

BOARD MEETING OF JUNE 5, 2014

J. Paul Ozer, Chair



Juan Muñoz, Vice-Chair

J. Mark McWatters, Member

Leslie Bingham Escareño, Member

Robert D. Thomas, Member

Tom Gann, Member

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING**

A G E N D A

**9:00 a.m.
June 5, 2014**

**John H. Reagan Building
Room JHR 140, 105 W 15th Street
Austin, Texas**

**CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM**

J. Paul Oxeer, Chairman

Pledge of Allegiance - **I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.**

Texas Allegiance - **Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.**

Adoption of Resolution No. 14-030 recognizing June as Home Ownership Month and announcement of Lenders and Loan Officers of the Year

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

EXECUTIVE

- a) Presentation, Discussion, and Possible Action regarding the Board Minutes Summary for March 6, 2014, and April 10, 2014
- b) Presentation, Discussion, and Possible Action regarding the staff report relating to previous participation reviews performed on awards conditionally approved by the Board on May 8, 2014, for unexpended Program year 2013 CSBG discretionary funds.

Barbara Deane
Board Secretary

BOND FINANCE

- c) Presentation, Discussion, and Possible Action on Resolution No. 14-034 authorizing the Third Amendment to the Servicing Agreement between TDHCA and US Bank

Tim Nelson
Dir. Bond Finance

RULES

- d) Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 1, §1.20, concerning the Asset Review Committee and directing its publication in the *Texas Register*
- e) Presentation, Discussion, and Possible Action on orders adopting the repeal of 10 TAC §5.23, concerning Protected Health Information, and directing its publication in the *Texas Register*

Jeff Pender
Deputy General
Counsel

Brooke Boston
DED SF, CA &
Metrics

- f) Presentation, Discussion, and Possible Action on an order adopting new 10 TAC §1.24, concerning Protected Health Information and directing its publication in the *Texas Register*.
- g) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC §1.5(e), concerning Previous Participation Reviews, and directing its publication in the *Texas Register*
- h) Presentation, Discussion, and Possible Action on proposed new 10 TAC §10.1004, concerning Income and Rent Limits, and directing its publication for public comment in the *Texas Register*
- i) Presentation, Discussion, and Possible Action on proposed amendments to 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973, and directing its publication for public comment in the *Texas Register*

Cari Garcia
Dir. Asset
Management

Patricia Murphy
Chief, Compliance

TEXAS HOMEOWNERSHIP

Eric Pike

- j) Presentation, Discussion, and Possible Action on the Single Family Mortgage Loan and Mortgage Credit Certificate (MCC) Programs Participating Lender List

Dir. Texas
Homeownership
Program

MULTIFAMILY FINANCE

- k) Presentation, Discussion, and Possible Action on Resolution No. 14-031 for the First Supplemental Trust Indenture and Modification Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Green Crest Apartments, Series 2002
- l) Presentation, Discussion, and Possible Action on Resolution No. 14-032 for the Supplemental Trust Indenture and Modification Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Ironwood Crossing, Series 2002A and Taxable Series 2002B
- m) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

13428 Village at Palm Center Houston
- n) Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability

13139 Stonebridge of Plainview Plainview
- o) Presentation, Discussion, and Possible Action of Qualified Investment Banking Firms to provide Underwriting Services for Multifamily Bond Transactions

Jean Latsha
Dir. Multifamily
Finance

REPORT ITEMS

The Board accepts the following reports:

1. TDHCA Outreach Activities, May 2014
2. Status Report on “The Report on Customer Service” as required by Chapter 2114 of the Texas Government Code
3. Results from Compliance Division Customer Service Survey and update on Compliance Activities
4. Report on activities of the Department’s newly-formed fair housing team and its plans for coordinated efforts to address requirements regarding the affirmative furthering of fair housing

Michael Lyttle
Chief of External
Affairs

Elizabeth Yevich
Dir. Housing
Resource Ctr.

Patricia Murphy
Chief, Compliance

Cameron Dorsey
DED, MF and Fair
Housing

ACTION ITEMS

ITEM 2: HOUSING RESOURCE CENTER:

Presentation, Discussion, and Possible Action on the Agency Strategic Plan for Fiscal Years 2015-2019

Elizabeth Yevich
Dir. Housing
Resource Ctr

ITEM 3: MULTIFAMILY FINANCE:

a) Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers of the Department’s Program Rules and Requests for Exemption from Undesirable Site Features

Jean Latsha
Dir. Multifamily
Finance

14006	Oak Grove Village	Marble Falls
14029	Royal Gardens	Wichita Falls
14108	Cleme Manor	Houston
14175	Liberty Square and Liberty Village	Groesbeck

ITEM 4: COMMUNITY AFFAIRS

Presentation, Discussion, and Possible Action on Approval of the Draft FFY 2015 Low Income Home Energy Assistance Program (LIHEAP) State Plan for Public Comment

Brooke Boston
DED SF. CA &
Metric

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS.

EXECUTIVE SESSION

The Board may go into Executive Session (close its meeting to the public):

1. The Board may go into Executive Session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee
2. Pursuant to Tex. Gov’t. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:
 - a) *The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al., filed in federal district court, Northern District of Texas.*
 - b) *Galveston Open Government Project, et al., v. U.S. Department of Housing and Urban Development, et al., filed in federal district court, Southern District of Texas*
3. Pursuant to Tex. Gov’t. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov’t. Code, Chapter 551
 - a) Tex. Att’y Gen. Op. No. GA-1060 (May 20, 2014) Rental Assistance Demonstration;
 - b) Any posted agenda item.
4. Pursuant to Tex. Gov’t. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department’s ability to negotiate with a third person; and/or-
5. Pursuant to Tex. Gov’t. Code, §2306.039(c) the Department’s internal auditor, fraud prevention coordinator, or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste, or abuse.

J. Paul Oxer
Chairman

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989, at least three (3) days before the meeting so that appropriate arrangements can be made.

Non-English speaking individuals who require interpreters for this meeting should contact Jorge Reyes, 512-475-4577 at least three (3) days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Jorge Reyes al siguiente número (512) 475-4577 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

June 2014
Home Ownership Month
Resolution No. 14-030

BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

ADOPTION OF RESOLUTION NO. 14-030 RECOGNIZING JUNE AS HOMEOWNERSHIP MONTH AND ANNOUNCEMENT OF LENDERS AND LOAN OFFICERS OF THE YEAR

JUNE 5, 2014

As part of June's celebration of Homeownership Month, the staff and TDHCA Governing Board would like to recognize the lending community for their contributions to affordable housing and their efforts to increase the homeownership rate in Texas during 2013/2014. Through the Single Family Mortgage Loan Program, TDHCA's network of participating mortgage lenders originated over \$317 million in first lien mortgage loans under the My First Texas Home Program. Through these efforts 2,390 individuals and families were able to experience the benefits of homeownership.

The Texas Mortgage Credit Certificate Program was also very successful 1,997 Mortgage Credit Certificates ("MCCs") issued. The certificates were issued through our network of participating lenders on mortgage loans totaling in excess of \$283 million. MCCs provide up to \$2,000 annually towards a borrower's federal tax liability. Launched in 2003, the Texas Mortgage Credit Certificate Program has become one of the largest and most successful MCC Programs in the nation.

In recognition of their efforts, the TDHCA Governing Board is recognizing the top producing lending institutions and loan officers under the My First Texas Home and Texas Mortgage Credit Certificate Programs. The lending institutions were selected for their overall production of mortgage loans and/or issuance of mortgage credit certificates under each of the programs and the corresponding dollar volume. The loan officers were selected based on their overall production level under each of the programs.

The following mortgage lenders have been selected for recognition of their achievements.

Cornerstone Home Lending "Lender of the Year"

Cornerstone Home Lending originated an impressive 711 mortgage loans and/or MCCs resulting in \$99.4 million in production. They have participated in TDHCA's homebuyer programs for a number of years, have been prior recipients of lender of the year awards and have offices located in many areas of the state.

Guild Mortgage Company "Lender of the Year"

Guild Mortgage Company originated 452 mortgage loans and/or MCCs resulting in \$63.7 million in production. They are a relatively new participant in our program and a first time lender of the year recipient.

Houstonian Mortgage Group, Inc. "Lender of the Year"

Houstonian Mortgage Group, Inc., also a relatively new lending partner with TDHCA and also first time lender of the year recipient, originated 372 mortgage loans and/or MCCs resulting in \$43.2 million in production. Houstonian has offices located in several cities within the state.

Andy Woodside, Cornerstone Home Lending, Houston “Loan Officer of the Year”

In 2013/2014, Mr. Woodside closed 229 mortgage loans under the My First Texas Home Program and/or Texas Mortgage Credit Certificate Program, a truly impressive level of production. He has worked in the mortgage lending business for Cornerstone Home Lending for approximately 10 years. He is an asset to the mortgage banking industry and is truly committed to providing affordable housing to all Texans.

Clifton Saunders, Houstonian Mortgage Group, “Loan Officer of the Year”

In 2013/2014, Mr. Saunders closed 119 mortgage loans under the My First Texas Home Program and/or Texas Mortgage Credit Certificate Program. He has worked in the mortgage industry for XX years. This is the first time Mr. Saunders has won this award.

Kim Lewis, NTFN, Inc. dba Premier Nationwide Lending, “Loan Officer of the Year”

In 2013/2014, Ms. Lewis closed 93 mortgage loans under the My First Texas Home Program and/or Texas Mortgage Credit Certificate Program. She has worked in the mortgage industry for over 30 years and has participated in TDHCA’s Homebuyer Programs for more than 20 years. This is the fifth year in a row Ms. Lewis has won this award. She is a key business partner for TDHCA’s homeownership programs.

Texas Department of Housing and Community Affairs
Resolution No. 14-030

WHEREAS, June 2014 is Homeownership Month in Texas;

WHEREAS, the goal of the Texas Department of Housing and Community Affairs is to ensure that all Texans have access to safe and decent affordable housing;

WHEREAS, the Texas Department of Housing and Community Affairs reaffirms the importance of homeownership in the lives of the Texans we serve and in the Texas economy;

WHEREAS, it is the policy of the Texas Department of Housing and Community Affairs to support equal housing opportunity in the administration of its home buyer and home ownership programs and services;

WHEREAS, the Texas Department of Housing and Community Affairs applauds all those who work to achieve and maintain affordable, responsible homeownership, and recognize those who provide services and resources to all homebuyers regardless of race, color, creed, place of birth, familial status, or disability; and

WHEREAS, the Texas Department of Housing and Community Affairs encourages Texans to explore the numerous home ownership resources available during Homeownership Month and throughout the year;

THEREFORE BE IT RESOLVED, that in the pursuit of the goal and responsibility of providing affordable homeownership opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate and join Governor Rick Perry in proclaiming June 2014 as Homeownership Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of Homeownership Month.

Signed this Fifth Day of June 2014.



J. Paul Ozer, PE, Chair

Dr. Juan Muñoz, Vice Chair

Leslie Bingham Escareño, Member

Tom H. Gann, Member

J. Mark McWatters, Member

Robert D. Thomas, Member

Timothy K. Irvine, Executive Director

CONSENT AGENDA

1a

BOARD ACTION REQUEST

BOARD SECRETARY

JUNE 5, 2014

Presentation, Discussion, and Possible Action on the Board Meeting Minutes Summaries for March 6, 2014, and April 10, 2014.

RECOMMENDED ACTION

Approve Board Meeting Minutes Summaries for March 6, 2014, and April 10, 2014

RESOLVED, that the Board Meeting Minutes Summaries for March 6, 2014, and April 10, 2014, as having been specifically approved, are hereby approved as presented.

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
March 6, 2014

On Thursday, the 6th day of March, 2014, at 10:00 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) was held in Room JHR 140 of the John H. Reagan Building, Austin, Texas.

The following members, constituting a quorum, were present and voting:

- J. Paul Oxer
- Leslie Bingham Escareño
- Tom Gann
- Dr. Juan Muñoz {arrived during consideration of Agenda Item 3(a)}
- Robert Thomas

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

1) Tim Irvine, TDHCA Executive Director, read resolution 14-017 into the record in recognition of April being Fair Housing Month. The Board unanimously adopted the resolution as presented.

2) The Board unanimously adopted the Consent Agenda as presented.

3) Agenda Item 2 – Report on status of the Department’s Series 2004B Swap held under the Single Family Bond Trust Indenture – was presented by Tim Nelson, TDHCA Director of Bond Finance. The board took no action.

3) Agenda Item 3(a) – Presentation, Discussion, and Possible Action regarding Requests for Exemption from Undesirable Site Features filed in the 2014 Competitive Housing Tax Credit Cycle – was presented by Jean Latsha, TDHCA’s Multifamily Division Manager. The Board first took up sub-item #14176 Moss Rose Apartments, unanimously adopting staff recommendation to approve the exemption with the inclusion of language saying adoption occurred without prejudice to consideration under 10.101(a)(4). The Board next considered sub-item #14277 Pecan Tree Square Apartments and unanimously adopted staff recommendation to approve the exemption. The Board next considered sub-item #14031 Louis Manor, adopting after public comment (summarized below) staff recommendation to approve the exemption with the inclusion of language saying adoption occurred without prejudice to consideration under 10.101(a)(4). The vote was four votes in favor and Mr. Thomas opposed.

- Maddie Sloan, Texas Appleseed, expressed concern over the location of the proposed development and opposed staff recommendation to grant the exemption.
- Kenneth Baugh, counsel for the applicant, testified in support of staff recommendation

4) Agenda Item 3(b) – Presentation, Discussion, and Possible Action regarding Reinstatement of a Determination Notice for Housing Tax Credits with another Issuer – was presented by Ms. Latsha. The Board voted unanimously to reinstate the determination notice for #13419 Hunter Plaza in Fort Worth.

5) Agenda Item 3(c) – Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability – was presented by Ms. Latsha. The Board unanimously approved staff recommendation to award HOME funds to #13119 Emma Finke Villas.

6) Agenda Item 4 – Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under any of the Department’s Program or Underwriting Rules – was presented by Ms. Latsha. The Board unanimously voted to disregard existing staff recommendation on #13502 Majors Place Apartments and return the item to staff for further consideration and either to resolve it within their statutory discretion, or if they conclude it is necessary, return to the matter to the Board.

Except as noted otherwise, all materials presented to and reports made to the Board were approved, adopted, and accepted. These minutes constitute a summary of actions taken. The full transcript of the meeting, reflecting who made motions, offered seconds, etc., questions and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 11:01 a.m. The next meeting is set for Thursday, April 10, 2014.

Secretary

Approved:

Chair

Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
April 10, 2014

On Thursday, the 10th day of April, 2014, at 9:00 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) was held in Room JHR 140 of the John H. Reagan Building, Austin, Texas.

The following members, constituting a quorum, were present and voting:

- J. Paul Oxer
- Tom Gann
- J. Mark McWatters
- Dr. Juan Muñoz
- Robert Thomas {arrived during consideration of Agenda Item 2(b)}

J. Paul Oxer served as Chair, and Barbara Deane served as secretary.

- 1) The Board unanimously adopted the Consent Agenda as presented except for item 1(n) which was pulled from the Board agenda and items 1(j) and 1(q) which were moved to the Action Items portion of the agenda.
- 2) Consent Agenda Item 1(c) – Per Dr. Muñoz’s request, Homero Cabello, Director of the Office of Colonia Initiatives and Housing Trust Fund, provided background information on why changes outlined in the item were made.
- 3) Agenda Item 1(j) – Presentation, Discussion, and Possible Action on the Award of Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) and Low-Income Home Energy Assistance Program (“LIHEAP”) WAP contracts to Community Council of South Central Texas, Inc., to provide weatherization services in Dimmit, Edwards, Kinney, LaSalle, Maverick, Real, Uvalde, Val Verde, and Zavala counties – was presented by Tom Gouris, Deputy Executive Director for Asset Analysis and Management. The Board unanimously approved staff recommendation for award approval.
- 4) Agenda Item 2(a) was a report provided by Brooke Boston, Deputy Executive Director for Single Family, Community Affairs, and Metrics. Ms. Boston reported on program successes from the HOME, Community Affairs, and Financial Administration divisions. The Board took no action.
- 5) Agenda Item 2(b) – Presentation, Discussion, and Possible Action on submitting an application to the U.S. Department of Housing and Urban Development for the Fiscal Year 2013 Section 811 Project Rental Assistance (PRA) Program – was presented by Kate Moore, Manager of the Section 811 area. The Board unanimously approved staff recommendation for submittal of the application.
- 6) Agenda Item 3(a) – Presentation, Discussion, and Possible Action on Resolution 14-021 regarding the annual approval of the Department’s Interest Rate Swap Policy – was presented by Tim Nelson,

Director of Bond Finance. The Board approved staff recommendation to adopt the resolution, after public comment (listed below), with four votes in favor and Mr. Thomas opposed.

- David Adams, from George K. Baum, testified regarding the importance of diversification; and,
- Gary Machak, from George K. Baum, testified about other bond issuers in Texas and spoke generally about amounts of bonds coming from these issuers.

7) Agenda Item 3(b) – Presentation, Discussion, and Possible Action on Resolution No. 14-022 authorizing Transfer of Interest Rate Swap Transactions with Respect to Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B and Single Family Variable Rate Mortgage Revenue Bonds, 2006 Series H – was presented by Mr. Nelson. After public comment (listed below), the Board unanimously approved staff recommendation to adopt the resolution.

- David Adams, from George K. Baum, answered a question from the board; and,
- Gary Machak, from George K. Baum, provided additional information and support to Mr. Adams' response to the Board.

8) Agenda Item 3(c) – Presentation, Discussion, and Possible Action on Resolution No. 14-023 authorizing Amendments to the Supplemental Indentures for the Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B and Single Family Variable Rate Mortgage Revenue Bonds, 2006 Series H – was presented by Mr. Nelson. The Board, after public comment (listed below), unanimously approved staff recommendation to adopt the resolution.

- George Rodriguez, from Bracewell and Giuliani, answered questions from the Board on the item.

9) Agenda Item 3(d) – Presentation, Discussion, and Possible Action on Resolution No. 14-024 authorizing Certain Actions Relating to Interest Rate Swap Transactions – was presented by Mr. Nelson. The Board unanimously approved staff recommendation to adopt the resolution.

10) Agenda Item 4(a) – Presentation, Discussion, and Possible Action on approval of Housing Tax Credit Amendments for #13201 Trails at Carmel Creek in Hutto – was presented by Cari Garcia, Director of Asset Management. After public comment (listed below), the Board approved staff recommendation to deny the amendment request with four votes in favor and Mr. Thomas opposed.

- Janine Sisak, from DMA Development Company, testified against staff recommendation and in favor of granting the amendment request.

11) Agenda Item 5(a) – Presentation and discussion of a preliminary draft Enforcement Rule – was presented by Patricia Murphy, Chief of Compliance. The Board took no action but listened to public testimony from the following persons:

- Michael Lyttle, Chief of External Affairs, read letters into the record from state representatives Joe Pickett and Naomi Gonzalez;
- Stella Rodriguez, Texas Association of Community Action Agencies, testified with concerns about the proposed rules;

- Tama Shaw, Hill Country Community Action Association, testified with concerns about the proposed rules;
- Laura Ponce, Project BRAVO, testified with concerns about the proposed rules;
- Karen Swenson, Greater East Texas Community Action Program, testified with concerns about the proposed rules;
- Bill Powell, South Plains Community Action Association, testified with concerns about the proposed rules; and,
- Brad Manning, Texas Neighborhood Services, testified with concerns about the proposed rules

12) Agenda Item 1(q) – Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer for #13429 William Cannon Apartments, #13430 Parmer Place Apartments, #14400 The Point at Ben White, and #14401 Villages of Ben White, all located in Austin – was presented by Jean Latsha, Director of Multifamily Finance. The Board unanimously approved staff recommendation to issue determination notices for all applications listed.

13) At 11:59 a.m. the Board went into Executive Session and reconvened in open session at 1:04 p.m. No action was taken in or as a result of Executive Session.

Except as noted otherwise, all materials presented to and reports made to the Board were approved, adopted, and accepted. These minutes constitute a summary of actions taken. The full transcript of the meeting, reflecting who made motions, offered seconds, etc., questions and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 1:56 p.m. The next meeting is set for Thursday, May 8, 2014.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action regarding the staff report relating to Previous Participation reviews performed on Awards conditionally approved by the Board on May 8, 2014, for Unexpended Program Year 2013 Community Services Block Grant (“CSBG”) Funds

RECOMMENDED ACTION

WHEREAS, on May 8, 2014, the Board conditionally awarded Unexpended Program Year 2013 Community Services Block Grant (“CSBG”) Funds to a list of Community Action Agencies;

WHEREAS, funds were only recommended to be allocated to those entities without extended PY2013 contracts and in a position to receive and expend the funds including the condition of previous participation review;

WHEREAS, on May 23, 2014, the Executive Award and Review Administrative Committee (“EARAC”) evaluated the previous participation of the entities approved by the Board on May 8, 2014; and,

WHEREAS, staff has generated a report summarizing the results of EARAC;

NOW, therefore, it is hereby

RESOLVED, that the Board accepts such staff report and directs that staff proceed with contracting with the recipients approved at the May 8, 2014, Board meeting in the amounts and with such conditions as recommended by staff, with the exception of Cameron and Willacy Counties Community Projects and Tri-County Community Action, Inc. which are hereby denied.

BACKGROUND

Upon review of the PY 2013 CSBG grant, staff determined that \$1,473,873 remained unexpended. The original programming of funds did not result in full utilization of those funds. In order to expend these funds prior to the September 30, 2014, expiration date, the Board conditionally awarded these funds to the CSBG Eligible Entities indicated below on May 8, 2014. Organizations were selected for awards based on their expenditure of PY 2013 CSBG funds within the original 12-month contract period only for those entities with no contract extension into the 2014 program year, and for organizations in a position to receive and expend funds.

In the May 8, 2014, Board action, it indicated that the Previous Participation Rule (10 TAC, Chapter 1, Subchapter A, §1.5) includes a review of CSBG awards prior to contract execution and that the award of contracts to the listed organizations would be conditioned upon and may be reduced subject to this review. To the extent that the report below generates adjustments to the award amounts of each contract, those adjustments will be made prior to contract execution.

Report of EARAC Action Relating to Awards Approved May 8, 2014 Conditional upon Previous Participation Review

The previous participation review took place by EARAC on May 23, 2014. Following is a report summarizing the EARAC action taken.

Agency	Award Amount¹	Previous Participation Action by EARAC
Aspermont Small Business Development Center	\$33,908	Approved – No concerns by EARAC
Big Bend Community Action Agency	\$33,908	Approved with Conditions After EARAC Discussion (See below)
Cameron and Willacy Counties Community Projects	\$198,491	No PPR documents received from entity therefore unable to recommend.
Combined Community Action Inc.	\$40,877	Approved After EARAC Discussion (See below)
Community Action Inc. of Central Texas	\$50,455	Approved – No concerns by EARAC
Community Action Social Services & Education	\$35,496	Approved – No concerns by EARAC
Community Services of Northeast Texas, Inc.	\$50,141	Approved – No concerns by EARAC
Economic Action Committee of the Gulf Coast	\$33,908	Approved After EARAC Discussion (See below)
Fort Worth, City of	\$334,056	Approved After EARAC Discussion (See below)
Nueces County Community Action Agency	\$100,228	Approved – No concerns by EARAC
San Antonio, City of	\$389,326	Approved – No concerns by EARAC
South Plains Community Action Association	\$56,916	Approved – No concerns by EARAC
Texoma Council of Governments	\$47,869	Approved – No concerns by EARAC
Tri-County Community Action, Inc.	\$68,294	Denied After EARAC Discussion (See below)

In 10 TAC §1.5(i), the Previous Participation Rules, EARAC is directed for each application to either:

- “(1) Recommend approval;
- (2) Recommend denial, accompanied by an assessment of all reports received and setting out the factual basis for the denial recommendation;
- (3) Recommend approval but disclose that one or more issues under subsection (c), (d) or (e) of this section, have been reported, but after consideration of relevant material facts, and circumstances it has been determined that denial is not warranted because:
 - (A) It is in the best interests of the state to proceed with the award;

¹ The awarded agencies will be reallocated award amounts based on the formula in 10 TAC §5.203.

(B) The award will not present undue increased program risk or financial risk to the Department or the state;

(C) The applicant is not acting in bad faith; and

(D) The applicant has taken reasonable measures within its power to remedy the issue; or

(4) Take such other action as deemed reasonable and necessary to make full, accurate, and informative recommendations to the Board regarding funding and allocation decisions, including recommendations with conditions.”

In each case of approval by EARAC, the majority of EARAC members determined that either all of the criteria in (3) above are answered in the affirmative, or that consistent with (4) above they are recommending reasonable and necessary actions.

Big Bend Community Action Agency: Relating to the weatherization of one unit, Big Bend had been notified in a monitoring letter that the unit required Big Bend to return to add blocking surrounding a vent. At the May 23, 2014 EARAC meeting, the repair had not yet been made. Therefore, EARAC recommended approval conditioned on repair within 90 days or immediately if the condition was deemed to be an imminent health or safety risk). The Department has now already received evidence that the condition has been met.

Combined Community Action Inc. (“Combined”): In 2013, Combined was notified by the Department that it had approximately \$345,000 in disallowed costs relating to their ARRA WAP and 2012 CEAP contracts and that repayment was required. To date, they have been unable to repay these funds. Since the time of the costs being disallowed, Combined has replaced their Executive Director and made operational changes. The new Executive Director, Kelly Franke, has been proactive in working with the Department to take all possible steps in repaying the funds. Their plan is to sell a property they own and use the proceeds from the sale to repay the disallowed costs to TDHCA. Based on their change in leadership and her proactive approach, including their efforts at making repayment and their strong history as a provider, EARAC recommended the award of funds. One EARAC member abstained and one member voted against this approval based on their belief that an entity that owes the Department money should not be awarded discretionary funds.

Economic Action Committee of the Gulf Coast (“EAC Gulf Coast”): The most recent single audit for EAC Gulf Coast indicated that staff did not have sufficient knowledge to prepare GAAP basis financial statements and that there are limited separation of duties in the financial area. Based on the small size of their organization more extensive separation of duties is not feasible. This was not a material concern of the audit, which provided an unqualified opinion. After discussion, EARAC approved EAC Gulf Coast for funding.

Fort Worth, City of: The most recent single audit for the City of Fort Worth indicated that in the LIHEAP and CSBG programs, grant years were not appropriately segregated from the following year until a reconciliation was prepared several months after the report. This was found to be a significant deficiency in internal controls, however the Department has since monitored the City’s contracts and has found this issue to be resolved. Therefore, EARAC, approved the City of Fort Worth for funding.

Tri-County Community Action, Inc. (“Tri-County”): The most recent single audit for Tri-County indicated a material weakness related to internal controls over financial reporting; specifically journal entries that were made with no backup documentation. The Department’s monitoring staff has identified the same issue during our 2013 monitoring. The Department has monitored this agency again and is not able to confirm that the agency has resolved this issue.

1c

BOARD ACTION REQUEST

BOND FINANCE DIVISION

JUNE 5, 2014

Presentation, Discussion, and Possible Action on Resolution No. 14-034 authorizing the Third Amendment to the Servicing Agreement between the Texas Department of Housing and Community Affairs (the “Department”) and US Bank

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

In October 2012, the Department released its TMP Program 79 in an amount of \$600 million. To date, approximately 2,600 loans have been committed totaling almost \$345 million. The Department previously amended the Servicing Agreement between the Department and U.S. Bank National Association in order to incorporate various changes to the program necessitated by the Department of Housing and Urban Development (“HUD”) or the recently enacted Dodd-Frank legislation. The Servicer has recently notified the Department of an increase in the total funding fee from \$250 to \$300. Currently, the Department pays \$100 of this fee and the borrower pays \$150 at closing. Staff believes it is prudent to maintain a constant fee schedule for the borrower through the remainder of the program and thus recommends increasing the Department’s portion of the fee to absorb the \$50 increase and any modest future potential increases.

Staff is seeking approval from the Board to allow changes to the program as follows:

- Approve a revised Schedule “A” (including Exhibit’s “B” & “C”) to the Servicing Agreement. Please see the attached Schedule. Items of note would be the adjustment of servicing release premium amounts to absorb a \$50 increase in the Funding Fee. This fee is charged by US Bank and would be borne by the borrower in the alternative.
- Approve any future adjustments to the servicing release premium amounts to absorb up to an additional \$50 increase in any of the program fees, including but not limited to the Funding Fee.

Exhibit A

HFA & FNMA Rate Comparisons

	DATE	Texas Dept TDHCA		Monthly Average FNMA Required Net Yield			Over (Under)
		UPB \$000	Rate	90-DAY	Add on	RNY+.25	
	Nov-13	25,087	4.653%	3.955%	0.25%	4.205%	0.449%
	Dec-13	18,440	4.787%	4.210%	0.25%	4.460%	0.327%
	Jan-14	16,870	4.855%	4.144%	0.25%	4.394%	0.461%
	Feb-14	19,231	4.750%	4.007%	0.25%	4.257%	0.493%
Weighted Averages			4.750%			4.316%	0.434%

Exhibit B

Texas Dept TDHCA Pricing Grid

Note Rates Brackets		FHA 44	FHA 19	FHA 31.5	FHA 56.5	Conv 25
From	To					
1.251%		0.0	0.0	0.0	0.0	0.0
1.001%	1.250%	96.0	10.0	52.0	131.0	29.0
0.751%	1.000%	106.0	14.0	58.0	144.0	37.0
0.501%	0.750%	120.0	19.0	67.0	161.0	43.0
0.251%	0.500%	132	23	75	176	51
0.000%		143.0	27.0	83.0	190.0	60.0
-0.500%	-0.251%	148.0	28.0	86.0	197.0	64.0
-0.750%	-0.501%	153.0	30.0	89.0	204.0	68.0
-1.000%	-0.751%	157.0	31.0	91.0	209.0	73.0
-1.250%	-1.001%	159.0	33.0	93.0	212.0	73.0
-1.002%	0.000%	159.0	33.0	93.0	212.0	73.0

Exhibit C

Shaded line is FIXED SRP for four month settlement period.							
Price effective for settlements with Issue Dates of 6/1/2014 thru 9/1/2014							
		FHA 44	FHA 19	FHA 31.5	FHA 56.5	Conv 25	FN 97 LTV
Spread to market	0.434%	132	23	75	176	51	19
	VA's	78	(31)	21	122		

Funding fee \$ 150 Minimum Fico - 640
 Tax Service fee \$ 85 Maximum DTI - 45%
 Amortizing 2nd Fee \$ 175

Exceptions:

DTI's greater than 45% up to a max of 50% require a min FICO of 660
 Conventional loans in excess of 95% LTV require a min FICO of 680

SRP has been reduced by 10bps to account for additional \$150 FF being paid by TDHCA (total ff \$300)

* Next notification date 6/2014 for settlements with issue dates 10/1/2014 thru 1/1/2014

RESOLUTION NO. 14-034

RESOLUTION APPROVING AMENDMENTS TO SERVICING AGREEMENT FOR TAXABLE MORTGAGE PURCHASE PROGRAM; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS RELATING TO THE FOREGOING; MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe and sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Governing Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department (a) to purchase notes and other obligations evidencing loans or interests in loans for individuals and families of low and very low income and families of moderate income and (b) to sell, at public or private sale, with or without public bidding, a mortgage or other obligation held by the Department; and

WHEREAS, pursuant to Resolution No. 13-003 adopted September 6, 2012, the Governing Board approved: (1) a taxable mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production, (2) the Master Mortgage Origination Agreement (the "Master Mortgage Origination Agreement") for the Department's single family mortgage purchase programs, and (3) the Servicing Agreement between the Department and U.S. Bank National Association (the "Servicer") (the "Servicing Agreement" and collectively with the Master Mortgage Origination Agreement, the "Program Documents"); and

WHEREAS, pursuant to Resolution No. 13-038 adopted on June 13, 2013, the Governing Board approved (1) the First Amendment to Master Mortgage Origination Agreement (the "First Amendment to MOA") for the Department's single family mortgage purchase programs and (2) the First Amendment to Servicing Agreement between the Department and the Servicer (the "First Amendment to Servicing Agreement") to conform to the requirements of HUD Mortgagee Letter 2013-14 relating to requirements for secondary financing provided by a state government; and

WHEREAS, pursuant to Resolution No. 14-008 adopted on December 12, 2013, the Governing Board authorized modification of the Program Documents to the extent necessary to comply with rules of the Consumer Financial Protection Bureau ("CFPB") and the Department of Housing and Urban Development ("HUD") and proposed federal regulations under the Dodd-Frank Act ("Dodd-Frank") with respect to qualified mortgages and the limit on points and fees that can be charged for such mortgages; and

WHEREAS, pursuant to Resolution No. 14-020 adopted on April 10, 2014, the Governing Board approved the Second Amendment to Servicing Agreement (the "Second Amendment to Servicing Agreement") amending certain fees paid to the Servicer under the Program; and

WHEREAS, the Servicer has notified the Department of an increase in its funding fee; and

WHEREAS, the Department currently pays \$100 of the funding fee for each Mortgage Loan; and

WHEREAS, the Governing Board desires to authorize the Department to pay up to \$200 per Mortgage Loan of fees charged by the Servicer; and

WHEREAS, the Governing Board also desires to authorize the execution and delivery of a Third Amendment to Servicing Agreement between the Department and the Servicer, in substantially the form attached hereto (the "Third Amendment to Servicing Agreement);

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of Third Amendment to Servicing Agreement. The form and substance of the Third Amendment to Servicing Agreement are hereby approved and the Authorized Representatives are each hereby authorized to execute the Third Amendment to Servicing Agreement and to deliver the Third Amendment to Servicing Agreement to the Servicer.

Section 1.2 Authorization to Pay Fees. The Department is authorized to pay up to \$200 of fees to the Servicer for each Mortgage Loan.

Section 1.3 Execution and Delivery of Other Documents. The Authorized Representatives are each hereby authorized to execute and deliver all agreements, certificates, contracts, documents, instruments, releases, financing statements, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.4 Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.5 Exhibits Incorporated Herein. All of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

Exhibit A - Third Amendment to Servicing Agreement

Section 1.6 Authorized Representatives. The following persons are hereby named as Authorized Representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, the Director of Bond Finance of the Department, the Director of Texas Home Ownership of the Department, the Director of Multifamily Finance of the Department and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

(EXECUTION PAGE FOLLOWS)

PASSED AND APPROVED this 5th day of June, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

1d

BOARD ACTION REQUEST

LEGAL DIVISION

JUNE 5, 2014

Presentation, Discussion, and Possible Action on the proposed repeal of 10 TAC Chapter 1, §1.20 Asset Review Committee.

RECOMMENDED ACTION

WHEREAS, the Asset Review Committee and its predecessor committees have existed since early 2005 for the purpose of making decisions concerning the resolution of loans and other Department real property assets;

WHEREAS, the Department, as part of a recent reorganization, created the Asset Management Division;

WHEREAS, Whereas the Asset Management Division, in conjunction with input from other Department divisions, makes recommendations to the Asset Review Committee concerning the disposition of Department assets;

WHEREAS, the Asset Management Division staff can already provide all of the expertise necessary to make decisions concerning the disposition of Department assets;

WHEREAS, all Asset Management disposition approvals also continue to go through executive level approval;

WHEREAS, eliminating the Asset Review Committee will create efficiencies and result in a savings of time and effort on the part of the Department's staff; and,

WHEREAS, the repeal of the Asset Review Committee Rule will allow all decisions previously decided by the Asset Review Committee to be made by the Asset Management Division;

NOW, therefore, it is hereby

RESOLVED, that the proposed repeal of 10 TAC Chapter 1, Administration, §1.20, concerning Asset Review Committee is hereby ordered and approved, together with the preamble presented to this meeting, and the Executive Director and his designees are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal, in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith to make such non-substantive technical corrections as they deem necessary to effectuate the foregoing.

BACKGROUND

Asset resolution decisions have been made by various internal staff groups and committees over the last decade. Most recently the Asset Review Committee was formed in mid 2011, after the Department dissolved the former Asset Resolution and Enforcement Committee and assigned administrative penalty review to the new Administrative Penalties and Enforcement Committee. At about the same time the Asset Management Group was formed in the Housing Programs Division for the purpose of managing the Department's growing real estate inventory and to handle LURA-related transactions such as ownership transfers and rights-of-first-refusal, among others.

With the formation of the Asset Management Group the need for the Asset Review Committee no longer exists. The Asset Management Group is staffed by professional asset managers who, among other responsibilities, are charged with deciding how best to dispose of the Department's real assets and delinquent loans. Currently, the Asset Management Group is required by rule to bring its loan and asset disposition recommendations to the Asset Review Committee for a final decision. Moreover, two of the regular members of the Asset Review Committee are from the Asset Management Group, including the chair of the Committee.

Repeal of the Asset Review Committee rule will free up time for the six regular members and six alternate members to pursue their regular Department tasks and place asset resolution decisions in the hands of the group that already performs this function full-time.

Attachment 1. Preamble: Proposed Repeal 10 TAC §1.20, Asset Review Committee

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 1, §1.20 concerning Asset Review Committee. This repeal is proposed because the duties of the Asset Review Committee may be more efficiently handled within the Asset Management Division, and the Committee is no longer needed.

