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REEVES COUNTY AND PECOS APARTMENTS LLC

CHAPTER 381 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This **CHAPTER 381 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT** (hereinafter "Agreement") is made and entered into by and between **REEVES COUNTY** (hereinafter **"County"),** a Texas political subdivision, and **PECOS APARTMENTS LLC,** a Texas limited liability company **("Company"),** an affiliate of Newsome Development and Investments, for the purposes and considerations stated below:

WHEREAS, the Company desires to enter into this Agreement pursuant to Chapter 381 of the Texas Local Government Code (hereinafter "Chapter 381"); and

WHEREAS, the County desires to provide, pursuant to Chapter 381, a program of incentives to Company to construct a multifamily project to increase the housing available to families and individuals who would expand the workforce available in the County to promote local economic development and stimulate business and commercial activity in the County; and

WHEREAS, the County has the authority under Chapter 381 to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the County; and

WHEREAS, the County determines that a grant as specified herein to Company will serve the public purpose of promoting local economic development and enhancing business and commercial activity within the County; and

WHEREAS, Company's proposed project will consist of approximately 144 multifamily residential dwelling units along with the necessary infrastructure improvements to support the multifamily project (the "Development") to be located on a tract of land the Company intends to acquire, said tract described on the attached Exhibit "A" (the "Property"), with a currently estimated total cost of approximately $22,000,000 in land, soft costs and construction; and

WHEREAS, the Company intends to make a number of units available to County employees at reduced rents to promote public employee spending within the County; and

WHEREAS, the County has concluded and hereby finds that this Agreement clearly promotes economic development in the County and, as such, meets the requisites under Chapter 381 of the Texas Local Government Code and further, is in the best interests of the County; and

WHEREAS, Company has executed the Certification Regarding the Employment of Illegal Aliens attached hereto as **Exhibit "D"**;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM.

This Agreement shall be effective from the date of execution to the date following issuance of a certificate of occupancy for the Development by the Town of Pecos City that fifteen (15) annual payments have been made to Company by the County, unless sooner terminated pursuant to the terms of this Agreement.

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

(a) Ad Valorem Taxes. The words "Ad Valorem Taxes" shall mean those real and business personal ad valorem taxes paid to the County based on the assessed value of the real property improvements and personal property located on the Property.

(b) Agreement. The word "Agreement" means this Chapter 381 Economic Development Program Agreement, together with all exhibits and schedules attached to this Agreement.

(c) Company. The word "Company" means, Pecos Apartments, LLC.

(d) County. The word "County" means Reeves County.

(e) Grant. The word "Grant" means a Grant from the County payable to Company under the terms of this Agreement in fifteen (15) annual payments from the County's general revenue fund or other sources legally available to County.

(f) Property. The word "Property" shall mean the real property described in **Exhibit "A"**.

(g) County Employee(s). The term County Employee(s) shall mean people employed of the County in full time positions.

SECTION 3. OBLIGATIONS OF COMPANY.

To qualify for the payment of the Grant pursuant to Section 4., Company must comply with the following terms and conditions:

(a) On or before March 31, 2019, Company shall close a Department of Housing and Urban Development loan for the Development.

(b) Company will spend all funds necessary for the acquisition of the Property and the construction hard and soft costs in completing the Development, currently estimated to be approximately $22,000,000.

(c) The Company will complete the Development on or before March 31, 2020. (except in the case of delays due to Force Majeure),

(d) For a period of 7 years from the date of the issuance of the certificate of occupancy for the Development (the "Employee Benefit Period"), Company shall give first priority to County Employees to lease up to ten (10) units ("preferred rate units") at a reduced rent as set forth in Table 1 below, provided that, (i) the rents for the preferred rate units set forth in Table 1 shall be subject to an annual increase of 2% beginning after the third year following the date of issuance of the certificate of occupancy, but such annual rentals to remain subject to the cap of 95% of the then-market rates offered to other tenants in the Development and (ii) Company shall not be obligated to lease to any individual County Employee a unit at a reduced rate for a period longer than two years.

Table 1

A. Years 1-3 following the Issuance of the C.O.	
Unit Type	Maximum Rent exclusive of Utilities
1 Bedroom Unit	The lesser of $985 per month or 95% of the rent for the same size unit not subject to the discount
2 Bedroom Unit	The lesser of $1,195 per month or 95% of the rent for the same size unit not subject to the discount
3 Bedroom Unit	The lesser of $1,370 per month or 95% of the rent for the same size unit not subject to the discount
B. Years 4-7 following the Issuance of the C.O.	
Maximum rent shall be the Year 3 Year rent for the commensurate unit plus 2% added annually.	

