

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Agreement"), dated as of \_\_\_\_\_, 2019, is executed and delivered by the Texas Department of Housing and Community Affairs (the "Department") and The Bank of New York Trust Mellon Company, N.A., as Trustee, in connection with the issuance of the Department's Residential Mortgage Revenue Bonds, Series 2019A (the "Series 2019A Bonds"). The Series 2009 Bonds are being issued pursuant to a Residential Mortgage Revenue Bond Trust Indenture, dated as of November 1, 1987 (the "Master Indenture" and as amended and supplemented from time to time, collectively, the "Trust Indenture"), between the Texas Housing Agency (the "Agency") or its successor, the Department, as the case may be, and MTrust Corp or its successors, including The Bank of New York Mellon Trust Company, N.A., as Trustee, Paying Agent, and Registrar for the Series 2019A Bonds issued by the Agency or the Department thereunder (the "Trustee"). All capitalized terms not defined in this Agreement shall have the meanings assigned to them in the Trust Indenture. For good and valuable consideration, the Department and the Trustee, covenant and agree as follows:

### SECTION 1. *Annual Reports.*

The Department undertakes to and shall provide annually to the MSRB, in an electronic format as prescribed by the MSRB, within six months after the end of its fiscal year which ends August 31, 2019, and each fiscal year thereafter, financial information and operating data with respect to the Department of the general type included in the final Official Statement relating to the Series 2019A Bonds, being information of the general type described in Exhibit A hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in Exhibit A hereto, or such other accounting principles as the Department may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Department commissions an audit of such statements and the audit is completed within the period during which it must be provided. If the audit of such financial statements is not complete within such period, then the Department shall provide to the MSRB, in an electronic format as prescribed by the MSRB, unaudited financial statements within the required time period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

If the Department changes its fiscal year, it will notify the Trustee and the MSRB in writing of the change (and of the date of the new fiscal year end) prior to the next date by which the Department otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be incorporated by specific reference to any document or specific part thereby that is available to the public on the MSRB's website or filed with the SEC. All documents provided to the MSRB pursuant to this Section shall be accompanied by identifying information as prescribed by the MSRB.

SECTION 2. *Material Event Notices.*

(a) The Department agrees to disclose in a timely manner pursuant to the terms hereof and subject to the time limitation below, if the Department Disclosure Representative determines, pursuant to subsection (c) below, that such events are "material" under applicable federal securities laws and regulations promulgated thereunder.

- (1) Non-payment related defaults;
- (2) Modifications to rights of bondholders;
- (3) Series 2019A Bond calls, if material, and tender offers;
- (4) Release, substitution, or sale of property securing repayment of the Series 2019A Bonds;
- (5) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (6) Appointment of a successor or additional trustee or the change of name of a trustee; and
- (7) Incurrence of a financial obligation of the Department, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Issuer, any of which affect security holders, if material.

(b) The Department agrees to provide notice to the MSRB of any of the following events with respect to the Series 2019A Bonds without regard to whether such event is considered material within the meaning of the federal securities laws

- (1) Principal and interest payment delinquencies;
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (4) Substitution of credit or liquidity providers, or their failure to perform;
- (5) Adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue

(IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Series A Bonds, or other events affecting the tax-exempt status of the Series A Bonds;

- (6) Defeasances;
- (7) Rating changes;
- (8) Bankruptcy, insolvency, receivership or similar event of an obligated person; and
- (9) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Department, any of which reflect financial difficulties.

For the purposes of the above described event notices, the term “financial obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii); provided however, that a “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The Department shall provide notice of events stated in (a) and (b) immediately above, to the extent required, in a timely manner (but not in excess of ten business days after the occurrence of the event). The Department will also provide timely notice of any failure by the Department to provide annual financial information in accordance with their agreement described above under Section 1. Such notices shall be filed in an electronic format as prescribed by the MSRB.

(c) Whenever the Department obtains knowledge of the occurrence of one of the above events in Section 2(a), whether because of a notice from the Trustee pursuant to subsection (e) or otherwise, the Department Disclosure Representative shall, in a timely manner, determine if such event would constitute material information for Bondholders.

