



**2013 Annual Awards Entry Form**  
(Complete one for each entry.)

**Entry Name** Proactive Streamlined Multifamily Loan Refinancing and Retention Program

**HFA** Virginia Housing Development Authority

**Submission Contact** Brian Matt

**Phone** (804) 343-5520 **Email** Brian.Matt@vhda.com

**Program Contact** Pat Carey

**Phone** (804) 343-5910 **Email** Pat.Carey@vhda.com

Entry form with description, check(s), and visual aids (optional) must be received by NCSHA by **Monday, July 1, 2013**.

Use this header on the upper right corner of each page.

HFA **Virginia Housing Development Authority**  
Entry Name **Proactive Streamlined Multifamily Loan Refinancing and Retention Program**

Communications	Homeownership	Legislative Advocacy	Management Innovation
<input type="checkbox"/> Annual Report <input type="checkbox"/> Promotional Materials and Newsletters <input type="checkbox"/> Creative Media	<input type="checkbox"/> Empowering New Buyers <input type="checkbox"/> Home Improvement and Rehabilitation <input type="checkbox"/> Encouraging New Production	<input type="checkbox"/> Federal Advocacy <input type="checkbox"/> State Advocacy	<input checked="" type="checkbox"/> Financial <input type="checkbox"/> Human Resources <input type="checkbox"/> Operations <input type="checkbox"/> Technology
Rental Housing	Special Needs Housing	Special Achievement	Are you providing visual aids?
<input type="checkbox"/> Multifamily Management <input type="checkbox"/> Preservation and Rehabilitation <input type="checkbox"/> Encouraging New Production	<input type="checkbox"/> Combating Homelessness <input type="checkbox"/> Housing for Persons with Special Needs	<input type="checkbox"/> Special Achievement	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

## **Virginia Housing Development Authority** **Proactive Streamlined Multifamily Loan Refinancing and Retention Program**

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**“Our multifamily portfolio is our most profitable line of business. Therefore, the retention of existing multifamily loans is a top priority for the Authority. It is far cheaper and easier to retain an existing multifamily loan than it is to underwrite and originate a new loan. And, since an existing development and its operations are well known, it involves far less financial risk as well.”**

--Arthur N. Bowen, III, Managing Director of Rental Housing, VHDA

### **Brief Description**

Since the mid-1970s, the Virginia Housing Development Authority (VHDA) has operated an uninsured multifamily loan program whereby VHDA absorbs the credit risk on a loan in exchange for an increased spread to VHDA's cost of funds which is sufficient to compensate VHDA for the increased risk. Over time, this increased spread (Spread) has made the multifamily program VHDA's most profitable line of business, generating over \$44 million of net revenues in fiscal year 2012.

The terms of VHDA's multifamily loans generally include a provision which prohibits the prepayment of the loan for a period of time subsequent to loan origination, typically 10 to 15 years (Loan Prepayment Date). The prepayment prohibition gives VHDA some assurance that the loan will be on its books long enough to compensate VHDA for its significant upfront expenses in underwriting and originating the loan. Since VHDA's multifamily loans are typically financed by the issuance of bonds, the prepayment prohibition also gives the corresponding bond owners some assurance that their bond will likely not be redeemed prior to the first optional redemption date (ORD), the date on or after which, VHDA gains the right to redeem the bond for any reason. ORDs are currently set about nine years from the date of bond issuance, and typically occur one to five years before the corresponding loan's Loan Prepayment Date.

Any prepayment of a multifamily loan will obviously eliminate any Spread associated with such loan. In addition, any prepayment would result in the underlying development no longer being subject to VHDA's regulatory agreement, thereby possibly putting at risk the development's affordability to persons of low and moderate incomes. In order to mitigate this risk, VHDA developed a proactive streamlined multifamily loan refinancing and retention program (Refinance Program) whereby, whenever an ORD was to occur in the near future and current interest rates are lower than the interest rates on the existing outstanding bonds, VHDA would approach the applicable multifamily mortgagors with a refinance offer that usually consists of a lower interest rate and an extension of the maturity date in exchange for an extension (generally ten years) of the applicable loan's Loan Prepayment Date.

The refinance offers consist of (i) a letter setting forth the terms and conditions of the refinance offer, (ii) an Amendment to Deed of Trust Note, and (iii) an Amendment to Deed of Trust. If the mortgagor wishes to accept the offer, all they have to do is to counter sign the refinance letter, execute the Amendments, and return to VHDA. That's it. No additional expense is incurred or action is required by the mortgagor. VHDA staff handles everything else, including the recordation of the Amendments in the appropriate jurisdiction.