FISCAL NOTE. Mr. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal of the section will be in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the repeal will be in effect, the public benefit anticipated as a result of the repeal will be the more efficient use of Department staff. There will not be economic cost to any individuals formerly required to comply with the rule as a result of its proposed repeal.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES: The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Jeffrey T. Pender, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 469-9606 **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M., July 11, 2014.**

STATUTORY AUTHORITY. The repeal is proposed pursuant to Tex. Gov't Code Ann. §2306.053 which authorizes the Department to adopt rules. Additionally, the repeal is proposed pursuant to Tex. Gov't. Code Ann. §2306.141 which specifically authorizes the Department to adopt rules governing the administration of its housing programs. The proposed repeal affects no other code, article, or statute.

§1.20. Asset Review Committee

1e

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on orders adopting the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §5.23, concerning Protected Health Information, and directing its publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, pursuant to Texas Government Code, §§2306.053 and .092, the Department is provided the authority to adopt rules governing the administration of the Department and its Community Affairs programs;

WHEREAS, the proposed repeal of 10 TAC §5.23 regarding Protected Health Information is no longer necessary as adoption of a similar rule in Chapter 1 is under consideration under a separate action item at this Board meeting;

WHEREAS, the proposed repeal was published in the *Texas Register* on April 25, 2014, for public comment; and,

WHEREAS, no public comment was received;

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, §5.23, concerning Protected Health Information, is hereby approved and adopted, together with the preambles presented to this meeting, for publication in the *Texas Register*; and,

FURTHER RESOLVED, that the Executive Director and his designees be and each them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adopted repeal, in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The proposed repeal was approved for publication on April 10, 2014, by the Board, and was published in the April 25, 2014 issue of the *Texas Register* to allow for public comment. The public comment period closed on May 25, 2014. No comments were received.

Attachment A. Preamble and repeal of 10 TAC Chapter 5, Subchapter A, §5.23.

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, §5.230, concerning Protected Health Information, without changes to the proposed text as published in the April 25, 2014, issue of the *Texas Register* (38 TexReg 3291) and will not be republished.

REASONED JUSTIFICATION. 10 TAC §5.23 regarding Protected Health Information is no longer necessary as a similar rule is in Chapter 1 is published for adoption in this same issue of the *Texas Register*. The adoption of new 10 TAC §1.24 is published concurrently with this repeal in this issue of the *Texas Register*.

The Department accepted public comments between April 25, 2014, and May 25, 2014. No comments were received.

The Board approved the final order adopting the repeal on June 5, 2014.

STATUTORY AUTHORITY. The repeal is adopted pursuant to the authority of Texas Government Code, §2306.053 which authorizes the Department to adopt rules.

§5.23. Protected Health Information

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BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on an order adopting new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.24, concerning Protected Health Information. The purpose of the new section is to establish one rule for all Department programs concerning Protected Health Information, and directing its publication in the *Texas Register*.

RECOMMENDED ACTION

WHEREAS, pursuant to Texas Government Code, §§2306.053 and .092, the Department is provided the authority to adopt rules governing the administration of the Department and its Community Affairs programs;

WHEREAS, the new 10 TAC §1.24 establishes one rule for all Department programs concerning Protected Health Information; and

WHEREAS, the new 10 TAC §1.24 was published in the *Texas Register* on April 25, 2014, for public comment;

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.24, concerning Protected Health Information, is hereby ordered adopted and approved, together with the preamble presented to this meeting, for publication in the *Texas Register*; and,

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adopted section, in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The new 10 TAC §1.24 establishes one rule for all Department programs concerning Protected Health Information.

The new section was approved for publication on April 10, 2014, by the Board, and was published in the April 25, 2014 issue of the *Texas Register* to allow for public comment. The public comment period closed on May 25, 2014. No comments were received.

Attachment A: Preamble and Amended 10 TAC Chapter 1, Subchapter A, §1.24

The Texas Department of Housing and Community Affairs (the "Department") adopts new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.24, concerning Protected Health Information, without changes to the proposed text as published in the April 25, 2014, issue of the *Texas Register* (39 TexReg 3291) and will not be republished.

REASONED JUSTIFICATION. The new §1.24, Protected Health Information, establish one rule for all Department programs concerning Protected Health Information.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.

Comments were accepted from April 25, 2014, through May 25, 2014. No public comments were received.

STATUTORY AUTHORITY. The new section is adopted pursuant to Texas Government Code, §2306.053, which generally authorizes the Department to adopt rules, and more specifically Texas Government Code, §2306.092, which authorizes the Department to promulgate rules regarding its community affairs and community development programs.

§1.24. Protected Health Information.

(a) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Affiliate--Shall have the meaning assigned by the specific program or programs described in this title.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Protected Health Information--As defined in 45 CFR §160.103.

(4) Subrecipient--Includes any entity receiving funds or awards from the Department.

(b) If Subrecipients or Affiliates collect or receive Protected Health Information in the course of administering Department programs, they are required to follow the procedures in Texas Health and Safety Code, Subtitle I, Chapter 181.

(c) A nonprofit agency is exempt from this subchapter, unless the nonprofit's primary business is the provision of health care or reimbursement for health care services.

1g

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5(e), concerning Previous Participation Reviews, and directing its publication in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, at its April 2014 meeting the Board approved for publication and public comment in the *Texas Register*, the proposed amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5(e), concerning Previous Participation Reviews; and,

WHEREAS, the proposed amendments were published in the *Texas Register* on April 25, 2014, for public comment and no comment was received;

NOW, therefore, it is hereby

RESOLVED, that the final order adopting the amendments to 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.5(e), concerning Previous Participation Reviews, is hereby ordered adopted and approved, together with the preamble presented to this meeting, for publication in the *Texas Register*; and,

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the adopted amendments, in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The rules regarding previous participation were revised significantly over the past several months. While these rules are relatively straight forward they incorporate actions from other rules and more complicated contract arrangements. For example, the compliance portion relies upon requirements established in the LURA and in the compliance rules. Compliance rules are typically clearly delineated to pinpoint issues where there is a specific right or wrong answer. The asset management portion of the previous participation rule also relies on rules from other areas as well but tends to evaluate developments as a whole to report the overall economic and operational capacity of a multifaceted real estate development. Thus, as staff began

implementing this new rule it became very clear that issues regarding asset management would come into play most effectively when a specific issue of ongoing non-compliance or loan default was identified. The proposed change to the rule is very limited to take this understanding into account.

The proposed amendments were approved for publication on April 10, 2014, by the Board, and were published in the April 25, 2014 issue of the *Texas Register* to allow for public comment. The public comment period closed on May 16, 2014. No comments were received.

Attachment A. Preamble, and Adoption of the amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.5 (e), concerning Previous Participation Reviews for publication in the *Texas Register*

The Texas Department of Housing and Community Affairs (the “Department”) adopts amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.5 (e), concerning Previous Participation Reviews, with no changes to the proposed text as published in the April 25, 2014 issue of the *Texas Register* (39 TexReg 3349) and will not be republished.

REASONED JUSTIFICATION FOR THE RULE. The amendment to §1.5 (e), concerning Previous Participation Reviews serves to clarify the review process and ensure efficient processing of reports on asset management performance only when outstanding noncompliance are identified.

SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS. Comments were accepted from April 25, 2014, through May 16, 2014. No public comments were received.

STATUTORY AUTHORITY. The amendments are adopted pursuant to the authority of Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Specifically Texas Government Code §2306.141 gives the Department the authority to promulgate rules governing the administration of its housing programs. The proposed adoption affects no other code, article or statute.

The Board approved the final order adopting the amendment on June 5, 2014.

§1.5 Previous Participation.

(e) Where a report is to be provided, pursuant to Subsection (c) or (d) of this section, the Director of the Asset Management Division shall prepare a report documenting any known current or ongoing concerns regarding the applicant or any affiliate of the applicant to financially or operationally manage one or more affordable rental properties assisted by the Department in a manner to keep the development sanitary, decent, and safe, which may include but not be limited to:

- (1) The establishment and maintenance of appropriate reserves;
- (2) Identification of the development's capacity to meet financial obligations consistent with the minimum ratios to meet underwriting feasibility for the long term;
- (3) Material modifications or amendments;
- (4) Any financing known to be in a workout status; and
- (5) Delays in issuance of IRS Form(s) 8609 which are within the control of the owner.

1h

BOARD ACTION REQUEST
COMPLIANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on proposed new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, § 10.1004, concerning Income and Rent Limits, and directing their publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, the Board approved a new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, § 10.1004 concerning Housing Tax Credit Properties, Tax Credit Assistance Program (TCAP), Exchange, and Housing Trust Fund (HTF) to be published in the *Texas Register* for public comment, at the December 12, 2013, Board meeting; and,

WHEREAS, the rulemaking was published in the January 10, 2014 issue of the *Texas Register* and the public comment period has ended; and,

WHEREAS, during the public comment period, Congress approved a H.R. 2642 that extended rural area eligibility prescribed in Section 520 of the Housing Act of 1949;

NOW, therefore, it is hereby

RESOLVED the Executive Director and his designees are authorized, empowered, and directed to withdraw the previously published version and re-propose new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits, §10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange and HTF for public comment in the *Texas Register*, in the form presented to this meeting, to be published in the *Texas Register* for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of subchapter specific preambles.

BACKGROUND

The Board approved a new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, §10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange, and HTF at the December 12, 2013, Board meeting to be published in the *Texas Register* for public comment. The rulemaking was published in the January 10, 2014 issue of the *Texas Register* and made available for public comment from January 10, 2014, through February 10, 2014. No comment was received.

Although no comment was received during the public comment period, Congress passed H.R. 2642 that impacted the identification of a rural eligible place under Section 520 of the Housing Act of 1949. As a result, the Department seeks to withdraw the version previously published and to re-propose the new section. Although the section will be posted to the *Texas Register* as new, it is shown here in the blackline format to identify changes made.

Attachment 1. Preamble, withdrawal and re-propose new 10 TAC Chapter 10, Subchapter H, § 10.1004 concerning Housing Tax Credit Properties, TCAP, Exchange and HTF

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits §10.1004, concerning Housing Tax Credit Properties, TCAP, Exchange and HTF. The proposed new section addresses the change made by H.R. 2642 to the identification of a rural eligible place for Housing Tax Credit Properties, TCAP, Exchange and HTF Developments administered by the Department.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated, as a result of the new sections, will be improved compliance and clarity regarding requirements. There will not be any additional economic cost to any individuals required to comply with the new sections because it is based on existing federal requirements

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held June 20, 2014, through July 21, 2014, to receive input on the new sections. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3359. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 21, 2014.

STATUTORY AUTHORITY. The new section is proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed new section affects no other code, article, or statute.

§10.1004. Housing Tax Credit Properties, TCAP, Exchange and HTF.

(a) Except for certain rural properties, Housing Tax Credit, TCAP, Exchange, and HTF Developments must use the Multifamily Tax Subsidy Program (MTSP) income limits released by HUD, generally, on an annual basis. The MTSP limit tables include:

- (1) The 50 percent and 60 percent Area Median Gross Income (AMGI) by household size.
- (2) In areas where the income limits did not decrease in 2007 and 2008 because of HUD's hold harmless policy, a HERA Special 50 percent and HERA Special 60 percent income limit by household size. These higher limits can only be used if at least one building in the Project (as defined on line 8b on Form 8609) was placed in service on or before December 31, 2008.

(b) If HUD releases a 30 percent, 40 percent, 60 percent or 80 percent income limit in the MTSP charts, the Department will use that data. Otherwise, the following calculation will be used, without rounding, to determine additional income limits:

(1) To calculate the 30 percent AMGI, the 50 percent AMGI limit will be multiplied by .60 or 60 percent.

(2) To calculate the 40 percent AMGI, the 50 percent AMGI limit will be multiplied by .80 or 80 percent.

(3) To calculate the 60 percent AMGI, the 50 percent AMGI limit will be multiplied by 1.2 or 120 percent.

(4) To calculate the 80 percent AMGI, the 50 percent AMGI limit will be multiplied by 1.6 or 160 percent.

(c) Treatment of Rural Properties. Section 42(i)(8) of the Code permits certain Housing Tax Credit, Exchange, and Tax Credit Assistance properties to use the national non-metropolitan median income limit when the area median gross income limit for a place is less than the national non-metropolitan median income. The Department will ~~make the determination if a place qualifies as rural using the following process~~ identify rural eligible places in accordance with:

(1) Section 520 of the Housing Act of 1949 as amended from time to time; and,

(2) Chapter 2306 of the Texas Government Code, as amended from time to time.

~~(1) When HUD releases MTSP income limits, the Compliance Division will review the most current listing of places on the Housing Tax Credit Site Demographic Characteristics Report found on the Department's website, which classifies each place as Rural or Urban. This determination is made in accordance with §10.3(a)(116) of this chapter (relating to Definitions). For the purposes of determining places that are eligible to use the rural income and rent limits, the following places will be removed from the list:~~

~~(A) Urban places.~~

~~(B) Places with a population in excess of 20,000 as of the 2010 census.~~

~~(C) Places with a population between 10,000 and 20,000 as of the 2010 census that are in a Metropolitan Statistical Area.~~

~~(D) Places that have an income limit greater than the national non-metropolitan income limit.~~

~~(2) All remaining places will be eligible to use the national non-metropolitan median income.~~

~~(3) Generally, HUD only releases the national non-metropolitan median income by household size for the 50 percent AMGI. The Department will calculate the additional income limits in accordance with subsection (b) of this section.~~

~~(4) (3) The Department allows the use of rural income limits for HTF multifamily rental Developments that are considered rural using the process described in paragraph (1)(A)-(D) of this subsection.~~

(d) Rent limits are a calculation of income limits and cannot exceed 30 percent of the applicable Imputed Income Limit. Rent limits are published by bedroom size and will be rounded down to the nearest dollar. Example 1004(1): To calculate the 30 percent 1 bedroom rent limit:

(1) Determine the imputed income limited by multiplying the bedroom size by 1.5: 1 bedroom x 1.5 persons = 1.5.

(2) To calculate the 1.5 person income limit, average the 1 person and 2 person income limits: If the 1 person 30 percent income limit is \$12,000 and the 2 person 30 percent income limit is \$19,000, the imputed income limit would be \$15,500 ($\$12,000 + \$19,000 = \$31,000 / 2 = \$15,500$).

(3) To calculate the 30 percent 1 bedroom rent limit, multiply the imputed income limit of \$15,500 by 30 percent, then divide by 12 months and round down. In this example, the 30 percent 1 bedroom limit is \$387 ($\$15,500 \text{ times } 30 \text{ percent divided by } 12 = \387.50 per month . Rounded down the limit is \$387). Example 1004(2): to calculate the 50 percent 2 bedroom rent limit:

(A) Determine the imputed income limited to be calculated by multiplying the bedroom size by 1.5: 2 bedrooms x 1.5 persons = 3.

(B) The 3 person income limit is already published; for this example the applicable 3 person 50 percent income limit is \$27,000.

(C) To calculate the 50 percent 2 bedroom rent limit, multiply the \$27,000 by 30 percent, then divide by 12. In this example, the 50 percent 2 bedroom limit is \$675 ($\$27,000 \text{ times } 30 \text{ percent divided by } 12 = \675 . No rounding is needed since the calculation yields a whole number).

(e) The Department releases rent limits assuming that the gross rent floor is set by the date the Housing Tax Credits were allocated.

(1) For a 9 percent Housing Tax Credit, the allocation date is the date the Carryover Agreement is signed by the Department.

(2) For a 4 percent Housing Tax Credit, the allocation date is the date of the Determination Notice.

(3) For TCAP, the allocation date is the date the accompanied credit was allocated.

(4) For Exchange, the allocation date is the effective date of the Subaward agreement.

(f) Revenue Procedure 94-57 permits, but does not require, owners to set the gross rent floor to the limits that are in effect at the time the Project (as defined on line 8b on Form 8609) places in service. However, this election must be made prior to the Placed in Service Date. A Gross Rent Floor Election form is available on the Department's website. Unless otherwise elected, the initial date of allocation described in subsection (e) of this section will be used.

(1) In the event an owner elects to set the gross rent floor based on the income limits that are in effect at the time the Project places in service and wishes to revoke such election, prior approval from the Department is required. The request will be treated as non-material amendment, subject to the fee described in §10.901 of this chapter (relating to Fee Schedule) and the process described in §10.405 of this chapter (relating to Amendments and Extensions).

(2) An owner may request to change the election only once during the Compliance Period.

(g) For the HTF program, the date the LURA is executed is the date that sets the gross rent floor.

(h) Held Harmless Policy.

(1) In accordance with Section 3009 of the Housing and Economic Recovery Act of 2008, once a Project (as defined on line 8b on Form 8609) places in service, the income limits shall not be less than those in effect in the preceding year.

(2) Unless other guidance is received from the U.S. Treasury Department, in the event that a place no longer qualifies as rural, a Project that was placed in service prior to loss of rural designation can continue to use the rural income limits that were in effect before the place lost

such designation for the purposes of determining the applicable income and rent limit. However, if in any subsequent year the rural income limits increase, the existing project cannot use the increased rural limits. Example 1004(3): Project A was placed in service in 2010. At that time, the place was classified as Rural. In 2012 that place lost its rural designation. The rural income limits increased in 2013. Project A can continue to use the rural income limits in effect in 2012 but cannot use the higher 2013 rural income limits. For owners that execute a carryover for a Project located in a rural place that loses such designation prior to the placed in service date, unless other guidance is received from the U.S. Treasury Department, the Department will monitor using the rent limits calculated from the rural limits that were in effect at the time of the carryover. However, for the purposes of determining household eligibility, such Project must use the applicable MTSP income limits published by HUD.

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BOARD ACTION REQUEST

COMPLIANCE DIVISION

JUNE 5, 2014

Presentation, Discussion, and Possible Action on a proposed amendment to 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973 and directing its publication for public comment in the *Texas Register*

RECOMMENDED ACTION

WHEREAS, on September 15, 2010, the U.S. Department of Justice (“DOJ”) published revised regulations at 28 C.F.R. Part 35 and 28 C.F.R Part 36 implementing Title II and III, respectively, of the Americans with Disabilities Act (“ADA”), commonly known as the “2010 Standards;”

WHEREAS, on March 6, 2012, the Board directed staff to work with appropriate federal cognizant agencies to obtain clear guidance on the applicability of these new regulations;

WHEREAS, staff received written guidance that the U.S. Department of Housing (“HUD”) believed these regulations applied to new construction involving federal funds administered by the Department;

WHEREAS, as staff believes that consistency in the construction requirements for all Multifamily Housing Developments will provide greater efficiencies for the State and greater certainty for the affected community and industry;

WHEREAS, effective February 16, 2014, the Department adopted new 10 TAC §§1.201– 1.212 concerning Accessibility Requirements

WHEREAS, on May 23, 2014, HUD issued new guidance, titled “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities,” and,

WHEREAS, newly issued HUD guidance dictates minor amendments to 10 TAC Chapter 1, Subchapter B because §2306.6722 of the Texas Government Code requires an accessibility standard that is in compliance with 24 CFR Part 8 Subpart C.

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees be and each of them are hereby authorized, empowered, and directed, for and on behalf of the Department, to publish a proposed amendment to 10 TAC §1.206, concerning Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973, in the *Texas Register* for review and public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

BACKGROUND

The Department has received new guidance from HUD regarding accessibility standards. The purpose of this amendment is to align the rule with federal and state requirements.

Attachment 1. Preamble and amendment to 10 TAC Chapter 1, Subchapter B §1.206 concerning the Applicability of the Construction Standards for Compliance with Section 504 of the Rehabilitation Act of 1973.

The Texas Department of Housing and Community Affairs (the “Department”) proposes an amendment to 10 TAC Chapter 1, Subchapter B, §1.206 concerning the Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973. The purpose of this amendment is to align the rule with federal and state requirements.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new sections are in effect, enforcing or administering the new sections do not have any foreseeable implications related to costs or revenues of the state or local governments, as the rule implements existing federal requirements.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be compliance with federal and state requirements, consistency across Department programs, and improved access for persons with disabilities. Mr. Irvine has also determined that for new construction projects there will be no fiscal impact on projects that are already otherwise subject to these federal and state requirements.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will not be an economic effect on small or micro-businesses that is different from that stated above.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held June 20, 2014, through July 21, 2014 to receive input on the proposed amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Patricia Murphy, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by fax to (512) 475-3140. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 21, 2014.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

§1.206.Applicability of the Construction Standards for Compliance with §504 of the Rehabilitation Act of 1973.

(a) The following types of Multifamily Housing Developments must comply with the construction standards of §504 of the Rehabilitation Act of 1973, as further defined through the Uniform Federal Accessibility Standards (UFAS):

- (1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction before March 12, 2012;
- (2) Rehabilitation HOME and NSP Multifamily Housing Developments awarded funding before January 1, 2014; and
- (3) All Housing Tax Credit and Tax Exempt Bond Developments awarded after September 1, 2001 and before January 1, 2014.

(b) The following types of Multifamily Housing Developments must comply with the construction requirements of 2010 ADA standards : with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” *Federal Register 79 FR 29671* and not otherwise modified in this Subchapter

(1) New construction and reconstruction HOME and NSP Multifamily Housing Developments that began construction after March 12, 2012;

(2) Rehabilitation HOME and NSP Multifamily Housing Developments awarded funding after January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments awarded after January 1, 2014.

(c) After March 12, 2012, Recipients of Emergency Solutions Grant and Homeless Housing and Services Program funds must comply with the 2010 ADA Standards must comply with the 2010 ADA Standards with the exceptions listed in “Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities” *Federal Register 79 FR 29671* and not otherwise modified in this Subchapter.

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BOARD ACTION REQUEST

TEXAS HOMEOWNERSHIP DIVISION

JUNE 5, 2014

Presentation, Discussion, and Possible Action on the Single Family Mortgage Loan and Mortgage Credit Certificate (“MCC”) Program(s) Participating Lender List.

RECOMMENDED ACTION

WHEREAS, pursuant to Texas Government Code §2306.149, the Board has the specific duty and power to compile a list of approved mortgage lenders; and,

WHEREAS, the Department has compiled a Participating Lender List for the Single Family Mortgage Loan and Mortgage Credit Certificate Programs;

Now, therefore, it is hereby

RESOLVED, that the attached Participating Lender List is approved for use in conjunction with the Single Family Mortgage Loan and Mortgage Credit Certificate Programs.

BACKGROUND

At any time, new mortgage lenders are allowed to complete documentation for consideration and approval to participate on the Participating Lender List. To date, over 100 lending institutions serving locations throughout the state have signed documents to participate in one or both of the programs.

In an effort to maintain a well trained and knowledgeable lender network, webinar lender trainings are periodically conducted by our program administrator staff on any current mortgage loan program to any existing and or new participating lender. Additionally, Department staff conducts webinars or on-site lender trainings for any new MCC participant upon request.

In accordance with Texas Government Code, §2306.149, staff is requesting the Board approve a list of mortgage lenders for use in conjunction with the Single Family Mortgage Loan and MCC Program(s). Staff recommends the following list of participating lenders be approved by the Board.

APPROVED LENDERS

Academy Mortgage Corporation	K. Hovnanian American Mortgage
Affiliated Bank Mortgage	LeaderOne Financial Corp.
Affiliated Mortgage Company	LoanDepot.com LLC dba imortgage
Ark-La-Tex Financial Services LLC dba Benchmark Mortgage	Liberty Mortgage (Wendeburg Interests, Inc.)
Aspire Financial, Inc. dba TexasLending.com	Loan Simple, Inc.
Amarillo National Bank	MI Financial Corp.
Amcap Mortgage, Ltd. (Gold Financial)	Mid America Mortgage, Inc.
American Midwest Bank	Mission Mortgage of Texas, Inc.
American Southwest Mortgage Corp.	Mortgage Pros, Inc.
America's Choice Home Loans	National Bank
AmeriPro Funding, Inc.	Nations Reliable Lending, LLC
BancorpSouth Bank	NationStar Mortgage
Bank of America	Network Funding, L.P.
Bank of Oklahoma dba Bank of Texas	NewPenn Financial, LLC
Bay Equity, LLC	Northstar Bank of Texas
Broker Solutions Inc. dba New American Funding	Oak Mortgage Group
Caliber Home Loans, Inc.	Paramount Residential Mortgage Group
Capstar Lending, LLC	Patriot Bank Mortgage, Inc.
Castle & Cooke Mortgage, LLC	Primary Residential Mortgage Inc.
Cendera Funding	PNC Mortgage
Chase	Premier Nationwide Lending (NTFN, Inc.)
Churchill Mortgage Corp.	PrimeLending
Cornerstone Mortgage Company	PrimeWest Mortgage Corp.
Colonial Savings, F.A./Colonial National Mortgage	Pulte Mortgage
DHI Mortgage Co., Ltd.	RANLife, Inc.
Envoy Mortgage	Republic State Mortgage Company
Fairway Independent Mortgage	Rocky Mountain Mortgage Company
First California Mortgage Company	Security American Mortgage, Inc.
First Choice Loan Services	Sente Mortgage, Inc.
First Continental Mortgage Co.	Service First Mortgage Co. (SFMC, LP)
First National Bank Texas dba First Community Mortgage	Stearns Lending, Inc.
First National Bank - El Paso	Southwest Funding, LP
Gardner Financial Services dba Legacy Mutual Mortgage	Standard Pacific Mortgage, Inc.
Gateway Mortgage Group, LLC	Success Mortgage Partners, Inc.
GenEquity Mortgage, Inc.	Supreme Lending (aka Everett Financial, Inc.)
Georgetown Mortgage, LLC	SWBC Mortgage Corporation
Great Plains National Bank	Texas Loan Star
Global Advisory Group, Inc. dba Mortgage Advisory Group	The Home Lending Group, LLC
Guild Mortgage	The Lender Partners
Hamilton Group Funding	Top One Mortgage LLC
Hancock Mortgage Partners, Inc.	Town Square Mortgage & Investments, Inc.
Highlands Residential Mortgage	TXL Mortgage Corporation
Home Community Mortgage, LLC	U.S. Bank Home Mortgage

APPROVED LENDERS

HomeBridge Financial Services, Inc. (fka REMN)	Universal American Mortgage Company
Hometruster Mortgage Co.	Venta Financial (Alterra Home Loans)
Houstonian Mortgage Group, Inc.	Wells Fargo Home Mortgage
Homeway Mortgage fka Stanford Lending, LLC	Whitney National Bank
Homewood Mortgage LLC	Willow Bend Mortgage
IHS Mortgage, LLC	Weststar Mortgage Corp.
IberiaBank Mortgage Company	Wintrust Mortgage
imortgage.com	W.J. Bradley Mortgage Captial, LLC
Interlinc Mortgage Services	WR Starkey Mortgage, LLP

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Resolution No. 14-031 for the First Supplemental Trust Indenture and Modification Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Green Crest Apartments, Series 2002

RECOMMENDED ACTION

WHEREAS, the Department issued Series 2002 tax-exempt bonds in the aggregate principal amount of \$12,500,000 to the Green Crest Apartments development in Harris County to construct 192 units of affordable multifamily rental housing;

WHEREAS, the Owner is requesting the Department's approval for modifications to the existing financing structure, including the interest rate, maturity and amortization provisions under the original bond covenants; and,

WHEREAS, such changes are necessary to improve the financial strength of the development and reduce the ongoing operating deficits;

NOW, therefore, it is hereby

RESOLVED, that Resolution No. 14-031 relating to the First Supplemental Trust Indenture and Modification Agreement for the Green Crest Apartments is hereby approved as presented to this meeting; and,

FURTHER RESOLVED, that staff is authorized, empowered and directed for and on behalf of the Department to execute and deliver such documents, instruments, and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

BACKGROUND

The bonds for Green Crest Apartments were originally issued through the Department in November 2002. The Series 2002 tax-exempt bond amount was \$12,500,000 and the original financing structure included privately placed bonds with Charter Municipal Mortgage Acceptance Company and as such were unrated with no credit enhancement. The interest rate on the bonds is currently 7.00% per annum.

Organizational Structure: The Borrower is Finlay Interests 34, Ltd. and the General Partner is CCL Green Crest LLC which is comprised of CCL Acquisitions II, LLC and CCL Dispositions

II LLC, each with 50% ownership interest. In October 2006, Centerline assumed the GP interest from the original General Partner, the Finley Group.

Proposed Changes: The applicant is requesting the Department's approval to modify some aspects of the financing structure under the original bond covenants. The sections below outline the specific changes to these provisions.

Interest Rate: The original bonds carried an interest rate of 7%. The proposed modification includes a reduction in the interest rate to 5.50% resulting in a savings of approximately 30% in the monthly debt service payments.

Maturity and Amortization: The original maturity date of November 1, 2042, will be accelerated to November 1, 2036. The amortization schedule will be recalculated in order to level the debt service over the term. Due to the acceleration, the weighted average maturity will not increase and as such will not result in a new public hearing pursuant to federal tax law.

Staff Analysis: The modifications are projected to alleviate Centerline's obligation to fund operating deficits and reduce the default risk to Freddie Mac as the lender. An underwriting analysis of the proposed modifications can be found in the memo included behind this Board write-up.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Teresa Morales, Manager Multifamily Finance
From: Colton Sanders, Asset Manager
CC: Bond Restructuring Application File
Date: May 27, 2014
Subject: TDHCA Bond Restructuring Application – 14602 Green Crest Apartments (aka CityParc at Green Crest LIHTC 02439 - CMTS 3305)

BACKGROUND:

The subject property was originally allocated \$12,500,000 of TDHCA Tax-Exempt Multifamily Housing Mortgage Revenue Bonds (Series 2002). The property also received 8609s in the amount of \$476,404 in annual 4% housing tax credits in April 2009. The owner reported that in April 2010 the IRS sent a notification stating that the 2005-2007 tax credits could not be claimed as the partnership had not obtained Forms 8609 from the Department until April 2009.

The property is restructuring the bond financing because it never met its stabilization requirements. Stabilization per the current Loan Agreement is defined as three months (90 days) of operations at a 1.15 or greater DCR and 90% physical occupancy. The property had 24 months from completion to stabilize and failed to do so, reportedly due to soft market conditions and lower than anticipated rental rates. In October 2006, Centerline, the limited and special limited equity partner, assumed the GP interest from the Finley Group. The property is located in the West Chase Submarket of Houston which is a large residential area with many multifamily offerings. In 2006 the property was around 90% occupied, albeit at the cost of high rental concessions due to post-Hurricane Katrina market conditions within Houston's multifamily rental market. The property also experienced above average turn-over related expenses from 2006-2010. The property remained competitive in the market due to the social services offered; however, the soft rental market still caused hardships which did not allow the property to meet stabilization requirements. As of third quarter 2013 Centerline reports capital advancements of over \$2 million to the property for operations.

Since 2012 the operating strategy was adjusted to reduce tenant turn-over and decrease rental concessions while remaining competitive with comparable market rate and restricted multifamily properties within the submarket. The property has reached 99.5% physical occupancy as of February 2014. The YTD ending 2013 operating statements report economic occupancy at 96%. The property has maintained economic and physical occupancy above 90% since 2012 per the annual financial statements supplied to the Department. The application projects a 6% vacancy and collection loss; however, actual operating statements report only a 4% loss. The Owner has reported a need to differentiate the property within the market by offering additional supportive services and property security that has caused above average expenses; however, the property has been able to achieve stabilization requirements, and if these expenses decrease and economic occupancy remains the same or increases the property will continue to achieve stabilization requirements.



CURRENT FINANCING STRUCTURE:

MRB 2002

- Series 2002 \$12,500,000 Tax Exempt Bonds at an interest rate of 7%.
- Series 2002 maturity date: November 1, 2042 (480 month amortization)
- The monthly debt service payment is \$77,678.91

PROPOSED FINANCING STRUCTURE:

The Owner has requested the Department's consent to modify certain requirements under the existing bond covenants. The amortization period for the Series 2002 bonds will be reset to 466 months on the \$12,500,000 at an interest rate of 5.50% with the maturity date accelerated to November 1, 2036 at which point a balloon payment will be required for the outstanding balance of principal and interest. The required monthly debt service payment is projected to be \$56,077.97 which represents a reduction of approximately 30% from the existing monthly debt service payment. The bonds will be deemed stabilized at a 1.10x DCR. The restructuring should alleviate Centerline's obligation to provide operating capital resources to fund the property's deficits, and reduce the default risk to Freddie Mac as the senior lender. The General Partner and Limited Partner ownership structure will remain the same post-closing of the proposed financing structure. The Owner's pro forma using the restructured debt projects positive cash flow with annual debt service coverage ratios above 1.13 over the next 15 years.

STAFF RECOMMENDATION:

Staff has reviewed operating statements and analyzed the property's financial situation with the current and proposed financing structure. The proposed financing structure is projected to allow the property to achieve a DCR above 1.10x which should allow the property to stabilize if occupancy projections are also achieved. While this is below the Department's recommended DCR of 1.15 this development is part of a larger re-structuring of a portfolio of properties to which Freddie Mac, as the majority owner of the bonds, has provided its consent. Staff supports the approval of the proposed modifications to the financing structure under the original bond covenants.

**SUPPLEMENTAL TRUST INDENTURE
AND MODIFICATION AGREEMENT**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS
(GREEN CREST APARTMENTS) SERIES 2002

This SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT, dated as of July 1, 2014 (this "Supplement"), among TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its successors and assigns, the "Issuer"), FINLAY INTERESTS 34, LTD., a limited partnership organized and existing under the laws of the State of Florida (together with its successors and assigns, the "Borrower"), WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association duly organized, validly existing and authorized to accept the duties and obligations set out by virtue of the laws of the United States of America, as trustee, successor to Wells Fargo Bank Texas, N.A. (together with any successor trustee and their respective successors and assigns, the "Trustee") under a Trust Indenture, dated as of November 1, 2002 (as amended, modified or supplemented from time to time, the "Indenture"), between the Issuer and Trustee (capitalized terms used herein and not otherwise defined having the meaning assigned to them in the Indenture),

WITNESSETH:

WHEREAS, pursuant to the Indenture, the Issuer has previously issued its Multifamily Housing Mortgage Revenue Bonds (Green Crest Apartments) Series 2002 in the original aggregate principal amount of \$12,500,000 (the "Bonds"), to finance a portion of the costs of the acquisition, construction and equipping of an approximately 192-unit multifamily residential rental development known as Green Crest Apartments and located in Harris County, Texas (the "Project"); and

WHEREAS, pursuant to a Loan Agreement, dated as of November 1, 2002, among the Issuer, the Trustee and the Borrower (the "Loan Agreement"), the Issuer loaned the proceeds of the Bonds to the Borrower to finance a portion of the cost of the Project; and

WHEREAS, among other things, the Borrower was obligated pursuant to Section 6.2 of the Loan Agreement to make a prepayment in the amount specified by the Majority Owner (as defined in the Indenture) to effectuate a partial redemption of Bonds pursuant to Section 4.01(b) of the Indenture in the event the Project did not achieve "Stabilization" on or before the date which was twenty-four (24) months following the earlier of (A) Completion or (B) the Completion Date; and

WHEREAS, prior to the date hereof, such payment has not been made, as required; and

WHEREAS, the Borrower and the Servicer have asked the Issuer and the Trustee to enter into this Supplement (i) to modify the redemption provisions, (ii) to modify the mandatory sinking fund redemption schedule, (iii) to modify the interest rate on the Bonds, and (iv) to make certain other modifications to the terms of the Bonds as more fully described herein with the consent of the owners of 100% of the Bonds Outstanding; and

WHEREAS, Sections 9.02, 9.03, 9.04, 9.06 and 9.07 of the Indenture provide that the Indenture and the Loan Agreement can be amended for such purposes by a supplemental trust indenture accompanied by the consent of the owners of 100% of the Bonds Outstanding and the Borrower and upon delivery of an opinion of Bond Counsel; and

WHEREAS, Federal Home Loan Mortgage Corporation is the registered owner of 100% of the Outstanding Bonds and is the Majority Owner, as such term is defined in the Indenture;

NOW, THEREFORE, in consideration of the foregoing and subject to the requirements of Sections 9.02, 9.03, 9.04, 9.06 and 9.07 of the Indenture, the Issuer, the Trustee and the Borrower, with the consent of

the Majority Owner, hereby agree that the Indenture and the Loan Agreement be amended, modified and supplemented as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions.

(a) The definition of “Maturity Date” in the Indenture is hereby amended to read as follows:

“Maturity Date” means November 1, 2036.

(b) The definition of “Stabilization” in the Indenture and in the Loan Agreement is hereby amended to read as follows:

“Stabilization” shall be deemed to have occurred on the date of execution and delivery of the Supplement.

(c) The definition of “Supplement” is hereby added to the Indenture as follows:

“Supplement” means the Supplemental Trust Indenture and Modification Agreement, dated as of July 1, 2014, by and among the Issuer, the Borrower and the Trustee, amending the Indenture and the Loan Agreement, as the same may be amended or supplemented from time to time.

(d) All other capitalized terms used herein unless otherwise defined shall have the same meaning as used in Article I of the Indenture or Article I of the Loan Agreement.

ARTICLE II THE AMENDMENTS

Section 2.01 Amendment of Section 3.06 of Indenture. Section 3.06 of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“Section 3.06. Interest on the Bonds. The Bonds shall bear interest on the Outstanding principal amount thereof, payable on each Interest Payment Date, (i) at the rate of 7.00% per annum from the date of issuance thereof to and including June 30, 2014 and (ii) at the rate of 5.50% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration, computed on the basis of a 360-day year comprised of twelve 30-day months.”

Section 2.02 Amendment of Section 4.01(b) of Indenture. Section 4.01(b) of the Indenture is hereby deleted in its entirety. From and after the date hereof, all references in the Bonds, the Indenture and the Loan Documents to Section 4.01(b) of the Indenture shall be of no further force or effect whatsoever and the Majority Owner shall no longer have the right to direct any mandatory redemption of the Bonds as a result of the failure of the Project to achieve “Stabilization” under the original terms of the Loan Documents.

