

RESOLUTION

A RESOLUTION REGARDING THE OFFICIAL ACTION OF THE JACKSONVILLE HOUSING FINANCE AUTHORITY RELATIVE TO THE ISSUANCE OF NOT TO EXCEED \$22,825,000 AGGREGATE PRINCIPAL AMOUNT OF ITS MULTIFAMILY HOUSING REVENUE BONDS (WESTGATE APARTMENTS), SERIES 2023, FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS RELATED TO THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY RESIDENTIAL HOUSING FACILITY FOR PERSONS OR FAMILIES OF LOW, MIDDLE OR MODERATE INCOME; AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF A PRELIMINARY AGREEMENT BY AND BETWEEN THE JACKSONVILLE HOUSING FINANCE AUTHORITY AND WESTGATE APARTMENTS, LLC OR ITS PERMITTED SUCCESSORS AND ASSIGNS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Westgate Apartments, LLC and its permitted successors and assigns (the "Company") has applied to the Jacksonville Housing Finance Authority (the "Authority") to: (a) issue its Multifamily Housing Revenue Bonds (Westgate Apartments), Series 2023 in a principal amount not to exceed \$22,825,000 (the "Bonds") for the purpose of financing all or a portion of the costs related to the acquisition and rehabilitation of a multifamily residential housing facility located at 5202 La Ventura Drive East, Jacksonville, Duval County, Florida, 33210 (the "County"), consisting of approximately 168 units to be commonly known as Westgate Apartments (the "Project"), to be occupied by low, middle or moderate income persons in accordance with the Company's application submitted to the Authority, and (b) loan the proceeds of the Bonds to the Company pursuant to Chapter 159, Part IV, Florida Statutes, or such other provision or provisions of Florida law as the Authority may determine advisable (collectively, the "Act"); and

WHEREAS, a determination by the Authority to issue the Bonds under the Act, if so requested by the Company, in one or more issues or series not exceeding an aggregate principal amount of \$22,825,000 and to loan the proceeds thereof to the Company to finance the Project under a loan agreement or other financing agreement which will provide that payments thereunder be at least sufficient to pay the principal of and interest and redemption premium, if any, on such Bonds and such other costs in connection therewith as may be incurred by the Authority, will assist the Company and promote the purposes provided in the Act; and

WHEREAS, the Company shall be required to execute and deliver that certain Preliminary Agreement between the Authority and the Company relating to the issuance of the Bonds, the form of which is attached hereto as EXHIBIT A (the "Preliminary Agreement"); and

WHEREAS, in order to satisfy certain of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, the Authority will hold a public hearing on the proposed issuance of the Bonds for the purposes herein stated, which hearing will be scheduled at least seven (7) days following the publication of notice of public hearing in a newspaper of general circulation in the County and/or published on the Authority's website (www.COJ.net) (a form of such notice is attached hereto as EXHIBIT B), which public hearing will be conducted in a manner that provides a reasonable opportunity for persons with differing views to be heard, both orally and in writing, on both the issuance of such Bonds and the location and nature of the portion of the Project to be financed with the proceeds therefrom; and

WHEREAS, it is intended that this Resolution ("Resolution") shall constitute official action toward the issuance of the Bonds within the meaning of the applicable United States Treasury Regulations.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED BY THE JACKSONVILLE HOUSING FINANCE AUTHORITY THAT:

SECTION 1. APPROVAL OF THE PROJECT. The acquisition and rehabilitation of the Project and the financing thereof by the Authority through the issuance of the Bonds, pursuant to the Act, will promote the health and welfare of the citizens of the County and will thereby serve the public purposes of the Act.

SECTION 2. EXECUTION AND DELIVERY OF THE PRELIMINARY AGREEMENT. The Chair or Vice Chair of the Authority is hereby authorized and directed to execute, for and on behalf of the Authority, the Preliminary Agreement providing understandings relative to the proposed issuance of the Bonds by the Authority to finance the Project in an aggregate principal amount not to exceed the lesser of: (a) \$22,825,000 or (b) the cost of the Project, as determined by the Authority with such changes, modifications, deletions and insertions as the Chair or Vice Chair, with the advice of Authority's counsel and bond counsel, may deem necessary and appropriate. Such execution and delivery shall be conclusive evidence of the approval thereof by the Authority.