### **Why the Program is Meritorious and Meets NCSHA Award Judging Criteria**

#### **Innovative**

VHDA developed the Refinance Program in response to having a desire to (i) keep multifamily loans from being prepaid and losing the associated Spread, and (ii) keep developments subject to VHDA's regulatory agreements for a longer period of time, thereby ensuring that such developments remain affordable to low and moderate income Virginians. By being proactive and approaching multifamily mortgagors with an

## **Virginia Housing Development Authority**

### **Proactive Streamlined Multifamily Loan Refinancing and Retention Program**

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extremely simplified and virtually cost free refinance process many months or years before their Loan Prepayment Dates, VHDA creates a scenario whereby the mortgagor has to make a decision to accept the offer today and lock in some savings, or wait until a future date and hope interest rates don't rise in the interim.

#### Replicable

Any similarly situated HFA could approach their multifamily mortgagors in a comparable fashion to VHDA's Refinance Program. VHDA would be more than pleased to share its refinance templates (see attachments) with any state HFAs.

#### Responds to a management challenge or opportunity

It has been VHDA's experience that, by the time a multifamily mortgagor requests a payoff quote, it is usually too late to entice them to refinance with VHDA. Accordingly, the Refinance Program takes a proactive approach and contacts mortgagors well in advance of their Loan Prepayment Dates. By making the offer, which can be easily accepted by the mortgagor in minutes by simply executing a few previously prepared documents, a scenario is created in which the mortgagor has to make the decision to accept the offer today and lock in some savings, or wait until a future date and hope interest rates don't rise in the interim. Most mortgagors accept the offer, if their limited partners do not prohibit the transaction.

#### Achieves measurable improvements in agency operations

It is estimated that VHDA has refinanced over 160 loans with aggregate outstanding principal balances of \$500 million utilizing the Refinance Program. Assuming VHDA received an additional 7.5 years of guaranteed annual Spread of 1.25% on such outstanding principal amount that translates into approximately \$46.9 million of potential gross Spread ( $\$500,000,000 \times 1.25\% \times 7.5$ ).

A side benefit of the Refinance Program is that, in many instances, subsequent to the acceptance and implementation of a refinance offer, the mortgagor will put in an application for a loan increase, which, if approved, provides additional Spread from the same development. It is estimated that at least \$100 million of loan increases have occurred on developments refinanced under the Refinance Program. Assuming VHDA received an additional 10 years of guaranteed annual Spread of 1.25% on such loan increases, that translates into approximately \$12.5 million of potential gross Spread ( $\$100,000,000 \times 1.25\% \times 10$ ).

#### Provides benefits that outweigh the costs

The refinance offers under the Refinance Program are easily generated from various templates VHDA staff have developed and refined over the years (see attachments for current versions of the templates). It is estimated that it currently takes about 1.5 hours of staff time to generate the documentation for each refinance offer, and about 1 hour of staff to process any acceptance (excludes staff time required to actually sell the refunding bonds), for a total of 2.5 hours. At \$100 hourly rate, the process of generating and processing each offer and acceptance costs VHDA approximately \$250. Assuming a mortgagor with a \$3 million loan accepts an offer that gives VHDA an additional 7.5 years of guaranteed annual Spread of 1.25% that translates into approximately \$281,000 of potential gross Spread ( $\$3,000,000 \times 1.25\% \times 7.5$ ).

#### Demonstrates effective use of resources

As stated above, it is estimated that it takes 2.5 hours of staff time to generate a refinance offer under the Refinance Program and implement any acceptance. That compares very favorably to the estimated 75-100 hours necessary to process an application for a new multifamily mortgage loan. Furthermore, because the

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development is up and running and its operational performance is known, financial risk is substantially reduced when you retain an existing mortgage loan versus originating a new mortgage loan.

Achieves strategic objectives

The Refinance Program allows multifamily loans and the associated Spreads to be retained. The chart below sets forth the outstanding principal balance of VHDA's multifamily mortgage loan portfolio at the end of each of the fiscal years since 2001. In substantially all cases, there has been year over year growth in outstanding principal balances, as new originations have offset both those loans that do prepay as well as scheduled principal amortizations. This has been the case despite the fact that there has been severe competition from Fannie Mae, Freddie Mac and FHA to refinance existing VHDA financed developments.

<u>Date</u>	<u>Outstanding Principal Balance</u>	<u>Date</u>	<u>Outstanding Principal Balance</u>
June 30, 2001	\$1,908,155,800	June 30, 2007	\$2,919,140,289
June 30, 2002	2,189,970,327	June 30, 2008	3,106,629,041
June 30, 2003	2,365,995,013	June 30, 2009	3,244,340,287
June 30, 2004	2,550,383,671	June 30, 2010	3,316,196,540
June 30, 2005	2,719,110,070	June 30, 2011	3,358,740,077
June 30, 2006	2,850,428,310	June 30, 2012	3,347,855,246

Furthermore, the Refinance Program keeps the participating developments subject to VHDA's regulatory agreements for a longer period of time, thereby ensuring that such developments remain affordable to low and moderate income Virginians.