Section 2.03 Amendment of Section 4.07(b) of Indenture. Section 4.07(b) of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“(b) In the event of a partial redemption of Bonds other than pursuant to Section 4.01(g) of this Indenture, the mandatory sinking fund schedule set forth on Exhibit B hereto shall be adjusted to provide for level debt service in respect of the Bonds remaining Outstanding after such partial redemption, on the basis of a 466-month amortization schedule commencing on August 1, 2014; provided that such schedule shall include a balloon payment at the Maturity Date. The Majority Owner shall provide the

Trustee with a revised Exhibit B reflecting such adjustment promptly following any such partial redemption.”

Section 2.04 Amendment to Section 8.11 of Indenture. Section 8.11 of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“Section 8.11 Servicer. The Majority Owner may, by written notice to the Trustee, the Issuer and the Borrower, appoint a third party Servicer to service the Loan and remove any Servicer so appointed. The selection or removal of any Servicer shall be in the sole discretion of the Majority Owner. The Majority Owner may also choose to act in the capacity of Servicer of the Loan. The Servicer shall have the right to receive copies of all reports and notices provided for by the Loan Documents.”

Section 2.05 Amendment to Exhibit A of the Indenture; Replacement for Form of Bond. The form of Bond attached to the Indenture as Exhibit A is hereby replaced with the form of Bond attached as Exhibit B to this Supplement. Promptly following the execution and delivery of this Supplement, the Trustee shall deliver to the Majority Owner, or upon its order, an executed and authenticated replacement Bond certificate in the form set forth in Exhibit B to this Supplement.

Section 2.06 Amendment to Exhibit B of Indenture. The mandatory sinking fund schedule set forth on Exhibit B of the Indenture is hereby replaced with the schedule attached as Exhibit A to this Supplement.

ARTICLE III CONDITIONS TO EFFECTIVENESS/REPRESENTATIONS AND WARRANTIES

Section 3.01 Conditions to Effectiveness. It shall be a condition to the effectiveness of this Supplement that that following shall be satisfied:

- (a) all of the conditions set forth in the Indenture and the Loan Agreement to the amendment or modification thereof shall have been met or waived in writing, which waiver is evidenced by the parties’ execution of this Supplement and the Majority Owner Consent;
- (b) there shall have been delivered an unqualified opinion of Bond Counsel addressed to the Issuer, the Trustee, the Servicer and the Majority Owner substantially to the effect that (i) the Bonds constitute the legal, valid and binding special limited obligation of the Issuer, (ii) interest on the Bonds is excludable from the gross income of the owners of the Bonds for federal income tax purposes and (ii) this Supplement has been duly authorized, executed and delivered by the Issuer and is enforceable against the Issuer in accordance with its terms, subject to customary exclusions; and
- (c) the previously issued and authenticated Bonds have been cancelled by the Trustee.

Section 3.02 Representations and Covenants of Borrower. By its execution and delivery hereof, the Borrower hereby:

- (a) represents that it is the owner of the Project and the borrower of the loan made from the proceeds of the Bonds;
- (b) consents to the amendments of the Indenture and the Loan Agreement contained in this Supplement;
- (c) irrevocably waives, without recourse, all irregularities in the timing, content and delivery of all notices that are required by the Indenture or the Loan Agreement with respect to the amendment of the Indenture and the Loan Agreement referred to above;

(d) agrees to be bound by the terms of the Indenture, as amended by this Supplement,

(e) agrees that, prior to December __, 2014, it shall not cause, permit or permit the General Partner to cause or permit, (a) a change in ownership of the Project or (b) the transfer of any equity interest in the Borrower, the admission of any new equity investors in the Borrower or the withdrawal of any existing equity investors in the Borrower, without, in each case, delivery to the Trustee of an opinion of Bond Counsel to the effect that such change, transfer, admission or withdrawal will not adversely affect the exclusion from gross income of interest on the Bonds for purposes of federal income taxation;

(f) certifies that the federal tax-related representations of the Borrower in the Loan Agreement, in the Regulatory Agreement, and in the Borrower's Tax Certificate remain true and correct in all material respects as of the date hereof and that the Borrower is not in material default under or breach of any covenant contained in the Borrower's Tax Certificate or the Regulatory Agreement or any of the federal tax-related covenants of the Borrower contained in the Loan Agreement.

Section 3.03 Stabilization. The parties hereto acknowledge and agree that, upon the effectiveness of this Supplement, Stabilization shall be deemed to have occurred for all purposes under the Indenture and Loan Documents.

ARTICLE IV FURTHER SUPPLEMENTS

Section 4.01 Further Supplements. This Supplement may be supplemented or amended in the manner and subject to the conditions set forth in Article IX of the Indenture for amendments to the Indenture and Loan Documents.

ARTICLE V MISCELLANEOUS

Section 5.01 Supplement as Part of Indenture and Loan Agreement. This Supplement shall be construed in connection with and as a part of the Indenture and the Loan Agreement to the extent of the provisions herein that are amendatory thereof or supplemental thereto.

Section 5.02 Severability. If any provision of this Supplement shall be held or deemed to be, or shall, in fact, be, illegal, inoperative or unenforceable, the same shall not affect any other provision herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 5.03 Counterparts; Electronic Signatures. This Supplement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. To the fullest extent permitted by applicable law, signatures transmitted by facsimile or other electronic means shall constitute original signatures for all purposes hereunder.

Section 5.04 Rules of Interpretation. Unless expressly indicated otherwise, references to Sections or Articles are to be construed as references to Sections or Articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Supplement as a whole, and not solely to the particular portion in which any such word is used.

Section 5.05 Captions. The captions and headings in this Supplement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Supplement.

Section 5.06 Governing Law. This Supplement shall be governed by the internal laws of the State of Texas, without regard to conflict of laws principles.

Section 5.07 Successors and Assigns. This Supplement shall inure to the benefit of, and shall be binding upon, the Issuer and its successors and assigns, the Borrower and its successors and assigns, and the Trustee, any successor trustee and their respective successors and assigns. In addition, this Supplement shall be binding upon the current Owners of the Bonds and all future Owners from time to time of the Bonds and their respective successors and assigns.

Section 5.08 Tax Matters. The Issuer certifies that the federal tax-related representations of the Issuer contained in the Indenture, in the Regulatory Agreement and in the Tax Certificate remain true and correct in all material respects as of the date hereof and that the Issuer is not in material default under or breach of any covenants contained in the Tax Certificate and the Regulatory Agreement or any of the federal tax-related covenants of the Issuer contained in the Indenture.

[Issuer, Trustee, and Borrower Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer, the Trustee and the Borrower have caused this Supplement to be executed and delivered by their respective duly authorized representatives, all as of the date first above written.

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By: _____
Name: J. Paul Oxe
Title: Chair

(SEAL)

ATTEST:

Secretary

WELLS FARGO BANK,
NATIONAL ASSOCIATION, as
Trustee

By: _____
Name: _____
Title: _____

FINLAY INTERESTS 34, LTD., a Florida limited
partnership

By: CCL Green Crest LLC, its general partner

By: Centerline Manager LLC, its manager

By: Centerline Affordable Housing
Advisors LLC, its sole member

By: _____
Name: _____
Title: _____

(Signature Page to Supplemental Trust Indenture – Green Crest Apartments)

MAJORITY OWNER CONSENT

Texas Department of Housing and Community Affairs Multifamily Housing Mortgage Revenue Bonds (Green Crest Apartments) Series 2002

THE UNDERSIGNED HEREBY:

1. Represents that it is the registered owner of 100% in aggregate principal amount of the above-referenced bonds (the "Bonds") and, as such, is the Majority Owner of the Bonds under the Indenture;

2. Hereby consents to the amendments of the Indenture and the Loan Agreement contained in the Supplemental Trust Indenture and Modification Agreement to which this Majority Owner Consent is attached; and

3. Irrevocably waives, without recourse, all irregularities in the timing, content and delivery of all notices that are required by the Indenture or the Loan Agreement with respect to the amendment of the Indenture and the Loan Agreement referred to above.

Terms used in this Majority Owner Consent with initial capital letters, but not defined herein, shall have the same meanings given such terms in the Supplemental Trust Indenture and Modification Agreement to which this Majority Owner Consent is attached.

(Signature Page Follows)

IN WITNESS WHEREOF, the undersigned has caused this Majority Owner Consent to be executed by its duly authorized representative as of the _____ day of _____, 2014.

FEDERAL HOME LOAN MORTGAGE CORPORATION

By: _____

Name: _____

Title: _____

Acknowledged and Agreed solely for the purposes of Section 3.03

CENTERLINE MORTGAGE CAPITAL INC.,
as Servicer

By: _____

Name: _____

Title: _____

EXHIBIT A

TO SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT
ADJUSTED SINKING FUND REDEMPTION SCHEDULE

Green Crest

Adjusted Sinking Fund Redemption Schedule

Payment Number	Payment Date**	Monthly Hard Debt Service				
		Beginning Principal Balance*	Principal**	Interest**	Total Payment*	Ending Principal Balance*
1	8/1/2014	10,782,582.13	\$6,657.80	\$49,420.17	\$56,077.97	\$10,775,924.32
2	9/1/2014	10,775,924.32	\$6,688.32	\$49,389.65	\$56,077.97	\$10,769,236.01
3	10/1/2014	10,769,236.01	\$6,718.97	\$49,359.00	\$56,077.97	\$10,762,517.03
4	11/1/2014	10,762,517.03	\$6,749.77	\$49,328.20	\$56,077.97	\$10,755,767.27
5	12/1/2014	10,755,767.27	\$6,780.70	\$49,297.27	\$56,077.97	\$10,748,986.56
6	1/1/2015	10,748,986.56	\$6,811.78	\$49,266.19	\$56,077.97	\$10,742,174.78
7	2/1/2015	10,742,174.78	\$6,843.00	\$49,234.97	\$56,077.97	\$10,735,331.78
8	3/1/2015	10,735,331.78	\$6,874.37	\$49,203.60	\$56,077.97	\$10,728,457.41
9	4/1/2015	10,728,457.41	\$6,905.87	\$49,172.10	\$56,077.97	\$10,721,551.54
10	5/1/2015	10,721,551.54	\$6,937.53	\$49,140.44	\$56,077.97	\$10,714,614.01
11	6/1/2015	10,714,614.01	\$6,969.32	\$49,108.65	\$56,077.97	\$10,707,644.69
12	7/1/2015	10,707,644.69	\$7,001.27	\$49,076.70	\$56,077.97	\$10,700,643.42
13	8/1/2015	10,700,643.42	\$7,033.35	\$49,044.62	\$56,077.97	\$10,693,610.07
14	9/1/2015	10,693,610.07	\$7,065.59	\$49,012.38	\$56,077.97	\$10,686,544.48
15	10/1/2015	10,686,544.48	\$7,097.97	\$48,980.00	\$56,077.97	\$10,679,446.50
16	11/1/2015	10,679,446.50	\$7,130.51	\$48,947.46	\$56,077.97	\$10,672,316.00
17	12/1/2015	10,672,316.00	\$7,163.19	\$48,914.78	\$56,077.97	\$10,665,152.81
18	1/1/2016	10,665,152.81	\$7,196.02	\$48,881.95	\$56,077.97	\$10,657,956.79
19	2/1/2016	10,657,956.79	\$7,229.00	\$48,848.97	\$56,077.97	\$10,650,727.79
20	3/1/2016	10,650,727.79	\$7,262.13	\$48,815.84	\$56,077.97	\$10,643,465.65
21	4/1/2016	10,643,465.65	\$7,295.42	\$48,782.55	\$56,077.97	\$10,636,170.23
22	5/1/2016	10,636,170.23	\$7,328.86	\$48,749.11	\$56,077.97	\$10,628,841.38
23	6/1/2016	10,628,841.38	\$7,362.45	\$48,715.52	\$56,077.97	\$10,621,478.93
24	7/1/2016	10,621,478.93	\$7,396.19	\$48,681.78	\$56,077.97	\$10,614,082.74
25	8/1/2016	10,614,082.74	\$7,430.09	\$48,647.88	\$56,077.97	\$10,606,652.65
26	9/1/2016	10,606,652.65	\$7,464.15	\$48,613.82	\$56,077.97	\$10,599,188.50
27	10/1/2016	10,599,188.50	\$7,498.36	\$48,579.61	\$56,077.97	\$10,591,690.14
28	11/1/2016	10,591,690.14	\$7,532.72	\$48,545.25	\$56,077.97	\$10,584,157.42
29	12/1/2016	10,584,157.42	\$7,567.25	\$48,510.72	\$56,077.97	\$10,576,590.17
30	1/1/2017	10,576,590.17	\$7,601.93	\$48,476.04	\$56,077.97	\$10,568,988.24
31	2/1/2017	10,568,988.24	\$7,636.77	\$48,441.20	\$56,077.97	\$10,561,351.47
32	3/1/2017	10,561,351.47	\$7,671.78	\$48,406.19	\$56,077.97	\$10,553,679.69
33	4/1/2017	10,553,679.69	\$7,706.94	\$48,371.03	\$56,077.97	\$10,545,972.75
34	5/1/2017	10,545,972.75	\$7,742.26	\$48,335.71	\$56,077.97	\$10,538,230.49
35	6/1/2017	10,538,230.49	\$7,777.75	\$48,300.22	\$56,077.97	\$10,530,452.74
36	7/1/2017	10,530,452.74	\$7,813.40	\$48,264.58	\$56,077.97	\$10,522,639.35
37	8/1/2017	10,522,639.35	\$7,849.21	\$48,228.76	\$56,077.97	\$10,514,790.14
38	9/1/2017	10,514,790.14	\$7,885.18	\$48,192.79	\$56,077.97	\$10,506,904.96
39	10/1/2017	10,506,904.96	\$7,921.32	\$48,156.65	\$56,077.97	\$10,498,983.64

** Operative terms.

* For informational purposes only. The Principal Balance columns assume no bond prepayments or delinquencies have occurred.

40	11/1/2017	10,498,983.64	\$7,957.63	\$48,120.34	\$56,077.97	\$10,491,026.01
41	12/1/2017	10,491,026.01	\$7,994.10	\$48,083.87	\$56,077.97	\$10,483,031.91
42	1/1/2018	10,483,031.91	\$8,030.74	\$48,047.23	\$56,077.97	\$10,475,001.17
43	2/1/2018	10,475,001.17	\$8,067.55	\$48,010.42	\$56,077.97	\$10,466,933.62
44	3/1/2018	10,466,933.62	\$8,104.52	\$47,973.45	\$56,077.97	\$10,458,829.09
45	4/1/2018	10,458,829.09	\$8,141.67	\$47,936.30	\$56,077.97	\$10,450,687.42
46	5/1/2018	10,450,687.42	\$8,178.99	\$47,898.98	\$56,077.97	\$10,442,508.44
47	6/1/2018	10,442,508.44	\$8,216.47	\$47,861.50	\$56,077.97	\$10,434,291.96
48	7/1/2018	10,434,291.96	\$8,254.13	\$47,823.84	\$56,077.97	\$10,426,037.83
49	8/1/2018	10,426,037.83	\$8,291.96	\$47,786.01	\$56,077.97	\$10,417,745.87
50	9/1/2018	10,417,745.87	\$8,329.97	\$47,748.00	\$56,077.97	\$10,409,415.90
51	10/1/2018	10,409,415.90	\$8,368.15	\$47,709.82	\$56,077.97	\$10,401,047.75
52	11/1/2018	10,401,047.75	\$8,406.50	\$47,671.47	\$56,077.97	\$10,392,641.25
53	12/1/2018	10,392,641.25	\$8,445.03	\$47,632.94	\$56,077.97	\$10,384,196.22
54	1/1/2019	10,384,196.22	\$8,483.74	\$47,594.23	\$56,077.97	\$10,375,712.48
55	2/1/2019	10,375,712.48	\$8,522.62	\$47,555.35	\$56,077.97	\$10,367,189.86
56	3/1/2019	10,367,189.86	\$8,561.68	\$47,516.29	\$56,077.97	\$10,358,628.18
57	4/1/2019	10,358,628.18	\$8,600.92	\$47,477.05	\$56,077.97	\$10,350,027.25
58	5/1/2019	10,350,027.25	\$8,640.35	\$47,437.62	\$56,077.97	\$10,341,386.91
59	6/1/2019	10,341,386.91	\$8,679.95	\$47,398.02	\$56,077.97	\$10,332,706.96
60	7/1/2019	10,332,706.96	\$8,719.73	\$47,358.24	\$56,077.97	\$10,323,987.23
61	8/1/2019	10,323,987.23	\$8,759.70	\$47,318.27	\$56,077.97	\$10,315,227.53
62	9/1/2019	10,315,227.53	\$8,799.84	\$47,278.13	\$56,077.97	\$10,306,427.69
63	10/1/2019	10,306,427.69	\$8,840.18	\$47,237.79	\$56,077.97	\$10,297,587.51
64	11/1/2019	10,297,587.51	\$8,880.69	\$47,197.28	\$56,077.97	\$10,288,706.82
65	12/1/2019	10,288,706.82	\$8,921.40	\$47,156.57	\$56,077.97	\$10,279,785.42
66	1/1/2020	10,279,785.42	\$8,962.29	\$47,115.68	\$56,077.97	\$10,270,823.14
67	2/1/2020	10,270,823.14	\$9,003.36	\$47,074.61	\$56,077.97	\$10,261,819.77
68	3/1/2020	10,261,819.77	\$9,044.63	\$47,033.34	\$56,077.97	\$10,252,775.14
69	4/1/2020	10,252,775.14	\$9,086.08	\$46,991.89	\$56,077.97	\$10,243,689.06
70	5/1/2020	10,243,689.06	\$9,127.73	\$46,950.24	\$56,077.97	\$10,234,561.33
71	6/1/2020	10,234,561.33	\$9,169.56	\$46,908.41	\$56,077.97	\$10,225,391.76
72	7/1/2020	10,225,391.76	\$9,211.59	\$46,866.38	\$56,077.97	\$10,216,180.17
73	8/1/2020	10,216,180.17	\$9,253.81	\$46,824.16	\$56,077.97	\$10,206,926.36
74	9/1/2020	10,206,926.36	\$9,296.22	\$46,781.75	\$56,077.97	\$10,197,630.14
75	10/1/2020	10,197,630.14	\$9,338.83	\$46,739.14	\$56,077.97	\$10,188,291.31
76	11/1/2020	10,188,291.31	\$9,381.64	\$46,696.34	\$56,077.97	\$10,178,909.67
77	12/1/2020	10,178,909.67	\$9,424.63	\$46,653.34	\$56,077.97	\$10,169,485.04
78	1/1/2021	10,169,485.04	\$9,467.83	\$46,610.14	\$56,077.97	\$10,160,017.21
79	2/1/2021	10,160,017.21	\$9,511.22	\$46,566.75	\$56,077.97	\$10,150,505.98
80	3/1/2021	10,150,505.98	\$9,554.82	\$46,523.15	\$56,077.97	\$10,140,951.16
81	4/1/2021	10,140,951.16	\$9,598.61	\$46,479.36	\$56,077.97	\$10,131,352.55
82	5/1/2021	10,131,352.55	\$9,642.60	\$46,435.37	\$56,077.97	\$10,121,709.95
83	6/1/2021	10,121,709.95	\$9,686.80	\$46,391.17	\$56,077.97	\$10,112,023.15
84	7/1/2021	10,112,023.15	\$9,731.20	\$46,346.77	\$56,077.97	\$10,102,291.95
85	8/1/2021	10,102,291.95	\$9,775.80	\$46,302.17	\$56,077.97	\$10,092,516.15
86	9/1/2021	10,092,516.15	\$9,820.60	\$46,257.37	\$56,077.97	\$10,082,695.55

** Operative terms.

* For informational purposes only. The Principal Balance columns assume no bond prepayments or delinquencies have occurred.

87	10/1/2021	10,082,695.55	\$9,865.62	\$46,212.35	\$56,077.97	\$10,072,829.93
88	11/1/2021	10,072,829.93	\$9,910.83	\$46,167.14	\$56,077.97	\$10,062,919.10
89	12/1/2021	10,062,919.10	\$9,956.26	\$46,121.71	\$56,077.97	\$10,052,962.84
90	1/1/2022	10,052,962.84	\$10,001.89	\$46,076.08	\$56,077.97	\$10,042,960.95
91	2/1/2022	10,042,960.95	\$10,047.73	\$46,030.24	\$56,077.97	\$10,032,913.22
92	3/1/2022	10,032,913.22	\$10,093.78	\$45,984.19	\$56,077.97	\$10,022,819.43
93	4/1/2022	10,022,819.43	\$10,140.05	\$45,937.92	\$56,077.97	\$10,012,679.39
94	5/1/2022	10,012,679.39	\$10,186.52	\$45,891.45	\$56,077.97	\$10,002,492.86
95	6/1/2022	10,002,492.86	\$10,233.21	\$45,844.76	\$56,077.97	\$9,992,259.65
96	7/1/2022	9,992,259.65	\$10,280.11	\$45,797.86	\$56,077.97	\$9,981,979.54
97	8/1/2022	9,981,979.54	\$10,327.23	\$45,750.74	\$56,077.97	\$9,971,652.31
98	9/1/2022	9,971,652.31	\$10,374.56	\$45,703.41	\$56,077.97	\$9,961,277.74
99	10/1/2022	9,961,277.74	\$10,422.11	\$45,655.86	\$56,077.97	\$9,950,855.63
100	11/1/2022	9,950,855.63	\$10,469.88	\$45,608.09	\$56,077.97	\$9,940,385.75
101	12/1/2022	9,940,385.75	\$10,517.87	\$45,560.10	\$56,077.97	\$9,929,867.88
102	1/1/2023	9,929,867.88	\$10,566.08	\$45,511.89	\$56,077.97	\$9,919,301.80
103	2/1/2023	9,919,301.80	\$10,614.50	\$45,463.47	\$56,077.97	\$9,908,687.30
104	3/1/2023	9,908,687.30	\$10,663.15	\$45,414.82	\$56,077.97	\$9,898,024.14
105	4/1/2023	9,898,024.14	\$10,712.03	\$45,365.94	\$56,077.97	\$9,887,312.12
106	5/1/2023	9,887,312.12	\$10,761.12	\$45,316.85	\$56,077.97	\$9,876,551.00
107	6/1/2023	9,876,551.00	\$10,810.44	\$45,267.53	\$56,077.97	\$9,865,740.55
108	7/1/2023	9,865,740.55	\$10,859.99	\$45,217.98	\$56,077.97	\$9,854,880.56
109	8/1/2023	9,854,880.56	\$10,909.77	\$45,168.20	\$56,077.97	\$9,843,970.79
110	9/1/2023	9,843,970.79	\$10,959.77	\$45,118.20	\$56,077.97	\$9,833,011.02
111	10/1/2023	9,833,011.02	\$11,010.00	\$45,067.97	\$56,077.97	\$9,822,001.02
112	11/1/2023	9,822,001.02	\$11,060.47	\$45,017.50	\$56,077.97	\$9,810,940.55
113	12/1/2023	9,810,940.55	\$11,111.16	\$44,966.81	\$56,077.97	\$9,799,829.39
114	1/1/2024	9,799,829.39	\$11,162.09	\$44,915.88	\$56,077.97	\$9,788,667.31
115	2/1/2024	9,788,667.31	\$11,213.25	\$44,864.73	\$56,077.97	\$9,777,454.06
116	3/1/2024	9,777,454.06	\$11,264.64	\$44,813.33	\$56,077.97	\$9,766,189.42
117	4/1/2024	9,766,189.42	\$11,316.27	\$44,761.70	\$56,077.97	\$9,754,873.15
118	5/1/2024	9,754,873.15	\$11,368.13	\$44,709.84	\$56,077.97	\$9,743,505.02
119	6/1/2024	9,743,505.02	\$11,420.24	\$44,657.73	\$56,077.97	\$9,732,084.78
120	7/1/2024	9,732,084.78	\$11,472.58	\$44,605.39	\$56,077.97	\$9,720,612.20
121	8/1/2024	9,720,612.20	\$11,525.16	\$44,552.81	\$56,077.97	\$9,709,087.03
122	9/1/2024	9,709,087.03	\$11,577.99	\$44,499.98	\$56,077.97	\$9,697,509.04
123	10/1/2024	9,697,509.04	\$11,631.05	\$44,446.92	\$56,077.97	\$9,685,877.99
124	11/1/2024	9,685,877.99	\$11,684.36	\$44,393.61	\$56,077.97	\$9,674,193.63
125	12/1/2024	9,674,193.63	\$11,737.92	\$44,340.05	\$56,077.97	\$9,662,455.71
126	1/1/2025	9,662,455.71	\$11,791.71	\$44,286.26	\$56,077.97	\$9,650,664.00
127	2/1/2025	9,650,664.00	\$11,845.76	\$44,232.21	\$56,077.97	\$9,638,818.24
128	3/1/2025	9,638,818.24	\$11,900.05	\$44,177.92	\$56,077.97	\$9,626,918.18
129	4/1/2025	9,626,918.18	\$11,954.60	\$44,123.38	\$56,077.97	\$9,614,963.59
130	5/1/2025	9,614,963.59	\$12,009.39	\$44,068.58	\$56,077.97	\$9,602,954.20
131	6/1/2025	9,602,954.20	\$12,064.43	\$44,013.54	\$56,077.97	\$9,590,889.77
132	7/1/2025	9,590,889.77	\$12,119.73	\$43,958.24	\$56,077.97	\$9,578,770.05
133	8/1/2025	9,578,770.05	\$12,175.27	\$43,902.70	\$56,077.97	\$9,566,594.77

** Operative terms.

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134	9/1/2025	9,566,594.77	\$12,231.08	\$43,846.89	\$56,077.97	\$9,554,363.69
135	10/1/2025	9,554,363.69	\$12,287.14	\$43,790.83	\$56,077.97	\$9,542,076.56
136	11/1/2025	9,542,076.56	\$12,343.45	\$43,734.52	\$56,077.97	\$9,529,733.10
137	12/1/2025	9,529,733.10	\$12,400.03	\$43,677.94	\$56,077.97	\$9,517,333.08
138	1/1/2026	9,517,333.08	\$12,456.86	\$43,621.11	\$56,077.97	\$9,504,876.22
139	2/1/2026	9,504,876.22	\$12,513.95	\$43,564.02	\$56,077.97	\$9,492,362.26
140	3/1/2026	9,492,362.26	\$12,571.31	\$43,506.66	\$56,077.97	\$9,479,790.95
141	4/1/2026	9,479,790.95	\$12,628.93	\$43,449.04	\$56,077.97	\$9,467,162.02
142	5/1/2026	9,467,162.02	\$12,686.81	\$43,391.16	\$56,077.97	\$9,454,475.21
143	6/1/2026	9,454,475.21	\$12,744.96	\$43,333.01	\$56,077.97	\$9,441,730.25
144	7/1/2026	9,441,730.25	\$12,803.37	\$43,274.60	\$56,077.97	\$9,428,926.88
145	8/1/2026	9,428,926.88	\$12,862.06	\$43,215.91	\$56,077.97	\$9,416,064.83
146	9/1/2026	9,416,064.83	\$12,921.01	\$43,156.96	\$56,077.97	\$9,403,143.82
147	10/1/2026	9,403,143.82	\$12,980.23	\$43,097.74	\$56,077.97	\$9,390,163.59
148	11/1/2026	9,390,163.59	\$13,039.72	\$43,038.25	\$56,077.97	\$9,377,123.87
149	12/1/2026	9,377,123.87	\$13,099.49	\$42,978.48	\$56,077.97	\$9,364,024.39
150	1/1/2027	9,364,024.39	\$13,159.53	\$42,918.45	\$56,077.97	\$9,350,864.86
151	2/1/2027	9,350,864.86	\$13,219.84	\$42,858.13	\$56,077.97	\$9,337,645.02
152	3/1/2027	9,337,645.02	\$13,280.43	\$42,797.54	\$56,077.97	\$9,324,364.59
153	4/1/2027	9,324,364.59	\$13,341.30	\$42,736.67	\$56,077.97	\$9,311,023.29
154	5/1/2027	9,311,023.29	\$13,402.45	\$42,675.52	\$56,077.97	\$9,297,620.84
155	6/1/2027	9,297,620.84	\$13,463.87	\$42,614.10	\$56,077.97	\$9,284,156.97
156	7/1/2027	9,284,156.97	\$13,525.58	\$42,552.39	\$56,077.97	\$9,270,631.38
157	8/1/2027	9,270,631.38	\$13,587.58	\$42,490.39	\$56,077.97	\$9,257,043.81
158	9/1/2027	9,257,043.81	\$13,649.85	\$42,428.12	\$56,077.97	\$9,243,393.96
159	10/1/2027	9,243,393.96	\$13,712.41	\$42,365.56	\$56,077.97	\$9,229,681.54
160	11/1/2027	9,229,681.54	\$13,775.26	\$42,302.71	\$56,077.97	\$9,215,906.28
161	12/1/2027	9,215,906.28	\$13,838.40	\$42,239.57	\$56,077.97	\$9,202,067.88
162	1/1/2028	9,202,067.88	\$13,901.83	\$42,176.14	\$56,077.97	\$9,188,166.05
163	2/1/2028	9,188,166.05	\$13,965.54	\$42,112.43	\$56,077.97	\$9,174,200.51
164	3/1/2028	9,174,200.51	\$14,029.55	\$42,048.42	\$56,077.97	\$9,160,170.96
165	4/1/2028	9,160,170.96	\$14,093.85	\$41,984.12	\$56,077.97	\$9,146,077.11
166	5/1/2028	9,146,077.11	\$14,158.45	\$41,919.52	\$56,077.97	\$9,131,918.65
167	6/1/2028	9,131,918.65	\$14,223.34	\$41,854.63	\$56,077.97	\$9,117,695.31
168	7/1/2028	9,117,695.31	\$14,288.53	\$41,789.44	\$56,077.97	\$9,103,406.78
169	8/1/2028	9,103,406.78	\$14,354.02	\$41,723.95	\$56,077.97	\$9,089,052.76
170	9/1/2028	9,089,052.76	\$14,419.81	\$41,658.16	\$56,077.97	\$9,074,632.94
171	10/1/2028	9,074,632.94	\$14,485.90	\$41,592.07	\$56,077.97	\$9,060,147.04
172	11/1/2028	9,060,147.04	\$14,552.30	\$41,525.67	\$56,077.97	\$9,045,594.75
173	12/1/2028	9,045,594.75	\$14,618.99	\$41,458.98	\$56,077.97	\$9,030,975.75
174	1/1/2029	9,030,975.75	\$14,686.00	\$41,391.97	\$56,077.97	\$9,016,289.75
175	2/1/2029	9,016,289.75	\$14,753.31	\$41,324.66	\$56,077.97	\$9,001,536.44
176	3/1/2029	9,001,536.44	\$14,820.93	\$41,257.04	\$56,077.97	\$8,986,715.52
177	4/1/2029	8,986,715.52	\$14,888.86	\$41,189.11	\$56,077.97	\$8,971,826.66
178	5/1/2029	8,971,826.66	\$14,957.10	\$41,120.87	\$56,077.97	\$8,956,869.56
179	6/1/2029	8,956,869.56	\$15,025.65	\$41,052.32	\$56,077.97	\$8,941,843.91
180	7/1/2029	8,941,843.91	\$15,094.52	\$40,983.45	\$56,077.97	\$8,926,749.39

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181	8/1/2029	8,926,749.39	\$15,163.70	\$40,914.27	\$56,077.97	\$8,911,585.69
182	9/1/2029	8,911,585.69	\$15,233.20	\$40,844.77	\$56,077.97	\$8,896,352.48
183	10/1/2029	8,896,352.48	\$15,303.02	\$40,774.95	\$56,077.97	\$8,881,049.46
184	11/1/2029	8,881,049.46	\$15,373.16	\$40,704.81	\$56,077.97	\$8,865,676.30
185	12/1/2029	8,865,676.30	\$15,443.62	\$40,634.35	\$56,077.97	\$8,850,232.68
186	1/1/2030	8,850,232.68	\$15,514.40	\$40,563.57	\$56,077.97	\$8,834,718.28
187	2/1/2030	8,834,718.28	\$15,585.51	\$40,492.46	\$56,077.97	\$8,819,132.77
188	3/1/2030	8,819,132.77	\$15,656.95	\$40,421.03	\$56,077.97	\$8,803,475.82
189	4/1/2030	8,803,475.82	\$15,728.71	\$40,349.26	\$56,077.97	\$8,787,747.12
190	5/1/2030	8,787,747.12	\$15,800.80	\$40,277.17	\$56,077.97	\$8,771,946.32
191	6/1/2030	8,771,946.32	\$15,873.22	\$40,204.75	\$56,077.97	\$8,756,073.10
192	7/1/2030	8,756,073.10	\$15,945.97	\$40,132.00	\$56,077.97	\$8,740,127.14
193	8/1/2030	8,740,127.14	\$16,019.05	\$40,058.92	\$56,077.97	\$8,724,108.08
194	9/1/2030	8,724,108.08	\$16,092.47	\$39,985.50	\$56,077.97	\$8,708,015.61
195	10/1/2030	8,708,015.61	\$16,166.23	\$39,911.74	\$56,077.97	\$8,691,849.37
196	11/1/2030	8,691,849.37	\$16,240.33	\$39,837.64	\$56,077.97	\$8,675,609.05
197	12/1/2030	8,675,609.05	\$16,314.76	\$39,763.21	\$56,077.97	\$8,659,294.28
198	1/1/2031	8,659,294.28	\$16,389.54	\$39,688.43	\$56,077.97	\$8,642,904.75
199	2/1/2031	8,642,904.75	\$16,464.66	\$39,613.31	\$56,077.97	\$8,626,440.09
200	3/1/2031	8,626,440.09	\$16,540.12	\$39,537.85	\$56,077.97	\$8,609,899.97
201	4/1/2031	8,609,899.97	\$16,615.93	\$39,462.04	\$56,077.97	\$8,593,284.04
202	5/1/2031	8,593,284.04	\$16,692.09	\$39,385.89	\$56,077.97	\$8,576,591.96
203	6/1/2031	8,576,591.96	\$16,768.59	\$39,309.38	\$56,077.97	\$8,559,823.37
204	7/1/2031	8,559,823.37	\$16,845.45	\$39,232.52	\$56,077.97	\$8,542,977.92
205	8/1/2031	8,542,977.92	\$16,922.65	\$39,155.32	\$56,077.97	\$8,526,055.26
206	9/1/2031	8,526,055.26	\$17,000.22	\$39,077.75	\$56,077.97	\$8,509,055.05
207	10/1/2031	8,509,055.05	\$17,078.13	\$38,999.84	\$56,077.97	\$8,491,976.91
208	11/1/2031	8,491,976.91	\$17,156.41	\$38,921.56	\$56,077.97	\$8,474,820.50
209	12/1/2031	8,474,820.50	\$17,235.04	\$38,842.93	\$56,077.97	\$8,457,585.46
210	1/1/2032	8,457,585.46	\$17,314.04	\$38,763.93	\$56,077.97	\$8,440,271.42
211	2/1/2032	8,440,271.42	\$17,393.39	\$38,684.58	\$56,077.97	\$8,422,878.03
212	3/1/2032	8,422,878.03	\$17,473.11	\$38,604.86	\$56,077.97	\$8,405,404.92
213	4/1/2032	8,405,404.92	\$17,553.20	\$38,524.77	\$56,077.97	\$8,387,851.72
214	5/1/2032	8,387,851.72	\$17,633.65	\$38,444.32	\$56,077.97	\$8,370,218.07
215	6/1/2032	8,370,218.07	\$17,714.47	\$38,363.50	\$56,077.97	\$8,352,503.60
216	7/1/2032	8,352,503.60	\$17,795.66	\$38,282.31	\$56,077.97	\$8,334,707.94
217	8/1/2032	8,334,707.94	\$17,877.23	\$38,200.74	\$56,077.97	\$8,316,830.71
218	9/1/2032	8,316,830.71	\$17,959.16	\$38,118.81	\$56,077.97	\$8,298,871.55
219	10/1/2032	8,298,871.55	\$18,041.48	\$38,036.49	\$56,077.97	\$8,280,830.07
220	11/1/2032	8,280,830.07	\$18,124.17	\$37,953.80	\$56,077.97	\$8,262,705.91
221	12/1/2032	8,262,705.91	\$18,207.23	\$37,870.74	\$56,077.97	\$8,244,498.67
222	1/1/2033	8,244,498.67	\$18,290.68	\$37,787.29	\$56,077.97	\$8,226,207.99
223	2/1/2033	8,226,207.99	\$18,374.52	\$37,703.45	\$56,077.97	\$8,207,833.47
224	3/1/2033	8,207,833.47	\$18,458.73	\$37,619.24	\$56,077.97	\$8,189,374.74
225	4/1/2033	8,189,374.74	\$18,543.34	\$37,534.63	\$56,077.97	\$8,170,831.40
226	5/1/2033	8,170,831.40	\$18,628.33	\$37,449.64	\$56,077.97	\$8,152,203.08
227	6/1/2033	8,152,203.08	\$18,713.71	\$37,364.26	\$56,077.97	\$8,133,489.37

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228	7/1/2033	8,133,489.37	\$18,799.48	\$37,278.49	\$56,077.97	\$8,114,689.89
229	8/1/2033	8,114,689.89	\$18,885.64	\$37,192.33	\$56,077.97	\$8,095,804.25
230	9/1/2033	8,095,804.25	\$18,972.20	\$37,105.77	\$56,077.97	\$8,076,832.05
231	10/1/2033	8,076,832.05	\$19,059.16	\$37,018.81	\$56,077.97	\$8,057,772.89
232	11/1/2033	8,057,772.89	\$19,146.51	\$36,931.46	\$56,077.97	\$8,038,626.38
233	12/1/2033	8,038,626.38	\$19,234.27	\$36,843.70	\$56,077.97	\$8,019,392.12
234	1/1/2034	8,019,392.12	\$19,322.42	\$36,755.55	\$56,077.97	\$8,000,069.69
235	2/1/2034	8,000,069.69	\$19,410.98	\$36,666.99	\$56,077.97	\$7,980,658.71
236	3/1/2034	7,980,658.71	\$19,499.95	\$36,578.02	\$56,077.97	\$7,961,158.76
237	4/1/2034	7,961,158.76	\$19,589.33	\$36,488.64	\$56,077.97	\$7,941,569.43
238	5/1/2034	7,941,569.43	\$19,679.11	\$36,398.86	\$56,077.97	\$7,921,890.32
239	6/1/2034	7,921,890.32	\$19,769.31	\$36,308.66	\$56,077.97	\$7,902,121.01
240	7/1/2034	7,902,121.01	\$19,859.92	\$36,218.05	\$56,077.97	\$7,882,261.10
241	8/1/2034	7,882,261.10	\$19,950.94	\$36,127.03	\$56,077.97	\$7,862,310.16
242	9/1/2034	7,862,310.16	\$20,042.38	\$36,035.59	\$56,077.97	\$7,842,267.78
243	10/1/2034	7,842,267.78	\$20,134.24	\$35,943.73	\$56,077.97	\$7,822,133.53
244	11/1/2034	7,822,133.53	\$20,226.52	\$35,851.45	\$56,077.97	\$7,801,907.01
245	12/1/2034	7,801,907.01	\$20,319.23	\$35,758.74	\$56,077.97	\$7,781,587.78
246	1/1/2035	7,781,587.78	\$20,412.36	\$35,665.61	\$56,077.97	\$7,761,175.42
247	2/1/2035	7,761,175.42	\$20,505.92	\$35,572.05	\$56,077.97	\$7,740,669.50
248	3/1/2035	7,740,669.50	\$20,599.90	\$35,478.07	\$56,077.97	\$7,720,069.60
249	4/1/2035	7,720,069.60	\$20,694.32	\$35,383.65	\$56,077.97	\$7,699,375.28
250	5/1/2035	7,699,375.28	\$20,789.17	\$35,288.80	\$56,077.97	\$7,678,586.12
251	6/1/2035	7,678,586.12	\$20,884.45	\$35,193.52	\$56,077.97	\$7,657,701.67
252	7/1/2035	7,657,701.67	\$20,980.17	\$35,097.80	\$56,077.97	\$7,636,721.49
253	8/1/2035	7,636,721.49	\$21,076.33	\$35,001.64	\$56,077.97	\$7,615,645.16
254	9/1/2035	7,615,645.16	\$21,172.93	\$34,905.04	\$56,077.97	\$7,594,472.23
255	10/1/2035	7,594,472.23	\$21,269.97	\$34,808.00	\$56,077.97	\$7,573,202.26
256	11/1/2035	7,573,202.26	\$21,367.46	\$34,710.51	\$56,077.97	\$7,551,834.80
257	12/1/2035	7,551,834.80	\$21,465.39	\$34,612.58	\$56,077.97	\$7,530,369.41
258	1/1/2036	7,530,369.41	\$21,563.78	\$34,514.19	\$56,077.97	\$7,508,805.63
259	2/1/2036	7,508,805.63	\$21,662.61	\$34,415.36	\$56,077.97	\$7,487,143.02
260	3/1/2036	7,487,143.02	\$21,761.90	\$34,316.07	\$56,077.97	\$7,465,381.12
261	4/1/2036	7,465,381.12	\$21,861.64	\$34,216.33	\$56,077.97	\$7,443,519.48
262	5/1/2036	7,443,519.48	\$21,961.84	\$34,116.13	\$56,077.97	\$7,421,557.64
263	6/1/2036	7,421,557.64	\$22,062.50	\$34,015.47	\$56,077.97	\$7,399,495.14
264	7/1/2036	7,399,495.14	\$22,163.62	\$33,914.35	\$56,077.97	\$7,377,331.53
265	8/1/2036	7,377,331.53	\$22,265.20	\$33,812.77	\$56,077.97	\$7,355,066.33
266	9/1/2036	7,355,066.33	\$22,367.25	\$33,710.72	\$56,077.97	\$7,332,699.08
267	10/1/2036	7,332,699.08	\$22,469.77	\$33,608.20	\$56,077.97	\$7,310,229.31
268	11/1/2036	7,310,229.31	\$7,310,229.31	\$33,505.22	\$7,343,734.53	\$0.00

EXHIBIT B

TO SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT
FORM OF BOND

UNITED STATES OF AMERICA

STATE OF TEXAS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

MULTIFAMILY HOUSING MORTGAGE REVENUE BOND

(GREEN CREST APARTMENTS)

SERIES 2002

THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OR INTEREST ON THIS BOND. THE FAITH, CREDIT OR TAXING POWER OF THE STATE OF TEXAS IS NOT PLEDGED, GIVEN OR LOANED TO PAYMENT OF THIS BOND'S PRINCIPAL OR INTEREST.