SECTION 3. AUTHORIZATION OF THE BONDS. Subject to receipt by the Authority of at least \$22,825,000 of private activity bond allocation from the Division of Bond Finance, there is hereby authorized to be issued and the Authority hereby determines to issue the Bonds, if so requested by the Company and subject to the conditions set forth in the Preliminary Agreement and any subsequent resolution of the Authority related to the Bonds, in one or more issues or series in an aggregate principal amount not to exceed \$22,825,000 for the purpose of financing the Project. The Bonds shall be designated "Jacksonville Housing Finance Authority Multifamily Housing Revenue Bonds (Westgate Apartments), Series 2023" or such other name or series designation as the Authority may subsequently determine. The Bonds shall not be issued unless such Bonds are in compliance with the applicable terms and conditions of the Authority's Multi-Family Tax Exempt Bond Program Application Procedures & Program Guidelines (revised May

2021) (the "Authority's Policies and Procedures"). The rate of interest payable on the Bonds shall not exceed the rate permitted by law.

SECTION 4. RECOMMENDATION FOR APPROVAL TO CITY COUNCIL OF THE CITY OF JACKSONVILLE, FLORIDA. The Authority hereby recommends the issuance of the Bonds and the financing of the Project for approval to the City Council of the City of Jacksonville, Florida (the "City"). The Authority hereby directs the Chair or Vice Chair, at the expense of the Company, to seek approval for the issuance of the Bonds and the financing of the Project by the City as the applicable elected representatives of the County under and pursuant to the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended.

SECTION 5. GENERAL AUTHORIZATION. The Chair, the Vice Chair, the Secretary and counsel for the Authority, the Authority's financial advisor and bond counsel, are hereby further authorized to proceed, upon execution of the Preliminary Agreement, with the undertakings provided for therein on the part of the Authority and are further authorized to take such steps and actions as may be required and necessary in order to cause the Authority to issue the Bonds subject to the terms and conditions set forth herein and in the Preliminary Agreement authorized hereby.

SECTION 6. AFFIRMATIVE ACTION. This Resolution is an affirmative action of the Authority toward the issuance of the Bonds, as contemplated in the Preliminary Agreement, in accordance with the purposes of the laws of the State of Florida (the "State") and the applicable United States Treasury Regulations.

SECTION 7. APPROVAL OF NOTICE OF PUBLIC HEARING. The form and publishing of the notice of public hearing attached hereto as EXHIBIT B is hereby approved by the Authority. The Authority hereby authorizes the public hearing required by Section 147(f) of the Code to be held by the Director of Finance, or her designee related to the Project and the Bonds.

SECTION 8. LIMITED OBLIGATIONS. The Bonds and the interest and premium, if any, thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of the City, the County, the State or any political subdivision or agency thereof but shall be payable solely from the revenues pledged therefor pursuant to, among other things, a trust indenture, a loan agreement or financing agreement and a land use restriction agreement prior to or contemporaneously with the issuance of the Bonds.

SECTION 9. LIMITED APPROVAL. The approval given herein shall not be construed as (a) an endorsement of the creditworthiness of the Company or the financial ability of the Project, (b) a recommendation to any prospective purchaser of the Bonds, (c) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (d) an approval of any necessary re-zoning applications nor for any other regulatory permits relating to the Project and the Authority shall not be construed by reason of its adoption of this Resolution to have made any such endorsement, finding or recommendation or to have waived any right of the City's or the

Authority's rights or estopping the City or the Authority from asserting any rights or responsibilities it may have in that regard.

SECTION 10. SEVERABILITY. If any one or more of the covenants, agreements or provisions of this Resolution, or any of the documents attached hereto or contemplated hereby, should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Resolution.

SECTION 11. EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage.

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APPROVED AND ADOPTED by the Jacksonville Housing Finance Authority this 7th day of December, 2022.

