BOBBY JINDAL
GOVERNOR

MILTON J. BAILEY
PRESIDENT

Louisiana Housing Finance Agency

March 20, 2009

The Honorable Charles J. Melancon
United States House of Representatives
Cannon House Office Building, Room 404
Washington DC 20515

Re: **Request for Public Policy Determination concerning GO Zone and Disaster Area Low Income Housing Tax Credits**

Dear Representative Melancon:

A number of the nation's leading tax attorneys have reviewed the Gulf Opportunity Zone Act of 2005 (the "GO Zone Act") and have opined that the increased low-income housing credits (the "GO Zone Credits") allocated in the GO Zone under the GO Zone Act may be returned and/or reallocated in a subsequent year as any other low-income housing credits allocated under clause (ii) of Section 42(h)(3)(C). In an effort to get projects constructed without delay, the Louisiana Housing Finance Agency (the "LHFA") routinely recaptured and/or accepted the return of GO Zone Credits in 2007 and 2008 from a prior year and re-allocated such recaptured or returned credits to other projects within the GO Zone. Nothing in the GO Zone Act or in the tax credit regulations prohibited the Agency from reallocating to projects in the GO Zone millions of dollars of GO Zone Credits that were returned and/or recaptured from a prior calendar year allocation.

Recent discussions with Internal Revenue Service (IRS) staff indicate that the IRS may be questioning the Agency's recapture of GO Zone Credits from a prior calendar year and the reallocation of such GO Zone Credits to other shovel ready projects needed for recovery of the GO Zone. The IRS may also be challenging the eligibility of such allocated GO Zone Credits for participation in Treasury's exchange program.

If the IRS advances an adverse position on these two critical issues, there will be catastrophic consequences to the projects that have been allocated, returned, or recaptured GO Zone Credits. Therefore, I am asking that you request Treasury Secretary Geithner to render a policy determination in the matter that will confirm the following:

1. That GO Zone and other disaster related low-income housing tax credits are eligible for return, recapture, re-processing and re-allocation under the GO Zone Act; and,

2. That GO Zone Credits and other disaster related low-income housing tax credits allocated prior to calendar year 2009 are eligible to participate in Treasury's exchange under Section 1602 of the American Recovery and Reinvestment Act of 2009 (the "Stimulus Bill").

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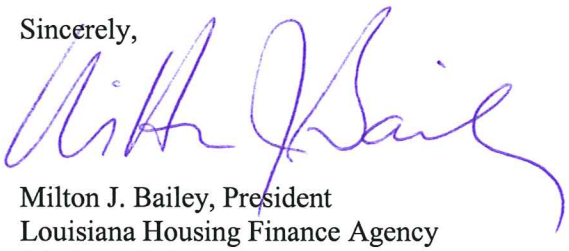
As you are all aware, the Gulf Opportunity Zone Act of 2005 was enacted to provide incentives for the rapid redevelopment of portions of Louisiana, Alabama and Mississippi devastated during Hurricanes Katrina and Rita. Included in this legislation were additional low-income housing tax credits for such states to address the shortage of affordable housing in the aftermath of the hurricanes. Unfortunately, the credit crisis that began in early 2008 led to a reduction or withdrawal of investor demand for low-income housing tax credits allocated to recovery projects by reducing or eliminating the capital commitments necessary to begin construction.

The Stimulus Bill, however, included a provision intended to address the credit crisis by enabling housing credit agencies such as the LHFA to "monetize" credits by exchanging low-income housing tax credits for cash grants. There is no technical problem in accepting the return of GO Zone and other disaster credits allocated in a prior calendar year under Section 1602 of the Stimulus Bill.

In Louisiana alone, over $35 million of low-income housing tax credits and $200 million of CDBG funds for essential developments are at-risk. These at-risk projects will provide much needed housing and stimulate job creation if the allocated GO Zone Credits from credit ceilings prior to calendar year 2009 are permitted to be returned and exchanged for cash under Section 1602 of the Stimulus Bill. These developments will produce over 3,700 affordable housing units, of which over 1,500 are in New Orleans. Using formulas from the National Home Builders Association, we estimate that these developments alone could create over 4,300 jobs in Louisiana in a variety of trades.

Given the urgency of this issue and the number of shovel ready low-income housing units currently pending, I respectfully request that you expedite clarification on these issues. Thank you for your attention to these important matters.

Sincerely,



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