THIS BOND IS A RESTRICTED SECURITY AND MAY BE TRANSFERRED ONLY AS PROVIDED HEREIN AND IN THE HEREIN DESCRIBED INDENTURE.

Number: _____ \$ _____

<u>Maturity Date:</u>	<u>Dated Date:</u>	<u>Interest Rate:</u>
November 1, 2036	July 1, 2014	As Described Herein

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____
DOLLARS

FOR VALUE RECEIVED, TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the "Issuer"), a public and official agency of the State of Texas (the "State"), created and existing under and by virtue of the laws of the State, hereby acknowledges itself indebted and for value received promises to pay to the registered owner hereof stated above, or registered assigns, at the maturity date stated above, but only from the sources and as hereinafter provided, upon presentation and surrender of this Bond at the operations office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota or its successor as trustee (the "Trustee"), under the Indenture (described below), the principal amount stated above, and to pay interest on said principal amount at the interest rate set forth above, from and including the date of issuance hereof

until the principal amount shall have been paid in accordance with the terms of this Bond and the Indenture, as and when set forth below, but only from the sources and as hereinafter provided, by wire transfer if there be one Owner of all of the Bonds or otherwise by check or draft mailed to the record Owners of Bonds as the same appear upon the books of registry to be maintained by the Trustee, as registrar.

This Bond is one of a series of bonds (the "Bonds") issued pursuant to, and is subject to, the Trust Indenture dated as of November 1, 2002 between the Issuer and the Trustee, as supplemented by that certain Supplemental Trust Indenture and Modification Agreement (the "Supplement") dated as of July 1, 2014 (and as amended and supplemented from time to time, the "Indenture"), the bond resolution of the Issuer approved by the Issuer on October 10, 2002 (the "Resolution"), and Chapter 2306 of the Texas Government Code, as amended (the "Act"). Reference is made to the Indenture, the Resolution and the Act for a full statement of their respective terms. Capitalized terms used herein and not otherwise defined herein have the respective meanings accorded such terms in the Indenture, which are hereby incorporated herein by reference. The Bonds issued under the Indenture are expressly limited to \$12,500,000 in aggregate principal amount of the Bonds and are all of like tenor, except as to numbers and denominations, and are issued for the purposes of providing construction and permanent financing for qualified multifamily rental housing units in the State and of paying certain expenses incidental thereto. Pursuant to a Loan Agreement dated as of November 1, 2002, and a Promissory Note (the "Note") dated November 1, 2002, Finlay Interests 34, Ltd., a Florida limited partnership (the "Borrower"), has agreed to make payments to the Issuer in amounts equal to amounts of principal of and premium, if any, and interest on the Bonds.

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER PLEDGED TO THE PAYMENT THEREOF AND ARE SECURED BY AN ASSIGNMENT OF THE MORTGAGE AND OTHER ASSETS DESCRIBED HEREIN. NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF SUCH BONDS. THE STATE OF TEXAS IS NOT LIABLE ON SUCH BONDS AND SUCH BONDS ARE NOT A DEBT OF THE STATE OF TEXAS. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, DIRECTOR, MEMBER, EMPLOYEE OR AGENT OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

The State shall not be liable for the Bonds, and the Bonds shall not constitute a debt of the State. The Act does not provide any procedure for the State to make appropriations for deposit into any reserve funds established under the Indenture.

Interest on the Bonds. The Bonds (including this Bond) shall bear interest on the Outstanding principal amount thereof, payable on each Interest Payment Date, (i) at the rate of 7.00% per annum from the date of issuance thereof to and including June 30, 2014, and (ii) at the rate of 5.50% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration, computed on the basis of a 360 day year comprised of twelve 30 day months.

Registration and Transfer. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or Bonds, of any Authorized Denomination or Authorized Denominations, of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Bonds are issuable as fully registered Bonds in Authorized Denominations as provided in the Indenture. The Issuer, the Trustee, and any other person may treat the person in whose name this Bond is registered on the books of registry as the Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and no person shall be affected by notice to the contrary.

This Bond may be transferred in whole or in part by the Owner, only (i) to any subsidiary of the Owner or any entity under common management or control with the Owner, any affiliate of the Owner, any entity arising out of any merger or consolidation of the Owner, or a trustee in bankruptcy of the Owner, (ii) to any Accredited Investor (as defined in Rule 501(a)(1), (2), (3), (4), (7) or (8) of Regulation D promulgated under the Securities Act of 1933) or any Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933), (iii) to any bank, savings institution or insurance company (whether acting in a trustee or custodial capacity for any Accredited Investor or Qualified Institutional Buyer or on its own behalf), or (iv) to any trust or custodial arrangement with respect to which the ultimate beneficial owner or owners of which are each an Accredited Investor or Qualified Institutional Buyer.

THE TRUSTEE SHALL NOT REGISTER ANY TRANSFER OR EXCHANGE OF ANY BONDS UNLESS SUCH HOLDER'S PROSPECTIVE TRANSFEREE DELIVERS TO THE TRUSTEE AN INVESTOR'S LETTER SUBSTANTIALLY IN THE APPROPRIATE FORM SET FORTH IN EXHIBIT D TO THE INDENTURE.

Mandatory Redemption. The Bonds shall be subject to mandatory redemption, and shall be redeemed, prior to maturity as follows:

(a) in part on the first Interest Payment Date for which notice can be given in accordance with the Indenture after the Project achieves Completion Date to the extent funds remain on deposit on such date in the Loan Account of the Construction Fund, as provided in Section 6.03 of the Indenture; or

(b) [Intentionally Omitted]

(c) in whole or in part on the first Interest Payment Date for which adequate notice can be given in accordance with the Indenture after and to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project are deposited in the Revenue Fund and are not to be used to repair or restore the Project (which Condemnation Award or Insurance Proceeds shall be applied to the redemption of Bonds, unless the Trustee and the Majority Owner shall receive an

opinion of Bond Counsel to the effect that any proposed alternative application of such funds will not adversely affect the exclusion from gross income of interest on the Bonds); or

(d) in whole or in part upon a Determination of Taxability if within 180 days thereof the Owner of a Bond presents his Bond or Bonds for redemption, on any date selected by such Owner, specified in a notice in writing delivered to the Borrower and the Issuer at least thirty (30) days prior to such date; or

(e) in whole on any specified Interest Payment Date on or after November 1, 2019, if the Owners of all the Bonds elect redemption by giving not less than 180 days' prior written notice thereof to the Issuer, the Trustee and the Borrower, which notice shall specify the Interest Payment Date on which the Bonds are to be redeemed; or

(f) in whole or in part on any specified Interest Payment Date following the occurrence and during the continuance of an Event of Default under the Facility Agreement, if the Owners of all the Bonds elect redemption by giving not less than ten (10) days' prior written notice thereof to the Issuer, the Trustee and the Borrower, which notice shall specify the Interest Payment Date on which the Bonds are to be redeemed; or

(g) in part on the dates and in the amounts set forth on Exhibit B to the Indenture (mandatory sinking fund redemption), subject to adjustment as provided in Section 4.07(b) of the Indenture.

Redemption Price of Bonds Redeemed Pursuant to Mandatory Redemption. The Bonds being redeemed before maturity as described above shall be redeemed at a redemption price equal to the principal amount of the Bonds being redeemed, together with accrued interest to the date of redemption.

Optional Redemption. The Bonds shall be subject to redemption prior to maturity in whole but not in part on any Interest Payment Date on or after November 1, 2019, from the proceeds of an optional prepayment of the Loan by the Borrower, at a redemption price equal to the principal amount thereof, plus accrued interest thereon to the date fixed for redemption.

Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, if the Borrower obtains a Favorable Opinion of Bond Counsel, by written notice to the Trustee and the Majority Owner given not less than ten (10) Business Days in advance of the proposed redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall be registered to or upon the direction of the Borrower.

Notice of Redemption.

(a) Notice of redemption shall be given by the Trustee by telephone, telegram or other electronic means, promptly confirmed in writing, not less than ten (10) Business Days prior to the date fixed for redemption; provided, however, that no notice of redemption shall be required for a redemption pursuant to subsection (d), (e), (f) or (g) above.

(b) Notice of redemption shall be given to the Owners of all Bonds to be redeemed, by telephone, telex, telecopier or other electronic means, promptly confirmed in writing, at their addresses appearing on the books of registry. Receipt of such notice of redemption shall not be a condition precedent to such redemption, and failure so to notify any of such registered Owners shall not affect the validity of the proceedings for the redemption of the Bonds.

(c) Notice of redemption having been given as provided in subsection (a) or (b) above and all conditions precedent, if any, specified in such notice having been satisfied, the Bonds or portions thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice, such Bonds or portions thereof shall be paid at the redemption price, plus any accrued interest to the redemption date. On and after the redemption date (unless funds for the payment of the redemption price and accrued interest of the Bonds called for redemption shall not have been provided to the Trustee), (i) such Bonds shall cease to bear interest and (ii) such Bonds shall no longer be considered as Outstanding under the Indenture.

Selection of Bonds To Be Redeemed.

(a) If less than all the Bonds are to be redeemed, the particular Bonds or portions of Bonds to be redeemed shall be selected randomly by the Trustee.

(b) In making such selection randomly, the Trustee may treat each Bond to be redeemed as representing that number of Bonds of the lowest Authorized Denomination as is obtained by dividing the principal amount of such Bond by such Authorized Denomination.

Partial Redemption of Registered Bonds.

(a) In case part but not all of a Bond shall be selected for redemption, upon presentation and surrender at the Principal Office of the Trustee of such Bond by the Owner thereof or his attorney duly authorized in writing (with due endorsement for transfer or accompanied by written instrument of transfer in form satisfactory to the Trustee) the Trustee shall authenticate and deliver to or upon the order of such Owner, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds, at the option of such Owner, of any Authorized Denomination of like tenor, or if less than the minimum Authorized Denomination, an amount necessary to equal the unredeemed portion of the principal amount of the Bond; provided, however, that surrender of Bonds shall not be required as a condition of the payment of the redemption price pursuant to subsection (g) under the heading "Mandatory Redemption" above. For all purposes of the Indenture (including exchange and transfer), the Bond so issued in less than a minimum Authorized Denomination shall be deemed to have been issued in an Authorized Denomination. Bonds so presented and surrendered shall be canceled in accordance with the Indenture.

(b) In the event of a partial redemption of Bonds other than pursuant to subsection (g) under the heading "Mandatory Redemption" above, the mandatory sinking fund schedule set forth on Exhibit B to the Indenture shall be adjusted to provide for level debt service in respect of the Bonds remaining Outstanding after such partial redemption, on the basis of a 466 month amortization schedule commencing on August 1, 2014; provided that such schedule shall include a

balloon payment at the Maturity Date. The Servicer shall provide the Trustee with a revised Exhibit B reflecting such adjustment promptly following any such partial redemption.

Enforcement. Only the Majority Owner shall have the right to enforce the provisions of this Bond or the Indenture or to institute any action to enforce the covenants herein or therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. If an Event of Default occurs and is continuing, the principal of all Bonds then Outstanding may be declared due and payable by the Majority Owner upon the conditions and in the manner and with the effect provided in the Indenture. As provided in the Indenture, and to the extent permitted by law, interest and a penalty rate of interest shall be payable on unpaid amounts due hereon.

Discharge. The Indenture prescribes the manner in which it may be discharged and after which the Bonds shall be deemed to be paid and no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Bonds and of such payment.

Modifications. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond shall not be valid or obligatory for any purpose until it shall have been authenticated by a duly authorized officer of the Trustee.

It is hereby certified and recited that all conditions, acts and things required by the statutes of the State or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of the Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed as of the Dated Date stated above.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
Chair

(SEAL)

Attest:

Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Indenture and is one of the Texas Department of Housing and Community Affairs Multifamily Housing Mortgage Revenue Bonds (Green Crest Apartments) Series 2002.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee and
Authenticating Agent

By: _____
Authorized Signatory

Date of Authentication:

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address, including Zip Code, and Federal Taxpayer
Identification or Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature: _____

Signature guaranteed by:

NOTICE: Signature must be guaranteed by a signature guarantor institution that is a participant in a nationally recognized signature guarantor program.

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

RESOLUTION NO. 14-031

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT IN CONNECTION WITH MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (GREEN CREST APARTMENTS) SERIES 2002; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Issuer") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the "Act"), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as defined in the Act and determined by the Governing Board of the Issuer (the "Governing Board") from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the "State") intended to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multi-family residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Act further authorizes the Department to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department under such terms, conditions and details as shall be determined by the Governing Board; and

WHEREAS, the Issuer previously issued its Multifamily Housing Mortgage Revenue Bonds (Green Crest Apartments) Series 2002 in the original principal amount of \$12,500,000 (the "2002 Bonds") pursuant to the terms and provisions of that certain Trust Indenture dated as of November 1, 2002 (the "Indenture"), between the Issuer and Wells Fargo Bank, National Association, successor trustee to Wells Fargo Bank Texas, N.A., as trustee (the "Trustee"); and

WHEREAS, the proceeds of the 2002 Bonds were loaned to Finlay Interests 34, Ltd., a limited partnership organized and existing under the laws of the State of Florida (the "Borrower") for the purpose of financing a portion of the costs of a multifamily housing development known as Green Crest Apartments (the "Project"), pursuant to that certain Loan Agreement dated as of November 1, 2002 (the "Loan Agreement") among the Issuer, the Borrower and the Trustee; and

WHEREAS, the Borrower and Centerline Mortgage Capital Inc. (the "Servicer") (on behalf of the holder of the 2002 Bonds) have requested that the Issuer enter into a supplemental trust indenture and modification agreement (the "Supplement") to make certain modifications to the terms of the 2002 Bonds and conforming changes to the Indenture; and

WHEREAS, the Issuer's execution of the Supplement shall be subject to receipt of the consents, opinions, approvals or notices required by the Indenture; and

WHEREAS, the Issuer now desires to take certain actions with respect to the Supplement;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval, Execution and Delivery of Supplement. The Supplement, in substantially the form presented at this meeting, is hereby approved and adopted by the Issuer, and the Authorized Representatives of the Department named in this Resolution are each hereby authorized and empowered to execute and deliver the Supplement on behalf of the Issuer, with such changes as may be approved by the authorized representative executing the same, such approval to be evidenced by such Authorized Representative's execution thereof.

Section 1.2 Execution and Delivery of Other Documents. The Authorized Representatives shall be and each is expressly authorized, empowered and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer all certificates, financing statements, instruments and other documents, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this resolution, as well as the terms and provisions of the Supplement, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such certificate, financing statement, instrument or other document.

Section 1.3 Consents and Approvals. The Issuer's execution of the Supplement is expressly subject to receipt of the consents, opinions, approvals or notices required by the Indenture.

Section 1.4 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, Deputy Executive Director of Multifamily Finance and Fair Housing of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Finance of the Department, the Director of Texas Homeownership of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.5 Certification of Records. The Secretary and Assistant Secretary to the Governing Board hereby are authorized to certify and authenticate minutes and other records on behalf of the Department for the 2002 Bonds and all other Department activities.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 5th day of June, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

11

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Resolution No. 14-032 for the Supplemental Trust Indenture and Modification Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Ironwood Crossing, Series 2002A and Taxable Series 2002B

RECOMMENDED ACTION

WHEREAS, the Department issued Series 2002A Tax-Exempt Bonds in the aggregate principal amount of \$15,000,000 and Series 2002B Taxable Bonds in the aggregate principal amount of \$1,970,000 to the Ironwood Crossing development in Fort Worth to construct 280 units of affordable multifamily rental housing;

WHEREAS, the Owner is requesting the Department's approval for modifications to the existing financing structure, including the interest rate, maturity and amortization provisions under the original bond covenants; and,

WHEREAS, such changes are necessary to improve the financial strength of the development and reduce the ongoing operating deficits;

NOW, therefore, it is hereby

RESOLVED, that Resolution No. 14-032 relating to the Supplemental Trust Indenture and Modification Agreement for Ironwood Crossing is hereby approved as presented to this meeting; and,

FURTHER RESOLVED, that staff is authorized, empowered and directed for and on behalf of the Department to execute and deliver such documents, instruments, and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

BACKGROUND

The bonds for Ironwood Crossing were originally issued through the Department in November 2002. The Series 2002A tax-exempt bond amount was \$15,000,000 and the Series 2002B taxable amount was \$1,970,000. The original financing structure included privately placed bonds with Charter Municipal Mortgage Acceptance Company and as such were unrated with no credit enhancement. The interest rate on the Series A tax-exempt bonds is currently 7.00% and the Series B taxable interest rate is 8.75% per annum.

Organizational Structure: The Borrower is Ironwood Ranch Townhomes LP and the General Partner is Western Center Boulevard Associates, LLC which is comprised of Centerline Manager LLC. The original GP, the Brisben Companies, started developing the property after the award; however, they declared bankruptcy shortly thereafter and Centerline assumed 100% of the GP interest in June 2003.

Proposed Changes: The applicant is requesting the Department's approval to modify some aspects of the financing structure under the original bond covenants. The sections below outline the specific changes to these provisions.

Interest Rate: The original and proposed interest rates including the following:

Original Series A tax-exempt bonds: 7%
Original Series B taxable bonds: 8.75%
Proposed Series A tax-exempt bonds: 4.30%
Proposed Series B taxable bonds: 7.50%

Using a blended rate of 4.21% the proposed structure represents a savings of approximately 32% in the monthly debt service payments.

Maturity and Amortization: The original and proposed maturity dates include the following:

Original Series A tax-exempt bonds: November 1, 2042
Original Series B taxable bonds: May 1, 2021
Proposed Series A tax-exempt bonds: November 1, 2038
Proposed Series B taxable bonds: June 1, 2021

The amortization schedule will be re-calculated in order to level the debt service over the term. Due to the acceleration on the Series A bonds, the weighted average maturity will not increase and as such will not result in a new public hearing pursuant to federal tax law.

Staff Analysis: The modifications are projected to alleviate Centerline's obligation to fund operating deficits and reduce the default risk to Freddie Mac as the lender. An underwriting analysis of the proposed modifications can be found in the memo included behind this Board write-up.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Teresa Morales, Manager Multifamily Finance
From: Colton Sanders, Asset Manager
CC: Bond Restructuring Application File
Date: May 27, 2014
Subject: TDHCA Bond Restructuring Application – 14603 Ironwood Crossing
LIHTC 02440 – CMTS 3322

BACKGROUND:

The Owner was originally allocated \$15,000,000 of TDHCA Tax-Exempt Multifamily Housing Mortgage Revenue Bonds (Series 2002A) and \$1,970,000 in TDHCA Taxable Multifamily Housing Mortgage Revenue Bonds (Series 2002B). The Owner was issued 8609s in the amount of \$612,500 in annual 4% housing tax credits in April 2009.

The Owner is restructuring the bond financing because the property's operations never met its stabilization requirements. In 2002, the Brisben Companies began developing the subject property in Fort Worth, Texas and subsequently declared bankruptcy before completing the development. Centerline, the limited and special limited equity partner, assumed the GP interest in June 2003 and completed construction of the property in June 2005. The property had 24 months to stabilize which is defined within the original written agreements to be achieved when the property reaches 90% occupancy and maintains a DCR of 1.15 or greater for 90 days. While occupancy has ebbed and flowed the property has never reached its DCR target. The Owner reports that the economic recession continued to affect the property from 2009 to 2012. Moreover, the Brisben Companies interest in the property was not resolved until 2010. The property was able to generate enough qualified residents to continue operations, but it came as a result of higher than average rental concessions to compete with neighboring market rate properties which had reduced rents to absorb market share. Many applicants were reportedly renting at market rate properties due to similar rental rates and reduced paperwork requirements as compared to rent restricted properties. In 2012 the rental market began to recover and rents increased for market rate and restricted properties alike in the Fort Worth area. As of third quarter 2013 Centerline reports capital advancements of over \$7 million to the property for operations.

Prior to 2012 the property was typically operating at 90-95% physical occupancy; however, economic occupancy was around 85%. Historical annual financial statements supplied to the Department show economic vacancy and collection losses at 9% in 2012, 13% in 2011, and 15% in 2010 and 8% in 2009. The Owner indicated that the operating strategy was adjusted in 2012 to drive occupancy and reduce tenant turn-over while increasing rental revenue. The property reached 93% physical occupancy as of January 2014 and reportedly has sustained 90% physical occupancy or greater for the past 7 months. Fourth quarter 2013 operating statements report the vacancy and collection loss at 10.3%. The Owner has reported a need to differentiate the property within the market by offering additional supportive services and property security that has caused above average expenses; however, the property has been able to achieve stabilization requirements, and if these



expenses decrease and economic occupancy remains the same or increases the property will continue to achieve stabilization requirements. The property will most likely continue to operate around 90% economic occupancy with 90-95% physical occupancy.

CURRENT FINANCING STRUCTURE:

MRB Series 2002A and MRB Series 2002B

- Series 2002A \$15,000,000 Tax Exempt Bonds at an interest rate of 7%.
- Series 2002A maturity date: November 1, 2042 (480 month amortization)
- Series 2002B \$1,970,000 Taxable Bonds at an interest rate of 8.75%
- Series 2002B maturity date: May 1, 2021 (187 month amortization)
- Blended rate monthly debt service payment is \$106,834 (\$1,282,005 annual payment)

PROPOSED FINANCING STRUCTURE:

The Owner has requested the Department's consent to modify certain requirements under the existing bond covenants. The amortization period for the Series 2002A bonds will be reset to 480 months on the \$15,000,000 at a significantly reduced interest rate of 4.30% with the maturity date accelerated to November 1, 2038 at which point a balloon payment will be required for the outstanding principal and interest. Much like the original structure, the Series A bonds will have interest only payments due until the Series B bonds have been retired. The Series 2002B bonds have an outstanding balance of \$1,231,977 and the interest rate will be reduced from 8.75% to 7.5% and will be amortized and mature one month later than originally projected on June 1, 2021. Series B bonds will resume fully amortized payments until maturity where a balloon payment will be due to retire the debt. Staff calculated the monthly debt service using a blended rate of 4.13% to match the Owner's calculation of \$72,265 for a blended monthly debt service which is a result of the hyper-amortization of the Series 2002B debt. Overall, the proposed debt restructuring results in a decrease of approximately 32% in total debt service payments compared to the existing financing structure.

The Owner's efforts to stabilize economic and physical occupancy are projected to minimize the vacancy and collection losses, and reduce the need for additional operating capital the property has experienced in years prior. The restructured debt will ease the debt service burden while increasing the financial viability of the property which is projected to produce positive cash flow with annual debt service coverage ratios above 1.15 over the next 15 years.

STAFF RECOMMENDATION:

Staff has reviewed operating statements and analyzed the property's financial situation with the current and proposed financing structure. The Owner's projected pro forma and proposed financing structure is projected to allow the property to achieve a DCR above 1.15 which should allow the property to stabilize if occupancy projections continue to be achieved. Staff supports the approval of the proposed modifications to the financing structure under the original bond covenants.

**SUPPLEMENTAL TRUST INDENTURE
AND MODIFICATION AGREEMENT**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS
(IRONWOOD CROSSING) SERIES 2002A AND TAXABLE SERIES 2002B

This SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT, dated as of July 1, 2014 (this "Supplement"), among TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (together with its successors and assigns, the "Issuer"), IRONWOOD RANCH TOWNHOMES LIMITED PARTNERSHIP, a limited partnership organized and existing under the laws of the State of Ohio (together with its successors and assigns, the "Borrower"), WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association duly organized, validly existing and authorized to accept the duties and obligations set out by virtue of the laws of the United States of America, as trustee, successor to Wells Fargo Bank Texas, N.A. (together with any successor trustee and their respective successors and assigns, the "Trustee") under a Trust Indenture, dated as of November 1, 2002 (as amended, modified or supplemented from time to time, the "Indenture"), between the Issuer and the Trustee (capitalized terms used herein and not otherwise defined having the meaning assigned to them in the Indenture),

WITNESSETH:

WHEREAS, pursuant to the Indenture, the Issuer has previously issued its Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002A in the original aggregate principal amount of \$15,000,000 (the "Tax-Exempt Bonds") and its Taxable Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002B in the original aggregate principal amount of \$1,970,000 (the "Taxable Bonds" and, together with the Tax-Exempt Bonds, the "Bonds"), to finance a portion of the costs of the acquisition, construction and equipping of an approximately 280-unit multifamily residential rental development known as Ironwood Crossing and located in Fort Worth, Texas (the "Project"); and

WHEREAS, pursuant to a Loan Agreement, dated as of November 1, 2002, among the Issuer, the Trustee and the Borrower (the "Loan Agreement"), the Issuer loaned the proceeds of the Bonds to the Borrower to finance a portion of the cost of the Project; and

WHEREAS, among other things, the Borrower was obligated pursuant to Section 6.2 of the Loan Agreement to make a prepayment in the amount specified by the Majority Owner (as defined in the Indenture) to effectuate a partial redemption of Bonds pursuant to Section 4.01(b) of the Indenture in the event the Project did not achieve "Stabilization" on or before the date which was forty-eight (48) months following the Completion Date; and

WHEREAS, prior to the date hereof, such payment has not been made, as required; and

WHEREAS, the Borrower and the Servicer have asked the Issuer and the Trustee to enter into this Supplement (i) to modify the redemption provisions, (ii) to modify the mandatory sinking fund redemption schedule, (iii) to modify the interest rate on the Bonds, and (iv) to make certain other modifications to the terms of the Bonds as more fully described herein with the consent of the owners of 100% of the Bonds Outstanding; and

WHEREAS, Sections 9.02, 9.03, 9.04, 9.06 and 9.07 of the Indenture provide that the Indenture and the Loan Agreement can be amended for such purposes by a supplemental trust indenture accompanied by the consent of the owners of 100% of the Bonds Outstanding and the Borrower and upon delivery of an opinion of Bond Counsel; and

WHEREAS, Federal Home Loan Mortgage Corporation is the registered owner of 100% of the Outstanding Bonds and is the Majority Owner, as such term is defined in the Indenture;

NOW, THEREFORE, in consideration of the foregoing and subject to the requirements of Sections 9.02, 9.03, 9.04, 9.06 and 9.07 of the Indenture, the Issuer, the Trustee and the Borrower, with the consent of the Majority Owner, hereby agree that the Indenture and the Loan Agreement be amended, modified and supplemented as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions.

(a) The definition of “Maturity Date” in the Indenture is hereby amended to read as follows:

“Maturity Date” means November 1, 2038 for the Tax-Exempt Bonds and May 1, 2021 for the Taxable Bonds.

(b) The definition of “Stabilization” in the Indenture and in the Loan Agreement is hereby amended to read as follows:

“Stabilization” shall be deemed to have occurred on the date of execution and delivery of the Supplement.

(c) The definition of “Supplement” is hereby added to the Indenture as follows:

“Supplement” means the Supplemental Trust Indenture and Modification Agreement, dated as of July 1, 2014, by and among the Issuer, the Borrower and the Trustee, amending the Indenture and the Loan Agreement, as the same may be amended or supplemented from time to time.

(d) All other capitalized terms used herein unless otherwise defined shall have the same meaning as used in Article I of the Indenture or Article I of the Loan Agreement.

ARTICLE II THE AMENDMENTS

Section 2.01 Amendment of Section 3.06 of Indenture. Section 3.06 of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“Section 3.06. Interest on the Bonds. The Tax-Exempt Bonds shall bear interest on the Outstanding principal amount thereof, payable on each Interest Payment Date, (i) at the rate of 5.50% per annum from the date of issuance thereof to and including June 30, 2004, (ii) at the rate of 7.0% per annum from July 1, 2004 to and including June 30, 2014 and (iii) at the rate of 4.30% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration.

The Taxable Bonds shall bear interest on the Outstanding principal amount thereof, payable on each Interest Payment Date, (i) at the rate of 8.75% per annum from the date of issuance thereof to and including June 30, 2014 and (ii) at the rate of 7.50% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration.

Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.”

Section 2.02 Amendment of Section 4.01(b) of Indenture. Section 4.01(b) of the Indenture is hereby deleted in its entirety. From and after the date hereof, all references in the Bonds, the Indenture and the Loan Documents to Section 4.01(b) of the Indenture shall be of no further force or effect whatsoever and the Majority Owner shall no longer have the right to direct any mandatory redemption of the Bonds as a result of the failure of the Project to achieve “Stabilization” under the original terms of the Loan Documents.

Section 2.03 Amendment of Section 4.07(b) of Indenture. Section 4.07(b) of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“(b) In the event of a partial redemption of Bonds other than pursuant to Section 4.01(f) of this Indenture, the mandatory sinking fund schedule set forth on Exhibit B hereto shall be adjusted to provide for level debt service (i) in respect of the Tax-Exempt Bonds remaining Outstanding after such partial redemption, on the basis of a 381-month amortization schedule commencing on August 1, 2014 and (ii) in respect to the Taxable Bond remaining Outstanding after such partial redemption on, on the basis of an amortization schedule that results in the Taxable Bond fully amortizing over their remaining term; provided that such schedule for the Tax-Exempt Bonds shall include a balloon payment at the Maturity Date. The Servicer shall provide the Trustee with a revised Exhibit B reflecting such adjustment promptly following any such partial redemption.”

Section 2.04 Amendment to Section 8.11 of Indenture. Section 8.11 of the Indenture is hereby amended and restated in its entirety to provide in full as follows:

“Section 8.11 Servicer. The Majority Owner may, by written notice to the Trustee, the Issuer and the Borrower, appoint a third party Servicer to service the Loan and remove any Servicer so appointed. The selection or removal of any Servicer shall be in the sole discretion of the Majority Owner. The Majority Owner may also choose to act in the capacity of Servicer of the Loan. The Servicer shall have the right to receive copies of all reports and notices provided for by the Loan Documents.”

Section 2.05 Amendment to Exhibit A of the Indenture; Replacement for Forms of Bonds. The forms of Bonds attached to the Indenture as Exhibit A-1 and Exhibit A-2 are hereby replaced with the forms of Bonds attached as Exhibit B to this Supplement. Promptly following the execution and delivery of this Supplement, the Trustee shall deliver to the Majority Owner, or upon its order, an executed and authenticated replacement Bond certificates in the respective forms set forth in Exhibit B to this Supplement.

Section 2.06 Amendment to Exhibit B of Indenture. The mandatory sinking fund schedule set forth on Exhibit B of the Indenture is hereby replaced with the schedule attached as Exhibit A to this Supplement.

ARTICLE III

CONDITIONS TO EFFECTIVENESS/REPRESENTATIONS AND WARRANTIES

Section 3.01 Conditions to Effectiveness. It shall be a condition to the effectiveness of this Supplement that that following shall be satisfied:

(a) all of the conditions set forth in the Indenture and the Loan Agreement to the amendment or modification thereof shall have been met or waived in writing, which waiver is evidenced by the parties' execution of this Supplement and the Majority Owner Consent;

(b) there shall have been delivered an unqualified opinion of Bond Counsel addressed to the Issuer, the Trustee, the Servicer and the Majority Owner substantially to the effect that (i) the Bonds constitute the legal, valid and binding special limited obligation of the Issuer, (ii) interest on the Bonds is excludable from the gross income of the owners of the Bonds for federal income tax purposes and (iii) this Supplement has been duly authorized, executed and delivered by the Issuer and is enforceable against the Issuer in accordance with its terms, subject to customary exclusions; and

(c) the previously issued and authenticated Bonds have been cancelled by the Trustee.

Section 3.02 Representations and Covenants of Borrower. By its execution and delivery hereof, the Borrower hereby:

(a) represents that it is the owner of the Project and the borrower of the loan made from the proceeds of the Bonds;

(b) consents to the amendments of the Indenture and the Loan Agreement contained in this Supplement;

(c) irrevocably waives, without recourse, all irregularities in the timing, content and delivery of all notices that are required by the Indenture or the Loan Agreement with respect to the amendment of the Indenture and the Loan Agreement referred to above;

(d) agrees to be bound by the terms of the Indenture, as amended by this Supplement,

(e) agrees that, prior to December __, 2014, it shall not cause, permit or permit the General Partner to cause or permit, (a) a change in ownership of the Project or (b) the transfer of any equity interest in the Borrower, the admission of any new equity investors in the Borrower or the withdrawal of any existing equity investors in the Borrower, without, in each case, delivery to the Trustee of an opinion of Bond Counsel to the effect that such change, transfer, admission or withdrawal will not adversely affect the exclusion from gross income of interest on the Bonds for purposes of federal income taxation;

(f) certifies that the federal tax-related representations of the Borrower in the Loan Agreement, in the Regulatory Agreement, and in the Borrower's Tax Certificate remain true and correct in all material respects as of the date hereof and that the Borrower is not in material default under or breach of any covenant contained in the Borrower's Tax Certificate or the Regulatory Agreement or any of the federal tax-related covenants of the Borrower contained in the Loan Agreement.