**JACKSONVILLE HOUSING FINANCE
AUTHORITY**

[SEAL]

By: 
Spencer Cummings, Vice-Chair

APPROVED AS TO LEGAL SUFFICIENCY:

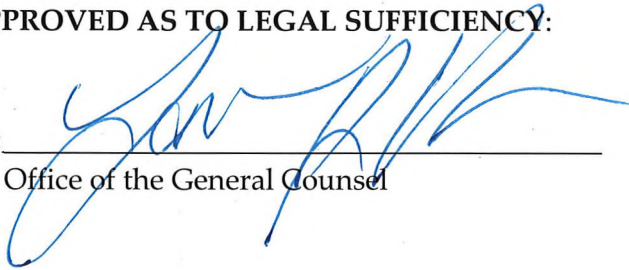
By: 
Office of the General Counsel

EXHIBIT LIST

- EXHIBIT A – FORM OF PRELIMINARY AGREEMENT
- EXHIBIT B – FORM OF NOTICE OF PUBLIC HEARING

EXHIBIT A
FORM OF PRELIMINARY AGREEMENT

PRELIMINARY AGREEMENT

This **PRELIMINARY AGREEMENT** (this "Preliminary Agreement") dated December [___], 2022 between the **JACKSONVILLE HOUSING FINANCE AUTHORITY**, a body corporate and politic of the State of Florida (the "Authority"), and **WESTGATE APARTMENTS, LLC**, a Florida limited liability company and its permitted successors and assigns (the "Company").

WITNESSETH:

SECTION 1. PRELIMINARY STATEMENT. Among the matters of mutual understanding which have resulted in the execution of this Preliminary Agreement are the following:

(a) The Florida Housing Finance Authority Law (Chapter 159, Part IV, Florida Statutes), as amended (the "Act") provides that the Authority may issue its revenue bonds and loan the proceeds thereof to one or more persons, firms or private corporations, or use such proceeds to defray the cost of acquiring, by purchase or construction, certain qualifying facilities.

(b) The Company is considering the acquisition and rehabilitation of a multifamily residential housing facility for low, middle or moderate income persons to be located at 5202 La Ventura Drive East, Jacksonville, Duval County, Florida, 32210 (the "County") to be more commonly known as Westgate Apartments (the "Project"). It is currently estimated that the cost related to the acquisition and rehabilitation of the Project will be approximately \$41,491,025.

(c) The Authority intends this Preliminary Agreement to constitute its official binding commitment for purposes of the Act and applicable federal tax law only, subject to the terms hereof, to issue its Multifamily Housing Revenue Bonds (Westgate Apartments), Series 2023 in a principal amount not to exceed \$22,825,000 (the "Bonds") in one or more series or issues pursuant to the Act in a final amount to be determined by the Authority and to loan the proceeds thereof to the Company, or to use such proceeds, to finance all or a portion of the cost related to the acquisition and rehabilitation of the Project, including all costs incurred in connection with the issuance of the Bonds by the Authority.

(d) The Authority considers the issuance and sale of the Bonds, for the purpose hereinabove set forth, consistent with the objectives of the Act. This commitment is an affirmative official action of the Authority toward the issuance of the Bonds as herein contemplated in accordance with the purposes of both the Act and the applicable United States Treasury Regulations provided, however, the commitment is specifically subject to the terms and conditions set forth in this Preliminary Agreement and creates no rights of specific performance on the part of the Company.

SECTION 2. UNDERTAKINGS ON THE PART OF THE AUTHORITY. Subject to the terms hereof, the Authority agrees as follows:

(a) The Authority will authorize the issuance of the Bonds in the aggregate principal amount necessary and sufficient to finance all or a portion of the costs related to the acquisition and rehabilitation of the Project as the Authority and the Company shall agree in writing, but in all events, the principal amount of such Bonds shall not exceed the lesser of: (i) the costs related to the Project, as determined by the Authority, or (ii) \$22,825,000.

(b) Such actions and documents may, at the option of the Authority, permit the issuance from time to time in the future of additional bonds on terms which shall be set forth therein, whether *pari passu* with other series of bonds or otherwise, for the purpose of defraying the cost of completion, enlargements, improvements and expansion of the Project, or any segment thereof, or refunding of the Bonds.