**Conclusion**

The Refinance Program has been extremely successful over time and has the following benefits:

- refinance offers can be quickly generated utilizing the templates developed for the Refinance Program;
- mortgagor acceptance can be accomplished in minutes without any expense incurred;
- implementation of any acceptances can be accomplished with one hour of staff time (excludes work associated with the actual refunding of the associated bonds);
- it is effective in that an estimated 160 loans with aggregate outstanding principal balances of \$500 million – representing 10,000 affordable housing units – have been refinanced and preserved pursuant to the Refinance Program;
- it involves less financial risk than originating a new mortgage loan because the development is up and running and its operational performance is known;
- it allows the mortgagors who accept a refinance offer to seek loan increases based upon the development's increased cash flow;
- its profitable in that translates into approximately \$59.4 million (\$46.9 million + \$12.5 million) of potential gross Spread; and
- it keeps the participating developments subject to VHDA's regulatory agreements for longer periods of time, thereby ensuring that such developments remain affordable to low and moderate income Virginians.

**Attachments:** Template –Refinance Offer Letter; Template – Amendment to Deed of Trust Note; and Template – Amendment to Deed of Trust

# TEMPLATE - REFINANCE OFFER LETTER

[insert date]

Limited Partnership

c/o XXXXXXXXXXXX  
XXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXX  
XXXXXXXX, VA XXXXX

Re: [redacted] Apartments

Dear Mortgagor:

The Virginia Housing Development Authority (the "Authority") is considering an issuance of bonds (the "Refunding Bonds") to refund certain bonds, the proceeds of which were used to finance the original mortgage loan (the "Mortgage Loan") in the principal amount of \$ [redacted] (excluding the "Gap Loan" of \$ [redacted]) for the above captioned development (the "Development") owned by the mortgagor (the "Mortgagor"). Such Mortgage Loan is evidenced by [redacted] Deed of Trust Notes dated [redacted] (collectively, the "Note"). **Other Possibilities 1** Such portion of Mortgage Loan is evidenced by a Deed of Trust Note dated [redacted], in the original principal amount of \$ [redacted] and a Supplemental Deed of Trust Note dated [redacted], in the original principal amount of \$ [redacted] (collectively, the "Note"). The Mortgage Loan Increase Deed of Trust Note dated [redacted], in the original principal amount of \$ [redacted] and the Mortgage Loan Increase Deed of Trust Note dated [redacted], in the original principal amount of \$ [redacted] are not included in the definition of Note nor are such notes affected hereby. **Other Possibilities 2** The Deed of Trust Note payable to the Virginia Housing Partnership Revolving Fund in the original principal amount of \$ [redacted] will not be affected by the bond refunding and will not be subject to the terms of this letter. **OR, LIEU THEREOF:** At such time, the Virginia Housing Partnership Revolving Fund (the "Fund") provided a mortgage loan (the "Second Mortgage Loan") in the principal amount of \$200,000 for the financing of the above captioned Development. Such Second Mortgage Loan is evidenced by a Deed of Trust Note dated [insert date] ("Note 2"). The Authority is the current owner of Note 2.

The current blended interest rate under the Note and note agreement is [redacted] % per annum. The terms of the Note provide (i) for a scheduled maturity date of [redacted] (the "Maturity Date"), (ii) that the Note may not be prepaid prior to insert date or mechanism such as "the date 15 years and one month after the initial occupancy of the Development" (the "Prepayment Date"), and (iii) that any prepayment on or after the Prepayment Date shall be subject to a prepayment fee (the "Prepayment Fee"). The current Prepayment Fee is [redacted] % of the outstanding principal balance of the Mortgage Loan. **Other Possibilities** (a) the Authority may adjust the interest rate on the Note from time to time by written notice to the Mortgagor (the "Rate Adjustment"), and (b) the interest rate on the Note shall not exceed the Authority's

effective interest cost plus two per cent (2%) per annum, as determined solely by the Authority (the “Rate Limitation”).

In conjunction with the above contemplated Refunding Bonds, the Authority is pleased to be able to offer the Mortgage Loan refinance terms set forth below which, if accepted by the Mortgagor, will become effective [insert date] (the “Effective Date”), the date on which the existing bonds are expected to be redeemed and refunded.

1. **Tax-Exempt Only** The interest rate on the Note shall be reduced to an interest rate (the “Rate”) to be determined by the Authority, on the advice of its counsel, in connection with the sale of the Refunding Bonds, provided that the Rate shall not exceed \_\_\_\_\_% per annum. The Authority estimates that, if the Refunding Bonds had been sold on the date hereof, the Rate would have been \_\_\_\_\_%. It is the Authority’s current intention to price such Refunding Bonds in early \_\_\_\_\_.