Terms and conditions for preferred rate units shall be as set forth in **Exhibit "B"**, attached hereto.

Further, for any quarter of the Employee Benefit Period that both (i) the number of preferred rate units leased to County Employees falls below 10 units, and (ii) the overall occupancy of the Development for that quarter averages at least eighty five percent (85%), then the aggregate amount of the rental reductions from any of the preferred rate units not leased during any month of the quarter will be allocated by Developer to a reserve fund account. Funds from the reserve fund account will annually be distributed to County Employee tenants or applied against future rent of County Employee tenants, pro rata based on the number of months remaining on each county employee tenant's lease for the next 12 month period. A sample distribution calculation is attached hereto as **Exhibit "F"**. Annually, Developer shall provide to County an accounting of funds accumulated in the reserve fund and the disposition of such funds. At the request of County, Developer shall provide County such additional available

information or documentation regarding the accounting as my be requested by County.

(e) Company may not sell the Development prior to the date a certificate of occupancy is issued by the City of Pecos.

(f) If during the period beginning on the date of the issuance of a certificate of occupancy and ending on the date thereafter that the fifteenth (15^{th}) annual payment has been made to Company, Company transfers title to the Development to a person or entity other than an affiliate of Company, Company shall pay to the County a transfer fee calculated according to the schedule attached hereto as **Exhibit "C".**

(g) Company shall not be delinquent in the payment of County taxes assessed against the Property.

(h) Company will operate the Development in a professional manner consistent with a quality multifamily complex. This includes the physical upkeep of the exterior and interior of the project, and professional property management standards relative to tenant relations.

(i) Company will enter into a separate agreement with the County to Development services for up to ten units of residential housing as is more fully outlined in the Chapter 381 Grant Proposal Term Sheet appended hereto as **Exhibit "E".** Company's obligation to provide development services is contingent upon the County and the City agreeing upon a development plan and financing plan for the residential housing in a timely manner so that such residential housing is constructed during or near the time of the construction of the Development.

SECTION 4. OBLIGATIONS OF COUNTY.

During the term of this Agreement and so long as an event of default has not occurred and is continuing as set forth in this Agreement (provided, however, an event of default hereunder shall not be deemed to have occurred until after the expiration of the applicable notice and cure period), County will comply with the following terms and conditions:

(a) County shall expedite approval of all applications to County for the development of the Property, if any. The Parties understand that the Property is located within the Town of Pecos City and will be mostly subject to the City's development and construction standards and regulations.

(b) For each calendar year during the Term of this Agreement and beginning in tax year following the issuance of a certificate of occupancy for the Development, County shall make an annual Grant payment to Company on or before 60 days following the date the annual ad valorem taxes on the Property have been paid. The annual grant payment shall be made from any legal funds of the County and shall be in an amount equal to the Reeves County property taxes assessed

against the Property and personal property located on the Property for the previous calendar year.

SECTION 5. EVENTS OF DEFAULT.

An event of default shall exist under this Agreement if either party as failed to timely perform each of its obligations hereunder; provided, however, an event of default hereunder shall not be deemed to have occurred until after the expiration of the notice and cure period set forth in this Section 5. Each party to this Agreement shall have sixty (60) days after receipt of notice of default to cure said default. In the event of a default by County, Company may pursue an action in law or in equity to collect any annual Grant payments due to Company. To the fullest extent allowed by law, County hereby waives governmental immunity only to allow the enforcement of its payment obligations hereunder. Failure of Company to cure a default within sixty (60) days after receipt of notice of default may result in the termination of this Agreement by the County.

SECTION 6. TERMINATION OF AGREEMENT BY WITHOUT DEFAULT.

County may terminate this Agreement without an event of default by Company and effective immediately (and with no recapture) if any court of competent jurisdiction renders this Agreement invalid or illegal. Company may terminate this Agreement by notice to County at any time before Company's receipt of a Grant Payment from County.

SECTION 7. GRANT RECAPTURE.

In the event that Company is in default of this Agreement, the County may cease to provide Grant payments to Company after providing Company written notice and a minimum period of sixty (60) days to cure such default. If the default has not been cured within said time, but within such time Company has initiated actions to cure and is diligently implementing a cure, County may reduce pro rata the Grant payments for the period of time the default existed.