(c) The loan or financing agreement between the Authority and the Company (the "Loan Agreement") shall, under the terms agreed upon by the parties, provide for payments to be made by the Company in such sums as shall be necessary to pay the amounts required under the Act including the principal of and interest and redemption premium, if any, on the Bonds, as and when the same shall become due and payable.

(d) In authorizing the loan of the proceeds of the Bonds pursuant to the Loan Agreement, the Authority will make no warranty, either expressed or implied, that the proceeds of the Bonds will be sufficient to pay all costs of the acquisition and rehabilitation of the Project or that those facilities encompassed by the Project will be suitable for the Company's purposes or needs.

(e) The Bonds shall specifically provide that they are payable solely from the revenues derived from the Loan Agreement, the Trust Indenture relating to the Bonds (the "Indenture") or other agreements approved by the Authority, except to the extent payable out of amounts attributable to the proceeds of the Bonds. The Bonds and the interest thereon shall not constitute an indebtedness or pledge of the Authority, the general credit of the City of Jacksonville, the County or of the State of Florida (the "State"), and such fact shall be plainly stated on the face of the Bonds.

SECTION 3. UNDERTAKINGS ON THE PART OF THE COMPANY. Subject to the terms hereof, the Company agrees as follows:

(a) The Company will use reasonable efforts to insure that the Bonds in the aggregate principal amount as stated above are sold; provided, however, that the terms of such Bonds and of the sale and delivery thereof shall be mutually satisfactory to the Authority and the Company.

(b) The Company will cooperate with the Authority and with the underwriters or purchasers of the Bonds and the Authority's counsel, financial advisor and bond counsel with

respect to the issuance and sale of the Bonds and will take such further action and authorize the execution of such documents as shall be required by the Authority for the authorization, issuance and sale of such Bonds and the use of the proceeds thereof to finance the cost related to the acquisition and rehabilitation of the Project all in accordance with the Authority's policies and procedures.

(c) Prior to the issuance of the Bonds, the Company will enter into the Loan Agreement, consent to the execution by the Authority of the Indenture, approve such other documents related to the Bonds, as shall be determined reasonably necessary by the Authority, providing for, among other things, the issuance, delivery and security for the Bonds and the loan or use of the proceeds of the Bonds to finance the Project. Such documents will provide, among other things, that the Company will be obligated to pay the Authority (or to trustees for holders of the Bonds on behalf of the Authority, as the case may be) sums sufficient in the aggregate to enable the Authority to pay the principal of and interest and redemption premium, if any, on the Bonds, as and when the same shall become due and payable, and all other expenses related to the issuance and delivery of the Bonds inclusive of the Authority's ongoing fees. The Company will agree in such documents that if the cost related to the acquisition and rehabilitation of the Project exceeds the amounts allocated therefor, it shall not be entitled to any additional reimbursement or funding for any such excess either from the Authority, the bondholders or the trustee for the bondholders.

(d) The Company shall be responsible for the Authority's up-front issuance fee in effect at the time the Bonds are issued and the fees of the Authority's counsel, underwriters, financial advisor and bond counsel.

(e) The Company shall, in addition to paying the amounts set forth in the Loan Agreement, pay all costs of operation, maintenance, taxes, governmental and other charges which may be assessed or levied against or with respect to the Project.

(f) The Company will hold the Authority free and harmless from any loss or damage and from any taxes or other charges levied or assessed by reason of the issuance, sale or delivery of the Bonds, as well as any mortgaging or other disposition of the Project.

(g) All costs of issuance, including, without limitation, the Authority's fees and counsel fees not paid at the time of application shall be paid in full at the time of the sale and delivery of the Bonds. The Company shall pay, upon request, a reasonable retainer to bond counsel to the Authority to compensate said counsel for legal services which must be performed whether or not the Bonds are actually issued. Any retainers so paid will be credited against the respective counsel fees payable at closing.

(h) The Company shall take all such actions such that the Bonds shall be issued in compliance with the applicable terms and conditions of the Authority's Multi-Family Tax Exempt Bond Program Application Procedures & Program Guidelines (revised May 2021).