**Taxable Only** The interest rate under the Note will be reduced to an interest rate (the “Rate”) equal to the sum of (a) an interest rate (as determined by the Authority as of a date and time requested by the Mortgagor not later than 2:00 p.m. on [insert date]) equal to the interest rate established by the Authority for an Immediate Delivery, Permanent Loan under its Taxable Program and (b) forty-five (45) basis points. For example, on [insert date] at 11:34 a.m., the Authority’s posted interest rate for a mortgage loan meeting the above criteria was \_\_\_\_\_% (see attached interest rate quote sheet which is available on VHDA’s website at [www.vhda.com](http://www.vhda.com)). Accordingly, if the Mortgagor had requested to establish an interest rate on such aforementioned date and time, the Rate would have been \_\_\_\_\_% (\_\_\_\_\_% + .45%). It should be noted that the 45 basis point premium in the Rate above has been established as the amount necessary to reimburse the Authority for foregoing upfront payment of the usual 1% processing/ financing fee and a portion of its Prepayment Fee.

2. The Maturity Date of the Mortgage Loan shall be extended to [insert date] (the “Amended Maturity Date”).
3. The Prepayment Date specified in the Note shall be extended to [insert date] (the “Amended Prepayment Date”).
4. **Tax-Exempt Only** The Note shall be amended to provide for a Prepayment Fee equal to 6.00% of the outstanding principal balance of the Mortgage Loan at the time of prepayment declining 1.00% for each 12 month period to elapse since the Amended Prepayment Date, subject to a minimum Prepayment Fee equal to 3.00% of the outstanding principal balance of the Mortgage Loan at the time of prepayment (the “Amended Prepayment Fee”). The minimum Amended Prepayment Fee has been established as the amount necessary to partially reimburse the Authority for its significant upfront expenditures incurred in connection with the financing and refinancing of the Mortgage Loan. Such expenditures

include the redemption premium on the bonds to be redeemed, the underwriter's discount and other costs of issuance of the Refunding Bonds, and the unamortized expenses related to the bonds to be refunded.

**Taxable Only** The Note shall be amended to provide for a Prepayment Fee equal to 6.00% of the outstanding principal balance of the Mortgage Loan at the time of prepayment declining 1.00% for each 12 month period to elapse since the Amended Prepayment Date, subject to a minimum prepayment fee equal to 3.00% of the outstanding principal balance of the Mortgage Loan at the time of prepayment (the "Amended Prepayment Fee"). The minimum Amended Prepayment Fee has been established as the amount necessary to partially reimburse the Authority for foregoing upfront payment of the balance of its Prepayment Fee not included in the 45 basis point premium in the Rate discussed above.

5. **Tax-Exempt Only** The date set forth in Section 19(b)(1) [check reference] of the Regulatory Agreement, which requires the Development's units to be available for rent to the general public on a continuous basis, will be extended to the Amended Maturity Date of the Mortgage Loan. [Non-AMT language---Also, as a result of the refunding, the time period set forth in Section 19(b)(2)(ii) [check reference] shall be extended to a date not later than the Amended Maturity Date. These changes to Section 19(b)(1) and (2) mean that the continuous rental requirement (as well as the income limitation in Section 19(c)) must be satisfied until the Amended Maturity Date of the Mortgage Loan or, if earlier, any prepayment in full of the Mortgage Loan on or subsequent to the Amended Prepayment Date.] [AMT Language-- This change to Section 19(b)(1) means that the continuous rental requirement (as well as the income limitation in Section 19(c)) must be satisfied until the Amended Maturity Date of the Mortgage Loan or, if earlier, any prepayment in full of the Mortgage Loan on or subsequent to the Amended Prepayment Date.]
6. **Other Possibilities** The Rate Adjustment and Rate Limitation provisions of the Note shall be deleted.

If you wish to accept the above refinance terms, you must execute and notarize, if applicable, and return to me by [insert date] (1) **Tax-Exempt Only** the enclosed Mortgagor Tax Certification and completed attachments, (2) the enclosed Amendment to Deed of Trust Notes and Amendment to Deed of Trust **and Regulatory Agreement** (collectively, the "Amendments") and (3) this letter evidencing your agreement that the enclosed Amendments will be held in escrow by the Authority subject to the following terms and conditions:

1. The Amendments shall be released from escrow and recorded, if applicable, and shall be in full force and effect upon the sale and issuance of the Refunding Bonds by the Authority for the Development on or before the Effective Date, at interest rates and on terms and conditions acceptable to the Authority; and

[redacted] Limited Partnership

[insert date]

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- 2. In the event that Refunding Bonds shall not be so sold and issued for the Development on or before the Effective Date, the Amendments shall be null and void and shall be canceled by the Authority.

**Tax-Exempt Only** In addition to the above, the Mortgagor agrees to provide such information as may be required by the Authority’s Special Tax Counsel in order for such Counsel to render its opinion that the interest on the tax-exempt Refunding Bonds, if any are issued, is tax-exempt. It should be noted that, pursuant to Internal Revenue Service Regulations, if the above contemplated bond refunding is effected, the Authority will not approve a transfer of ownership of the Development during the 12 month period beginning 6 months before the date of issuance of the Refunding Bonds.