Company acknowledges that the County is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. In the event that Company, or any branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens), subject to any appellate rights that may lawfully be available to and exercised by Company, Company must repay, within one hundred twenty (120) calendar days following receipt of written demand from the County, the aggregate amount of all Grant payments received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum.

For the purposes of this Section 7, "Simple Interest" is defined as a rate of interest applied only to an original value, in this case the aggregate amount of Program Grants paid pursuant to this Agreement. This rate of interest can be applied each year, but will only apply to the amount of Grant payments received hereunder and is not applied to

interest calculated. In accordance with Chapter 2264, this Section 7 does not apply to convictions of any affiliate of Company, any franchisees of Company, or any person or entity with whom Company contracts. Notwithstanding the foregoing, if Company should make an assignment of this agreement to an affiliate of Company, the provision of this Section 7 shall apply to such affiliate.

SECTION 8. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

(a) Amendments. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(b) Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Reeves County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Reeves County, Texas.

(c) Assignment. Company understands and agrees that the County expressly prohibits Company from selling, transferring, assigning or conveying in any way any rights to receive the Grant payments without the County's prior written consent. Company may assign this Agreement to an affiliate of Company. Company may assign this Agreement to a third party to whom the Company is selling, transferring or otherwise conveying the Property with advance written consent of the County, which shall not be unreasonably withheld. Such sale or transfer to a third party shall be subject to the provisions set forth in section 3(f) herein.

(d) Binding Obligation. This Agreement shall become a binding obligation of the signatories upon execution by all signatories hereto. County warrants and represents that the individual executing this Agreement on behalf of County has full authority to execute this Agreement and bind County to the same. Company warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

(e) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(f) Effective Date. The effective date (the "Effective Date") of this Agreement shall be the date of the later to execute this Agreement by Company and County.

(g) Force Majeure. It is expressly understood and agreed upon by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused

from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

(h) Notices. All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered to the party to whom the notice is to be given at the addresses shown below. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, each party agrees to keep the other informed of changes to its current address.

If to Company: Pecos Apartments LLC
c/o Newsome Development & Investments, Inc.
1421 Oread West, Suite B
Lawrence, KS 66049
Attn: Bill Newsome

with copy to: Jackson Walker L.L.P.
2323 Ross Avenue, Suite 600
Dallas, TX 75201
Attn: William Dahlstrom

If to County: County Judge
Reeves County
100 East Fourth Street - Suite 207
Pecos, Texas 79772

with copy to: Hudson & O'Leary LLP
1010 Mopac Circle, Suite 201
Austin, Texas 78746
Attn: Greg Hudson

(i) Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

(signatures appear on the subsequent two pages)

COMPANY:

PECOS APARTMENTS, LLC

By: W. Newsome

Name: William Newsome

Title: Pres. Newsome Development and Investments, Inc., Manager

Date: 4/18

COUNTY:

COUNTY OF REEVES, TEXAS

By: _____
Won Joo Bang, M.D., County Judge

Attest:

_____
Dianne O. Florez, County Clerk

LAND ACQUISITION SITE PLAN FOR PROPOSED MULTIFAMILY DEVELOPMENT

~6.71 acres to be acquired by Buyer for multifamily development.

