

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**FIRST AMENDMENT TO
FACILITIES USE AGREEMENT**

THIS FIRST AMENDMENT TO FACILITIES USE AGREEMENT ("First Amendment Agreement"), is made this ____ day of _____ by and between the City of El Paso, Texas, a Texas municipal corporation (the "CITY") and El Paso Housing Finance Corporation, a Texas nonprofit corporation organized pursuant to the terms of the Texas Housing Finance Corporation Act, Texas Local Government Code, Chapter 394 ("HFC").

RECITALS

WHEREAS, the City and HFC entered into a Facilities Use Agreement on _____ (the "Agreement"), 2008 in which the City agrees to make available certain facilities, equipment and personnel to HFC and HFC agrees to provide certain services to accomplish its public purposes; and

WHEREAS, HFC, as a public instrumentality and nonprofit corporation, performs an essential governmental function on behalf of and for the benefit of the general public and citizens of El Paso and is authorized to plan, research, study, develop and promote the establishment of residential development; and

WHEREAS, the existence of many blighted, abandoned or vacant properties negatively impacts the tax revenues of local taxing units by annually adding to each taxing unit's delinquent tax rolls with little or no chance of ever recovering these assessments; and

WHEREAS, the Texas Tax Code permits the foreclosure of tax liens and sale of the real property in order to collect delinquent taxes, and certain properties that remain unsold following a tax foreclosure sale may be "struck off" to the City or one of the local taxing entities that are a party to a foreclosure judgment (the "Taxing Entities"); and

WHEREAS, Texas Tax Code Section 34.051 allows the City, with the consent of the Taxing Entities, to resell tax foreclosed property (collectively, the "Tax Foreclosed Properties") for less than the market value specified in the judgment of foreclosure or less than the total amount of the judgments and the City intends to enter into an interlocal agreement with the Taxing Entities to obtain their consent for the City to resell the Tax Foreclosed Properties in order to return these properties back to productive use and back to producing tax revenue; and

WHEREAS, the City and HFC seek to work together to return rapidly return the Tax Foreclosed Properties to productivity, encourage revitalization of deteriorating neighborhoods, reduce governmental expenditures on these properties, provide an increased tax base which would thus enhance future tax revenues and ensure that decent, safe, and sanitary housing at affordable prices is available for residents of the El Paso community; and

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, and for other good and valuable consideration, the parties hereto agree as follows:

Section 1. Services. HFC shall provide assistance to the City in reselling the Tax Foreclosed Properties to assist low and moderate income residents of the City of El Paso to acquire and own decent, safe, sanitary, and affordable housing as set forth in the amended Scope of Services attached hereto as Schedule A (the “Additional Services”).

Section 2. Section 2.6 of the Agreement is revised to read as follows:

The parties agree that in lieu of the payment for use of the facilities set forth in the original Agreement, HFC shall provide the Additional Services to the City.

Section 3. Terms and Conditions. All terms and conditions of the Agreement and all subsequent Amendments thereto, except as herein revised, shall remain in full force and effect.

(SIGNATURE PAGE FOLLOWS)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**FIRST AMENDMENT TO
FACILITIES USE AGREEMENT**

(SIGNATURE PAGE)

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Bertha A. Ontiveros
Assistant City Attorney

EL PASO HOUSING FINANCE CORPORATION

By: _____
Title: _____

APPROVED AS TO FORM:

Name (printed) _____
Title _____

Schedule A Services

- Issuance of single family mortgage revenue bonds to provide affordable mortgages and down payment assistance for low and moderate income first time homebuyers.
- Issuance of multifamily revenue bonds to provide financing for the construction or rehabilitation of multifamily units for low and moderate income renters.
- The El Paso Housing Finance Corporation will hire an Executive Director who will play a significant role in increasing the supply of affordable housing and the revitalization of neighborhoods in El Paso. As the El Paso HFC adds services and programs, they will alert the City to these services.

Additional Services - Tax Foreclosed Properties

1. HFC will assist City staff in planning the and preparing documents for the resale of Tax Foreclosed Properties, including but not limited to the identifying the appropriate use of each property, preparing any technical requirements for any Requests for Proposal (RFP) for each property, assisting the City in the issuance and distribution of any RFP and in the review and joint evaluation of any RFP responses in order to make a recommendation to the City Council.
2. City staff will provide background information regarding each Tax Foreclosed Property, work with HFC staff to identify the appropriate residential use for each property, reviewing any RFP prior to issuance as well as jointly evaluating the responses to the RFP and submit to the City Council the recommendation regarding the resale of any Tax Foreclosed Property. The City shall also provide any legal assistance with regard to the Tax Foreclosed Properties, including, but not limited to, the preparation of all contract, sale and closing documents.
3. The final decision regarding the resale of the Tax Foreclosed Properties shall be made by the City Council pursuant to the requirements of state law and the interlocal agreement with Tax Entities.

JOHN COOK
MAYOR



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA., DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

JOYCE WILSON
CITY MANAGER

MEMORANDUM

To: Mayor and Council

From: Rep. Susie Byrd

Date: February 13, 2009

Re: Agenda Items 7A and 7B for *Project: Fresh Start*

Last week, the El Paso City Council approved an interlocal agreement to participate in *Project: Fresh Start*, a program aimed at bridging the gap between affordable housing and families in need.

On the agenda for the city council meeting on Monday Feb. 16 are two items for consideration under *Project: Fresh Start*: an interlocal agreement between the City and the County of El Paso, and an amendment to a facilities use agreement between the City and the El Paso Housing Finance Corporation (HFC).

The first item for consideration is an interlocal agreement that contains four provisions requested by the County for its participation in *Project: Fresh Start*: 1) the agreement will terminate and be reviewed at the end of the fiscal year; 2) a member of the County Commissioners' Court will have a seat on the board reviewing bids and awards for the program; 3) in addition to qualified non-profit and for-profit developers, qualified individuals will be allowed to participate in the bidding process; and 4) quarterly reports on the program's progress will be provided to the County.

These provisions will remain as an integral part of the program, but they are contained in a separate agreement as I did not want to revisit every other taxing entity that has already agreed to participate in the program and amend their contracts with the County's provisions.

The second item to be discussed is the first amendment to the facilities use agreement between the City and the HFC. The agreement states that the City will make available certain facilities, equipment and personnel to the HFC for the HFC to provide certain services to accomplish its public purposes. The administration of *Project: Fresh Start* will be one of those public purposes.