If you do not wish to accept the above refinancing terms, the Rate on the Note will not be lowered. No assurances can be given that refinance offers similar to the above will be made in the future. The Authority reserves the right to effect the sale of the Refunding Bonds without the extension of any such offer.

If you have any questions regarding this proposal **Taxable Only** or desire to determine the interest rate after acceptance hereof, please contact me at (804) 343-5847.

Very truly yours,

J. Hil Richardson, Jr.  
Senior Finance Manager

ACCEPTANCE

The undersigned has duly executed the enclosed Amendments and hereby agrees that such Amendments shall be held in escrow by the Authority subject to the terms and conditions set forth in the foregoing letter.

[redacted] Limited Partnership

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

Its:

Date: \_\_\_\_\_

Enclosures



Mortgagor Tax Certification **Tax-Exempt Only**

In connection with the refinancing of the mortgage loan for [redacted] Apartments via the refunding of certain bonds of the Virginia Housing Development Authority (the "Authority") the interest on which is tax-exempt, I hereby certify and represent that the information set forth in Parts II and III attached hereto is true and complete to the best of my knowledge and belief. Furthermore, I understand that this certification is being relied upon by the Authority in the issuance of its refunding bonds and by the firm of Hawkins Delafield & Wood LLP, Special Tax Counsel, in rendering its opinion as to the tax-exempt status of the interest on such refunding bonds.

In Witness Whereof, I have hereunto set my hand this \_\_ day of \_\_\_\_\_, **20XX**.

[redacted] Limited Partnership

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

Its:

Contact Person If Special Tax Counsel Has Questions

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

Phone:

# TEMPLATE - AMENDMENT TO DEED OF TRUST NOTE

## AMENDMENT TO DEED OF TRUST NOTE NOTES

THIS AMENDMENT TO DEED OF TRUST **NOTE NOTES** dated as of the **1st day of [insert date]**, is entered into by and between \_\_\_\_\_, a \_\_\_\_\_, **formerly known as** \_\_\_\_\_ (the "Mortgagor") and the **VIRGINIA HOUSING DEVELOPMENT AUTHORITY** (the "Authority").

### WITNESSETH:

WHEREAS, the Authority has made a mortgage loan to the Mortgagor \_\_\_\_\_ evidenced by a deed of trust note dated \_\_\_\_\_ in the original principal amount of \$ \_\_\_\_\_ (such deed of trust note, together with any amendments thereto, is referred to herein as the "Note") **a deed of trust note dated \_\_\_\_\_, in the original principal amount of \$ \_\_\_\_\_ (such deed of trust note, together with any amendments thereto, is referred to herein as "Note 1"), a deed of trust note dated \_\_\_\_\_, in the original principal amount of \$ \_\_\_\_\_ (such deed of trust note, together with any amendments thereto, is referred to herein as "Note 2"; Note 1 and Note 2 are collectively referred to herein as the "Notes"), which Notes are subject to the terms of a note agreement dated \_\_\_\_\_, (the "Note Agreement"); and**

WHEREAS, by Assignment and Assumption Agreement dated \_\_\_\_\_, the Mortgagor assumed all obligations under the **Note Notes**; and

WHEREAS, **Delete the following if all taxable:** as a result of the anticipated refunding of certain bonds of the Authority issued to finance the indebtedness evidenced by the **Note Notes**, the Mortgagor and the Authority desire to amend the **Note Notes**.

NOW THEREFORE, for good and valuable consideration, the Mortgagor and the Authority hereby agree that the **Note is Notes are** amended as follows:

### **PROVISION #1 FOR MULTIPLE NOTES- TAX EXEMPT**

1. (a) Notwithstanding any provisions of the Notes or the Note Agreement to the contrary, effective \_\_\_\_\_, **note: the preceding date is the first day of the month prior to the change in monthly payments** the per annum interest rate on the indebtedness evidenced by the Notes shall be such interest rate as shall be determined by the Authority, on the advice of its counsel, in connection with the sale of bonds issued by the Authority to refund the bonds previously issued to finance the indebtedness evidenced by the Notes; provided, however, that the interest rate shall not exceed \_\_\_\_\_ % per annum.

(b) Notwithstanding any provisions of Note 1 to the contrary, (i) effective \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** the monthly payments of principal and interest due and payable under Note 1 shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by Note 1 at the above described interest rate over the remaining term from and including \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** to and including \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** and (ii) such monthly payments of principal and interest shall continue thereafter on the first day of each succeeding month until \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.

(c) Notwithstanding any provisions of Note 2 to the contrary, (i) effective \_\_\_\_\_, \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** the monthly payments of principal and interest due and payable under Note 2 shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by Note 2 at the above described interest rate over the remaining term from and including \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** to and including \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** and (ii) such monthly payments of principal and interest shall continue thereafter on the first day of each succeeding month until \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.