Section 3.03 Stabilization. The parties hereto acknowledge and agree that, upon the effectiveness of this Supplement, Stabilization shall be deemed to have occurred for all purposes under the Indenture and Loan Documents.

ARTICLE IV FURTHER SUPPLEMENTS

Section 4.01 Further Supplements. This Supplement may be supplemented or amended in the manner and subject to the conditions set forth in Article IX of the Indenture for amendments to the Indenture and Loan Documents.

ARTICLE V MISCELLANEOUS

Section 5.01 Supplement as Part of Indenture and Loan Agreement. This Supplement shall be construed in connection with and as a part of the Indenture and the Loan Agreement to the extent of the provisions herein that are amendatory thereof or supplemental thereto.

Section 5.02 Severability. If any provision of this Supplement shall be held or deemed to be, or shall, in fact, be, illegal, inoperative or unenforceable, the same shall not affect any other provision herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 5.03 Counterparts; Electronic Signatures. This Supplement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. To the fullest extent permitted by applicable law, signatures transmitted by facsimile or other electronic means shall constitute original signatures for all purposes hereunder.

Section 5.04 Rules of Interpretation. Unless expressly indicated otherwise, references to Sections or Articles are to be construed as references to Sections or Articles of this instrument as originally executed. Use of the words “herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Supplement as a whole, and not solely to the particular portion in which any such word is used.

Section 5.05 Captions. The captions and headings in this Supplement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Supplement.

Section 5.06 Governing Law. This Supplement shall be governed by the internal laws of the State of Texas, without regard to conflict of laws principles.

Section 5.07 Successors and Assigns. This Supplement shall inure to the benefit of, and shall be binding upon, the Issuer and its successors and assigns, the Borrower and its successors and assigns, and the Trustee, any successor trustee and their respective successors and assigns. In addition, this Supplement shall be binding upon the current Owners of the

Bonds and all future Owners from time to time of the Bonds and their respective successors and assigns.

Section 5.08 Tax Matters. The Issuer certifies that the federal tax-related representations of the Issuer contained in the Indenture, in the Regulatory Agreement and in the Tax Certificate remain true and correct in all material respects as of the date hereof and that the Issuer is not in material default under or breach of any covenants contained in the Tax Certificate and the Regulatory Agreement or any of the federal tax-related covenants of the Issuer contained in the Indenture.

[Issuer, Trustee, and Borrower Signature Pages Follow]

IN WITNESS WHEREOF, the Issuer, the Trustee and the Borrower have caused this Supplement to be executed and delivered by their respective duly authorized representatives, all as of the date first above written.

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By: _____
Name: J. Paul Chair
Title: Chair

(SEAL)

ATTEST:

Secretary

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Name: _____
Title: _____

IRONWOOD RANCH TOWNHOMES LIMITED
PARTNERSHIP, an Ohio limited partnership

By: Western Center Boulevard Associates, L.L.C., its
general partner

By: Centerline Manager LLC, its manager

By: Centerline Affordable Housing Advisors
LLC, its sole member

By: _____
Name: _____
Title: _____

MAJORITY OWNER CONSENT

Texas Department of Housing and Community Affairs
Multifamily Housing Mortgage Revenue Bonds
(Ironwood Crossing) Series 2002A and Taxable Series 2002B

THE UNDERSIGNED HEREBY:

1. Represents that it is the registered owner of 100% in aggregate principal amount of the above-referenced bonds (the “Bonds”) and, as such, is the Majority Owner of the Bonds under the Indenture;
2. Hereby consents to the amendments of the Indenture and the Loan Agreement contained in the Supplemental Trust Indenture and Modification Agreement to which this Majority Owner Consent is attached; and
3. Irrevocably waives, without recourse, all irregularities in the timing, content and delivery of all notices that are required by the Indenture or the Loan Agreement with respect to the amendment of the Indenture and the Loan Agreement referred to above.

Terms used in this Majority Owner Consent with initial capital letters, but not defined herein, shall have the same meanings given such terms in the Supplemental Trust Indenture and Modification Agreement to which this Majority Owner Consent is attached.

(Signature Page Follows)

IN WITNESS WHEREOF, the undersigned has caused this Majority Owner Consent to be executed by its duly authorized representative as of the _____ day of _____, 2014.

FEDERAL HOME LOAN
MORTGAGE CORPORATION

By: _____

Name: _____

Title: _____

Acknowledged and Agreed solely for the purposes of Section 3.03

CENTERLINE MORTGAGE CAPITAL INC.,
as Servicer

By: _____

Name: _____

Title: _____

EXHIBIT A

TO SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT
ADJUSTED SINKING FUND REDEMPTION SCHEDULE

Ironwood Crossing

Adjusted Sinking Fund Redemption Schedule

Payment Number	Payment Date**	Taxable Monthly Hard Debt Service					Tax-Exempt Monthly Hard Debt Service				
		Beginning Principal Balance*	Principal**	Interest**	Total Payment*	Ending Principal Balance*	Beginning Principal Balance*	Principal**	Interest**	Total Payment*	Ending Principal Balance*
1	8/1/2014	\$1,190,119.94	\$11,076.97	\$7,438.25	\$18,515.22	\$1,178,042.97	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
2	9/1/2014	\$1,179,042.97	\$11,146.20	\$7,369.02	\$18,515.22	\$1,167,896.77	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
3	10/1/2014	\$1,167,896.77	\$11,215.87	\$7,299.35	\$18,515.22	\$1,156,680.90	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
4	11/1/2014	\$1,156,680.90	\$11,285.96	\$7,229.26	\$18,515.22	\$1,145,394.94	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
5	12/1/2014	\$1,145,394.94	\$11,356.50	\$7,158.72	\$18,515.22	\$1,134,038.44	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
6	1/1/2015	\$1,134,038.44	\$11,427.48	\$7,087.74	\$18,515.22	\$1,122,610.96	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
7	2/1/2015	\$1,122,610.96	\$11,498.90	\$7,016.32	\$18,515.22	\$1,111,112.06	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
8	3/1/2015	\$1,111,112.06	\$11,570.77	\$6,944.45	\$18,515.22	\$1,099,541.29	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
9	4/1/2015	\$1,099,541.29	\$11,643.09	\$6,872.13	\$18,515.22	\$1,087,898.20	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
10	5/1/2015	\$1,087,898.20	\$11,715.86	\$6,799.36	\$18,515.22	\$1,076,182.34	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
11	6/1/2015	\$1,076,182.34	\$11,789.08	\$6,726.14	\$18,515.22	\$1,064,393.26	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
12	7/1/2015	\$1,064,393.26	\$11,862.76	\$6,652.46	\$18,515.22	\$1,052,530.50	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
13	8/1/2015	\$1,052,530.50	\$11,936.90	\$6,578.32	\$18,515.22	\$1,040,593.60	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
14	9/1/2015	\$1,040,593.60	\$12,011.51	\$6,503.71	\$18,515.22	\$1,028,582.09	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
15	10/1/2015	\$1,028,582.09	\$12,086.58	\$6,428.64	\$18,515.22	\$1,016,495.51	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
16	11/1/2015	\$1,016,495.51	\$12,162.12	\$6,353.10	\$18,515.22	\$1,004,333.39	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
17	12/1/2015	\$1,004,333.39	\$12,238.14	\$6,277.08	\$18,515.22	\$992,095.25	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
18	1/1/2016	\$992,095.25	\$12,314.62	\$6,200.60	\$18,515.22	\$979,780.63	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
19	2/1/2016	\$979,780.63	\$12,391.59	\$6,123.63	\$18,515.22	\$967,399.04	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
20	3/1/2016	\$967,399.04	\$12,469.04	\$6,046.18	\$18,515.22	\$954,920.00	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
21	4/1/2016	\$954,920.00	\$12,546.97	\$5,968.25	\$18,515.22	\$942,373.03	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
22	5/1/2016	\$942,373.03	\$12,625.39	\$5,889.83	\$18,515.22	\$929,747.64	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
23	6/1/2016	\$929,747.64	\$12,704.30	\$5,810.92	\$18,515.22	\$917,043.34	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
24	7/1/2016	\$917,043.34	\$12,783.70	\$5,731.52	\$18,515.22	\$904,259.64	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
25	8/1/2016	\$904,259.64	\$12,863.60	\$5,651.62	\$18,515.22	\$891,396.04	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
26	9/1/2016	\$891,396.04	\$12,943.99	\$5,571.23	\$18,515.22	\$878,452.05	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
27	10/1/2016	\$878,452.05	\$13,024.89	\$5,490.33	\$18,515.22	\$865,427.16	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
28	11/1/2016	\$865,427.16	\$13,106.30	\$5,408.92	\$18,515.22	\$852,320.86	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
29	12/1/2016	\$852,320.86	\$13,188.21	\$5,327.01	\$18,515.22	\$839,132.65	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
30	1/1/2017	\$839,132.65	\$13,270.64	\$5,244.58	\$18,515.22	\$825,862.01	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
31	2/1/2017	\$825,862.01	\$13,353.58	\$5,161.64	\$18,515.22	\$812,508.43	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
32	3/1/2017	\$812,508.43	\$13,437.04	\$5,078.18	\$18,515.22	\$799,071.39	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
33	4/1/2017	\$799,071.39	\$13,521.02	\$4,994.20	\$18,515.22	\$785,550.37	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
34	5/1/2017	\$785,550.37	\$13,605.53	\$4,909.69	\$18,515.22	\$771,944.84	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
35	6/1/2017	\$771,944.84	\$13,690.56	\$4,824.66	\$18,515.22	\$758,254.28	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
36	7/1/2017	\$758,254.28	\$13,776.13	\$4,739.09	\$18,515.22	\$744,478.15	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
37	8/1/2017	\$744,478.15	\$13,862.23	\$4,652.99	\$18,515.22	\$730,615.92	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
38	9/1/2017	\$730,615.92	\$13,948.87	\$4,566.35	\$18,515.22	\$716,667.05	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
39	10/1/2017	\$716,667.05	\$14,036.05	\$4,479.17	\$18,515.22	\$702,631.00	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
40	11/1/2017	\$702,631.00	\$14,123.78	\$4,391.44	\$18,515.22	\$688,507.22	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
41	12/1/2017	\$688,507.22	\$14,212.05	\$4,303.17	\$18,515.22	\$674,295.17	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
42	1/1/2018	\$674,295.17	\$14,300.88	\$4,214.34	\$18,515.22	\$659,994.29	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
43	2/1/2018	\$659,994.29	\$14,390.26	\$4,124.96	\$18,515.22	\$645,604.03	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
44	3/1/2018	\$645,604.03	\$14,480.19	\$4,035.03	\$18,515.22	\$631,123.84	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
45	4/1/2018	\$631,123.84	\$14,570.70	\$3,944.52	\$18,515.22	\$616,553.14	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
46	5/1/2018	\$616,553.14	\$14,661.76	\$3,853.46	\$18,515.22	\$601,891.38	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
47	6/1/2018	\$601,891.38	\$14,753.40	\$3,761.82	\$18,515.22	\$587,137.98	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
48	7/1/2018	\$587,137.98	\$14,845.61	\$3,669.61	\$18,515.22	\$572,292.37	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
49	8/1/2018	\$572,292.37	\$14,938.39	\$3,576.83	\$18,515.22	\$557,353.98	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
50	9/1/2018	\$557,353.98	\$15,031.76	\$3,483.46	\$18,515.22	\$542,322.22	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
51	10/1/2018	\$542,322.22	\$15,125.71	\$3,389.51	\$18,515.22	\$527,196.51	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
52	11/1/2018	\$527,196.51	\$15,220.24	\$3,294.98	\$18,515.22	\$511,976.27	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
53	12/1/2018	\$511,976.27	\$15,315.37	\$3,199.85	\$18,515.22	\$496,660.90	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
54	1/1/2019	\$496,660.90	\$15,411.09	\$3,104.13	\$18,515.22	\$481,249.81	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
55	2/1/2019	\$481,249.81	\$15,507.41	\$3,007.81	\$18,515.22	\$465,742.40	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
56	3/1/2019	\$465,742.40	\$15,604.33	\$2,910.89	\$18,515.22	\$450,138.07	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
57	4/1/2019	\$450,138.07	\$15,701.86	\$2,813.36	\$18,515.22	\$434,436.21	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
58	5/1/2019	\$434,436.21	\$15,799.99	\$2,715.23	\$18,515.22	\$418,636.22	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
59	6/1/2019	\$418,636.22	\$15,898.74	\$2,616.48	\$18,515.22	\$402,737.46	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
60	7/1/2019	\$402,737.46	\$15,998.11	\$2,517.11	\$18,515.22	\$386,739.37	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
61	8/1/2019	\$386,739.37	\$16,098.10	\$2,417.12	\$18,515.22	\$370,641.27	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
62	9/1/2019	\$370,641.27	\$16,198.71	\$2,316.51	\$18,515.22	\$354,442.56	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
63	10/1/2019	\$354,442.56	\$16,299.95	\$2,215.27	\$18,515.22	\$338,142.61	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
64	11/1/2019	\$338,142.61	\$16,401.83	\$2,113.39	\$18,515.22	\$321,740.78	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
65	12/1/2019	\$321,740.78	\$16,504.34	\$2,010.88	\$18,515.22	\$305,236.44	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
66	1/1/2020	\$305,236.44	\$16,607.49	\$1,907.73	\$18,515.22	\$288,628.95	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
67	2/1/2020	\$288,628.95	\$16,711.29	\$1,803.93	\$18,515.22	\$271,917.86	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
68	3/1/2020	\$271,917.86	\$16,815.73	\$1,699.49	\$18,515.22	\$255,101.93	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
69	4/1/2020	\$255,101.93	\$16,920.83	\$1,594.39	\$18,515.22	\$238,181.10	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
70	5/1/2020	\$238,181.10	\$17,026.59	\$1,488.63	\$18,515.22	\$221,154.51	\$15,000,000.00	\$0.00	\$53,750.00	\$53,750.00	\$15,000,000.00
71	6/1/2020	\$221,154.51	\$17,133.00	\$1,382.22	\$18,515.22	\$204,021.5					

86	9/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,944,255.06	\$18,714.97	\$53,550.25	\$72,265.22	\$14,925,540.09
87	10/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,925,540.09	\$18,782.03	\$53,483.19	\$72,265.22	\$14,906,758.06
88	11/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,906,758.06	\$18,849.34	\$53,415.88	\$72,265.22	\$14,887,908.72
89	12/1/2021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,887,908.72	\$18,916.88	\$53,348.34	\$72,265.22	\$14,868,991.84
90	1/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,868,991.84	\$18,984.67	\$53,280.55	\$72,265.22	\$14,850,007.17
91	2/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,850,007.17	\$19,052.69	\$53,212.53	\$72,265.22	\$14,830,954.48
92	3/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,830,954.48	\$19,120.97	\$53,144.25	\$72,265.22	\$14,811,833.51
93	4/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,811,833.51	\$19,189.48	\$53,075.74	\$72,265.22	\$14,792,644.03
94	5/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,792,644.03	\$19,258.25	\$53,006.97	\$72,265.22	\$14,773,385.78
95	6/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,773,385.78	\$19,327.25	\$52,937.97	\$72,265.22	\$14,754,058.53
96	7/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,754,058.53	\$19,396.51	\$52,868.71	\$72,265.22	\$14,734,682.02
97	8/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,734,682.02	\$19,466.01	\$52,799.21	\$72,265.22	\$14,715,196.01
98	9/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,715,196.01	\$19,535.77	\$52,729.45	\$72,265.22	\$14,695,660.24
99	10/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,695,660.24	\$19,605.77	\$52,659.45	\$72,265.22	\$14,676,054.47
100	11/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,676,054.47	\$19,676.02	\$52,589.20	\$72,265.22	\$14,656,378.45
101	12/1/2022	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,656,378.45	\$19,746.53	\$52,518.69	\$72,265.22	\$14,636,631.92
102	1/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,636,631.92	\$19,817.29	\$52,447.93	\$72,265.22	\$14,616,814.63
103	2/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,616,814.63	\$19,888.30	\$52,376.92	\$72,265.22	\$14,596,926.33
104	3/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,596,926.33	\$19,959.57	\$52,305.65	\$72,265.22	\$14,576,966.76
105	4/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,576,966.76	\$20,031.09	\$52,234.13	\$72,265.22	\$14,556,935.67
106	5/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,556,935.67	\$20,102.87	\$52,162.35	\$72,265.22	\$14,536,832.80
107	6/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,536,832.80	\$20,174.90	\$52,090.32	\$72,265.22	\$14,516,657.90
108	7/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,516,657.90	\$20,247.20	\$52,018.02	\$72,265.22	\$14,496,410.70
109	8/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,496,410.70	\$20,319.75	\$51,945.47	\$72,265.22	\$14,476,090.95
110	9/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,476,090.95	\$20,392.56	\$51,872.66	\$72,265.22	\$14,455,698.39
111	10/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,455,698.39	\$20,465.63	\$51,799.59	\$72,265.22	\$14,435,232.76
112	11/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,435,232.76	\$20,538.97	\$51,726.25	\$72,265.22	\$14,414,693.79
113	12/1/2023	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,414,693.79	\$20,612.57	\$51,652.65	\$72,265.22	\$14,394,081.22
114	1/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,394,081.22	\$20,686.43	\$51,578.79	\$72,265.22	\$14,373,394.79
115	2/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,373,394.79	\$20,760.56	\$51,504.68	\$72,265.22	\$14,352,634.23
116	3/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,352,634.23	\$20,834.95	\$51,430.27	\$72,265.22	\$14,331,799.28
117	4/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,331,799.28	\$20,909.61	\$51,355.61	\$72,265.22	\$14,310,889.67
118	5/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,310,889.67	\$20,984.53	\$51,280.69	\$72,265.22	\$14,289,905.14
119	6/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,289,905.14	\$21,059.73	\$51,205.49	\$72,265.22	\$14,268,845.41
120	7/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,268,845.41	\$21,135.19	\$51,130.03	\$72,265.22	\$14,247,710.22
121	8/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,247,710.22	\$21,210.93	\$51,054.29	\$72,265.22	\$14,226,499.29
122	9/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,226,499.29	\$21,286.93	\$50,978.29	\$72,265.22	\$14,205,212.36
123	10/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,205,212.36	\$21,363.21	\$50,902.01	\$72,265.22	\$14,183,849.15
124	11/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,183,849.15	\$21,439.76	\$50,825.46	\$72,265.22	\$14,162,409.39
125	12/1/2024	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,162,409.39	\$21,516.59	\$50,748.63	\$72,265.22	\$14,140,892.80
126	1/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,140,892.80	\$21,593.69	\$50,671.53	\$72,265.22	\$14,119,299.11
127	2/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,119,299.11	\$21,671.06	\$50,594.16	\$72,265.22	\$14,097,628.05
128	3/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,097,628.05	\$21,748.72	\$50,516.50	\$72,265.22	\$14,075,879.33
129	4/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,075,879.33	\$21,826.65	\$50,438.57	\$72,265.22	\$14,054,052.68
130	5/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,054,052.68	\$21,904.86	\$50,360.36	\$72,265.22	\$14,032,147.82
131	6/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,032,147.82	\$21,983.36	\$50,281.86	\$72,265.22	\$14,010,164.46
132	7/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$14,010,164.46	\$22,062.13	\$50,203.09	\$72,265.22	\$13,988,102.33
133	8/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,988,102.33	\$22,141.19	\$50,124.03	\$72,265.22	\$13,965,961.14
134	9/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,965,961.14	\$22,220.53	\$50,044.69	\$72,265.22	\$13,943,740.61
135	10/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,943,740.61	\$22,300.15	\$49,965.07	\$72,265.22	\$13,921,440.46
136	11/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,921,440.46	\$22,380.06	\$49,885.16	\$72,265.22	\$13,899,060.40
137	12/1/2025	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,899,060.40	\$22,460.25	\$49,804.97	\$72,265.22	\$13,876,600.15
138	1/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,876,600.15	\$22,540.74	\$49,724.48	\$72,265.22	\$13,854,059.41
139	2/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,854,059.41	\$22,621.51	\$49,643.71	\$72,265.22	\$13,831,437.90
140	3/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,831,437.90	\$22,702.57	\$49,562.65	\$72,265.22	\$13,808,735.33
141	4/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,808,735.33	\$22,783.92	\$49,481.30	\$72,265.22	\$13,785,951.41
142	5/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,785,951.41	\$22,865.56	\$49,399.66	\$72,265.22	\$13,763,085.85
143	6/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,763,085.85	\$22,947.50	\$49,317.72	\$72,265.22	\$13,740,138.35
144	7/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,740,138.35	\$23,029.72	\$49,235.50	\$72,265.22	\$13,717,108.63
145	8/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,717,108.63	\$23,112.25	\$49,152.97	\$72,265.22	\$13,693,996.38
146	9/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,693,996.38	\$23,195.07	\$49,070.15	\$72,265.22	\$13,670,801.31
147	10/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,670,801.31	\$23,278.18	\$48,987.04	\$72,265.22	\$13,647,523.13
148	11/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,647,523.13	\$23,361.60	\$48,903.62	\$72,265.22	\$13,624,161.53
149	12/1/2026	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,624,161.53	\$23,445.31	\$48,819.91	\$72,265.22	\$13,600,716.22
150	1/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,600,716.22	\$23,529.32	\$48,735.90	\$72,265.22	\$13,577,186.90
151	2/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,577,186.90	\$23,613.63	\$48,651.59	\$72,265.22	\$13,553,573.27
152	3/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,553,573.27	\$23,698.25	\$48,566.97	\$72,265.22	\$13,529,875.02
153	4/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,529,875.02	\$23,783.17	\$48,482.05	\$72,265.22	\$13,506,091.85
154	5/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,506,091.85	\$23,868.39	\$48,396.83	\$72,265.22	\$13,482,223.46
155	6/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,482,223.46	\$23,953.92	\$48,311.30	\$72,265.22	\$13,458,269.54
156	7/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,458,269.54	\$24,039.75	\$48,225.47	\$72,265.22	\$13,434,229.79
157	8/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,434,229.79	\$24,125.90	\$48,139.32	\$72,265.22	\$13,410,103.89
158	9/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,410,103.89	\$24,212.35	\$48,052.87	\$72,265.22	\$13,385,891.54
159	10/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,385,891.54	\$24,299.11	\$47,966.11	\$72,265.22	\$13,361,592.43
160	11/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,361,592.43	\$24,386.18	\$47,879.04	\$72,265.22	\$13,337,206.25
161	12/1/2027	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,337,206.25	\$24,473.56	\$47,791.66	\$72,265.22	\$13,312,732.69
162	1/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,312,732.69	\$24,561.26	\$47,703.96	\$72,265.22	\$13,288,171.43
163	2/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,288,171.43	\$24,649.27	\$47,615.95	\$72,265.22	\$13,263,522.16
164	3/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,263,522.16	\$24,737.60	\$47,527.62	\$72,265.22	\$13,238,784.56
165	4/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,238,784.56	\$24,826.24	\$47,438.98	\$72,265.22	\$13,213,958.32
166	5/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,213,958.32	\$24,915.20	\$47,350.02	\$72,265.22	\$13,189,043.12
167	6/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,189,043.12	\$25,004.48	\$47,260.74	\$72,265.22	\$13,164,038.64
168	7/1/2028	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,164,038.64	\$25,094.08	\$47,171.14	\$72,2	

272	3/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$10,008,250.42	\$36,402.32	\$35,862.90	\$72,265.22	\$9,971,848.10
273	4/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,971,848.10	\$36,532.76	\$35,732.46	\$72,265.22	\$9,935,315.34
274	5/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,935,315.34	\$36,663.67	\$35,601.55	\$72,265.22	\$9,898,651.67
275	6/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,898,651.67	\$36,795.05	\$35,470.17	\$72,265.22	\$9,861,856.62
276	7/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,861,856.62	\$36,926.90	\$35,338.32	\$72,265.22	\$9,824,929.72
277	8/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,824,929.72	\$37,059.22	\$35,206.00	\$72,265.22	\$9,787,870.50
278	9/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,787,870.50	\$37,192.02	\$35,073.20	\$72,265.22	\$9,750,678.48
279	10/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,750,678.48	\$37,325.29	\$34,939.93	\$72,265.22	\$9,713,353.19
280	11/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,713,353.19	\$37,459.04	\$34,806.18	\$72,265.22	\$9,675,894.15
281	12/1/2037	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,675,894.15	\$37,593.27	\$34,671.95	\$72,265.22	\$9,638,300.88
282	1/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,638,300.88	\$37,727.98	\$34,537.24	\$72,265.22	\$9,600,572.90
283	2/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,600,572.90	\$37,863.17	\$34,402.05	\$72,265.22	\$9,562,709.73
284	3/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,562,709.73	\$37,998.84	\$34,266.38	\$72,265.22	\$9,524,710.89
285	4/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,524,710.89	\$38,135.01	\$34,130.21	\$72,265.22	\$9,486,575.88
286	5/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,486,575.88	\$38,271.66	\$33,993.56	\$72,265.22	\$9,448,304.22
287	6/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,448,304.22	\$38,408.80	\$33,856.42	\$72,265.22	\$9,409,895.42
288	7/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,409,895.42	\$38,546.43	\$33,718.79	\$72,265.22	\$9,371,348.99
289	8/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,371,348.99	\$38,684.55	\$33,580.67	\$72,265.22	\$9,332,664.44
290	9/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,332,664.44	\$38,823.17	\$33,442.05	\$72,265.22	\$9,293,841.27
291	10/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,293,841.27	\$38,962.29	\$33,302.93	\$72,265.22	\$9,254,878.98
292	11/1/2038	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$9,254,878.98	\$9,254,878.98	\$33,163.32	\$9,288,042.30	\$0.00

** Operative terms.

* For informational purposes only. The Principal Balance columns assume no bond prepayments or delinquencies have occurred.

EXHIBIT B

TO SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT

FORM OF TAX-EXEMPT BOND

UNITED STATES OF AMERICA
STATE OF TEXAS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MULTIFAMILY HOUSING MORTGAGE REVENUE BOND
(IRONWOOD CROSSING)
SERIES 2002A

THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OR INTEREST ON THIS BOND. THE FAITH, CREDIT OR TAXING POWER OF THE STATE OF TEXAS IS NOT PLEDGED, GIVEN OR LOANED TO PAYMENT OF THIS BOND'S PRINCIPAL OR INTEREST.

THIS BOND IS A RESTRICTED SECURITY AND MAY BE TRANSFERRED ONLY AS PROVIDED HEREIN AND IN THE HEREIN DESCRIBED INDENTURE.

Number: RA-_____ \$_____

Maturity Date:

Dated Date:

Interest Rate:

November 1, 2038

July 1, 2014

As Described Herein

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

DOLLARS

FOR VALUE RECEIVED, TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the "Issuer"), a public and official agency of the State of Texas (the "State"), created and existing under and by virtue of the laws of the State, hereby acknowledges itself indebted and for value received promises to pay to the registered owner hereof stated above, or registered assigns, at the maturity date stated above, but only from the sources and as hereinafter provided, upon presentation and surrender of this Bond at the operations office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota or its successor as trustee (the "Trustee"), under the Indenture (described below), the principal amount stated above, and to pay interest on said principal amount at the interest rate set forth above, from and including the date of issuance hereof until the principal amount shall have been paid in accordance with the terms of this Bond and the Indenture, as and when set forth below, but only from the sources and as hereinafter provided, by wire transfer if there be one Owner of all of the Bonds or otherwise by check or draft mailed to the record Owners of Bonds as the same appear upon the books of registry to be maintained by the Trustee, as registrar.

This Bond is one of a duly authorized issue of bonds (the "Bonds") issued pursuant to, and is subject to, the Trust Indenture dated as of November 1, 2002 between the Issuer and the Trustee, as supplemented by that certain

Supplemental Trust Indenture and Modification Agreement (the "Supplement") dated as of July 1, 2014 (and as amended and supplemented from time to time, the "Indenture"), the bond resolution of the Issuer approved by the Issuer on October 10, 2002, (the "Resolution"), and Chapter 2306 of the Texas Government Code, as amended (the "Act"). Reference is made to the Indenture, the Resolution and the Act for a full statement of their respective terms. Capitalized terms used herein and not otherwise defined herein have the respective meanings accorded such terms in the Indenture, which are hereby incorporated herein by reference. The Bonds issued under the Indenture are expressly limited to \$15,000,000 in aggregate principal amount of the Bonds, and \$1,970,000 in aggregate principal amount of the Issuer's Taxable Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002B issued concurrently herewith, and are all of like tenor, except as to numbers and denominations, and are issued for the purposes of providing construction and permanent financing for qualified multifamily rental housing units in the State and of paying certain expenses incidental thereto. Pursuant to a Loan Agreement dated as of November 1, 2002, and a Promissory Note (the "Note") dated November 1, 2002, Ironwood Ranch Townhomes Limited Partnership, an Ohio limited partnership qualified to do business in the State of Texas (the "Borrower"), has agreed to make payments to the Issuer in amounts equal to amounts of principal of and premium, if any, and interest on the Bonds.

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER IN THE TRUST ESTATE PLEDGED TO THE PAYMENT THEREOF AND ARE SECURED BY AN ASSIGNMENT OF THE MORTGAGE AND OTHER ASSETS DESCRIBED IN THE INDENTURE. NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF SUCH BONDS. THE STATE OF TEXAS IS NOT LIABLE ON SUCH BONDS AND SUCH BONDS ARE NOT A DEBT OF THE STATE OF TEXAS. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, DIRECTOR, MEMBER, EMPLOYEE OR AGENT OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

The State shall not be liable for the Bonds, and the Bonds shall not constitute a debt of the State. The Act does not provide any procedure for the State to make appropriations for deposit into any reserve funds established under the Indenture.

Interest on the Bonds. The Bonds (including this Bond) shall bear interest on the Outstanding principal amount thereof at a rate of 5.50% per annum from the date of issuance to and including June 30, 2004, (ii) at the rate of 7.0% per annum from July 1, 2004 to and including June 30, 2014 and (iii) at the rate of 4.30% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration, computed on the basis of a 360-day year comprised of twelve 30-day months. The interest payable on the Bonds as provided above shall be payable on the first day of each month commencing January 1, 2003, and on each Bond Payment Date.

Registration and Transfer. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or Bonds, of any Authorized Denomination or Authorized Denominations, of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Bonds are issuable as fully registered Bonds in Authorized Denominations as provided in the Indenture. The Issuer, the Trustee, and any other person may treat the person in whose name this Bond is registered on the books of registry as the Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and no person shall be affected by notice to the contrary.

This Bond may be transferred in whole or in part by the Owner, only (i) to any subsidiary of the Owner or any entity under common management or control with the Owner, any affiliate of the Owner, any entity arising out of any

merger or consolidation of the Owner, or a trustee in bankruptcy of the Owner, (ii) to any Accredited Investor (as defined in Rule 501(a)(1), (2), (3), (4), (7) or (8) of Regulation D promulgated under the Securities Act of 1933) or any Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933), (iii) to any bank, savings institution or insurance company (whether acting in a trustee or custodial capacity for any Accredited Investor or Qualified Institutional Buyer or on its own behalf), or (iv) to any trust or custodial arrangement with respect to which the ultimate beneficial owner or owners of which are each an Accredited Investor or Qualified Institutional Buyer.

THE TRUSTEE SHALL NOT REGISTER ANY TRANSFER OR EXCHANGE OF ANY BONDS UNLESS SUCH HOLDER'S PROSPECTIVE TRANSFEREE DELIVERS TO THE TRUSTEE AN INVESTOR'S LETTER SUBSTANTIALLY IN THE APPROPRIATE FORM SET FORTH IN EXHIBIT D TO THE INDENTURE.

Mandatory Redemption. The Bonds shall be subject to mandatory redemption, and shall be redeemed, prior to maturity as follows:

(a) in whole or in part on the first Interest Payment Date for which notice can be given in accordance with the Indenture upon the earlier of (A) the expiration of 180 days after the Completion Date or (B) the third anniversary of the Closing Date (as such date may be extended by delivery to the Trustee of a Favorable Opinion of Bond Counsel), to the extent excess funds remain on deposit on such date in the Tax-Exempt Bond Proceeds Subaccount of the Loan Account of the Construction Fund, determined as provided in Section 6.03 of the Indenture; or

(b) [Intentionally Omitted]

(c) in whole or in part on the first Interest Payment Date for which adequate notice can be given in accordance with the Indenture after and to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project are deposited in the Revenue Fund and are not to be used to repair or restore the Project (which Condemnation Award or Insurance Proceeds shall be applied first to the redemption of the Bonds and second to the redemption of the Taxable Bonds, unless the Trustee and the Majority Owner shall receive an opinion of Bond Counsel to the effect that any proposed alternative application of such funds will not adversely affect the exclusion from gross income of interest on the Bonds); or

(d) upon a Determination of Taxability if the Owner of a Bond presents his Bond or Bonds for redemption, on any date selected by such Owner, specified in a notice in writing delivered to the Borrower and the Issuer at least thirty (30) days prior to such date; or

(e) in whole on any specified Interest Payment Date on or after October 1, 2027, if the Owners of all the Bonds elect redemption by giving not less than 180 days' prior written notice thereof to the Issuer, the Trustee and the Borrower, which notice shall specify the Interest Payment Date on which the Bonds are to be redeemed; or

(f) in part on each Interest Payment Date commencing [June 1, 2021], in the amounts set forth on the appropriate schedule in Exhibit B of the Indenture, subject to adjustment as provided in Section 4.07(b) of the Indenture.

Redemption Price of Bonds Redeemed Pursuant to Mandatory Redemption. The Bonds being redeemed before maturity as described above shall be redeemed at a redemption price equal to the principal amount of the Bonds being redeemed, together with accrued interest to the date of redemption.

Optional Redemption. The Bonds shall be subject to redemption prior to maturity in whole or in part on any Interest Payment Date on or after October 1, 2027, from the proceeds of an optional prepayment of the Loan by the Borrower, at a redemption price equal to the principal amount thereof, plus accrued interest thereon to the date fixed for redemption.

Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, if and only if, the Borrower obtains a Favorable Opinion of Bond Counsel, by written notice to the Trustee and the Majority Owner given not less than five (5) Business Days in advance of the proposed redemption date, the Bonds will

be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of purchase and shall be payable on the date of purchase thereof. Bonds so purchased in lieu of redemption shall be registered to or upon the direction of the Borrower.

Notice of Redemption.

(a) Notice of redemption shall be given by the Trustee by telephone, telegram or other electronic means, promptly confirmed in writing, not less than ten (10) Business Days prior to the date fixed for redemption; provided, however, that no notice of redemption shall be required for a redemption pursuant to subsection (f) above.

(b) Notice of redemption shall be given to the Owners of all Bonds to be redeemed, by telephone, telex, telecopier or other electronic means, promptly confirmed in writing, at their addresses appearing on the books of registry. Receipt of such notice of redemption shall not be a condition precedent to such redemption, and failure so to notify any of such registered Owners shall not affect the validity of the proceedings for the redemption of the Bonds.

(c) Notice of redemption having been given as provided in subsection (a) or (b) above and all conditions precedent, if any, specified in such notice having been satisfied, the Bonds or portions thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice, such Bonds or portions thereof shall be paid at the redemption price, plus any accrued interest to the redemption date. On and after the redemption date (unless funds for the payment of the redemption price and accrued interest of the Bonds called for redemption shall not have been provided to the Trustee), (i) such Bonds shall cease to bear interest and (ii) such Bonds shall no longer be considered as Outstanding under the Indenture.

Selection of Bonds To Be Redeemed.

(a) Except as otherwise provided herein or in the Indenture, if less than all the Bonds are to be redeemed, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee by lot; provided, however, that the Taxable Bonds shall be redeemed prior to the Bonds, unless the Borrower otherwise directs the Trustee in writing.

(b) In making such selection by lot, the Trustee may treat each Bond to be redeemed as representing that number of Bonds of the lowest Authorized Denomination as is obtained by dividing the principal amount of such Bond by such Authorized Denomination.

Partial Redemption of Registered Bonds.

(a) In case part but not all of a Bond shall be selected for redemption, upon presentation and surrender at the Principal Office of the Trustee of such Bond by the Owner thereof or his attorney duly authorized in writing (with due endorsement for transfer or accompanied by written instrument of transfer in form satisfactory to the Trustee) the Trustee shall authenticate and deliver to or upon the order of such Owner, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds, at the option of such Owner, of any Authorized Denomination of like tenor, or if less than the minimum Authorized Denomination, an amount necessary to equal the unredeemed portion of the principal amount of the Bond; provided, however, that such surrender shall not be required for payment of the redemption price pursuant to subsection (f) under the heading "Mandatory Redemption" above. For all purposes of the Indenture (including exchange and transfer), the Bond so issued in less than a minimum Authorized Denomination shall be deemed to have been issued in an Authorized Denomination. Bonds so presented and surrendered shall be canceled in accordance with the Indenture.