(d) If the Department determines that the occurrence of one of the above events in Section 2(a) is material within the meaning of applicable federal securities laws and regulations promulgated thereunder or an event listed under Section 2(b) has occurred, the Department Disclosure Representative shall promptly file a notice in an electronic format as prescribed by the MSRB of such occurrence with the MSRB. All documents provided to the MSRB pursuant to this Section 2 shall be accompanied by identifying information as prescribed by the MSRB. To the extent permitted by law, notwithstanding the requirements of this subsection, the disclosure of an event described in Section 2(b)(8) and Section 2(b)(7) need not be given earlier than the notice, if any, of the underlying event is given to the Bondholders of affected Bonds pursuant to the Trust Indenture.

(e) The Trustee shall, within three (3) Business Days of a Responsible Officer's obtaining actual knowledge of the occurrence of any of the events enumerated below, notify the Department Disclosure Representative of such event. It is agreed and understood that the

Trustee has agreed to give the foregoing notice to the Department as an accommodation to assist it in monitoring the occurrence of such events, but is under no obligation to investigate whether any of such events has occurred. As used above, "actual knowledge" means the actual fact or statement of knowing, without any duty to make any investigation with respect thereto. The Department agrees to and does hereby hold harmless the Trustee and any officer, director, official, employee, agent, or attorney against any and all losses, claims, damages, or liabilities suffered by the Department as a result of a failure by the Trustee to give such notice pursuant to the terms hereof. The Trustee shall notify the Department Disclosure Representative of any of the following events:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves;
- (4) Unscheduled draws on credit enhancements;
- (5) Substitution of credit or liquidity providers, or their failure to pay principal, interest, or purchase price on the Series 2019A Bonds pursuant to applicable agreements;
- (6) Adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Series A Bonds, or other events affecting the tax-exempt status of the Series A Bonds;
- (7) Modifications in the Trust Indenture to the rights of the Bondholders;
- (8) Bond calls (except sinking fund redemptions, if any);
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Series 2019A Bonds;
- (11) Rating changes; and
- (12) Appointment of a successor or additional trustee or the change of name of a trustee.

### SECTION 3. *Limitations, Disclaimers, and Amendments.*

The Department shall be obligated to observe and perform the covenants specified in this Agreement for so long as, but only for so long as, the Department remains an "obligated person" with respect to the Series 2019A Bonds within the meaning of the Rule, except that the

Department in any event will give notice of any deposit made in accordance the Trust Indenture that causes Series 2019A Bonds no longer to be Outstanding.

The provisions of this Agreement are for the sole benefit of (and may be enforced by) the Bondholders and beneficial owners of the Series 2019A Bonds, and nothing in this Agreement, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other Person. The Department undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Agreement and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Department's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Agreement or otherwise, except as expressly provided herein. The Department does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Series 2019A Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE DEPARTMENT OR THE TRUSTEE BE LIABLE TO THE BONDHOLDER OR BENEFICIAL OWNER OF ANY SERIES 2019A BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE DEPARTMENT OR TRUSTEE, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE. THE TRUSTEE IS UNDER NO OBLIGATION NOR IS IT REQUIRED TO BRING SUCH AN ACTION.

No default by the Department in observing or performing its obligations under this Agreement shall comprise a breach of or default under the Trust Indenture for purposes of any other provision of this Agreement. The Trustee has no obligation or duty to enforce the Department's obligations under this Agreement.

Nothing in this Agreement is intended or shall act to disclaim, waive, or otherwise limit the duties of the Department under federal and state securities laws.

The provisions of this Agreement may be amended with the written consent of the Department and Trustee from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Department, but only if (1) the provisions of this Agreement, as so amended, would have permitted an underwriter to purchase or sell Series 2019A Bonds in the primary offering of the Series 2019A Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Agreement that authorizes such an amendment) of the Outstanding Series 2019A Bonds consent to such amendment or (b) an entity that is unaffiliated with the Department (such as nationally recognized bond counsel) determines

that such amendment will not materially impair the interests of the Bondholders and beneficial owners of the Series 2019A Bonds and is permitted by the terms of this Agreement. If the Department so amends the provisions of this Agreement in connection with the financial information or operating data which it is required to disclose under Section 1 hereof, the Department shall provide a notice of such amendment to be filed in accordance with Section 2(b) hereof, together with an explanation, in narrative form, of the reason for the amendment and the impact of any change in the type of financial information or operating data to be provided by the Department pursuant to the terms of this Agreement. The Department may also amend or repeal the provisions of this Agreement if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Series 2019A Bonds in the primary offering of the Series 2019A Bonds.