(i) The Company will take such further action as may be required to implement its aforesaid undertakings and as it may deem appropriate in pursuance thereof.

(j) Should the Company cancel this Preliminary Agreement in accordance with the terms hereof, the Company shall pay any and all of the Authority's fees and expenses including, without limitation, the fees and expenses of Authority's counsel and bond counsel and financial advisor.

SECTION 4. GENERAL PROVISIONS. All commitments of the Authority under Section 2 hereof and of the Company under Section 3 hereof are subject to the conditions that the following events shall have occurred not later than December 31, 2023, or such other date as shall be mutually satisfactory to the Authority and the Company:

(a) The Company shall deliver evidence satisfactory to the Authority's counsel and bond counsel (including such opinions issued by counsel to the Company acceptable to the Authority) that the Company is an entity organized and operated under the applicable laws of the State.

(b) The Authority shall have received at least \$22,825,000 of private activity bond allocation from the Division of Bond Finance and shall be lawfully entitled to issue the Bonds as herein contemplated.

(c) The Authority and the Company shall have agreed on mutually acceptable terms for the Bonds and the sale and delivery thereof and mutually acceptable terms and conditions of the Indenture, the Loan Agreement or other agreements incidental to the financing or referred to in Sections 2 and 3 hereof.

(d) Such other rulings, approvals, consents, certificates of compliance, opinions of counsel and other instruments and proceedings satisfactory to the Authority as to such matters with respect to the Bonds, the Project, the Indenture, the Loan Agreement, as shall be specified by the Authority, shall have been obtained from such governmental, as well as non-governmental, agencies and entities as may have or assert competence or jurisdiction over or interest in matters pertinent thereto and shall be in full force and effect at the time of issuance of the Bonds.

(e) Notwithstanding the designation as an "official binding commitment" for purposes of the Act and federal tax law, the Company and the Authority each reserve the absolute right to unilaterally cancel this Preliminary Agreement for reasonable cause at any time prior to the time the Bonds are issued by the Authority upon written notice to the other party of cancellation.

(f) If the events set forth in this Section 4 do not take place within the time set forth or any extension thereof, or if the Company or the Authority exercises its rights of cancellation as set forth in this Section 4, the Company agrees that it will pay/forfeit to the Authority the Deposit

(as defined herein) and pay the fees for Authority's counsel and bond counsel and financial advisor.

(g) The Company acknowledges that the Authority may, during the time this Preliminary Agreement is in effect, issue similar "inducement" agreements to other companies for other multifamily projects, and/or may issue bonds or participate jointly with other authorities to issue bonds for multifamily or single family housing. This Preliminary Agreement will create no priority or rights *vis a vis* subsequent agreements for the issuance of multifamily or single family bonds.

SECTION 5. DEPOSIT FROM THE COMPANY. Notwithstanding anything herein to the contrary, the Company has represented to the Authority that it expects to complete the financing of the Project on or before December 31, 2023, utilizing not less than \$20,542,500 of the Authority's private activity bond allocation. On the basis of the foregoing representation by the Company, the Authority has agreed to reserve \$22,825,000 of its private activity bond allocation for the Project and issue the Bonds on behalf of the Company, subject to the Company's compliance with, among other things, all other applicable guidelines, policies and procedures of the Authority, as well as the terms and conditions set forth herein. The Company acknowledges and agrees that failure to consummate the sale and delivery of not less than \$20,542,500 of the Bonds on or before December 31, 2023 will result in substantial damages to the Authority which cannot be easily or adequately measured. Consequently, in addition to the \$7,500 non-refundable application fee paid to the Authority and a fee paid to the Authority's creditor underwriter for the requisite credit underwriting fee to prepare the credit underwriting report, the Company shall deliver to the Authority on or before December 31, 2023: (a) a cashier's check in the amount of \$40,000 which reflects the required final document preparation deposit (the "Deposit"), and (b) a cashier's check in the amount of \$500 to cover the initial cost of publishing the TEFRA notice and conducting a hearing, all payable to the Authority and all of which shall be immediately cashed by the Authority. In addition, the Company shall pay a \$10,000 retainer to bond counsel. If Bonds in the principal amount of not less than \$20,542,500 are sold and delivered on or before December 31, 2023, the Authority will deliver to the Company a check in the amount of the Deposit simultaneously with the sale and delivery of the Bonds. If for any reason Bonds in the principal amount of not less than \$20,542,500 are not sold and delivered on or before December 31, 2023, the Deposit shall be retained by the Authority as and for full liquidated damages for any defaults hereunder on the part of the Company. The Authority and the Company hereby agree that time is of the essence and it is the intent of the parties hereto that the provisions of this Preliminary Agreement be strictly construed. Should the Authority cancel this Preliminary Agreement in accordance with Section 4(e) hereof, then the Company shall be entitled to a return of the Deposit less the fees and expenses of the Authority including, without limitation, the fees and expenses of Authority's counsel (other than bond counsel) and financial advisor.