(b) In the event of a partial redemption of Bonds other than pursuant to subsection (f) under the heading "Mandatory Redemption" above, the mandatory sinking fund schedule set forth on Exhibit B to the Indenture shall be adjusted to provide for level debt service (i) in respect of the Tax-Exempt Bonds remaining Outstanding after such partial redemption, on the basis of a 381-month amortization schedule commencing on August 1, 2014 and (ii) in respect to the Taxable Bond remaining Outstanding after such partial redemption on, on the basis of an amortization

schedule that results in the Taxable Bond fully amortizing over their remaining term; provided that such schedule for the Tax-Exempt Bonds shall include a balloon payment at the Maturity Date. The Servicer shall provide the Trustee with a revised Exhibit B reflecting such adjustment promptly following any such partial redemption.

Enforcement. Only the Majority Owner shall have the right to enforce the provisions of this Bond or the Indenture or to institute any action to enforce the covenants herein or therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. If an Event of Default occurs and is continuing, the principal of all Bonds then Outstanding may be declared due and payable by the Majority Owner upon the conditions and in the manner and with the effect provided in the Indenture. As provided in the Indenture, and to the extent permitted by law, interest and a penalty rate of interest shall be payable on unpaid amounts due hereon.

Discharge. The Indenture prescribes the manner in which it may be discharged and after which the Bonds shall be deemed to be paid and no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Bonds and of such payment.

Modifications. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond shall not be valid or obligatory for any purpose until it shall have been authenticated by a duly authorized officer of the Trustee.

It is hereby certified and recited that all conditions, acts and things required by the statutes of the State or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of the Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed as of the Dated Date stated above.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
Chair

(SEAL)

Attest:

Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Indenture and is one of the Texas Department of Housing and Community Affairs Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002A.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Authorized Signatory

Date of Authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address, including Zip Code, and Federal Taxpayer
Identification or Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature: _____

Signature guaranteed by:

NOTICE: Signature must be guaranteed by a signature guarantor institution that is a participant in a nationally recognized signature guarantor program.

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

FORM OF TAXABLE BOND

UNITED STATES OF AMERICA
STATE OF TEXAS

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
TAXABLE MULTIFAMILY HOUSING MORTGAGE REVENUE BOND
(IRONWOOD CROSSING)
SERIES 2002B

THE STATE OF TEXAS IS NOT OBLIGATED TO PAY THE PRINCIPAL OR INTEREST ON THIS BOND. THE FAITH, CREDIT OR TAXING POWER OF THE STATE OF TEXAS IS NOT PLEDGED, GIVEN OR LOANED TO PAYMENT OF THIS BOND'S PRINCIPAL OR INTEREST.

THIS BOND IS A RESTRICTED SECURITY AND MAY BE TRANSFERRED ONLY AS PROVIDED HEREIN AND IN THE HEREIN DESCRIBED INDENTURE.

Number: RB-_____ \$_____

<u>Maturity Date:</u>	<u>Dated Date:</u>	<u>Interest Rate:</u>
May 1, 2021	July 1, 2014	As Described Herein

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____
DOLLARS

FOR VALUE RECEIVED, TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (the "Issuer"), a public and official agency of the State of Texas (the "State"), created and existing under and by virtue of the laws of the State, hereby acknowledges itself indebted and for value received promises to pay to the registered owner hereof stated above, or registered assigns, at the maturity date stated above, but only from the sources and as hereinafter provided, upon presentation and surrender of this Bond at the operations office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota or its successor as trustee (the "Trustee"), under the Indenture (described below), the principal amount stated above, and to pay interest on said principal amount at the interest rate set forth above, from and including the date of issuance hereof until the principal amount shall have been paid in accordance with the terms of this Bond and the Indenture, as and when set forth below, but only from the sources and as hereinafter provided, by wire transfer if there be one Owner of all of the Bonds or otherwise by check or draft mailed to the record Owners of Bonds as the same appear upon the books of registry to be maintained by the Trustee, as registrar.

This Bond is one of a duly authorized issue of bonds (the "Bonds") issued pursuant to, and is subject to, the Trust Indenture dated as of November 1, 2002 between the Issuer and the Trustee, as supplemented by that certain Supplemental Trust Indenture and Modification Agreement (the "Supplement") dated as of July 1, 2014 (and as amended and supplemented from time to time, the "Indenture"), the bond resolution of the Issuer approved by the Issuer on October 10, 2002, (the "Resolution"), and Chapter 2306 of the Texas Government Code, as amended (the

“Act”). Reference is made to the Indenture, the Resolution and the Act for a full statement of their respective terms. Capitalized terms used herein and not otherwise defined herein have the respective meanings accorded such terms in the Indenture, which are hereby incorporated herein by reference. The Bonds issued under the Indenture are expressly limited to \$1,970,000 in aggregate principal amount of the Bonds, and \$15,000,000 in aggregate principal amount of the Issuer’s Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002A (the “Tax-Exempt Bonds”) issued concurrently herewith, and are all of like tenor, except as to numbers and denominations, and are issued for the purposes of providing construction and permanent financing for qualified multifamily rental housing units in the State and of paying certain expenses incidental thereto. Pursuant to a Loan Agreement dated as of November 1, 2002, and a Promissory Note (the “Note”) dated November 1, 2002, Ironwood Ranch Townhomes Limited Partnership, an Ohio limited partnership qualified to do business in the State of Texas (the “Borrower”), has agreed to make payments to the Issuer in amounts equal to amounts of principal of and premium, if any, and interest on the Bonds.

THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE ISSUER PAYABLE SOLELY FROM THE REVENUES, INCOME AND RECEIPTS OF THE ISSUER IN THE TRUST ESTATE PLEDGED TO THE PAYMENT THEREOF AND ARE SECURED BY AN ASSIGNMENT OF THE MORTGAGE AND OTHER ASSETS DESCRIBED IN THE INDENTURE. NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE OF TEXAS OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF SUCH BONDS. THE STATE OF TEXAS IS NOT LIABLE ON SUCH BONDS AND SUCH BONDS ARE NOT A DEBT OF THE STATE OF TEXAS. THE ISSUER HAS NO TAXING POWER.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS BOND AGAINST ANY PAST, PRESENT OR FUTURE OFFICER, DIRECTOR, MEMBER, EMPLOYEE OR AGENT OF THE ISSUER, OR OF ANY SUCCESSOR TO THE ISSUER, AS SUCH, EITHER DIRECTLY OR THROUGH THE ISSUER OR ANY SUCCESSOR TO THE ISSUER, UNDER ANY RULE OF LAW OR EQUITY, STATUTE OR CONSTITUTION OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, AND ALL SUCH LIABILITY OF ANY SUCH OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES OR AGENTS, AS SUCH, IS HEREBY EXPRESSLY WAIVED AND RELEASED AS A CONDITION OF, AND CONSIDERATION FOR, THE EXECUTION AND ISSUANCE OF THIS BOND.

The State shall not be liable for the Bonds, and the Bonds shall not constitute a debt of the State. The Act does not provide any procedure for the State to make appropriations for deposit into any reserve funds established under the Indenture.

Interest on the Bonds. The Bonds (including this Bond) shall bear interest on the Outstanding principal amount thereof (i) at a rate of 8.75% per annum from the date of issuance thereof to and including June 30, 2014 and (ii) at the rate of 7.50% per annum from July 1, 2014 until the Maturity Date or earlier redemption or acceleration, computed on the basis of a 360-day year comprised of twelve 30-day months. The interest payable on the Bonds as provided above shall be payable on the first day of each month commencing January 1, 2003, and on each Bond Payment Date.

Registration and Transfer. This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or Bonds, of any Authorized Denomination or Authorized Denominations, of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Bonds are issuable as fully registered Bonds in Authorized Denominations as provided in the Indenture. The Issuer, the Trustee, and any other person may treat the person in whose name this Bond is registered on the books of registry as the Owner hereof for the purpose of receiving payment as herein provided and for all other purposes, whether or not this Bond be overdue, and no person shall be affected by notice to the contrary.

This Bond may be transferred in whole or in part by the Owner, only (i) to any subsidiary of the Owner or any entity under common management or control with the Owner, any affiliate of the Owner, any entity arising out of any merger or consolidation of the Owner, or a trustee in bankruptcy of the Owner, (ii) to any Accredited Investor

(as defined in Rule 501(a)(1), (2), (3), (4), (7) or (8) of Regulation D promulgated under the Securities Act of 1933) or any Qualified Institutional Buyer (as defined in Rule 144A promulgated under the Securities Act of 1933), (iii) to any bank, savings institution or insurance company (whether acting in a trustee or custodial capacity for any Accredited Investor or Qualified Institutional Buyer or on its own behalf), or (iv) to any trust or custodial arrangement with respect to which the ultimate beneficial owner or owners of which are each an Accredited Investor or Qualified Institutional Buyer.

THE TRUSTEE SHALL NOT REGISTER ANY TRANSFER OR EXCHANGE OF ANY BONDS UNLESS SUCH HOLDER'S PROSPECTIVE TRANSFEREE DELIVERS TO THE TRUSTEE AN INVESTOR'S LETTER SUBSTANTIALLY IN THE APPROPRIATE FORM SET FORTH IN EXHIBIT D TO THE INDENTURE.

Mandatory Redemption. The Bonds shall be subject to mandatory redemption, and shall be redeemed, prior to maturity as follows:

(a) in whole or in part on the first Interest Payment Date for which notice can be given in accordance with the Indenture after the one year anniversary of the Completion Date to the extent excess funds remain on deposit on such date in the Taxable Bond Proceeds Subaccount of the Loan Account of the Construction Fund, determined as provided in Section 6.03 of the Indenture; or

(b) [Intentionally Omitted]

(c) in whole or in part on the first Interest Payment Date for which adequate notice can be given in accordance with the Indenture after and to the extent that Insurance Proceeds or a Condemnation Award in connection with the Project are deposited in the Revenue Fund and are not to be used to repair or restore the Project (which Condemnation Award or Insurance Proceeds shall be applied first to the redemption of the Tax-Exempt Bonds and second to the redemption of the Bonds, unless the Trustee and the Majority Owner shall receive an opinion of Bond Counsel to the effect that any proposed alternative application of such funds will not adversely affect the exclusion from gross income of interest on the Tax-Exempt Bonds); or

(d) in part on each Interest Payment Date commencing November 1, 2005, in the amounts set forth on the appropriate schedule in Exhibit B of the Indenture, subject to adjustment as provided in Section 4.07(b) of the Indenture.

Redemption Price of Bonds Redeemed Pursuant to Mandatory Redemption. The Bonds being redeemed before maturity as described above shall be redeemed at a redemption price equal to the principal amount of the Bonds being redeemed, together with accrued interest to the date of redemption.

Optional Redemption. The Bonds shall be subject to redemption prior to maturity in whole or in part on any Interest Payment Date after the Completion Date, from the proceeds of an optional prepayment of the Loan by the Borrower, at a redemption price equal to the principal amount thereof, plus accrued interest thereon to the date fixed for redemption.

Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, if and only if, the Borrower obtains a Favorable Opinion of Bond Counsel, by written notice to the Trustee and the Majority Owner given not less than five (5) Business Days in advance of the proposed redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of purchase and shall be payable on the date of purchase thereof. Bonds so purchased in lieu of redemption shall be registered to or upon the direction of the Borrower.

Notice of Redemption.

(a) Notice of redemption shall be given by the Trustee by telephone, telegram or other electronic means, promptly confirmed in writing, not less than ten (10) Business Days prior to the date fixed for redemption; provided, however, that no notice of redemption shall be required for a redemption pursuant to subsection (d) above.

(b) Notice of redemption shall be given to the Owners of all Bonds to be redeemed, by telephone, telex, telecopier or other electronic means, promptly confirmed in writing, at their addresses appearing on the books of registry. Receipt of such notice of redemption shall not be a condition precedent to such redemption, and failure so to notify any of such registered Owners shall not affect the validity of the proceedings for the redemption of the Bonds.

(c) Notice of redemption having been given as provided in subsection (a) or (b) above and all conditions precedent, if any, specified in such notice having been satisfied, the Bonds or portions thereof so to be redeemed shall become due and payable on the date fixed for redemption at the redemption price specified therein plus any accrued interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice, such Bonds or portions thereof shall be paid at the redemption price, plus any accrued interest to the redemption date. On and after the redemption date (unless funds for the payment of the redemption price and accrued interest of the Bonds called for redemption shall not have been provided to the Trustee), (i) such Bonds shall cease to bear interest and (ii) such Bonds shall no longer be considered as Outstanding under the Indenture.

Selection of Bonds To Be Redeemed.

(a) Except as otherwise expressly set forth herein or in the Indenture, if less than all the Bonds are to be redeemed, the particular Bonds or portions of Bonds to be redeemed shall be selected by the Trustee by lot; provided, however that the Bonds shall be redeemed prior to the Tax-Exempt Bonds unless the Borrower otherwise directs the Trustee in writing.

(b) In making such selection by lot, the Trustee may treat each Bond to be redeemed as representing that number of Bonds of the lowest Authorized Denomination as is obtained by dividing the principal amount of such Bond by such Authorized Denomination.

Partial Redemption of Registered Bonds.

(a) In case part but not all of a Bond shall be selected for redemption, upon presentation and surrender at the Principal Office of the Trustee of such Bond by the Owner thereof or his attorney duly authorized in writing (with due endorsement for transfer or accompanied by written instrument of transfer in form satisfactory to the Trustee) the Trustee shall authenticate and deliver to or upon the order of such Owner, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds, at the option of such Owner, of any Authorized Denomination of like tenor, or if less than the minimum Authorized Denomination, an amount necessary to equal the unredeemed portion of the principal amount of the Bond; provided, however, that such surrender shall not be required for payment of the redemption price pursuant to subsection (d) under the heading "Mandatory Redemption" above. For all purposes of the Indenture (including exchange and transfer), the Bond so issued in less than a minimum Authorized Denomination shall be deemed to have been issued in an Authorized Denomination. Bonds so presented and surrendered shall be canceled in accordance with the Indenture.

(b) In the event of a partial redemption of Bonds other than pursuant to subsection (d) under the heading "Mandatory Redemption" above, the mandatory sinking fund schedule set forth on Exhibit B to the Indenture shall be adjusted to provide for level debt service in respect of the Bonds remaining Outstanding after such partial redemption over their remaining term. The Servicer shall provide the Trustee with a revised Exhibit B reflecting such adjustment promptly following any such partial redemption.

Enforcement. Only the Majority Owner shall have the right to enforce the provisions of this Bond or the Indenture or to institute any action to enforce the covenants herein or therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. If an Event of Default occurs and is continuing, the principal of

all Bonds then outstanding may be declared due and payable by the Majority Owner upon the conditions and in the manner and with the effect provided in the Indenture. As provided in the Indenture, and to the extent permitted by law, interest and a penalty rate of interest shall be payable on unpaid amounts due hereon.

Discharge. The Indenture prescribes the manner in which it may be discharged and after which the Bonds shall be deemed to be paid and no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Bonds and of such payment.

Modifications. Modifications or alterations of the Indenture, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond shall not be valid or obligatory for any purpose until it shall have been authenticated by a duly authorized officer of the Trustee.

It is hereby certified and recited that all conditions, acts and things required by the statutes of the State or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that the issue of the Bonds, together with all other indebtedness of the Issuer, is within every debt and other limit prescribed by said statutes.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed as of the Dated Date stated above.

TEXAS DEPARTMENT OF HOUSING
AND COMMUNITY AFFAIRS

By: _____
Chair

(SEAL)

Attest:

Secretary

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within mentioned Indenture and is one of the Texas Department of Housing and Community Affairs Taxable Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002B.

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: _____
Authorized Signatory

Date of Authentication: _____

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address, including Zip Code, and Federal Taxpayer
Identification or Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints Attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature: _____

Signature guaranteed by:

NOTICE: Signature must be guaranteed by a signature guarantor institution that is a participant in a nationally recognized signature guarantor program.

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears on the face hereof in every particular, without alteration or enlargement or any change whatever, and the Social Security number or federal employer identification must be supplied.

RESOLUTION NO. 14-032

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL TRUST INDENTURE AND MODIFICATION AGREEMENT IN CONNECTION WITH MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (IRONWOOD CROSSING) SERIES 2002A AND TAXABLE MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (IRONWOOD CROSSING) SERIES 2002B; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the “Issuer”) has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (the “Act”), for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for individuals and families of low, very low and extremely low income (as defined in the Act) and families of moderate income (as defined in the Act and determined by the Governing Board of the Issuer (the “Governing Board”) from time to time); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the “State”) intended to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds, for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multi-family residential rental project loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds; and

WHEREAS, the Act further authorizes the Department to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department under such terms, conditions and details as shall be determined by the Governing Board; and

WHEREAS, the Issuer previously issued its Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002A in the original principal amount of \$15,000,000 (the “Tax-Exempt Bonds”) and its Taxable Multifamily Housing Mortgage Revenue Bonds (Ironwood Crossing) Series 2002B in the original principal amount of \$1,970,000 (the “Taxable Bonds”) and together with the Tax-Exempt Bonds, collectively, the “Bonds”) pursuant to the terms and provisions of that certain Trust Indenture dated as of November 1, 2002 (the “Indenture”), between the Issuer and Wells Fargo Bank, National Association, successor trustee to Wells Fargo Bank Texas, N.A., as trustee (the “Trustee”); and

WHEREAS, the proceeds of the Bonds were loaned to Ironwood Ranch Townhomes Limited Partnership, a limited partnership organized and existing under the laws of the State of Ohio (the “Borrower”) for the purpose of financing a portion of the costs of a multifamily housing development known as Ironwood Crossing (the “Project”), pursuant to that certain Loan Agreement dated as of November 1, 2002 (the “Loan Agreement”) among the Issuer, the Borrower and the Trustee; and

WHEREAS, the Borrower and Centerline Mortgage Capital Inc. (the “Servicer”) (on behalf of the holder of the Bonds) have requested that the Issuer enter into a supplemental trust indenture and modification agreement (the “Supplement”) to make certain modifications to the terms of the Bonds and conforming changes to the Indenture; and

WHEREAS, the Issuer’s execution of the Supplement shall be subject to receipt of the consents, opinions, approvals or notices required by the Indenture; and

WHEREAS, the Issuer now desires to take certain actions with respect to the Supplement;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval, Execution and Delivery of Supplement. The Supplement, in substantially the form presented at this meeting, is hereby approved and adopted by the Issuer, and the Authorized Representatives of the Department named in this Resolution are each hereby authorized and empowered to execute and deliver the Supplement on behalf of the Issuer, with such changes as may be approved by the authorized representative executing the same, such approval to be evidenced by such Authorized Representative's execution thereof.

Section 1.2 Execution and Delivery of Other Documents. The Authorized Representatives shall be and each is expressly authorized, empowered and directed from time to time and at any time to do and perform all acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the Issuer all certificates, financing statements, instruments and other documents, whether or not herein mentioned, as they may determine to be necessary or desirable in order to carry out the terms and provisions of this resolution, as well as the terms and provisions of the Supplement, such determination to be conclusively evidenced by the performance of such acts and things and the execution of any such certificate, financing statement, instrument or other document.

Section 1.3 Consents and Approvals. The Issuer's execution of the Supplement is expressly subject to receipt of the consents, opinions, approvals or notices required by the Indenture.

Section 1.4 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director of the Department, Deputy Executive Director of Multifamily Finance and Fair Housing of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Finance of the Department, the Director of Texas Homeownership of the Department, and the Secretary or any Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.5 Certification of Records. The Secretary and Assistant Secretary to the Governing Board hereby are authorized to certify and authenticate minutes and other records on behalf of the Department for the Bonds and all other Department activities.

ARTICLE 2

GENERAL PROVISIONS

Section 2.1 Notice of Meeting. This resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Governing Board.

Section 2.2 Effective Date. This resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 5th day of June, 2014.

Chair, Governing Board

ATTEST:

Secretary to the Governing Board

(SEAL)

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer

RECOMMENDED ACTION

WHEREAS, a Housing Tax Credit application for Village at Palm Center was submitted to the Department on November 12, 2013;

WHEREAS, in lieu of a Certification of Reservation, a Carryforward Designation Certificate was issued on January 9, 2014, and will expire on December 31, 2016;

WHEREAS, the proposed issuer of the bonds for the Development is the Houston Housing Finance Corporation;

WHEREAS, the Executive Award and Review Advisory Committee (“EARAC”) recommends the issuance of the Determination Notice with the condition that closing occur within 120 days and that the terms and financing structure not change prior to closing; and,

WHEREAS, after consideration of the compliance history of the applicant EARAC further recommends the award conditioned upon the owner designating a point of contact responsible for responding to corrective action requests by the Department; that such person attend compliance training offered by the Department; and that if it is determined that no corrective action response is received during the corrective action period for any affiliated property, the matter will be reported to the Board for consideration of requiring replacement of the management company on all affiliated properties;

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$797,355 in 4% Housing Tax Credits, subject to EARAC conditions described herein and underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for the Village at Palm Center is hereby approved in the form presented to this meeting.

FURTHER RESOLVED, that provided the Applicant has not closed on the bond financing by September 5, 2014, or if the underwritten financing structure or terms change prior to closing, this Determination Notice will be rescinded without further action by the Board.

BACKGROUND

General Information: Village at Palm Center, located in Houston, Harris County, involves the acquisition and demolition of a two-story structure which formerly housed a Montgomery Ward department store and an associated automotive repair garage. In addition to the two existing structures, the property is approximately 90% paved with asphalt and a metal chain-link fence surrounds the perimeter. The existing structures were built in the late 1950s and remained open until the 1980s. It should be noted that the onsite auto repair facility – which is no longer in use – sold gasoline from three registered underground storage tanks which were removed in 1988. The former department store building is currently being used as flea market. All of the structures will be demolished and the pavement material will be removed. Given the aforementioned uses of the site there were some environmental concerns noted which is discussed in greater detail in the underwriting analysis and a condition of the award.

Village at Palm Center involves the new construction of a mixed use development consisting of residential units and first floor retail and commercial space that will be leased. Of the 222 total residential units, 11 units will be rent and income restricted at 30% AMFI, 167 units will be rent and income restricted at 60% AMFI and the remaining 44 units will be market rate with no rent or income restrictions. The development will serve the general population and is located in an area that has no zoning ordinance. The application proposes to use Community Development Block Grant Funds (“CDBG”) and Tax Increment Reinvestment Zone #7 (“TIRZ”) financing from the City of Houston

Conditions to Award: The application and underwriting report were reviewed by EARAC on May 27, 2014, and it is a recommendation of EARAC that any Board approval of the Determination Notice include conditions related to the closing of the bonds. Specifically, EARAC recommends that the closing must occur within 120 days (September 5, 2014) and that the underwritten financing structure and terms may not change prior to such closing or the Determination Notice will be rescinded. This condition is generally consistent with the requirements of a bond transaction utilizing non-traditional carryforward (the subject applicant received a traditional carryforward reservation). For non-traditional carryforward reservations, a statutory 150-day deadline for closing is imposed and the Determination Notice for any associated 4% award expires if closing does not occur within this timeframe or if the financing structure or terms change. Traditional carryforward reservations are not specifically addressed in the rule and this recommendation addresses the proposal in a manner to result in consistency. Staff believes that closing within a reasonable period after Board action is important and consistent with the constraints present for most other bond transactions. Therefore, EARAC recommends the above stated condition to any Board approval of a Determination Notice.

As it relates to the previous participation review pursuant to 10 TAC §1.5 there were findings reported to EARAC. EARAC found that the applicant’s compliance history did not warrant denial but did warrant conditions to be imposed. Specifically, the Department has sent notices to the owner on affiliated properties noting items that needed to be addressed during the corrective action period. On multiple occasions, the owner (who owns and controls the management company) has failed to respond to notices of noncompliance and/or correct issues during the corrective action period provided. Therefore, EARAC recommends that the owner designate a specific person to be the primary point of contact to respond to corrective action requests by the Department. This person must also attend compliance training offered by the Department. Moreover, EARAC recommends that should the

Department find the owner unresponsive during the corrective action period on any of their affiliated properties, the matter will be reported to the Board for consideration of requiring replacement of the management company.

Organizational Structure: The Borrower is Houston 5110 Griggs Road Residential, L.P. The General Partner is Houston 5110 Griggs Road GP, LLC, which includes the following: ITEX Partners, LLC, which is comprised of K. T. (Ike) Akbari and Christopher Akbari; AHDPC Holdings, LLC, which is comprised of Gerald Womack; and Nautical Affordable Housing, Inc., which is comprised of the following individuals: Donald R. Ball, Betty Ball, Bill Joe Smith and Karen Borel.

Census Demographics: The development is to be located at 5110 Griggs Road in Houston. Demographics for the census tract (3134.00) include AMFI of \$45,082; the total population is 2,935; the percent of population that is minority is 98.16%; the percent of the population that is below the poverty line is 23.17%; the number of owner-occupied units is 567 and the number of renter units is 563. (Census information is from FFIEC Geocoding for 2013.)

Public Comment: The Department has not received any letters of support or opposition for this Development.

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BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action regarding an Award of HOME funds to Stonebridge of Plainview from the 2013-1 HOME Multifamily Development Program Notice of Funding Availability

RECOMMENDED ACTION

WHEREAS, the Department received a total of 32 applications for HOME awards under the 2013-1 HOME Multifamily Development Program Notice of Funding Availability (“NOFA”);

WHEREAS, \$12,940,000 in HOME funds under the General Set-Aside have been awarded under the NOFA to date and \$2,752,455 remains available under the General Set-Aside to award to eligible applications;

WHEREAS, an application for funding under the General Set-Aside was received for Stonebridge of Plainview; and,

WHEREAS, the previous participation review in accordance with 10 TAC §1.5 by the Executive Award and Review Advisory Committee (“EARAC”) noted some issues for a property known as Arbor Cove that is affiliated with the Applicant; and

WHEREAS, EARAC determined that any award of HOME funds be conditioned on the Applicant correcting compliance issues at Arbor Cove within thirty (30) days of award;

NOW, therefore, it is hereby

RESOLVED, that commitment of HOME funding from the 2013-1 HOME Multifamily Development Program NOFA for Stonebridge of Plainview in the amount of \$750,000 is hereby approved as presented to this meeting and

FURTHER RESOLVED, that the Board’s approval is conditioned upon the Applicant’s affiliate correcting all compliance issues related to Arbor Cove within thirty (30) days of award; satisfaction of all conditions of underwriting; and completion of any other reviews required to ensure compliance with the applicable rules and requirements for HOME Multifamily Development Program funds.

BACKGROUND

On September 12, 2013, the Board approved the 2013-1 HOME Multifamily Development Program NOFA with \$21,692,455 in funds (\$15,692,455 under the General Set-Aside and \$6,000,000 under the CHDO Set-Aside). At the Board Meeting of November 7, 2013, \$7,090,000 in HOME funds under the General Set Aside was awarded to nine applications under the NOFA. At the Board Meeting of December 12, 2013, \$2,000,000 in HOME funds under the General Set-Aside was awarded to two applications under the NOFA. At the Board Meeting of January 23, 2014, \$2,850,000 in HOME funds under the General Set-Aside was awarded to two applications under the NOFA. At the Board Meeting of March 6, 2014, \$1,000,000 in HOME funds under the General Set-Aside was awarded to one application under the NOFA.

General Information: Stonebridge of Plainview's application for HOME funds was received approximately five months after it received an allocation of 9% Housing Tax Credits. The \$750,000 HOME loan is proposed to be a second lien mortgage at 0% interest. Other sources include a first lien USDA 538 mortgage from Bonneville Multifamily Capital sized at approximately \$2,000,000, tax credit equity from RBC Capital in the amount of \$5,748,412, and Section 8 Housing Vouchers from the Hale County Housing Authority totaling \$192,000. The funds will be used to construct 80 units serving the general population with 53 units serving households earning 60% or less of the Area Median Income and the remaining 27 units will be market rate with no income restrictions.

Previous Participation Review: EARAC met on May 23, 2014, and considered the previous participation review documentation relating to the organizational structures for the Stonebridge of Plainview application in accordance with the Previous Participation Reviews rule found in 10 TAC §1.5. The compliance review revealed a property affiliated with the Applicant, Arbor Cove, that had leased units to ineligible households and had noncompliance related to requirements to have a Historically Underutilized Business participate in the ownership and operations of the development. The Department has received responses from the owner of that property, but they were not sufficient to address all asset management and compliance deficiencies and rather revealed additional instances of noncompliance. EARAC found that the Applicant's compliance history did not warrant denial but did warrant conditions to be imposed. Specifically, EARAC determined that any award of HOME funds should be conditioned on the Applicant's affiliate correcting all compliance issues at Arbor Cove within thirty (30) days of award.

Should the aforementioned award be approved, \$5,702,455 will remain available under the NOFA with \$2,002,455 under the General Set-Aside and \$3,700,000 under the CHDO Set-Aside, of which an application requesting \$3,000,000 under the General Set-Aside is currently under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas. The recommended application and award amount is outlined in the attached Application and Award Recommendations Log as well previously awarded applications under this NOFA.



2013-1 HOME Multifamily Development (MFD) Program NOFA - Application Log

Total of \$21,692,455 Available

Application Acceptance Period Ended 12/30/13 - Only applications that have been awarded/recommended or are under review are reflected

Total Set Aside Funding Level: \$ 15,692,455

Available Balance (after awarded/recommended): \$ 2,002,455

General Set-Aside

File #	Reg.	Date Received (1)	Development Name	City	Housing Activity (2)	Reqstd HOME Units	Total units	Target Population	Layering (3)	Requested Project Funds	As Underwritten	Recommended Project Funds	Status
13046	11	2/11/2013	La Esperanza Del Rio	Rio Grande City ETJ	NC	10	60	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 12/12/13
13003	3	2/25/2013	Crossing at Oak Grove	Kerens	R	26	32	General	9%	\$370,000	\$ 370,000	\$ 370,000	Approved 11/7/13
13004	4	2/25/2013	Stone Creek Apartments	Kilgore	R	17	56	General	9%	\$540,000	\$ 540,000	\$ 540,000	Approved 11/7/13
13001	4	2/27/2013	Sunset Place Apartments	Malakoff	R	11	36	General	9%	\$430,000	\$ 430,000	\$ 430,000	Approved 11/7/13
13201	7	2/27/2013	The Trails at Carmel Creek	Hutto	NC	9	61	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13213	10	2/28/2013	Bailey Square	Cuero	NC	9	56	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13232	5	3/1/2013	Pine Lake Estates	Nacogdoches	R	12	100	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13180	12	3/13/2013	Mission Village of Pecos	Pecos	NC	12	60	General	9%	\$750,000	\$ 750,000	\$ 750,000	Approved 11/7/13
13058	3	3/28/2013	Evergreen at Hebron Senior Community	Hebron	NC	8	136	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13145	3	3/28/2013	Mariposa at Elk Drive	Burleson	NC	14	180	Elderly	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 11/7/13
13051	11	5/8/2013	Royal Gardens	Rio Grande City	NC	11	80	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 12/12/13
13118	8	10/11/2013	Oak Ridge Apartments	Nolanville	NC	8	48	General	9%	\$1,000,000	\$ 1,000,000	\$ 1,000,000	Approved 1/23/14
13500	9	10/11/2013	Sunrise Townhomes	Fredericksburg	NC	16	36	General	HOME only	\$1,850,000	\$ 1,850,000	\$ 1,850,000	Approved 1/23/14

13119	10	11/19/2013	Emma Finke Villas	Beeville	R	13	76	General	9%	\$1,000,000	\$1,000,000	\$1,000,000	Approved 3/6/14
13139	1	12/27/2013	Stonebridge of Plainview	Plainview	NC	10	80	General	9%	\$750,000	\$750,000	\$750,000	To be recommended for award
13502	3	12/30/2013	Majors Place Apartments	Greenville	NC	36	176	General	HOME only	\$3,000,000			Under review
Total General Applications			16	Unit Totals:		222	1273	Total:		\$ 16,690,000	\$ 13,690,000	\$ 13,690,000	

CHDO Set-Aside

Total Set Aside Funding Level: \$ 6,000,000
Available Balance (after recommended/awarded): \$ 3,700,000

File #	Reg.	Date Received	Development Name	City	Housing Activity (1)	Reqstd HOME Units	Total units	Target Population (2)	Layering (3)	Requested Project Funds	As Underwritten	Recommended Project Funds	Status
13501	10	12/30/2013	Houston House Apartments	Victoria	R	49	50	General	HOME only	\$2,300,000	\$ 2,300,000	\$ 2,300,000	Approved 5/8/14
Total CHDO Applications			2	Unit Totals:		49	50	Total:		\$ 2,300,000	\$ 2,300,000	\$ 2,300,000	

Sorted by Date Received

1 = Date Received: The date that the application, all required 3rd Party Reports, and Application Fees were received. Time received is currently not reflected.

2 = Housing Activity: New Construction=NC, Rehabilitation=R

3 = Layering of Other Department Active Applications: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

10

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action of Qualified Investment Banking Firms to provide Underwriting Services for Multifamily Bond Transactions

RECOMMENDED ACTION

WHEREAS, the Department maintains a list of approved underwriters for its multifamily bond transactions;

WHEREAS, each underwriter must submit to the Department its Request for Qualifications to be approved and included on such list;

WHEREAS, a qualified response was received from City Securities, an investment banking firm headquartered in Indiana; and,

NOW, therefore, it is hereby

RESOLVED, that City Securities is hereby approved to be added to the Department's approved list until such time their qualifications are required to be renewed or until such time the Department eliminates the requirement to maintain an approved list of underwriters.

BACKGROUND

The Department received a request from City Securities, an investment banking firm, requesting to be added to the approved list in response to a previously published Request for Qualifications ("RFQ") on the Department's website.

For multifamily bond transactions, the Applicant selects an underwriter from an approved list published by the Department. The underwriter will develop the financial structure (i.e. fixed rate or variable, bond maturities, etc.), prepare cash flows, and sell the bonds. If the transaction is privately placed, the placement agent will negotiate the sale to private investors.

After reviewing the qualifications of City Securities and consulting with the Department's financial advisor, staff recommends that City Securities be added to the Multifamily Bond Approved Underwriters List.

The firms' public finance experience as a senior manager combined with the expertise of their professional staff would be qualified to multifamily developers and the Department in its multifamily bond transactions.

R1

TDHCA Outreach Activities, May 2014

A compilation of activities designed to increase the awareness of TDHCA programs and services or increase the visibility of the Department among key stakeholder groups and the general public

Event	Location	Date	Division	Purpose
Online Forum: Stakeholder Input - 2015-2019 Agency Strategic Plan	Austin	Apr 28-May 9	Housing Resource Center	Administrator
First Thursday Income Eligibility Training	Austin	May 1`	Compliance	Training
Texas Mortgage Bankers Annual Convention	San Antonio	May 5-6	Homeownership	Exhibitor
HOME Rental Compliance Training	Austin	May 7	Compliance	Training
Texas Assoc of Community Action Agencies Conference	Corpus Christi	May 7-9	Community Affairs	Presentation
Housing Tax Credit Training	Austin	May 8	Compliance	Training
First Thursday Income Eligibility Training	Fort Worth	May 13	Compliance	Training
Housing Tax Credit Training	Austin	May 14	Compliance	Training
San Benito Housing Authority/Contract for Deed Conversion Assistance Grants	San Benito	May 19	Housing Trust Fund	Presentation
CDC Brownsville, Colonia Bent Tree/Contract for Deed Conversion Assistance Grants	Brownsville	May 19	Housing Trust Fund	Presentation
Motivation, Education, Training, Inc/Contract for Deed Conversion Assistance Grants	Weslaco/ La Feria	May 20	Housing Trust Fund	Presentation
Texas Interagency Council for the Homeless/Quarterly Meeting	Austin	May 20	Community Affairs	Presentation
Avenue CDC/Webinar Training	Austin	May 27	Homeownership	Training
Greater East Texas Community Action Program/ CEAP, CSBG and WAP Program Requirements	Nacogdoches	May 27-29	Community Affairs	Training
Fair Housing Accessibility Training	Austin	May 29	Compliance	Training
New construction/2010 Americans with Disabilities Act standards	Austin	May 30	Compliance	Training

Internet Postings of Note, May 2014

A list of new or noteworthy documents posted to the Department's web site

2014 Report on the Amy Young Barrier Removal Program — *evaluating the performance of the Housing Trust Fund Division in providing services as intended through the Department's Amy Young Barrier Removal Program:*
www.tdhca.state.tx.us/internal-audit.htm

2014 HOME Multifamily Development Program Application Log: 5/1/14 — *detailing the list of applicants seeking funding through the Department's HOME Program in association with 9% Housing Tax Credits:*
www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2014 Request for Qualifications for Multifamily Bond Trustees — *seeking qualified institutions to serve as Trustees for the Department's new multifamily bond issues and/or refunding:*
www.tdhca.state.tx.us/multifamily/bond/index.htm

2014 Quantifiable Community Participation Scoring Log — detailing points for QCP for applicants in the Department's 2014 Housing Tax Credit allocation cycle:

www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2014 9% Housing Tax Credit Program Full-Application Logs: 5/8/14 — providing a list of full applications seeking an allocation of tax credits through the Department's 2014 credit allocation cycle:

www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

2014 CSBG Discretionary NOFA and Application — notifying eligible Community Services Block Grant entities regarding availability of funds, application requirements, eligible activities, award amounts, and review process:

www.tdhca.state.tx.us/community-affairs/csbg/nofas.htm

2014 Estimated Community Services Block Grant Allocations with TOP Goal — listing the CSBG eligible agencies, estimated 2014 allocations, and goals for transitioning persons out of poverty:

www.tdhca.state.tx.us/community-affairs/csbg/guidance.htm

2014 9% Housing Tax Credit Challenge Log — providing details regarding letters challenging points assigned to specific applications in the 2014 HTC Program allocation cycle:

www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm

TDHCA Board Approved Draft of 10 TAC Chapter 2: Enforcement — Draft for public comment detailing measures available to the Department to address identified instances of noncompliance:

<http://www.tdhca.state.tx.us/pmcomp/manuals-rules-htc.htm>

2014 9% Housing Tax Credit Program: Individually Imaged Challenges — Providing access to letters from applicants challenging points awarded to applicants in the Department's 2014 HTC allocation cycle:

<http://www.tdhca.state.tx.us/multifamily/housing-tax-credits-9pct/index.htm>

CSBG Discretionary NOFA: Submission User Guide — providing instructions on how to submit the application using the electronic submission system for eligible entities applying for discretionary funds through the Department's Community Services Block Grant Program:

<http://www.tdhca.state.tx.us/community-affairs/csbg/nofas.htm>

R2

BOARD REPORT ITEM
HOUSING RESOURCE CENTER
JUNE 5, 2014

REPORT ITEM

Status Report on “The Report on Customer Service” as required by Chapter 2114 of the Texas Government Code

BACKGROUND

The Report on Customer Service (Report) is required by Chapter 2114 of the Texas Government Code. This chapter requires state agencies to develop customer service standards and implement customer satisfaction assessment plans. The Report on Customer Service is due to the Legislative Budget Board (LBB) and the Governor’s Office of Budget, Planning, and Policy no later than June 1 of each even-numbered year. Accordingly, the Department submitted the Report on Friday, May 30, 2014.

