

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (Agreement) is made by and between LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT (LFUCG), through its Division of Grants and Special Programs, located 200 E. Main Street, 6th Floor, Lexington, KY 40507, and KENTUCKY HOUSING CORPORATION, a de jure municipal corporation of the Commonwealth of Kentucky (KHC), located at 1231 Lexington Road, Frankfort Kentucky 40601-6191.

WHEREAS, a core function of KHC is to provide quality, safe and affordable rental housing for Kentucky's residents;

WHEREAS, KHC will be releasing its Notice of Funding Availability (NOFA) for its Tax-Exempt Bond financings with Gap subsidy in July 2015;

WHEREAS, KHC will make available a combined total of nineteen million dollars (\$19,000,000) of KHC's Equity Bridge Loan (EBL), HOME Investment Partnerships (HOME Gap) and Affordable Housing Trust Fund (AHTF Gap) funds (collectively, the Funds), to be exclusively used as described within the NOFA;

WHEREAS, a core function of LFUCG is to provide quality, safe and affordable rental housing for its City of Lexington and Fayette County residents;

WHEREAS, LFUCG received direct federal funding allocations from the HOME Investment Partnerships Program (HOME) funding allocation and generates local funding for affordable housing via its Affordable Housing Fund (AHF); and

WHEREAS, LFUCG will include its HOME and/or AHF funds in KHC's July 2015 NOFA to allow coterminous allocation of LFUCG and KHC funds for affordable rental multifamily development projects in the City of Lexington and Fayette County.

NOW THEREFORE, the parties agree as follows:

- A. General Agreement. LFUCG HOME and AHF funds will be listed as a funding source within KHC's NOFA for projects located in the City of Lexington and Fayette County. LFUCG and KHC will each publicize the NOFA. KHC will be the recipient of all proposals and applications and will share with LFUCG staff all documents regarding proposals seeking LFUCG funding. LFUCG and KHC will evaluate proposals in partnership, but LFUCG will make all decisions about the investment of LFUCG HOME and/or AHF funds. LFUCG will work directly with the selected developers/owners to formally commit funds and enter into HOME written agreements and/or AHF agreements.
- B. KHC Funding Rounds Covered by this Agreement. This Agreement pertains only to KHC's NOFA for Tax Exempt Bond financing with Gap subsidy funding scheduled for release in early July 2015.
- C. Funds Committed by LFUCG. LFUCG will commit one million dollars (\$1,000,000) in HOME and/or AHF funds to be allocated as part of KHC's NOFA.

- D. LFUCG Discretion and Control. LFUCG will have discretion and will retain control over all decisions related to its HOME and AHF funds. LFUCG will make all final funding decisions and reserves the right to allocate no funds through KHC's NOFA.
- E. Application Process and Coordination for applications seeking KHC and LFUCG funding:
1. KHC will include information about LFUCG's HOME and AHF funds, eligibility requirements, and funding preferences in the NOFA. LFUCG will hold approval rights regarding the language pertaining to its funds in the NOFA.
 2. KHC will release the NOFA on its website and via mass and direct emails. LFUCG will also publicize the NOFA.
 3. All questions regarding the NOFA will first be sent to KHC's managing director of Multifamily Programs. Questions specific to LFUCG HOME funds will be forwarded from KHC to LFUCG's Director of Division of Grants and Special Programs (Irene Gooding), and questions regarding LFUCG's AHF will be forwarded to LFUCG's Manager of the Office of Affordable Housing (Richard McQuady).
 4. KHC will be the recipient of all proposals. KHC will share all proposals for projects seeking LFUCG funds with LFUCG staff.
 5. KHC and LFUCG will meet in person and/or via phone/internet to jointly review submitted applications.
 6. LFUCG will make all decisions regarding the conditional commitment of funds to selected projects seeking LFUCG funds and will communicate this information to KHC.
 7. KHC will make the initial announcements of the conditional awards.
 8. KHC will then administer the technical submission phase of the application process. For projects seeking LFUCG funds, KHC will share all relevant technical submission documents with LFUCG staff.
 9. KHC and LFUCG will meet in person and/or via phone/internet to discuss issues such as project feasibility, compliance, and eligibility.
 10. LFUCG will make decisions about final commitments of funds to selected projects requesting LFUCG funding and will communicate these decisions to KHC.
 11. KHC will make all initial announcements of final awards.
 12. For projects receiving a final award of LFUCG funds, LFUCG will contract directly with project developers and/or owners.
- F. Sharing of Documents and Public Information. KHC will serve as the point of contact and clearinghouse for all proposals and supporting documentation related to the NOFA. KHC will share with LFUCG all documentation pertaining to applicants seeking LFUCG funds. Should relevant documents be submitted to LFUCG instead of KHC, LFUCG will share those documents with KHC. NOFA responses and all related materials constitute public records within the meaning of the Kentucky Open Records Act (Kentucky Revised Statutes (KRS) §§ 61.870 to 61.884). Should LFUCG receive any open records requests, LFUCG will forward any such requests to KHC, and together LFUCG and KHC will determine the appropriate response to those requests.

- G. Responsibility. Neither KHC nor LFUCG assumes any responsibility for the administration of the other's funding programs. Each party is responsible for its own federal regulatory compliance, including, but not limited to, environmental reviews, underwriting, recordkeeping, and other real estate development industry-related requirements.
- H. Flow of Funds and Separate Contracting. No LFUCG funds will flow through KHC. LFUCG will contract directly with developers/owners selected to receive LFUCG funding.
- I. Term. This Agreement shall be effective upon acceptance by both parties and shall continue through June 30, 2016, unless sooner terminated by either party. This Agreement may be terminated by either party upon the provision of thirty (30) days written notice of the intent to terminate.

Notice to KHC shall be sent to Andrew Hawes by electronic mail to ahawes@kyhousing.org or by certified U.S. mail to:

Andrew Hawes
Multifamily Programs
Kentucky Housing Corporation
1231 Lexington Road
Frankfort, KY 40601

Notice to LFUCG shall be sent to Irene Gooding by electronic mail to ireneg@lexingtonky.gov or by certified U.S. mail to:

Irene Gooding, Director
LFUCG Division of Grants and Special Programs
200 E. Main Street, 6th Floor
Lexington, KY 40507


- A. Miscellaneous.
1. *Prior Negotiations Merged*. All prior negotiations and agreements between the parties with respect to the subject matter of this Agreement are hereby merged herein, and no statement, agreement, or agreement not contained herein will be recognized or enforced unless in writing and of even date herewith or subsequent thereto.
 2. *Modification*. No change or modification of this Agreement will be valid unless it is in writing and signed by the parties.
 3. *Parties Bound*. This Agreement will inure to the benefit of, and be binding upon the parties, their legal representatives, successors, and assigns.
 4. *Governing Law*. This Agreement will be construed pursuant to the laws of the Commonwealth of Kentucky.
 5. *Section Headings*. The section headings have been included in this Agreement solely

for the convenience of the parties and are not to be deemed a part of this Agreement or material to its construction.

6. *Invalid Provisions.* Should any provision of this Agreement be deemed invalid or unenforceable, it will not affect the other provisions of this Agreement, and this Agreement will be construed in all respects as if the invalid or unenforceable provisions were omitted.

To indicate their understanding of and agreement to the terms of this Agreement, the parties have executed this instrument on the ____ day of _____, 2015.

LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT

BY:  _____
Jim Gray, Mayor

KENTUCKY HOUSING CORPORATION

BY:  _____
Kathryn Peters, Executive Director