2. The provisions set forth in the last \_\_\_\_\_ sentences of Section A of each of the Notes permitting the Authority to alter the interest rate and providing that the interest rate shall at no time exceed the Authority's effective interest cost plus not to exceed \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum are hereby deleted.

#### **PROVISION #1 FOR SINGLE NOTE – TAX-EXEMPT**

1. Notwithstanding any provision of the Note to the contrary, (i) effective \_\_\_\_\_, **note: the preceding date is the first day of the month prior to the change in monthly payments below** the per annum interest rate on the indebtedness evidenced by the Note shall be such interest rate as shall be determined by the Authority, on the advice of its counsel, in connection with the sale of bonds issued by the Authority to refund the bonds previously issued to finance the indebtedness evidenced by the Note; provided, however, that the interest rate shall not exceed \_\_\_\_\_% per annum, (ii) effective \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** the monthly payments of principal and interest due and payable under the Note shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by the Note at the above described interest rate over the remaining term from and including \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** to and including \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** and (iii) such monthly payments of principal and interest shall continue thereafter on the first day of each succeeding month until \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.

2. The provisions set forth in the last \_\_\_\_\_ sentences of Section A of the Note permitting the Authority to alter the interest rate and providing that the interest rate shall at no time exceed the Authority's effective interest cost plus not to exceed \_\_\_\_\_ percent ( \_\_\_\_\_ %) per annum are hereby deleted.

#### **PROVISION #1 FOR SINGLE NOTE – TAXABLE**

1. Notwithstanding any provision of the Note to the contrary, (i) effective \_\_\_\_\_, **note: the preceding date is the first day of the month prior to the change in monthly payments below** the per annum interest rate on the indebtedness evidenced by the Note shall be equal to the sum of (a) an interest rate (as determined by the Authority as of a date and time requested by the Mortgagor not later than 2:00 p.m. on [insert date] equal to the interest rate established by the Authority for an Immediate Delivery, Permanent Loan under its Taxable Program and (b) **forty-five (45)** basis points, (ii) effective \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** the monthly payments of principal and interest due and payable under the Note shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by the Note at the above described interest rate over the remaining term from and including \_\_\_\_\_, **note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above** to and including \_\_\_\_\_, **note: the preceding date is the maturity date of the mortgage loan** and (iii) such monthly payments of principal and interest shall

continue thereafter on the first day of each succeeding month until \_\_\_\_\_, note: the preceding date is the maturity date of the mortgage loan at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.

2. The provisions set forth in the last \_\_\_\_ sentences of Section A of the Note permitting the Authority to alter the interest rate and providing that the interest rate shall at no time exceed the Authority's effective interest cost plus not to exceed \_\_\_\_\_ percent ( \_\_\_\_ %) per annum are hereby deleted.

**PROVISION #1 FOR SINGLE NOTE – TAXABLE** – alternate to be used when rate drops after term is extended

2. Notwithstanding any provision of the Note to the contrary, (i) effective \_\_\_\_\_, note- the preceding date is the date on which the monthly payments change the monthly payments of principal and interest due and payable under the Note shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by the Note at the interest rate set forth in the Note over the remaining term from and including \_\_\_\_\_, note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above to and including \_\_\_\_\_, note: the preceding date is the maturity date of the mortgage loan and (ii) such monthly payments of principal and interest shall continue thereafter on the first day of each succeeding month until \_\_\_\_\_, note: the preceding date is the maturity date of the mortgage loan at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.
3. Notwithstanding any provision of the Note to the contrary, (i) effective \_\_\_\_\_, note: the preceding date is the first day of the month prior to the change in monthly payments below the per annum interest rate on the indebtedness evidenced by the Note shall be equal to the sum of (a) an interest rate (as determined by the Authority as of a date and time requested by the Mortgagor not later than 2:00 p.m. on [insert date]) equal to the interest rate established by the Authority for an Immediate Delivery, Permanent Loan under its Taxable Program and (b) forty-five (45) basis points, (ii) effective \_\_\_\_\_, note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above the monthly payments of principal and interest due and payable under the Note shall be adjusted to an amount which, in the determination of the Authority, will fully amortize, on a level annuity basis, the then outstanding principal balance of the indebtedness evidenced by the Note at the above described interest rate over the remaining term from and including \_\_\_\_\_, note- the preceding date is the date on which the monthly payments change and is the first day of the first month after the change in the interest rate above to and including \_\_\_\_\_, note: the preceding date is the maturity date of the mortgage loan and (iii) such monthly payments of principal and interest shall continue thereafter on the first day of each succeeding month until \_\_\_\_\_, note: the preceding date is the maturity date of the mortgage loan at which time the balance of principal remaining unpaid, plus accrued interest thereon, shall be due and payable.
4. The provisions set forth in the last \_\_\_\_ sentences of Section A of the Note permitting the Authority to alter the interest rate and providing that the interest rate shall at no time exceed the Authority's effective interest cost plus not to exceed \_\_\_\_\_ percent ( \_\_\_\_ %) per annum are hereby deleted.