#### SECTION 4. *Duties, Immunities and Liabilities of Trustee.*

Article IX of the Trust Indenture is hereby made applicable to this Agreement as if this Agreement were (solely for this purpose) contained in the Trust Indenture. The Trustee shall have only such duties as are specifically set forth in this Agreement and no implied covenants shall be read into this Agreement against the Trustee. Nothing in this Agreement shall be construed to mean or imply that the Trustee is an "obligated person" under the Rule. The Trustee shall have no obligation to make the disclosure required herein with respect to the Series 2019A Bonds or the Department or any other matter except as expressly provided herein. The fact that the Trustee may have a banking relationship with the Department or any Person with whom the Department contracts in connection with the transactions described in the Trust Indenture, apart from the relationship created by the Trust Indenture or this Agreement, shall not be construed to mean that the Trustee or a Responsible Officer thereof has actual knowledge of any event described in Section 2(e) above except as may be provided by written notice to the Trustee pursuant to this Agreement or the Trust Indenture. The Trustee shall in no event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any questions relating to the duties and responsibilities of the Trustee hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Trustee and believed to be genuine and to have been signed or presented by the proper party or parties. The Trustee may from time to time consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in good faith upon the advice of such legal counsel.

#### SECTION 5. *Definitions.*

As used in this Agreement, the following terms have the meanings ascribed to such terms below:

"*Department Disclosure Representative*" means the Compliance and Disclosure Manager of the Department or a designee, or such other officer or employee as the Department shall designate in writing to the Trustee from time to time.

"*MSRB*" means the Municipal Securities Rulemaking Board and any successor to its duties.

"*Responsible Officer*" means, when used with respect to the Trustee, the president, any vice president, any corporate trust officer or assistant corporate trust officer, or any other officer of the Trustee within its Corporate Trust Department customarily performing functions similar to those performed by any of the above-designated officers, and in each case, who is working at the designated office of the Trustee, and also means, with respect to a particular corporate trust matter, any other officer of the Trustee to whom such matter is referred because of his or her knowledge of or familiarity with a particular subject.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission and any successor to its duties.

## SECTION 6. *Miscellaneous.*

### A. Representations.

Each of the parties hereto represents and warrants to each other party that (i) it has duly authorized the execution and delivery of this Agreement by the officers of such party whose signatures appear on the execution pages hereto, (ii) it has all requisite power and authority to execute, deliver and perform this Agreement under applicable law and any resolutions or other actions of such party now in effect, (iii) the execution and delivery of this Agreement, and performance of the terms hereof, do not and will not violate any law, regulation, ruling, decision, order, indenture, decree, agreement or instrument by which such party is bound, and (iv) such party is not aware of any litigation or proceeding pending, or, to the best of such party's knowledge, threatened, contesting or questioning its existence, or its power and authority to enter into this Agreement, or its due authorization, execution and delivery of this Agreement, or otherwise contesting or questioning the issuance of the Series 2019A Bonds.

### B. Governing Law.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas and applicable federal law.

### C. Severability.

If any provision hereof shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall survive and continue in full force and effect.

D. Counterparts.

This Agreement may be executed in one or more counterparts, each and all of which shall constitute one and the same instrument.

*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]*

IN WITNESS WHEREOF, the Department and the Trustee have each caused their duly authorized officers to execute this Agreement as of the day and year first above written.

TEXAS DEPARTMENT OF HOUSING  
AND COMMUNITY AFFAIRS

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Chair, Governing Board

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Secretary, Governing Board

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

**Exhibit A  
to  
Agreement**

**DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

The following information is referred to in Section 1 of this Agreement.

**Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the Department to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

Appendix C-1 - AUDITED FINANCIAL STATEMENTS OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS REVENUE BOND PROGRAM FOR THE FISCAL YEAR ENDED AUGUST 31, 2019 (financial statements for the last completed fiscal year which will be unaudited, unless an audit is performed in which event the audited financial statements will be made available.)

Appendices E-1 – ADDITIONAL INFORMATION CONCERNING MORTGAGE CERTIFICATES and E-2 – BOND SUMMARY OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

**Accounting Principles**

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to above.