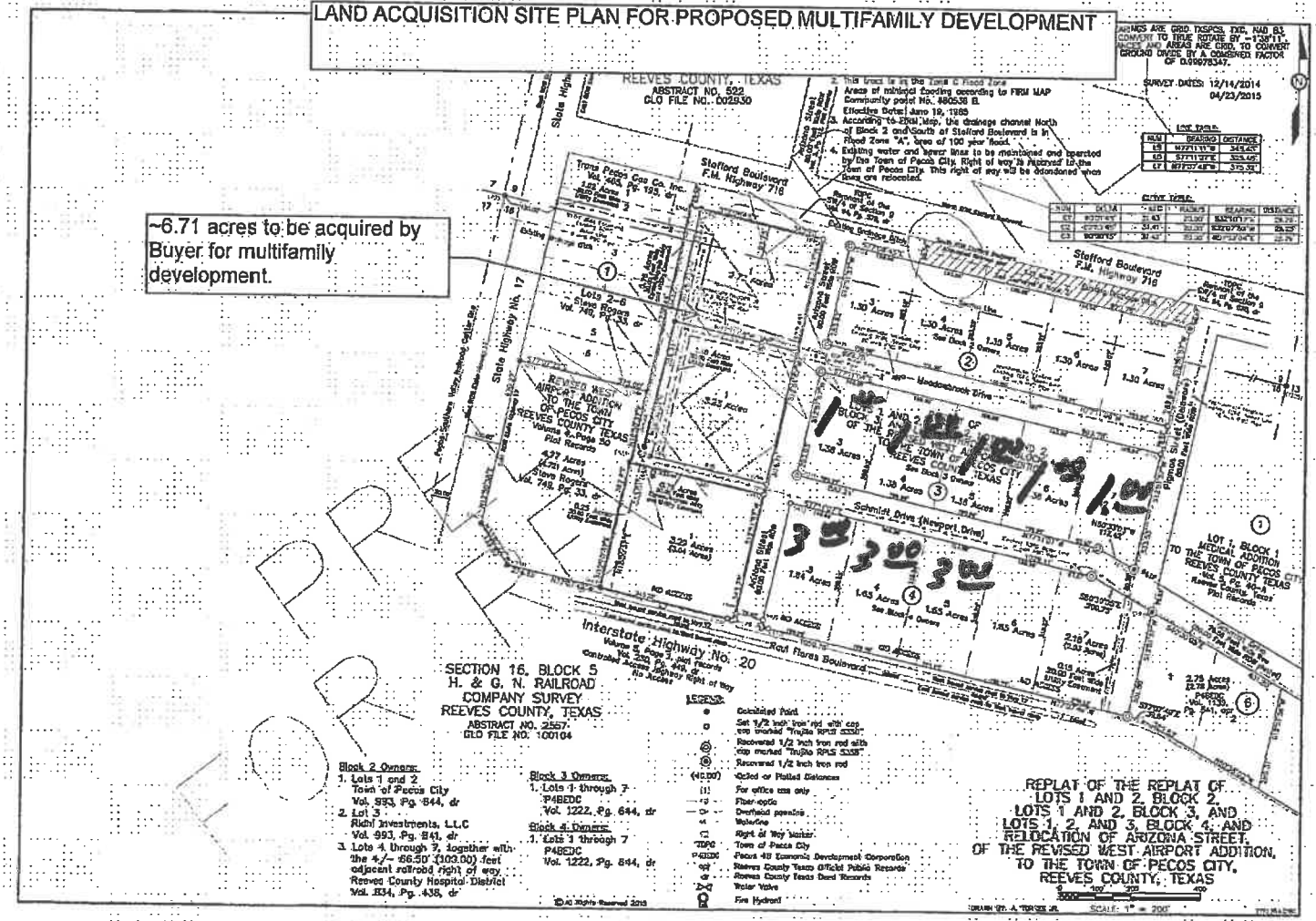


EXHIBIT B

County Employees

At any time that less than 10 units are leased to County Employees, County Employees will be given preferential treatment as it relates to leasing units and any project waiting list.

In any month that County Employees do not lease all 10 units, a payment will be made to the County Employee Rent Reserve ("Reserve"). A quarterly County Employee Occupancy Report will be provided to the County within 15 days of the end of the calendar quarter to calculate the Reserve. In order for the reserve to accumulate for a given quarter, the project occupancy average must be at least 85%.

	Market Rate	County Employee Rate	Difference
1 BRs @	$985	$936	$49
2 BRs @	$1,195	$1,135	$60
3 BRs @	$1,370	$1,302	$69
	$1,183	$1,124	$59

Hypothetical Quarterly Period:

Month	Units Leased	Vacants	Avg Diff.	Reserve	Project Occupancy
Jan	10	0	$59	$0	91%
Feb	6	4	$59	$236	89%
Mar	5	5	$59	$295	87%
Added to Reserve				**$531**	
Quarterly Occupancy (85% minimum):					**89%**

EXHIBIT C

TRANSFER FEE

Should a Sale of the project occur to an unrelated third party (Sale defined as conveyance to other than members of Pecos Apartments LLC ownership), a Transfer Fee will be paid to the County. The Transfer Fee period will be based upon fifteen year term and will start the first month that the Project is occupied. For 15-year term, the Transfer Fee will reduce by 25% after completion of the 7th year simultaneous with the end of the preferred rates for employees (Reference Exhibit A) and is outlined in the schedule below. The calculation of the Transfer Fee will be administered on 180 month term - reference the calculation example below.

If a Sale occurs – subject to (1) on-going compliance with the 381 agreement and (2) payment of the Transfer Fee - the property tax reimbursement/abatement continues for the full 15-year term. If a sale occurs prior to the end of the preferred rates for employees, upon payment of the Transfer Fee, the program for the preferred lease rates to employees will end.