**PROVISION #2 PREPAYMENT – SINGLE NOTE**

- 2.3. Section F of the Note is hereby deleted, and the following is inserted in lieu thereof:

"F. The Mortgagor covenants not to pay the debt evidenced by this Note or any part thereof prior to or in advance of the payment schedule described hereinabove until \_\_\_\_\_, (the "Prepayment Date"). note: this date must be later than the expiration of the Qualified Project Period after taking into account any effect as the result of any maturity date of the refunding bonds being later than the maturity date of the refunded bonds Subsequent to the Prepayment Date, the Mortgagor shall have the right to prepay, in whole but not in part, the debt evidenced hereby; provided, however, that the Mortgagor in connection with such prepayment shall pay, in addition to all amounts due under this Note, a prepayment fee equal to six per cent (6%) of the then outstanding principal balance of the Mortgage Loan reduced by one percentage (1%) point for each twelve month period

that has expired since the Prepayment Date, but in no event less than three percent (3%) of the then outstanding principal balance of this Note. In the event that the Authority shall exercise its right under Section D hereinabove (regardless of whether the failure by the Mortgagor to perform or comply with any of the terms of this Note or the event of default under the Deed of Trust, all as described in Section D, is voluntary or involuntary on the part of the Mortgagor), a prepayment fee shall become at once due and payable in an amount equal to the amount then calculated under the preceding sentence for a prepayment in full of the then outstanding principal balance of the debt evidenced hereby. Any prepayment fee which shall become due and payable under this Section F shall be secured by the Deed of Trust described in Section G below."

Except as amended hereby, the terms of the Note shall remain in full force and effect.

**PROVISION #2 PREPAYMENT-MULTIPLE NOTES**

2.3. Section F of each of the Notes is hereby deleted, and the following is inserted in lieu thereof:

"F. The Mortgagor covenants not to pay the debt evidenced by this Note or any part thereof prior to or in advance of the payment schedule described hereinabove until \_\_\_\_\_, (the "Prepayment Date"). *note: this date must be later than the expiration of the Qualified Project Period after taking into account any effect as the result of any maturity date of the refunding bonds being later than the maturity date of the refunded bonds* Subsequent to the Prepayment Date, the Mortgagor shall have the right to prepay, in whole but not in part, the debt evidenced hereby; provided, however, that the Mortgagor in connection with such prepayment shall pay, in addition to all amounts due under this Note, a prepayment fee equal to six per cent (6%) of the then outstanding principal balance of the Mortgage Loan reduced by one percentage point (1%) for each twelve month period that has expired since the Prepayment Date, but in no event less than three percent (3%) of the then outstanding principal balance of this Note. In the event that the Authority shall exercise its right under Section D hereinabove (regardless of whether the failure by the Mortgagor to perform or comply with any of the terms of this Note or the event of default under the Deed of Trust, all as described in Section D, is voluntary or involuntary on the part of the Mortgagor), a prepayment fee shall become at once due and payable in an amount equal to the amount then calculated under the preceding sentence for a prepayment in full of the then outstanding principal balance of the debt evidenced hereby. Any prepayment fee which shall become due and payable under this Section F shall be secured by the Deed of Trust described in Section G below."

Except as amended hereby, the terms of the Notes and Note Agreement shall remain in full force and effect.

\_\_\_\_\_  
(Mortgagor)

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

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

Its: \_\_\_\_\_

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY**

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

Its: Authorized Officer

# TEMPLATE - AMENDMENT TO DEED OF TRUST

This Document Drafted By:  
Virginia Housing Development Authority

Tax Map Reference Number or Parcel  
Identification Number: \_\_\_\_\_

This Document is Exempt from Recordation  
Taxes under Section 58.1-809.

## AMENDMENT TO DEED OF TRUST AND REGULATORY AGREEMENT

THIS AMENDMENT TO DEED OF TRUST AND REGULATORY AGREEMENT dated as of the 1st day of November 20XX, is entered into by and between \_\_\_\_\_, a \_\_\_\_\_ formerly known as \_\_\_\_\_ (the "Grantor" or "Mortgagor"), J. JUDSON MCKELLAR, JR., sole acting trustee (the "Trustee") and the VIRGINIA HOUSING DEVELOPMENT AUTHORITY (the "Authority").

