directed.

11. Deposit Account Information. If the Secured Party so requests, the Bank will provide to the Secured Party, whether by Internet access, to the extent that the Bank has the operational ability to do so, or otherwise, a copy of each periodic account statement relating to the Deposit Account ordinarily furnished by the Bank to the Debtor. The Bank's liability for failing to provide the account statement will not exceed the Bank's cost of providing the statement. The Debtor authorizes the Bank to provide to the Secured Party, whether by internet access or otherwise, any other information concerning the Deposit Account that the Bank may agree to provide to the Secured Party at the Secured Party's request.

12. Successor Accounts. The Deposit Account will include the deposit accounts described in Section B, any substitute or replacement deposit accounts, and any deposit accounts maintained by Bank into which funds from the Deposit Account are transferred, unless Secured Party expressly agrees in writing prior to the transfer that the account into which such funds are transferred will not be subject to this agreement.

13. Bank Representations and Certifications. The Bank, for purposes of sections 2252.152, 2271.002, 2274.002, and 2276.002, Texas Government Code, as amended, hereby verifies that the company and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:

- 1) Do not boycott energy companies and will not boycott energy companies during the term of this Agreement. "Boycott energy company" has the meaning provided in section 809.001 of the Texas Government Code, as amended.
- 2) Do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of such Agreement. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in section 2274.001(3) of the Texas Government Code, as amended. "Firearm entity" and "firearm trade association" have the meanings provided in section 2274.001(6) and (7) of the Texas Government Code, as amended.
- 3) Do not boycott Israel and will not boycott Israel during the term of such Agreement. "Boycott Israel" has the meaning provided in section 808.001 of the Texas Government Code, as amended.
- 4) Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran, or any federal sanctions regime relating to a foreign terrorist organization, are not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under section 2252.153 or section 2270.0201 of the Texas Government Code, as amended. "Affiliate" means any entity that controls, is controlled by, or is under common control with the company within the meaning of SEC Rule 405, 17. C.F.R. § 230.405 and exists to make a profit.

Notwithstanding anything contained herein, the representations and covenants contained in this section shall survive termination of this Agreement until the statute of limitations has run.

#### 14. Miscellaneous.

(a) This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns, but neither Debtor nor Bank shall be entitled to assign or delegate any of its rights and/or duties under this Agreement without mutual agreement of all of the parties.

(b) Secured Party may assign its rights and/or duties under this Agreement by written notice to Bank and Debtor and such assignment shall be effective as to Debtor and Bank upon written notice to same.

(c) This Agreement may be executed in any number of several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signature delivered by facsimile transmission or other electronic means shall be deemed the equivalent of an original signature for all purposes.

(d) This Agreement shall be governed by the laws of the State of \_\_\_\_\_.

(e) This Agreement may be amended only by a written instrument executed by Secured Party, Bank, and Debtor acting by their respective duly authorized representatives.

(f) Debtor acknowledges that the agreements made by it and the authorizations granted by it in this Agreement are irrevocable and that the authorizations granted in this Agreement are powers coupled with an interest.

*[SIGNATURES ON FOLLOWING PAGES]*

Draft

In Witness Whereof, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

\_\_\_\_\_

**("Debtor")**

By: \_\_\_\_\_

Address for notices:

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**("Secured Party")**

By: \_\_\_\_\_

Address for notices:

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**("Bank")**

By: \_\_\_\_\_

Address for notices:

Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**Sample Exhibit A**

**NOTICE OF EXCLUSIVE CONTROL**

[Letterhead of Secured Party]

[Date]

Depository Bank  
Title/Office  
Address

**Re:   Deposit Account Number(s):** \_\_\_\_\_  
**Notice of Exclusive Control**

Ladies and Gentlemen:

Reference is made to the Deposit Account Control Agreement dated as of \_\_\_\_\_, 20\_\_\_\_  
(the “**Agreement**”) by and among \_\_\_\_\_ (the “**Debtor**”),  
\_\_\_\_\_ (as “**Secured Party**”) and \_\_\_\_\_ (“**Bank**”) regarding  
the above-described deposit account(s) (whether one or more, individually and collectively, the  
“**Deposit Account(s)**”). A copy of the Agreement is attached hereto.

In accordance with this Agreement, we hereby give you notice of our exercise of  
exclusive control over the Deposit Account, and we hereby instruct you to transfer collected and  
available funds to our account as follows:

Bank Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
ABA Routing: \_\_\_\_\_  
Account No.: \_\_\_\_\_  
Reference: \_\_\_\_\_

Very truly yours,

Name of Secured Party  
as Secured Party

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTACHMENT 6**  
**Security/Lien Releases**

Draft