The Department received 766 complete responses to the survey, which was an increase of approximately 7.1% from 2012. The survey results were analyzed by customer type including (1) all survey respondents, (2) Household Respondents, and (3) Organization Respondents. Additionally, results were analyzed by type of business conducted with TDHCA: (4) Community Affairs, (5) Housing Programs and (6) Manufactured Housing.

Overall, 76.4% of respondents agreed that they were satisfied with their experiences at TDHCA, which was a slight decrease from 77.8% in 2012. The customer service element with the highest overall satisfaction rate was the staff category, with 83.6% of all respondents agreeing that TDHCA staff members are courteous, and 77.4% of respondents agreeing that TDHCA staff members demonstrated a willingness to assist.

The highest percentage of respondents who agreed with the statements in the survey agreed that the staff was courteous and willing to assist. Even though these customer service elements were the highest ranking in the 2012 Survey, the percentage of respondents that agreed that staff was courteous decreased from 85.9% in 2012 to 83.6% in 2014 and the percentage of respondents that agreed that staff was willing to assist decreased from 82.1% to 77.4%. The Department continues to promote several customer-service related activities such as:

1. Social Media: Establishment of the Department’s presence on Twitter and Facebook in late 2011 has expanded communication opportunities beyond the Department’s historical communication routes to more broadly include current audiences as well as additional public members and potential stakeholders. Since the last Customer Service Survey in May 2012, the Department’s Twitter followers has grown by 256% (from 117 in May

2012 to 417 in May 2014) and the Department's number of Facebook "likes" has grown by 210% (from 127 in May 2012 to 394 in May 2014).

2. Online Forums: The Department continues to use online forums, which enhance opportunities for stakeholders to participate in Department activities, rules and plan development, and general input. As of mid-May 2014, the Department has 492 registered forum members.
3. Surveys: Beyond the biennial Customer Service Survey, the many divisions within the Department actively survey their customer groups throughout the year. For example, the Compliance Division sends an online survey to program administrators and subrecipients, following a monitoring visit receive feedback on the monitoring process and provide an established and formal channel of communication between Department staff and Organizational customers. The Compliance Division provides a quarterly report to the Department's Board of Directors to share the results of the survey with the Board members and the public.

Fewer respondents agreed that they understood how to file a complaint (57.0%) compared to the 2012 survey responses (62.1%). The link with information on how to file a complaint is presented prominently on TDHCA's homepage. Approximately 62.2% of the respondents agreed that they believed the complaint would be addressed in a reasonable manner in 2014, compared to 66.3% in 2012.

All complaints that come to the Department must be received in writing and are logged and tracked by Department staff to ensure proper resolution and follow-up. To facilitate a response for the complaints, the letter sent from TDHCA to indicate that the complaint has been received also includes the name, division and phone number of the TDHCA staff member who will be handling the complaint.

TDHCA is acting upon the results found in the 2014 Survey. Once the results are compiled, each division at TDHCA will receive a summary of comments about their programs to determine successes and challenges.

R3

BOARD REPORT ITEM
COMPLIANCE DIVISION
JUNE 5, 2014

Results from Compliance Division Customer Service Survey and update on Compliance Activities

BACKGROUND

At the February 20, 2014 Board meeting the Compliance Division presented the first report on the results of Customer Service Surveys. This is the quarterly update.

Results of the customer service surveys

Since the last Board Report, sixteen surveys were sent out to Community Affairs subrecipients who were recently monitored by the Department and six of them were returned. The results are neither overwhelmingly positive nor negative. All of the surveys indicated that the monitoring review was conducted in a professional manner. Respondents indicated that the staff was on time and that the staff was generally knowledgeable and usually responsive to questions. There were some comments about lack of consistency between monitors and needed improvement in the training division, but no specific suggestions or examples were offered. Below are some of the specific comments received:

1. *“Also we would prefer the monitor on site actually write the final monitoring report. The monitor has been trained and they should be able to complete an accurate full monitoring report.”*
2. *“Make sure we are monitored based on previous guidance given to us and not personal interpretation of the law.”*

Staff will continue to send out this survey upon completion of our monitoring activity. However, the Department is under the impression through this and through other feedback that there is some dissatisfaction within the Community Affairs network regarding the monitoring process, and this survey does not appear to be the most effective way to garner suggestions for improvement. Over the last year, the Community Affairs Division has hosted several “network calls” to share information and ideas with subrecipients. Compliance staff plans to participate in the next network call and seeks other suggestions for ways to have open and constructive dialogue with the Community Affairs network.

The following comment did not come in through one of the surveys, but it is comment about the monitoring process that staff would like to share:

“I wanted to send a quick note to tell you how much we appreciate JR and the time he spent with TCOG staff last week during our monitoring visit. Not only was he very professional and courteous, he was

helpful...taking time to visit with Brenda and Stacey and provide some technical assistance where he could. We have a few hiccups that need to be addressed, and we are already working on those. However, since I have been very open in sharing with you our struggles with past monitoring review experiences, I thought I better share the good news also and praise JR and his partner for a job well done.”

In the Contract Monitoring area 44 subrecipients were sent the survey and eight responded. The results were, as they were the last quarter, very positive. All of the respondents answered that the monitors are always knowledgeable and able to answer questions; all of the respondents answered that they always receive a prompt response when they call or email. Based on the survey it appears that there are some issues with transmitting large electronic files. The staff in this area will be trained on setting up secure file transfers to help alleviate this problem. Below are some of the specific comments received:

- 1. Lorrie was very good to work with and did things in a very timely fashion.*
- 2. Y'all do a good job.*
- 3. The current process is being conducted in a professional and realistic manner. The agency is able to continue to operate and conduct business as usual and we appreciate that this is a priority of the monitors.*

In the Multifamily Area 529 surveys were sent out and 98 responded.

In the past, this area of the division has struggled with complaints about monitors arriving ahead of or behind the scheduled time. It appears that this has improved but is not totally resolved. Ten of the surveys indicated that the monitor did not arrive at the scheduled time. One of those ten commented: *“Audit date/times was adjusted due to other obligations at other properties. Monitor's need to be respectful of our employee's time. Visits need to be scheduled to allow adequate time for monitors to stay on schedule. There should not be an expectation that our staff would work outside of our normal office hours.”*

A couple of the surveys were not complimentary. In response to the question “Was the inspection conducted in a professional, efficient, and courteous manner?” one respondent answered that they found the monitor rude and condescending. Another respondent indicated that staff does not answer the phone and does not return phone calls. These issues are being addressed.

However, overall, the surveys from the multifamily area are generally positive. Below are some of the specific comments received:

- 1. Very nice and professional*
- 2. She was very nice and courteous*
- 3. Inspector was very professional, efficient, & courteous. The Property Manager Sly Ramirez had never been thru a inspection before so it was stressful, but Jackie made him feel at ease with her easy going manner & explained all issues to him that he understood.*

4. *Matt Embry was very courteous and gracious. I appreciate all the help he gave us.*
5. *She stated that the files were in order and easy to review. She shared some important information with us that has helped.*
6. *Inspector was very knowledgeable and professional*
7. *Monitors commended staff on well organized and neat files, and some observations were brought to management's attention and discussed indepth. Great staff!*
8. *Agents of TDHCA communicated all findings/deficiencies in professional and respectable manner.*
9. *We found the monitor to be very helpful.*
10. *I like having all of the relevant information in the same area. This is one of the best state websites that we work with.*
11. *In general, TDHCA is one of the best states to work with because you communicate changes and rules frequently. Your auditors are also very consistent.*
12. *Inspector was very friendly*
13. *We were better prepared than ever before this time around. Ms. Norred helped to put us on track and for that we are grateful.*
14. *My experience with the Compliance Division as shown that they are helpful and knowledgeable.*
15. *Keep up the great work!*
16. *TDHCA staff is far superior than others I have encountered in the industry in other States. Keep up the good work.*

Other Updates

Uniform Physical Condition Standards Workgroup: As suggested at the February 2014 Board meeting, the UPCS workgroups have reconvened. The first meeting was in Houston on March 20, 2014. Approximately 30 people attended. Staff shared news about the Department participating in a federal rental alignment project with the U.S. Department of Housing and Urban Development (“HUD”), the U.S. Department of Agriculture (“USDA”) and the Internal Revenue Service (“IRS”). Under this pilot program, properties with multiple funding sources will be inspected by one agency and the results will be shared. For example, if a property has Housing Tax Credits and HUD funding, rather than HUD conducting a physical inspection and TDHCA doing an inspection, just one agency will inspect and share the results with the other. As part of this pilot, HUD came to Austin and trained the Department’s Physical Inspection staff in the Real Estate Assessment Center (“REAC”) protocol. This was a rigorous training that required approximately 40 hours of online work prior to the three day classroom style training.

The next UPCS workgroup is on June 6, 2014. Staff plans to provide some tips and guidance on submitting corrective action in response to a UPCS report.

New Rules Implementation: The Compliance Rules that were adopted in November 2013 provide “options for review.” One of those options is to request the Chief of Compliance to review a matter. This request has been made twice; both times the request was to re-review corrective action that had not been accepted by a monitor that the owner believed was sufficient. In one instance, it was determined that the

initial response should have been accepted. In the other instance, it was determined that some but not all of the owner's original submission should have been accepted. That owner now has the option of requesting to meet with the Compliance Committee.

The new Previous Participation Rule was also adopted in November 2013 and Department staff and the industry are working through its implementation. There are still issues to work out and a slight modification in the process for asset management is being considered today for final adoption. Department staff understands that applicants are uncomfortable with the Executive Award Review Advisory Committee ("EARAC") discussing matters without the applicant present. Some general things to share:

- Department staff recognizes the complexity of these programs and understands that some level of noncompliance may occur, hopefully with prompt corrective action.
- In addition to *what*, EARAC is considering *why*. For example, if a unit was leased to an ineligible household was it an honest math mistake or was it blatant disregard for program rules?
- In the recent Board Action Requests for Awards, staff has noted if there was an issue disclosed to EARAC and has provided a brief listing of the issues.
- It is extremely difficult, if not impossible, to make a finding that owners and subrecipients who are nonresponsive are taking reasonable measures within their power to remedy the issue (one of the criteria in §1.5(i)).
- Staff anticipates that in the next few months EARAC will be able to identify some types of noncompliance that we believe do not reflect on an owner or subrecipient's ability to perform in a compliant manner and therefore should not warrant adverse recommendations.
- Some of our applicants have a compliance history that does not warrant debarment or denial of an award, but it justifies concern and caution. For these applicants, the rule contemplates awards with conditions. It can be difficult to craft appropriate conditions to place on an award. Often, it seems that the appropriate condition to place on an award may create an undue burden on the Department staff and resources and divert attention from our other duties. Staff will attempt to draft some standard possible conditions for consideration but anticipates that it will be difficult to create a one size fits all set of conditions.
- Staff is considering creating a template to help applicants respond during the 5 day period provided in §1.5(g).

R4

BOARD REPORT ITEM

FAIR HOUSING TEAM

JUNE 5, 2014

Report on activities of the Department's newly-formed fair housing team and its plans for coordinated efforts to address requirements regarding the affirmative furthering of fair housing

REPORT ITEM

In November 2013, subsequent to the Board's acceptance, the Department submitted the Phase 2 Analysis of Impediments to Fair Housing Choice ("Phase 2 AI") to HUD as required by the HUD-approved Conciliation Agreement entered into in May 2010. The Phase 2 AI is a document prepared by BBC Consulting which identifies s impediments to fair housing choice in the State of Texas and action steps that the State intends to take in furtherance of fair housing to address identified impediments. In order to more effectively coordinate the Department's efforts in implementing meaningful and substantive actions to affirmatively further fair housing, the Executive Director formed a Fair Housing Team under the direction of Cameron Dorsey, Deputy Executive Director. Directly reporting to Cameron, Laura DeBellas has been hired as the Fair Housing Team Lead. Two additional FTEs have been identified for the Fair Housing Team, and these two positions may be filled in the coming months as the activities of the Fair Housing Team and the Team's needs are solidified. Additional assistance from staff in various other divisions is also integral to the Fair Housing Team, most notably legal assistance provided by Megan Sylvester (Legal Division) and data support that is being provided by the staff of the 3PM group under Deputy Executive Director Brooke Boston.

Since the formation of the Team, the Department has held several conference calls and an in-person meeting with officials of the Fair Housing and Equal Opportunity Division of HUD's Fort Worth Regional Office ("FHEO"). Much of the discussion surrounded the complaint filed by Texas Appleseed and Texas Low Income Housing Information Service ("TxLIHIS") (Exhibit B) with respect to alleged deficiencies in the State's Phase 2 AI and how to proceed with the State's obligations to affirmatively further fair housing. In response to these discussions with HUD, the Department has developed a set of initial objectives to affirmatively further fair housing and most importantly, has committed to the ongoing, active maintenance of the Phase 2 AI. In order to meet HUD's requirements, the State's AI must be updated at least every five years. However, staff believes that the Phase 2 AI should function as a living document and benefit from the continual assessment of additional action steps and refinement of impediments to fair housing choice. This will be one of the core functions of the Fair Housing Team.

In order to accomplish this objective, the Team is currently developing a database to consolidate the demographic and geographic data of recipients of the Department's programs and provide for in-depth analyses of patterns in the allocation of funding and comparison to census data. A second database is currently being developed to track fair housing action steps, link action steps to impediments, and

document benchmarks and progress in implementing such action steps. These two databases will assist the Team and the State in the development of well informed steps to directly address impediments reflected in the Phase 2 AI. Staff also believes that these databases may also assist staff in identifying new impediments to fair housing choice as the consolidated data is analyzed and the efficacy of implemented action steps is reviewed.

In addition, while these databases are being developed, the Fair Housing Team has identified and is currently in the process of reviewing several aspects of the current rules that may benefit from revision or redevelopment. Attached is a letter sent to FHEO (Exhibit A) reflecting these plans and additional steps that the Team is taking to help address requirements that the State of Texas affirmatively further fair housing.

Additional updates and reports from the Fair Housing Team will be provided on a regular basis at future Board meetings.

Exhibit A – Letter from TDHCA to FHEO

Exhibit B – Letter from TxLIHIS and Texas Appleseed to FHEO



Exhibit A

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

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May 9, 2014

Writer's direct phone # 512.475.2213
Email: cdorsey@tdhca.state.tx.us

Garry Sweeney
Fair Housing Director, Region VI
FORT WORTH REGIONAL OFFICE
U. S. Department of Housing and Urban Development
Southwest Office
801 Cherry St., Unit 45, Suite 2500
Fort Worth, Texas 76102

Dear Mr. Sweeney:

Thank you, Thurman Miles, and Christina Lewis for taking the time to meet with John Henneberger, Madison Sloan, and us to discuss the Phase 2 Analysis of Impediments to Fair Housing Choice (the "Phase 2 AI"). Attached is a document that outlines how we propose to continue moving forward. As you can see, and as indicated at our meeting, we are committed to a continued dialogue on the Phase 2 AI and processes to facilitate engagement with the public on our ongoing actions, including the development of specific measures to address identified impediments.

As always, we welcome insights and ideas as to how we can better serve Texans.

Respectfully,

Cameron F. Dorsey
Deputy Executive Director
Multifamily Finance and Fair Housing

cc (w/encl.): Thurman Miles
Christina Lewis
John Henneberger
Madison Sloan
Timothy K. Irvine
Barbara Deane
Michael Lyttle
Megan Sylvester



The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) and the State of Texas have now fulfilled the requirement of the Conciliation Agreement that the State of Texas update its analysis of impediments to fair housing choice in two phases. Specifically the Phase 2 Analysis of Impediments (“AI”) requirement was addressed by having a qualified third party consultant, BBC Consulting Inc. prepare the Phase 2 AI which was approved by the State of Texas, acting through the state agencies receiving funds from the U. S. Department of Housing and Urban Development (“HUD”) and submitted to HUD for review. The parties that brought the fair housing complaint that resulted in the Conciliation Agreement have reviewed the field Phase 2 AI and written to HUD and the Department raising a number of concerns which they contend makes the Phase AI noncompliant. There was a meeting of these complainants (John Henneberger of Texas Low Income Housing Information Services and Madison Sloan of Texas Appleseed), HUD’s Office of Fair Housing and Equal Opportunity (Garry Sweeney, Thurman Miles, and Christina Lewis), and the Department (Tim Irvine, Cameron Dorsey, Barbara Deane, Michael Lyttle, and Megan Sylvester).

TDHCA has recently organized a fair housing team, headed by Cameron Dorsey, and that team will be coordinating efforts on an ongoing basis to ensure that TDHCA is in compliance with its obligation to affirmatively further fair housing (“AFFH”). This team will also assist other state agencies administering HUD programs and strive to increase coordination in fair housing matters. While the State of Texas considers the current AI compliant TDHCA staff is recommending the development of a program in which:

- When and if our understanding of impediments evolves or we identify new actions to address them, we will develop appropriate ways to engage stakeholders and plan next steps to ensure that the AI remains current and compliant;
- Additional and updated sources of data will be used to identify potential Impediments;
- Impediments may be further refined or added;
- Specific measures to address identified impediments will be developed in a process that promotes substantive public engagement and input, followed by proposed action on rules, Notices of Funding Availability or other actions needed to effectuate the plans and those processes will have their own additional public engagement processes;
- Other state agencies with AFFH responsibilities will be invited to participated in the development of these processes and to use similar processes for their programmatic activities; and
- The fair housing team will develop regular board reports, enumerating actions needing to be addressed and an updated calendar for addressing them. The calendar will include a priority list in which the highest priority matters will be enumerated and presented for Board review and public comment. It is

anticipated that the concerns the complainants have raised will be included in these processes.

If substantive changes to the AI are considered, they will go through a process involving presentation to the board, public input, return to the board for final action, and submittal to HUD.

The first steps in facilitating these objectives have already begun. The fair housing team is developing a database to document concrete actions being taken to address the Impediments identified in the Phase 2 AI. The database will enable the Department to better convey the specific actions being taken and the status of each action step, including expected completion dates. Reports will be available to inform staff, the Board, and the public of such action steps and increase accountability for implementation of such steps. These steps may include proposal of revisions to program rules to AFFH, development and implementation of training programs, provision of materials to enhance the public knowledge of fair housing issues, new methods to evaluate programs and identify or hone Impediments, facilitate the identification of areas where additional action steps may be necessary, etc. In short, this project is designed to better convey what is currently being done in order to provide a better foundation for the development of additional Impediments and/or action steps.

Based upon the current status of this project, staff expects to have the database implemented by August 31, 2014. At this point, staff expects to be able to convey the majority of all current actions in place and those in the planning and implementation stages in a standard user friendly format and such reports will be regularly provided at future Board meetings. Following the implementation of this tracking database staff will propose a process for regularly updating the Phase 2 AI as previously described.

While this database is being developed the fair housing team has identified several actions that are prioritized for development and implementation. Although by no means exhaustive of the Department's efforts to AFFH, some specific new actions include:

- Consolidation of all demographic data relating to the individuals and households served with Department funding sources and geographic/location information relating to where Department funding is allocated into a single tool to enable comparison to census data, crime data and environmental data (in initial planning stages with implementation schedule being developed);
- The purchase of uniform statewide crime data to enable the creation of more objective rules and/or procedures to evaluate the suitability of areas in which Department resources may be deployed (underway, expected completion July 2014);

- Development of a proposal to amend the Department’s rules relating to affirmative marketing requirements and, for rental developments, tenant selection criteria (first roundtable planned for early June 2014, recommendation to Board by September 2014).
- Development of a proposal to amend the Department’s rules relating to undesirable site and area features for multifamily development (first roundtable planned for July 2014, recommendation to Board by September 2014); and
- Finalization of training materials developed in coordination with the University of Houston to educate local government officials about the tax credit program, ways to participate (*e.g.* resolutions of support, siting of developments, etc.), and responsibilities associated with such participation (currently surveying local government officials, expected completion August 2014).

Exhibit B



Texas Low Income Housing
Information Service

February 3, 2014

Honorable Sara K. Pratt
Deputy Assistant Secretary for
Enforcement Programs, FHEO
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, DC 20410

Gary Sweeny, FHEO Region 6 Director
US Department of Housing and Urban Development
Fort Worth Regional Office
801 Cherry Street, Unit #45 Suite 2500
Fort Worth, TX 76102

Draft State of Texas' Phase 2 Plan for Fair Housing Choice: Analysis of Impediments

Dear Deputy Assistant Secretary Pratt and Mr. Sweeney:

The Texas Low-Income Housing Information Service and Texas Appleseed submits for your consideration the attached analysis of the State of Texas' Phase 2 Plan for Fair Housing Choice: Analysis of Impediments (AI). The deficiencies of the State's AI identified in the analysis are significant. For these reasons we respectfully request HUD to decline to accept the AI and provide the State with specific reasons for non-acceptance, the actions the State needs to take to meet the criteria for acceptance, and, as appropriate, technical assistance to meet AFH requirements.

As a condition of receiving federal housing and community development funds, Texas must certify that it "will affirmatively further fair housing."¹ Under federal regulations, this means that the State must truthfully certify that it (a) has or will conduct an analysis to identify impediments to fair housing choice within the state, (b) take appropriate actions to overcome the effects of any impediments identified through that analysis, and (c) maintain records reflecting the analysis and actions in this regard. *See* 24 CFR §570.487(b)(2); 74 Fed. Reg. 7254.

¹ 74 Fed. Reg. 7254 citing 24 C.F.R. §570.487(b)(2)

In addition, under the 2010 Conciliation Agreement between TxLIHIS and Texas Appleseed, the State of Texas, and HUD, the State agreed to conduct a new and compliant Analysis of Impediments. The AI was conducted in two phases, the first of which covered the portion of the state eligible to receive CDBG Disaster Recovery funds related to the 2008 hurricanes. The first phase of the State's AI was reviewed by HUD and approved on May 11, 2011.

Section II.A.2.f of the Conciliation Agreement states:

Phase 2. Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible produce for public comment a materially complete draft of that portion of its AI covering the balance of the State, Phase 2 must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces phase 2 of the updated AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments. After the close of the public comment period, TDHCA shall submit phase 2 of the updated AI to HUD for review, including written responses to any public comments as part of the submission.

TxLIHIS and Texas Appleseed submitted detailed comments to the State of Texas on the draft Phase 2 AI during the public comment period. The State's responses do not adequately address our comments, and in some cases contain erroneous information that reinforces the inadequacy of the AI and highlights the State's need for technical assistance.

A fair housing certification "is not satisfactory to the Secretary" when HUD reviews applicable documents and data and concludes that "(1) the jurisdiction does not have an AI, (2) an AI was substantially incomplete, (3) no actions were taken, (4) the actions taken were plainly inappropriate to address identified impediments, or (5) the jurisdiction has no records."² HUD provides clear guidelines specifying the obligatory scope of the analysis. In addition to its Fair Housing Planning Guide (FHPG), HUD provided specific guidance to the State of Texas in its May 13, 2011 letter reviewing Phase 1 of the State's updated AI.

The draft Phase 2 AI fails to comply with the requirements set out in law, regulation, agency guidance, and in HUD's specific instructions to the State of Texas. It does not adequately assess the current state of fair housing in the state, lacks actionable steps that can be taken to overcome these impediments and affirmatively further fair housing, and fails to maintain and include records reflecting the State's actions to overcome the impediments identified by past AIs.

The draft AI is substantially incomplete and cannot form the basis for a certification that the State is affirmatively furthering fair housing.

² HUD, GUIDANCE MEMORANDUM; ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE REISSUANCE, (September 2, 2004).

Sincerely,

John Henneberger
Texas Low-Income Housing Information Service

Maddie Sloan
Texas Appleseed

cc:

Tim Irvine, executive director, Texas Department of Housing and Community Affairs
Yolanda Chavez, Deputy Assistance Secretary for Grant Programs, United States Department of
Housing and Urban Development

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OVERVIEW

As a condition of receiving federal housing and community development funds, the State of Texas (State) must certify that it will “affirmatively further fair housing.”¹ Under federal regulations, this means that the State must truthfully certify that it:

- has or will conduct an analysis to identify impediments to fair housing choice within the state;
- take appropriate actions to overcome the effects of any impediments identified through that analysis; and
- maintain records reflecting the analysis and actions in this regard.²

This document sets out a number of deficiencies we have identified in the State of Texas’ Phase 2 Plan for Fair Housing Choice: Analysis of Impediments (Phase 2 AI) submitted to the US Department of Housing and Urban Development (HUD) for review in November 2013. The State’s certifications in each of these areas are false because of the inadequacies of its Phase 2 AI.

We will comment on the State’s implementation its Phase 1 AI in a separate document.

HUD provides clear and specific guidelines specifying the obligatory scope and requirements of an AI in its *Fair Housing Planning Guide* (FHPG).³

A fair housing certification “is not satisfactory to the Secretary” when HUD reviews applicable documents and data and concludes that:

1. the jurisdiction does not have an AI;
2. an AI was substantially incomplete;
3. no actions were taken;
4. the actions taken were plainly inappropriate to address identified impediments, or
5. the jurisdiction has no records.”⁴

In this document we detail that the State of Texas’ Phase 2 Plan for Fair Housing Choice: Analysis of Impediments:

1. Fails to constitute an AI under the standards HUD has promulgated and is substantively incomplete;
1. Fails to undertake a proper analysis of impediments;
2. Fails to identify significant impediments to fair housing choice;
3. Fails to propose reasonable and appropriate action steps to address the identified impediments to fair housing;
4. Fails to demonstrate appropriate actions to overcome the effects of impediments identified in previous AIs; and
5. Fails to ensure that the State’s subrecipients have carried out activities the State developed and committed to under previous AIs as required by the State’s dual obligation to both engage in its own activities that affirmatively further fair housing and to ensure that any subrecipient jurisdictions to which is providing

¹ 74 Fed. Reg. 7254 citing 24 C.F.R. §570.487(b)(2)

² See 24 CFR §570.487(b)(2); 74 Fed. Reg. 7254.

³ <http://www.hud.gov/offices/ftheo/images/fhpg.pdf>

⁴ HUD, GUIDANCE MEMORANDUM; ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE REISSUANCE, (September 2, 2004).

funds comply with their individual certifications that they are affirmatively furthering fair housing.⁵

6. Fails to identify or include records of actions taken to address impediments by either the State or its subrecipient jurisdictions.

BACKGROUND

The requirement that recipient jurisdictions develop an AI is in federal regulations, and the process for conducting a compliant AI is set out in detail in the FHPG.⁶ There are additional requirements applicable to the State of Texas Phase 1 and Phase 2 AIs in the May 2010 Conciliation Agreement (CA)⁷ between the Texas Low Income Housing Information Service (TxLIHIS) and Texas Appleseed, the State of Texas, and HUD. Through the CA the State committed to develop and implement a new AI in two phases. The first phase covered the geographic areas⁸ within the State of Texas eligible to receive CDBG Disaster Recovery funds related to the 2008 hurricanes. The first phase of the State's AI was reviewed by HUD and approved on May 13, 2011.

The Phase 1 AI was limited in scope because of the need to implement disaster recovery programs quickly yet it lacked a compliant AI. A lesser standard of data and analysis than required by the FHPG, therefore, were presented in the Phase 1 AI. Recognizing the limits of the data presented and analysis undertaken, the State brought together an advisory committee of regional political jurisdictions, state agency officials, nonprofit organizations, and fair housing advocates (including TxLIHS and Texas Appleseed) who assisted the State in rapidly analyzing the available data and identifying impediments and adopting action steps to address those impediments. The State made an explicit commitment through the CA that the Phase 2 AI would be fully compliant with the current HUD guidance defining the development and substance of an AI.

Based on the State's reasonable efforts to produce a Phase 1 AI within the time constraints, and the assurances that the Phase 2 AI would be fully compliant, TxLIHIS and Texas Appleseed wrote to HUD in early 2011 supporting the approval of the State's Phase 1 AI. We endorsed the State's Phase 1 AI based on the need to expedite the flow of disaster recovery funds to areas of the state devastated by Hurricanes Ike and Dolly, because the Phase 1 AI identified some of the major impediments to AFFH, and because the Phase 1 AI committed the State to undertake specific action steps to address those impediments.

In its May 13, 2011 letter approving the Phase 1 AI, HUD acknowledged that TxLIHIS and Texas Appleseed, as parties to the Conciliation Agreement, had endorsed the State's Phase 1 AI. HUD's letter also noted a number of deficiencies in the Phase 1 AI and directed the State, as a condition for approval of the Phase 2 AI, to undertake further analysis and to consider additional impediments in specific areas in development of the Phase 2 AI.

Section II.A.2.f. of the Conciliation Agreement states:

Phase 2. Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible produce for public comment a materially complete draft of that portion of its AI covering the balance of the State, Phase 2 must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces phase 2 of the updated AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments. After the close of the public comment period, TDHCA shall submit phase 2 of the updated AI to HUD for review, including written responses to any public comments as part of the submission.

⁵ HUD OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY (FHEO), FAIR HOUSING PLANNING GUIDE:VOLUME 1, at 3.3 -3.49, Chapter 3: Fair Housing Planning Guidelines for States and State-Funded Jurisdictions, (HUD-#1582B-FHEO) 1994.

⁶ Fair Housing Planning Guide, Volume 1, US Department of Housing and Urban Development, 1994 (hereafter cited as HUD FHPG), <http://www.hud.gov/offices/fheo/images/fhpg.pdf>

⁷ United State Department of Housing and Urban Development, Case No. 06-10-0410-8 *Title VIII), Case No. 06-10-0410-6 *section 109).

⁸ Comprising 62 counties in southeast Texas impacted by Hurricane Ike and the Lower Rio Grande Valley impacted by Hurricane Dolly.

Pursuant to this provision of the Conciliation Agreement the State's period for producing the Phase 2 AI commenced May 13, 2011.

The Phase 2 AI is now before HUD for review and approval pursuant to the Conciliation Agreement. TxLIHIS and Texas Appleseed provided the State extensive comments on the draft Phase 2 AI noting many of the deficiencies detailed in this analysis. While our comments were included in the Phase 2 AI submitted to HUD, the State failed to modify the draft Phase 2 AI to address most of our comments and identified deficiencies.

This draft Phase 2 AI submitted to HUD is not a compliant AI under the federal regulations or the FHPG for the reasons set out below.

1. Failure to incorporate impediments identified in the Phase 1 AI into the Phase 2 AI.

The applicability of the Phase 1 impediments to the non-disaster impacted counties in Texas is not clearly made clear in the Phase 2 AI.

The Phase 1 AI is described in the Conciliation Agreement as an "interim AI". The Phase 1 AI was limited to the 62 counties that are eligible to receive CDBG Disaster Recovery funds related to Hurricanes Dolly and Ike. The Phase 1 AI did not examine whether the impediments identified in Phase 1 or other impediments exist in the balance of the state's 254 counties.

The State never clearly indicates in the Phase 2 AI if the impediments and action steps in the Phase 1 AI are applicable to the entire state. The only statement in the Phase 2 AI that addresses this matter is the following:

This Executive Summary contains the major findings from two recent studies to identify barriers to housing choice in the State of Texas:

1. The 2011 Analysis of Impediments to Fair Housing Choice—Phase 1 Hurricane Impacted Communities; and
2. The 2012/13 Phase 2 Analysis of Impediments to Fair Housing Choice (Phase 2 AI).

This section also contains the State of Texas Fair Housing Action Plan for addressing identified impediments.

Together, these studies and the Fair Housing Action Plan form the Texas Plan for Fair Housing Choice.⁹

In the Phase 2 AI, the State references some Phase 1 AI findings and impediments as applicable to the balance of state, but also states that it considers certain Phase 1 AI impediments and action steps "specific to the geographic areas covered in the Phase 1 AI."

The State must clarify whether it intends to incorporate the Phase 1 AI into the Phase 2 AI and identify the Phase 1 impediments and action steps as applicable statewide, including eliminating numerous inconsistencies in the Phase 2 AI that suggest otherwise. Either way, the State must expand its analysis of the impediments identified in Phase 1 beyond the 62 disaster recovery eligible counties to determine whether other jurisdictions have the same barriers to fair housing choice, and specify which existing or additional action steps will meaningfully address these impediments. The State cannot fail to conduct such an analysis because data specific to the disaster recovery eligible counties was considered in the Phase 1 AI: similar data must be considered for the balance of the state. This is a substantial deficiency in the Phase 2 AI.

2. Failure to appropriately examine impediments and include action steps for subrecipients.

The Phase 2 AI exhibits an approach toward fair housing that is at times defensive and dismissive:

⁹ Texas Phase 2 AI, Executive Summary, page 1)

Focusing only on the impediments in the Phase 1 and Phase 2 AIs can create an overly negative and misconceived impression about fair housing in Texas.¹⁰

The Phase 2 AI seeks improperly to redefine the State's obligations in order to exempt the State from the required analysis of impediments to fair housing choice within its subrecipient jurisdictions:

This review focused on how the state government directly influences the availability of housing through its own programs or indirectly influences that availability through state level requirements or restrictions on the land use and housing powers of its local government. [*sic*] The fact that a city or county could decide to use state-granted authority that is facially-neutral in ways that would violate the FHAA is not considered a state-created barrier to fair housing.¹¹

Chapter 3 of the HUD Fair Housing Planning Guide (FHPG), "Fair Housing Planning Requirements and Guidelines for States and State-Funded Jurisdictions," defines the State's responsibilities, pursuant to 24 CFR 570.487(b)(4), as follows:

States have a dual responsibility when it comes to fair housing—a responsibility that pertains to the State as well as to State-funded jurisdictions that receive Community Development Block Grant (CDBG) program funding.

In meeting their dual responsibility, States must:

1. Ensure that State-funded jurisdictions comply with their certifications to affirmatively further fair housing (AFFH) (e.g., overall policy, educate State-funded jurisdictions regarding AFFH).
2. Undertake Fair Housing Planning (FHP) at the State level (e.g., statewide development impact fees, State regulation of real estate agents; see Section 5.6 for more examples).¹²

The State is responsible for ensuring that its subrecipient jurisdictions can truthfully certify that they are affirmatively furthering fair housing.

3.3 STATE RESPONSIBILITY: STATE-FUNDED JURISDICTIONS

States must ensure that State-funded jurisdictions comply with their certifications to affirmatively further fair housing. To do so, States should:

- Require all State-funded jurisdictions to take actions that promote fair housing choice at the local level and that have measurable results.
- Provide guidance and technical assistance to State-funded jurisdictions in conducting an AI (for those jurisdictions where the State has determined that one will be conducted).
- Provide guidance and technical assistance to those State-funded jurisdictions that the State has determined do not have to complete an AI; such guidance should include fair housing training and education for citizens as well as ensuring that fair housing complaints are quickly addressed.¹³

The FHPG further advises officials that they should "require regular reports on the implementation of fair housing actions. They should take direct responsibility for resolving any problems as quickly as possible so that fair housing efforts may proceed smoothly."¹⁴

HUD specifically directed the State of Texas, in its May 2011 letter approving the Phase 1 AI, to "develop a policy that addresses actions that the State will take when subrecipients of State funding engage in actions that are found to violate fair housing and other civil rights laws or which are identified as failing to affirmatively further fair housing."¹⁵

¹⁰ Texas Phase 2 AI, Section VIII. page 2.

¹¹ Texas Phase 2 AI, Section V, Page 1.

¹² HUD FHPG, Section 3, page 3.

¹³ HUD FHPG Section 3, pages 4-5.

¹⁴ HUD FHPG, Section 2, page 24.

¹⁵ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 3.

In the Phase 2 AI, however, the State argues that local actions are not the State's responsibility and that the State merely needs to "encourage" fair housing compliance:

This study acknowledges that the role of the state in causing—and eliminating—impediments to fair housing choice is limited. Many of the impediments found in the Phase 2 AI were not the cause of a state level action, omission or decision but instead are associated with local actions, perceptions or decisions. The state has an important role, however, in affirmatively furthering fair housing choice for all state residents and is in a position to encourage fair housing compliance and positive actions at the local level.¹⁶

The State may not truthfully certify that it is Affirmatively Furthering Fair Housing by merely adopting a role of a cheerleader and merely "encourage fair housing compliance and positive actions on the local level." The State, through its actions, delegates powers to local jurisdictions that substantially impact fair housing choice including zoning, local development regulations, land use controls, and fair housing planning. The State must assess how local jurisdictions are exercising these powers and carrying out these responsibilities in order to assess state-level impediments to fair housing that the State itself is creating through its statutes and fair housing activities. Further, the State has an affirmative responsibility to act to ensure local jurisdictions affirmatively further fair housing in compliance with the State's AI.