SECTION 6. BINDING EFFECT. All covenants and agreements herein contained by or on behalf of the Authority and the Company shall bind and inure to the benefit of the respective

successors and assigns of the Authority and the Company whether so expressed or not; provided, however, the Company may not assign this Preliminary Agreement.

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**SIGNATURE PAGE TO
PRELIMINARY AGREEMENT
(WESTGATE APARTMENTS)**

IN WITNESS WHEREOF, the parties hereto have entered into this Preliminary Agreement by their officers thereunder duly authorized on the date set forth above.

AUTHORITY:

**JACKSONVILLE HOUSING FINANCE
AUTHORITY**

[SEAL]

By: _____
Bernard E. Smith, Chair

SIGNATURE PAGE TO
PRELIMINARY AGREEMENT
(WESTGATE APARTMENTS)

IN WITNESS WHEREOF, the parties hereto have entered into this Preliminary Agreement by their officers thereunder duly authorized on the date set forth above.

COMPANY:

Westgate Apartments, LLC

By: _____

By: Westgate Apartments Manager, LLC, its Manager

By: _____

Tony Del Pozzo, Vice President

EXHIBIT B
FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, of a public hearing by the Jacksonville Housing Finance Authority (the "Authority") to be held on [____], 2023 at [___] a.m., or as soon thereafter as possible. The public hearing will be held via the following toll-free telephonic conference line in lieu of physical presence at the public hearing:

Dial In Number: (877) 304-9269

PARTICIPATION Code: 554542

The purpose of the public hearing is to receive comments and hear discussion concerning the issuance by the Authority of its Multifamily Housing Revenue Bonds (Westgate Apartments), Series 2023, in an aggregate face amount of not to exceed \$22,825,000 (the "Bonds"). The proceeds of the Bonds will be loaned to Westgate Apartments, LLC or its permitted successors and assigns (the "Company"), and used for the purpose of financing all or a portion of the costs related to the acquisition and rehabilitation of a multifamily residential housing facility to be occupied by persons or families of low, middle or moderate income to be located at 5202 La Ventura Drive East, Jacksonville, Duval County, Florida, 33210, consisting of approximately 168 units to be more commonly known as Westgate Apartments (the "Project"). Westgate Apartments, LLC, or its affiliate is expected to be the owner and operator of the Project.

All interested persons are invited to attend said hearing and, either personally or through their representatives, present oral or written comments and discussion concerning the proposed issuance of the Bonds for the purposes described in the preceding paragraph and the nature and location of the Project. Written comments may be submitted to the Jacksonville Housing Finance Authority, 214 N. Hogan Street, 7th Floor, Jacksonville, Florida, 32202. Should any person decide to appeal any decision made by the Authority at this hearing, or by the Council of the City of Jacksonville (the "City") with respect to the approval of the issuance of the Bonds for the purposes described in the preceding paragraph, he or she will need a record of the proceedings, and he or she may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Comments made at the hearing are for the consideration of the Authority or the City and will not bind the Authority or the City to any action it may take.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Jacksonville Housing Finance Authority at (904) 255-8200.

All interested persons are invited to attend and be heard and present their comments.

JACKSONVILLE HOUSING FINANCE AUTHORITY

Thomas J. Daly, II, Esq.

Chief, Housing & Community Development Division