### WITNESSETH:

WHEREAS, the Authority made a mortgage loan to the Mortgagor \_\_\_\_\_ to finance the ownership of a certain housing development known as \_\_\_\_\_ (the "Development") which mortgage loan is evidenced by a deed of trust note (such deed of trust note, together with any amendments thereto, is referred to herein as the "Note") \_\_\_\_\_ deed of trust notes (such deed of trust notes, together with any amendments thereto, are collectively referred to herein as the "Note") dated \_\_\_\_\_, and secured by a deed of trust dated as of \_\_\_\_\_, (such deed of trust, together with any amendments thereto, is referred to herein as the "Deed of Trust"), recorded in Deed Book \_\_\_\_\_ Page \_\_\_\_\_, among the land records of the City County of \_\_\_\_\_, Virginia;

WHEREAS, the operation of the Development is governed by a regulatory agreement dated \_\_\_\_\_, \_\_\_\_\_, (such regulatory agreement, together with any amendments thereto, is referred to herein as the "Regulatory Agreement"), recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, among the aforesaid land records; and

WHEREAS, by Assignment and Assumption Agreement dated \_\_\_\_\_, the Mortgagor assumed all obligations under the Note Notes, and Deed of Trust and Regulatory Agreement; and

WHEREAS, ~~Delete the following if all taxable:~~ as a result of the anticipated refunding of certain bonds of the Authority issued to finance the above referenced mortgage loan, the Mortgagor, the Authority and the Trustee, as sole acting trustee under the Deed of Trust, desire to make certain amendments to the Deed of Trust and Regulatory Agreement.

NOW THEREFORE, for good and valuable consideration, the parties hereto agree that the Deed of Trust is and Regulatory Agreement are hereby amended as follows:

1. The penultimate sentence of Section 1 of the Deed of Trust entitled "Indebtednesses under Note (Construction/Permanent Financing)" is hereby amended in its entirety to state as follows:

"The maturity date of the Note shall be \_\_\_\_\_."

~~The following two sections apply if (a) tax exempt refunding bonds will have a maturity date later than the maturity date of the refunded bonds and (b) the Regulatory Agreement contains the maturity date of the refunded bonds in the section containing the income limits, usually section 19~~

2. Subsection 19(b)(1) of the Regulatory Agreement is hereby amended and restated as follows:

"(1) \_\_\_\_\_, insert above maturity date of the loan; this date must be later than the expiration of the Qualified Project Period or, if earlier, the date on which the Authority's notes or bonds issued to finance the Mortgage Loan have been retired (it being understood that any prepayment made in accordance with the Deed of Trust Note shall be applied by the Authority to retire said notes or bonds) or"

3. The date described in (ii) of Subsection (b)(2) of Section 19 of the Regulatory Agreement is hereby extended to \_\_\_\_\_ insert above maturity date of the loan; this date must be later than the expiration of the Qualified Project Period or such earlier date on which the bonds issued to finance the Mortgage Loan are retired as a result of a prepayment of the Mortgage Loan in accordance with the terms of the Notes.

Except as amended hereby, the terms of the Deed of Trust and Regulatory Agreement shall remain in full force and effect.

**THE SIGNATURES OF THE PERSONS EXECUTING THIS AMENDMENT TO DEED OF TRUST ON BEHALF OF THE MORTGAGOR, THE AUTHORITY AND THE TRUSTEE AND THE NOTARIAL CERTIFICATES FOR SUCH SIGNATURES ARE SET FORTH ON THE EXECUTION PAGE IMMEDIATELY FOLLOWING THIS PAGE.**

**[Execution Page must be all on one page. Delete this note.]**  
**EXECUTION PAGE FOR THE AMENDMENT TO DEED OF TRUST**

SET FORTH BELOW ARE SIGNATURES AND NOTARIAL CERTIFICATES FOR THE AMENDMENT TO DEED OF TRUST EXECUTED BY THE MORTGAGOR, THE VIRGINIA HOUSING DEVELOPMENT AUTHORITY AND THE TRUSTEE.

\_\_\_\_\_  
(Grantor and Mortgagor)

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY**

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

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

Its: \_\_\_\_\_

Its: Authorized Officer

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

Its: \_\_\_\_\_

\_\_\_\_\_  
J. Judson McKellar, Jr., Trustee

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

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20XX, by \_\_\_\_\_, a \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_, a \_\_\_\_\_, on its behalf.

My commission expires: \_\_\_\_\_  
My notary registration number is: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My notary seal is affixed below:

STATE OF VIRGINIA  
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20XX, by \_\_\_\_\_, an Authorized Officer of the Virginia Housing Development Authority, a political subdivision of the Commonwealth of Virginia, on its behalf.

My commission expires: \_\_\_\_\_  
My notary registration number is: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My notary seal is affixed below:

STATE OF VIRGINIA  
CITY OF RICHMOND, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20XX, by J. Judson McKellar, Jr., sole acting Trustee.

My commission expires: \_\_\_\_\_  
My notary registration number is: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My notary seal is affixed below:



Return to:

Legal Division  
VHDA  
601 South Belvidere Street  
Richmond, Virginia 23220