The below outlines the schedule of the Transfer Fee to be paid and an example of the calculation of the Transfer Fee for a mid-year sale.

Transfer Fee Schedule

Sale at Beginning of Year:	Transfer Fee	
	10-yr term	15-yr term
1	$329,683	$329,683
2	$296,715	$307,704
3	$263,747	$285,725
4	$230,778	$263,747
5	$197,810	$241,768
6	$164,842	$219,789
7	$131,873	$197,810
8	$98,905	$131,873
9	$65,937	$115,389
10	$32,968	$98,905
11	$0	$82,421
12		$65,937
13		$49,452
14		$32,968
15		$16,484
16		$0

Transfer Fee Mid-Year Sale Calculation Example

Period: 10-year
Sale Date - Month 26
Transfer Fee at Start of Year 4 (10-year period): $230,778
Transfer Fee Difference between Years 3 & 4: $263,747 - $230,778 = $32,969
Remaining Months in Year 3: 10/12 = 0.833
Transfer Fee to be paid: $230,778 + $32,969 x 0.833 = $258,241

EXHIBIT D

CERTIFICATION REGARDING EMPLOYMENT OF UNDOCUMENTED ALIENS

PECOS APARTMENTS LLC ("Company") hereby certifies that Company, and any branches, divisions, or departments of Company, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that, Company or any branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens), subject to any appellate rights that may lawfully be available to and exercised by Company, must repay, within one hundred twenty (120) calendar days following receipt of written demand from the County, the aggregate amount of any grant payments received by Company from the County, if any, plus Simple Interest at a rate of two percent (2%) per annum.

For the purposes of this Certification, "Simple Interest" is defined as a rate of interest applied only to an original amount of a grant payment made to Company by the County. This rate of interest can be applied each year or prorated as to partial years, but will only apply to the amount of grants received hereunder and is not applied to interest calculated. For example, if a grant payment received by Company is $10,000 and it is required to be paid back with two percent (2%) interest five years later, the total amount would be $10,000 + [5 x ($10,000 x 0.02)], which is $11,000. As provided by Chapter 2264 of the Government Code, his repayment obligation shall not apply to convictions of any affiliate of Company, any franchisees of Company, or any person or entity with whom Company contracts.

PECOS APARTMENTS LLC
a Texas limited liability company

By: _____

Its: _____

Date: _____

EXHIBIT E

Development Services for Additional Residential Units in the Town of Pecos City

The Company or Newsome Development ("Consultant") shall provide development services to the County and Town of Pecos City, to assist in the development of up to 10 units of residential housing which shall consist of either townhomes or duplexes.

Development services are defined as managing the entitlement, permitting, design, and construction of the units.

The County or the Town of Pecos City must arrange for financing of the additional residential units and will hold all contracts for design and construction. The Consultant will act as a representative of the sponsoring entity and manage the overall process for completion of the additional units.

The units must be completed during the Company's construction of the Development.

The Consultant shall be paid a flat fee of $50,000. Travel costs shall be reimbursed to the extent that the travel incurred is only for the development of the additional residential units and not necessary for the Development. The Consultant shall make every effort to schedule on-site meetings to coincide with travel necessary for the Development, to the extent possible.

Fee shall be billed for on a percentage of completion basis and shall be billed for, along with any reimbursables, at the end of each month.

EXHIBIT F

Ch. 381 - Reserve Fund Allocation *Example*

Amount in reserve fund, just ended calendar year: $2,300

County Employees Current Tenants (CECT) @ Jan. 1 of next year 6

Lease expirations of CECT

CECT	Lease expiration	Months
#1	May	5
#2	August	8
#3	October	10
#4	January	1
#5	March	3
#6	June	6
		33

*$2,300/33 months = $69.70/mo. Rent abatement

Notes:

1. 12-months is the maximum benefit to a CECT. So if a CECT would happen to have a 14-month lease at Jan. 1, that CECT will only get the monthly reduction for the 12 calendar months of the current year.

2. In conjunction with communication of the rent reduction, CECTs will be given 5 days to extend their lease to take advantage of more rent reduction. If, for example, CECT #4 chose to extend its lease 6 months, then the total # of months would go to 39 and the monthly ~ monthly rent reduction would be reduced (by giving a CECT this option, this will eliminate a complaint if they renew later in the year and don't receive the rent reduction).