In other words, the State has a "dual responsibility" to ensure that both the State itself and its subrecipients are Affirmatively Furthering Fair Housing.¹⁷ The Phase 2 AI ignores the fact that the State has significant responsibility, leverage and authority over local actions under the Texas constitution and HUD program rules.

Texas may allow significant local control over the means local jurisdictions can use to overcome impediments to fair housing, but delegating that control does not relieve the State of responsibility for the outcomes. If local actions are restricting fair housing choice for Texans, then the State's lack of effective fair housing oversight and enforcement over local actions resulting in a disparate impact on protected classes within its borders is an impediment in itself and should be enumerated as such.

It is important to recognize that, contrary to its assertions in the Phase 2 AI, the State does not always defer to the zoning and land use decisions of local jurisdictions. For example, the State of Texas, under Section 214.904 Local Government Code, explicitly bans inclusionary zoning – a widely recognized tool to affirmatively further fair housing – by local jurisdictions. The State's choice to bar local jurisdictions from using this tool demonstrates the State's active oversight and limitations on local actions and decisions.

The State's mischaracterization of its responsibilities to evaluate the impact on protected classes of local regulation and activities where the State, through statutes and procedures, grants local authority or delegates responsibility to local jurisdictions can be clearly seen in three areas:

- A. Local ordinances;
- B. Local zoning and land use; and
- C. Local compliance with state and local fair housing plans, including FFAST plans.

A. Failure to examine the impact of local ordinances.

The Phase 2 AI explicitly acknowledges:

Although a review of specific provisions enacted in individual municipal and county uses of general land use control powers was beyond the scope of this AI, the stakeholder consultation and public input process did invite comments about fair housing barriers related to local zoning and land use regulations. In addition, the Phase 1 AI sampled the ordinances of certain communities in the disaster-affected counties.¹⁸

¹⁶ Texas Phase 2 AI, Section VIII, page 4.

¹⁷ HUD FHPG III, page 3

¹⁸ Texas Phase 2 AI, Section V, page 55.

In fact however, the Phase 2 AI does not include any examination of the impact of local ordinances on fair housing choice, even of specific ordinances in named jurisdictions that stakeholder focus groups repeatedly identified as impediments to fair housing choice.

Instead, the Phase 2 AI states that the examination of the impact of local ordinances on fair housing will be left to the local jurisdictions. But the State does not require subrecipients to conduct such evaluations and does not monitor whether those examinations take place.

The Phase 1 AI sample of local ordinances in the 62 CDBG disaster recovery eligible counties identified a number of impediments not included in the Phase 2 AI. The identification of impediments by the Phase 1 AI analysis and the Phase 2 focus groups should have led the State to consider the impediments created by local ordinances as part of the Phase 2 AI analysis. Yet the State failed to undertake any examination whatsoever of municipal and county uses of general land use control powers. It simply labels them, "beyond the scope of this AI."

The Phase 2 AI is incomplete because it fails to examine any local ordinances.

B. Failure to conduct an assessment of local zoning and land use.

The State introduces the Phase 2 AI with the incredible observation that Texans are satisfied with where they live, seldom experience discrimination, can widely choose where to live, and owe their remarkable fair and barrier free housing environment to the State's approach to "deregulated" land use and zoning:

The state's deregulated approach to land use, zoning, and housing policies contribute to the high rates of housing satisfaction and low rates of discrimination detected in the survey, particularly for homeowners. Texas is a relatively affordable state in which to buy a home and homeowners in the state's most populous areas have a wide range of communities in which to live.¹⁹

This claim, however, is contradicted by the preponderance of data included in the Phase 2 AI, and particularly at odds with the results of fair housing testing and the responses of many survey respondents reported elsewhere in the document.²⁰ Given the State's refusal to actually examine the fair housing impact of local jurisdictions' exercise of ordinances, zoning and land use powers, the Phase 2 AI's basis for attributing the State's misperceived "low rates of discrimination" to such "deregulated" land use, zoning and housing policies is baffling.

The State Phase 2 AI elsewhere in the document identifies land use and zoning decisions as possible impediments, but claims that it found no instances of barriers to fair housing choice in the zoning and land use practices:

Zoning and subdivision platting are two of the most powerful tools that cities and counties can use to regulate the type, character, and location of housing development with their boundaries; however, almost all of those regulations are adopted at the local level. State level zoning and land use laws and regulations can create barriers to fair housing choice if they require local governments to use zoning or subdivision standards or definitions that reduce the supply or increase the price of housing for certain groups, but no such instances were identified.²¹

The State's failure to uncover any fair housing impediment related to zoning and land use is, of course hardly surprising, since the State did not conduct any analysis of the manner in which local implementation of State delegated zoning and land use powers impact housing availability and choices. The Phase 2 AI dismisses the problem by stating that how local governments actually use zoning and land use powers does not require analysis and is not an impediment to fair housing:

¹⁹ Texas Phase 2 AI, Executive Summary, page 2.

²⁰ "Rental Audit Dallas-Fort Worth Metroplex, April 2011", North Texas Fair Housing Center at page 3 and "Houston Rental Audit," 2001, Greater Houston fair Housing Center at page 5.

²¹ Texas Phase 2 AI, Section V, page 2.

State-level zoning enabling acts may create barriers to fair housing choice if they require local government to adopt standards, definitions of land uses, or procedures that restrict housing options for FHA-protected persons, but the mere fact that the acts allow local governments to take those actions does not constitute a state-level barrier to fair housing.²²

The State's own Phase 2 AI focus groups disagree however. Those citizens alerted the State to local practices that are impediments to fair housing.²³ The impact of local zoning practices on fair housing are only unknown to the State because the State did not analyze those practices.

Having denied responsibility for how its subreceptent jurisdictions use State authorized zoning and land use powers the State nevertheless offers²⁴ through the AI those local jurisdictions a list of voluntary zoning and land use "best practices:"

Because the character, development patterns, and future plans of each community are different, their zoning, subdivision, and development controls will also differ. However, there are several land use practices that can help reduce barriers to housing affordability and choice; the more of these practices are included in local codes, the more likely that fair housing options will be provided.²⁵

The best practices the State identifies include:

- A purpose statement
- A definition of family
- Designation of at least one "district within a community for small lots"
- Provisions to permit multifamily housing to be developed within the jurisdiction
- Permitting manufactured housing in at least one district of a jurisdiction
- Limitations on minimum house sizes
- Permitting group homes as a "reasonable accommodation"
- Permitting accessory dwelling units in at least one district in the jurisdiction
- Permitting housing to be build in at least one commercial zoning district in the jurisdiction
- Lowering parking requirements
- Discourage forced replatting of small lots
- Offer incentives for affordable housing

While some of these practices would probably be helpful in increasing the supply of affordable housing, the recommendations that local governments offer the various concessions "in at least one district" will likely produce more segregation within the jurisdiction.

The State proposes a single action step related to zoning and land use:

5.1 Encourage and reward communities that have implemented best practices land use and zoning regulations.²⁶

Aside from the questionable impact of the State's suggested best practices, the State's lone action step related to zoning and land use is rendered ineffective by the fact that whether local jurisdictions adopt them is purely voluntary.

²² Texas Phase 2 AI, Section V, page 12. This statement is particularly ironic given that there are a number of state laws, including a ban on inclusionary zoning, that "require local governments to adopt standards, definitions of land uses, or procedures that restrict housing options for FHA-protected persons."

²³ Texas Phase 2 AI, Section V, pages 55-56.

²⁴ The State never suggests how it will communicate these suggestions to local governments.

²⁵ Texas Phase 2 AI, Section V, page 58.

²⁶ Texas Phase 2 AI. Section IX, page 15.

The State fails to specify what “rewards” it will offer to local jurisdictions or how the State would ensure the rewards were sufficient to induce local jurisdictions to adopt the best practices.

C. Failure to document and report on subrecipient compliance with FFAST Plans.

TxLIHIS and Texas Appleseed worked cooperatively with the Texas Department of Housing and Community Affairs (TDHCA) and the former Texas Department of Rural Affairs to develop the new approach to Fair Housing compliance that lies at the heart of the State’s Phase 1 AI. This new approach is FFAST (Fair Housing Assessment Statement-Texas) planning and is currently overseen by the Texas General Land Office (GLO).

In its letter approving the Phase 1 AI, HUD explicitly acknowledges the “positive and important step” the FFAST planning process represents:

The State AI requires the State's subrecipient jurisdictions to complete an AI and the State provides a mechanism for its subrecipients to complete a Fair Housing Activity Statement (FHAS) form which is to be used in conjunction with the subrecipients' AI to help perform assessments of their communities and communicate their plans to respond to fair housing impediments to the State. These requirements are considered to be a positive and important step forward for the the AI process.²⁷

The FFAST process mandates local review of fair housing impediments and local level fair housing planning by teams of government and community leaders. These local teams identify impediments to fair housing choice in their communities and develop action plans including specific action steps and timelines to overcome the identified impediments. The FFAST is approved by a local elected body. TDHCA and TDRA were responsible for overseeing the development of FFAST planning.²⁸ The agencies provided each CDBG-DR-eligible subrecipient with fair housing planning data and a FFAST form containing a number of possible action steps based on the impediments and action steps drawn from the State of Texas Phase 1 AI. The subrecipients reviewed the data and FFAST forms, selected appropriate activities for their jurisdictions to undertake, and indicated which year, through the end of 2013, the activities would be carried out. The resulting FFAST plans were submitted to TDRA (and subsequently GLO), reviewed by the State, modified as needed, and approved. Approximately 180 FFAST plans were adopted in jurisdictions across the 62 disaster impacted counties.

Our endorsement of the State’s Phase 1 AI was based largely on the State’s adoption of the FFAST planning process and the State’s commitment to monitor its subrecipients for completion of the fair housing activities they committed to carry out.

In the course of our work with civil rights and community organizations in jurisdictions that participated in the FFAST planning process, we have become aware that a number of the activities that local jurisdictions committed to carry out have not been undertaken. The deadline for the completion of all FFAST fair housing initiatives was the end of 2013. Yet the State continues to provide funding to jurisdictions through CDBG-DR, non-entitlement CDBG, and other HUD programs that have failed to fulfill their FFAST commitments.

The State must ensure, through proper monitoring, reporting, and enforcement, that its subrecipients fulfill their commitments to carry out the action steps set out in their FFAST plans. As FFAST was a primary AFFH activity of the State of Texas under the Phase 1 AI, compliance should be documented and certified in the State’s Phase 2 AI. The State’s apparent failure to monitor and enforce FFAST compliance by local subrecipients is a failure to affirmatively further fair housing and is a basis for the rejection of the State’s own AFFH certification.

The Phase 2 AI proposes an action step related to the FFAST process:

1.2 - The state should consider developing a simpler version of the FFAST form and require its completion for all jurisdictional-level programs funded by CDBG, HOME and the state trust fund. In cases where communities have been

²⁷ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 5.

²⁸ Subsequent to the development of the initial FFAST plans, the Governor designated the Texas General Land Office (GLO) to be responsive for all disaster recovery programs. Therefore, current responsibility for the FFAST plans and the monitoring of those plans rests now with the GLO.

awarded funding and then enact ordinances or practices which cause HUD to have fair housing concerns, state agencies should ensure a method is in place to provide corrective actions as a condition of past and future funding (similar to a HUD voluntary compliance agreement).²⁹

This action step, like many others in the Phase 2 AI, is presented as an option, “the state should consider,” and not an action step. The State has therefore not committed to continuing with FFAST process.

The State should continue the FFAST planning process in the jurisdictions covered by the Phase 1 AI and expand the FFAST process to all local jurisdictions that receive housing and community development funding (including CDBG, HOME and from the state housing trust fund). The FFAST process is a clear, simple way for the State to aid subrecipient jurisdictions to understand and carry out their obligations to AFFH and would also streamline the State’s required fair housing monitoring and compliance activities.

The last sentence in Phase 2 Action Step 1.2 states:

In cases where communities have been awarded funding and then enact ordinances or practices which cause HUD to have fair housing concerns, state agencies should ensure a method is in place to provide corrective actions as a condition of past and future funding (similar to a HUD voluntary compliance agreement).³⁰

Again, the State’s language does not commit the State to take action regarding what it describes as HUD’s fair housing concerns. The “hands off” approach the State adopts in its role in monitoring subrecipients for fair housing compliance remains advisory despite HUD’s specific direction to the State in its to May 2011 letter to address this issue.

2. Failure to address deficiencies in the State’s fair housing complaint investigation process.

The Texas Workforce Commission (TWC) is the state agency Fair Housing Assistance Program (FHAP) in Texas, responsible for administering and enforcing fair housing laws.³¹ The Phase 1 AI reported high dismissal rates and delays in processing fair housing complaints filed with TWC. The Phase 2 AI argues there is no basis for concern:

The Phase 1 AI reported that 41 percent of complaints were found to have no cause and suggested that this may be related to processing delays. Although such issues may have been involved, it is not unusual for the proportion of complaints found to have no cause in the 30 to 40 percent range.

TWC complaints are included and reported in the HUD complaint data. HUD complaints are more than double of the TWC complaints, so most complaints are filed directly with HUD in Texas. The Phase 1 AI sees the HUD reliance for complaints (versus filing with TWC) as a concern.

Duplication aside, the 692 TWC complaints were primarily in Harris County (62%) and were mainly settled as “no cause” or the case lacked sufficient evidence that housing discrimination occurred.³²

The Phase 1 AI contains an action step related to the State’s fair housing complaint process that has not been completed or carried forward into the Phase 2 AI:

6-7 State and HUD will review the fair housing investigation system and look for improvement.

This action step was scheduled for implementation beginning in month 25 following adoption of the Phase 1 AI. We pointed out to the State at the time the Phase 1 AI was adopted that it was unacceptable to not begin work to correct problems with the state agency’s complaint resolution process for more than two years. The State is now is now in

²⁹ Texas Phase 2 AI, Section IV, page 14.

³⁰ Texas Phase 2 AI, Section IV, page 14.

³¹ Texas Phase 2 AI, Section VI, page 2.

³² Texas Phase 2 AI, Section VI, page 10.

month 31 following adoption of the Phase 1 AI and the State's online report tracking action step implementation reports that no action has been taken to carry out this action step.³³

The concerns we raised in May 2011 are magnified by problems with the TWC complaint process reported by Phase 2 focus group participants.

Texas Workforce Commission complaint process. Stakeholders in the Upper Rio Grande region and the South Texas Border region discussed their frustration with the Texas Workforce Commission's approach to fair housing complaints. In their experience, the TWC is not responsive, does not meet deadlines, and does not have sufficient fair housing expertise. One stakeholder stated that when filing fair housing complaints with HUD they specifically request that the complaint not be referred back to the TWC.

- "While HUD abides by its deadlines, problems arise when HUD refers a case back to the Texas Workforce Commission. Pursuing a complaint with TWC is a nightmare. [We] have a case going back to 2009 and still haven't gotten a decision out of TWC. The questions the TWC investigators send don't make sense." (Upper Rio Grande community meeting)
- "We ask HUD to hold our cases rather than refer to TWC. To our knowledge, TWC has never taken a case to trial." (Upper Rio Grande community meeting)
- "Filing complaints with the Workforce Commission is not exactly intuitive." (Fair housing advocate focus group)

The State has not addressed the high rate of "no cause" or "lacked sufficient evidence" fair housing complaint dismissals by TWC during the 31 months between approval of the Phase 1 AI and submission of the Phase 2 AI. The Phase 2 AI proposes no action in the Phase 2 AI to address the specific and serious allegations of failures in the TWC complaint investigation process raised by the State's focus groups.

3. Failure to cooperate with and support local Fair Housing organizations.

Local Fair Housing organizations develop and carry out fair housing research, testing and enforcement. The State has not built relationships with, nor provided financial support for these organizations.³⁴

The HUD FHPG notes:

The AI structure should provide for effective, ongoing relationships with all elements of the community with clear and continuous exchange of concerns, ideas, analysis, and evaluation of results. Involvement by the chief executive is necessary whether the State or Entitlement jurisdiction is conducting the AI on its own or is participating with other jurisdictions in a metrowide/regional AI.

This linkage with the chief executive is important because it is the chief executive that has the ultimate responsibility for the State or Entitlement jurisdiction's FHP. This official should ensure, through focus groups, an advisory commission, town meetings, or other effective means, that regular contact and working arrangements are created and maintained with:

- Fair Housing Organizations
Fair housing organizations, including human relations commissions and voluntary, nonprofit organizations focusing on fair housing problems ...
- Advocacy Groups
Advocacy groups and organizations that have among their concerns the needs (including housing needs) of particular segments of the population, such as people with disabilities; families with children; immigrants and homeless persons; and specific racial or ethnic groups (Blacks, Hispanics, Native Americans, Asian Americans, Alaskan Natives)³⁵

³³ <http://www.tdhca.state.tx.us/housing-center/fair-housing/docs/Texas-AI-Action-Steps-Summary-P1.pdf> This is action step 67.

³⁴ TxLIHIS and Texas Appleseed have policies to not seek or accept public funding. Local fair housing organizations depend of government support to carry out their work.

³⁵ HUD FHPG, Section 2, pages 12-13.

The State's failure to engage with and to financially support fair housing advocacy groups is reflected in the fact that the Phase 2 AI does not fully consider the activities, research and findings of Fair Housing Initiative Program (FHIP) grantees as required in the FHPG.³⁶

Had the State permitted fair housing organizations including ourselves and others an ability to meaningfully participate in the development of the Phase 2 AI we believe that many of the issues raised in this analysis could have been addressed.

4. Failure to draw appropriate conclusions from public opinion surveys.

The Phase 2 AI states:

Many of the impediments were determined through input from residents and stakeholders rather than through quantitative analysis. It is important to note that the resident and stakeholder input was provided through many different methods which vary in their statistically [*sic*] validity.

The most robust, statistical valid method of public input was conducted through the resident telephone survey. The residents who participated in the survey were selected at random and, for the general market sample and subsamples, provide a solid sample from which findings can be generalized to the state overall. In contrast, the input from the community meetings, focus groups, interviews and online surveys (both resident and) [*sic*] was self-selected and is not meant to be applied to the experiences of residents in the state overall.³⁷

The State improperly relies on a telephone survey of residents to assert inaccurate conclusions in the draft AI. For example, the results of the telephone survey form the basis for the State's otherwise unsupported positive view of the state of fair housing in Texas.

These processes [telephone survey] informed our assessment of the state of fair housing in Texas, which we characterize as follows:

- Overall, few (3%) Texas residents feel they have been discriminated against in trying to find housing. Low income residents, residents with disabilities and racial and ethnic minorities report slightly higher rates of housing discrimination (8%, 9% and 6%, respectively).

The rates are higher in large, metropolitan areas: 14 percent of low income residents, 16 percent of residents with a disability, and 7 percent of racial and ethnic minorities report housing discrimination.

- Texans report high levels of satisfaction with their housing situation and share similar values about housing preferences, regardless of their race, ethnicity, income or disability. They also report valuing "[living] in a neighborhood with many different types of people."
- Race or ethnicity is not a barrier the vast majority of residents associate with not being able to move. Less than one percent of Texans identified race or ethnicity as a barrier to moving within their community.³⁸

The State's use of these subjective measures improperly prioritizes the results of the telephone survey over other, more accurate data sources. While certain types of direct discrimination may be identified by telephone surveys of the general population, the over-reliance on this technique throughout the Phase 2 AI ignores the fact that many people are not aware of many kinds of structural and direct discrimination, and, therefore, it will not be captured by a telephone survey. For example, HUD-funded matched pair testing has shown the existence of discriminatory

³⁶ HUD FHPG states, "The information needed for conducting an AI includes the following... Results of Fair Housing Initiative Program (FHIP) grants". Section 2, page 9.)

The FHPG explicitly instructs jurisdictions preparing AIs to, "Identify resources from local, State, and Federal agencies or programs as well as from financial, nonprofit, and other organizations that have agreed to finance or otherwise support fair housing actions. (Section 2, pages 22-23)

³⁷ Texas Phase 2 AI, Section VIII, page 4.

³⁸ Even relying solely upon the telephone survey results, characterizing these results as the problem of a "few" is inappropriate. The underlying survey data shows 6.3% of non-whites (or one of every fifteen) report experiencing discrimination in trying to find housing, three and a half times the 1.7% rate experienced by non-Hispanic whites. It is unlikely these people, statistically representing hundreds of thousands of Texans, believe their experience is the problem of a "few."

practices such as steering in Texas housing markets.³⁹ Steering involves not making residents aware of certain housing options. By definition, residents subject to racial steering would not be aware that they had been steered, and would not be able to report such discrimination in a telephone survey. This is true of rental discrimination as well. For example, landlords will sometimes represent to tenants in protected classes that units are no longer available or simply fail to respond to inquiries. Systemic discrimination, for example the failure of banks to maintain foreclosed properties in minority neighborhoods, may also be invisible to the individuals and communities it affects.

Matched-pair testing has documented discrimination rates an order of magnitude far greater than that reported by the telephone survey relied upon in the Phase 2 AI. For example, a 2011 study by the North Texas Fair Housing Center found that, "African Americans who are otherwise qualified can expect to encounter discrimination in 37% of their housing searches in the Metroplex. This means that African Americans will face discrimination in two out of every five housing searches. The Rental Audit also shows that Hispanics can expect to encounter discrimination in 33% of their housing searches in North Texas."⁴⁰

Despite acknowledging the existence of matched pair testing in Section VI of the Phase 2 AI, these findings are disregarded in the characterization of the state of fair housing in Texas, discussed in the identification of enumerated impediments, and not utilized to evaluate the reliability of the telephone survey of perceived discrimination. Matched pair testing demonstrates that the telephone survey fails to fully capture housing discrimination in Texas, and is not a reliable tool to draw conclusions about the state of fair housing in Texas.

The telephone survey further ignores the unique experiences of several protected classes. For example, while Texans with disabilities are detailed (with 8.8 percent of them reporting directly experiencing housing discrimination), the experiences of families with children and the experiences of women are not enumerated, preventing the use of this survey to document the experience of discrimination by those protected classes. As the State acknowledges, a further limitation is the survey sample size does not permit assessment below the state level to discover regional variation, particularly regional variation by race and ethnicity. Testing, on the other hand, provides solid data that should be used to conduct this analysis. Matched-pair testing has documented stunning levels of discrimination against families with children in Houston for example: a 2001 study by the Greater Houston Fair Housing Center found, "families with children who are otherwise qualified can expect to be discriminated against in 85% of their efforts to find quality housing in Houston."⁴¹

Telephone survey results are used improperly throughout the Phase 2 AI. For example, despite the fact NIMBYism was cited as a problem by the State's focus groups and acknowledged in the State's 2003 AI, the Phase 2 AI relies on the telephone survey findings to conclude that:

" . . . NIMBYism by Texas residents overall does not appear to create an impediment to housing choice for protected classes."⁴²

This statement ignores the actual experience of TDHCA, as evidenced by hundreds of hours of public hearings in which residents have opposed multifamily developments disproportionately housing members of protected classes. TDHCA, in its 2009 self-evaluation report to the Texas Sunset Advisory Commission, directly references NIMBYism as a "key obstacle" it encounters in its work, and the Sunset Commission Report itself recommended changes to the LIHTC process that would reduce in impact of NIMBYism.⁴³

A "statistically valid" telephone survey of the opinions of randomly selected residents is not more informative about the problem of NIMBYism in Texas than the agency's direct experience or empirical test results, and ignores HUD's

³⁹ See for example, the studies referenced in the draft AI at 6-11, as well as *Housing Discrimination against Racial and Ethnic Minorities* The Urban Institute, Turner et al. 2012.

⁴⁰ "Rental Audit Dallas-Fort Worth Metroplex, April 2011", North Texas Fair Housing Center at page 3.

⁴¹ "Houston Rental Audit," 2001, Greater Houston fair Housing Center at page 5.

⁴² Texas Phase 2 AI, Section VIII, page 7.

⁴³ 2009 Self Evaluation report to the Sunset Advisory Commission, Texas Department of Housing and Community Affairs, at 9, and Sunset Advisory Commission Staff Report: Texas Department of Housing and Community Affairs, September 2010, at 26-27.

recommendation that the AI “discuss NIMBYism from the perspective of developers who are deterred from building affordable housing in those communities where public opposition is negative about affordable housing,”⁴⁴

The State’s failure to identify impediments to fair housing in a number of important areas – including NIMBYism - is based on the improper use of public opinion surveys to discount the prevalence of housing discrimination. The result is the Phase 2 AI presents fundamentally erroneous conclusions regarding the extent and nature of the fair housing problem in Texas.

5. Failure to evaluate the impact of certain factors on protected classes as required by HUD.

The FHPG states,

The purpose of FHP is to foster a careful examination on a statewide basis of those factors which restrict or preclude fair housing choice.⁴⁵

The State of Texas Phase 2 AI fails to evaluate a number of the factors HUD explicitly requires a state-level AI to evaluate in Section 3.6 of the FHPG.⁴⁶

- State health and safety codes (including accessible design) that may affect the availability of housing for minorities, families with children, and persons with disabilities, including the exemption of rental housing from visitability standards.
- State policies and actions affecting the approval of sites and other building requirements used in the approval process for the construction of public (assisted) and private housing, especially with regard to housing programs funded by the Texas Department of Housing and Community Affairs and the Texas State Affordable Housing Program. (Including the failure of the State to implement any formal fair housing evaluation standard in the award of state and federal funds for the construction and rehabilitation of housing).
- Statewide policies concerning community development and housing activities such as: multifamily rehabilitation and the application of site and neighborhood standards for new construction activities. This includes the failure to provide an evaluation of the disparate impact on protected classes of the State’s liberal policies permitting environmental hazards only 300 feet from the location of assisted housing and the lack of a policy to require the evaluation of area crime rates.
- Demolition of affordable housing.
- Statewide policies that restrict the provision of housing and community development resources to areas of minority concentration, or policies that inhibit the employment of minority persons and individuals with disabilities, including provisions of the State QAP and guidelines for the funding of “preservation” project under the TDHCA statute.
- Public policies that restrict interdepartmental coordination between other State/local agencies in providing housing and community development resources to areas of minority concentration or to individuals with disabilities, including the lack of standards for AFFH evaluation in the award of tax exempt bond and LIHTC financing to build or rehabilitate public housing and project-based Section 8 housing.
- Statewide planning, financing, and administrative actions related to the provision and siting of public transportation and social services that may inhibit or concentrate affordable housing opportunities for persons with disabilities, including the governor’s veto of a bill that would have required a provision for affordable housing in publicly funded transit oriented developments.
- Policies and practices affecting the representation protected classes on statewide advisory boards,

⁴⁴ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 6.

⁴⁵ FHPG, Section 3, page 11.

⁴⁶ These requirements are set forth in the HUD Fair Housing Planning Guide, Section III, pages 7-10.

commissions, and committees, including the refusal of the governor for more than fifteen years to appoint a resident of public housing to the board of TDHCA as required under state and federal law.

- State laws and regulations covering the sale of housing that may allow or promote real estate practices such as steering or blockbusting, deed restrictions, and discriminatory housing brokerage services. (This includes the failure to implement educational programs related to fair housing called for in the Phase 1 AI with the Texas Real Estate Commission).
- State laws and regulations covering housing rentals, trust or lease provisions, and conversions of apartments to elderly only, including the absence of a policy regarding conversion of existing units to elderly only using LIHTC, State and HUD funded programs.
- Dissemination of information on the availability of programs that may be used to provide financial assistance for modification to privately owned housing to make such housing accessible to persons with disabilities and their families, including the State prohibition of barrier removal program benefits to residents of manufactured housing who have disabilities.
- Evidence of segregated housing conditions in non-entitlement jurisdictions, and non-compliance with the housing desegregation plans or efforts of HUD or other Federal agencies. This includes the failure to monitor non-entitlement recipient compliance with fair housing initiatives required in the FFAST forms.
- Discriminatory insurance practices, including practices associated with the State's administration of the Texas Windstorm Insurance Association, whose staff was recently discovered to have sent emails indicating racial bias.⁴⁷

The Texas Phase 2 AI similarly fails to examine whether actions or omissions regarding the provision of public services is influenced by public policies, practices, and procedures. The FHPG gives the following examples of which public services actions and omissions should be examined:

- Provision of essential municipal services
- Demolition, displacement of residents and businesses, development of single and multifamily housing, and rehabilitation and revitalization of declining and deteriorated neighborhoods through private or public activities that impact on housing choice (such as policies that determine the future income mix of housing to be available)
- Creation of job and training opportunities that affect, or can be affected by, the location of housing opportunities for lower-income families and persons, particularly minorities, persons with disabilities, and women.
- Promotion of coordination and cooperation among jurisdictions in surrounding metropolitan or regional areas in planning and carrying out housing and housing-related activities
- Selection of members of official and other community planning and zoning boards and commissions
- Public housing agency (PHA) and other housing assistance provider policies and procedures for:
 - Selecting individuals and families to receive the benefits of Federal, State, or local publicly assisted housing programs that provide rental or ownership opportunities for lower-income persons and families
 - Advertising rental vacancies to the public and establishing and maintaining waiting lists
 - Assisting certificate and voucher holders to find suitable rental units throughout the jurisdiction.⁴⁸

The failure to examine these required factors means the Phase 2 AI is incomplete.

6. Failure to properly identify impediments by mischaracterizing them as “observations.”

HUD defines impediments to fair housing choice in the FHPG as:

⁴⁷ Racist emails from agency staff members have surfaced in a court proceeding that seem to indicate racial prejudice in claims processing in the wake of hurricanes Ike and Dolly. See: <http://www.insurancejournal.com/news/southcentral/2013/12/23/315198.htm>

⁴⁸ HUD FHPG, Section 5, pages 4-5.

Actions, omissions or decisions taken because of race, color, religion, sex, disability, familial status or national origin, which restrict housing choices or the availability of housing choices.

Actions, omissions or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.⁴⁹

Certain factors that HUD classifies as impediments the State instead labels “observations.” These “observations,” the State contends, do not require a full assessment or the identification of actions steps to correct. The Phase 2 AI states:

The Phase 2 AI identified some potential barriers or symptoms of barriers to housing choice that could not be clearly linked to one or more protected classes or a particular action, omission or decision. These do not strictly fall within HUD’s definition of “impediment.” Instead, these potential barriers are called observations. For the purposes of this study, an “observation” is an identified fair housing issue that may create an impediment to fair housing choice; but for which a direct link to a cause or effect (“nexus”) of an action on a protected class has not been established.⁵⁰

There is no basis in the FHPG for such a distinction. The mis-categorization of impediments as “observations” permits the State to forgo an analysis of many impediments that significantly impact fair housing choice in Texas. With respect to observations, the Phase 2 AI only suggests that State and local jurisdictions “may want to create actions to potential barriers to be proactive in affirmatively furthering fair housing choice.”⁵¹

The four “observations” in the Phase 2 AI are:

1. Racial and ethnic concentrations exist in many areas within Texas.
2. Municipal revenue structure may create barriers to housing choice.
3. Many jurisdictions do not have adequate Analysis of Impediments to Fair Housing or Fair Housing Plans.
4. Several laws which on their face pose no inconsistency with the laws regarding fair housing present opportunities for local decision-making and effectuation.

These four observations clearly constitute impediments to fair housing choice, and the State’s opinion that these impediments “could not be clearly linked to one or more protected classes or a particular action, omission or decision” is inaccurate. Racial and ethnic concentrations are by definition linked to protected classes and are a direct result of government action, namely the enactment and reinforcement policies that create racial segregation. The State is not absolved of its duty to take steps to overcome these impediments because they are rooted in past governmental action.

These observations are FHPG defined impediments that the AI is intended to address, namely, racial and ethnic segregation, public expenditures and services, inadequate fair housing enforcement and planning, and the impact of governmental decisions, actions, and omissions on classes of persons protected under the Fair Housing Act.

Consider the State’s first observation: “Racial and ethnic concentrations exist in many areas within Texas.” The first two of HUD’s four AFFH goals,⁵² as well as the purpose of the Fair Housing Act itself, are:

1. Reduce segregation, and build on the nation’s increasing racial, geographic and economic diversity.
2. Eliminate racially and ethnically concentrated areas of poverty.

The “direct link to a cause or effect (‘nexus’) of an action on a protected class” which the State requires in its definition of an impediment could not be clearer. Again, racial and ethnic segregation were enacted in law and reinforced by government actions. The failure of governmental entities to address continuing *de facto* segregation is an improper omission from the Phase 2 AI.

⁴⁹ Texas Phase 2 AI, Section VIII, page 2.

⁵⁰ Texas Phase 2 AI, Section VIII, page 2.

⁵¹ Texas Phase 2 AI, Section VIII, page 2.

⁵² A NEW ASSESSMENT PROCESS TO AFFIRMATIVELY FURTHER FAIR HOUSING, pages 2-3.

Consider the State's second observation: "Municipal revenue structure may create barriers to housing choice." The third HUD AFFH goal is:

3. Reduce disparities in access to important community assets such as quality schools, job centers, and transit.⁵³

The cause and effect relationship between municipal expenditures and these community assets is clear.

With regard to the State's third observation: "Many jurisdictions do not have adequate Analysis of Impediments to Fair Housing or Fair Housing Plans," we are unable to explain how the State is able to argue that not having a legally required fair housing plan and AI can have no cause or effect upon a protected class.

We presented written comments to the draft of the Phase 2 AI in which we objected to the State's use of "observations" to avoid identifying impediments. The State's response was:

Response: The State believes that the categorization of Observations and Impediments is correct, and will work with HUD should they have any issues in this regard.⁵⁴

The State's categorization of significant impediments to fair housing choice as "observations" and its failure to conduct the required analysis and commit to action steps to address these impediments renders the Phase 2 AI incomplete and non-compliant.

7. Failure to propose appropriate action steps to address impediments to fair housing.

The most critical deficiency in the Phase 2 AI is the failure to identify and commit to appropriate action steps to overcome impediments to fair housing choice. The Fair Housing Planning Guide states:

The jurisdiction should define a clear set of objectives with measurable results that it intends to achieve. The sole measure of success for FHP is the achievement of results.⁵⁵

HUD's December 21, 2010 letter to Westchester County regarding the proposed AI for that jurisdiction concludes that "[t]he County's AI is incomplete and unacceptable because it fails to link the information that the County presents with a set of sufficiently responsive actions that will further fair housing choice."

This critique is also applicable to the Texas Phase 2 AI.

The principal problem with the action steps the State proposes are that they are not in reality action steps. They are merely suggestions the State makes to itself, not commitments to actually take any explicit action. Contrary to the language of the Phase 2 AI, a Fair Housing Action Plan is not organized around what the State "can" do; it is a recitation of what the State will do.

For example, Action Goal 1.2 states that, "the state should consider developing a simpler version of the FFAST form and require its completion for all jurisdictional-level programs funded by CDBG..." This so-called action item includes no deadlines for completion, no designated party responsible for the task, and no benchmark for completion of the vague suggestion to "consider" an action. It does not even commit the State to thinking about an action, must less actually taking action.

The Phase 2 AI proposes 23 action steps. We note below the conditional, qualified, and passive construction of the action steps. The State's language makes it virtually impossible to ever "measure the success" of Texas's implementation of the AI.

⁵³ A NEW ASSESSMENT PROCESS TO AFFIRMATIVELY FURTHER FAIR HOUSING, pages 2-3.

⁵⁴ Texas Phase 2 AI, Appendix H, page 22.

⁵⁵ HUD FHPG, Section 2, page 22.

- 1.1 State agencies **should examine** their individual incentives in applications for development funding to ensure that they are consistent across agencies and align with Goal No. 1.
- 1.2 The state **should consider** developing a simpler version of the FFAST form and require its completion for all jurisdictional-level programs funded by CDBG, HOME and the state trust fund. In cases where communities have been awarded funding and then enact ordinances or practices which cause HUD to have fair housing concerns, state agencies should ensure a method is in place to provide corrective actions as a condition of past and future funding (similar to a HUD voluntary compliance agreement).
- 1.3 **Reach out to** the Texas Apartment Association (TAA), local public housing authorities, and others to inform them about fair housing resources and best practices.
- 1.4 **Reach out to** local governments, TAA affiliates, community action agencies, and public housing authorities **to ensure awareness** of voucher programs is widely disseminated, especially in areas and among populations that have historically underutilized voucher assistance.
- 1.5 **Coordinate** a series of tests conducted by local fair housing providers to collect additional information on the extent and nature of discrimination in both urban and rural areas of the state.
- 1.6 **Explore and promote** to local governments opportunities to acquire foreclosed housing and make the housing available for homeownership or rent.
- 1.7 Develop a model affirmative marketing program that jurisdictions and PHAs can use.
- 1.8 **Continue and evaluate** state programs to improve conditions in Colonias.
- 2.1 **Work with** stakeholders who are knowledgeable about the housing needs of person [sic] with disabilities to better understand their various housing and community development challenges.
- 2.2 As part of its educational and outreach efforts to **promote** best practices in fair housing, the state **should** include information about group home requirements.
- 2.3 **Educate** stakeholders, local government officials, planners and Councils of Governments (COGs) on the benefits of universal design and “visitable” housing.
- 3.1 Implement the Sunset Advisory Commission’s recommended changes to the Low Income Housing Tax Credit (LIHTC) scoring to de-emphasize community letters of support in LIHTC scoring. [An activity completed six months before the Phase 2 AI was submitted to HUD].
- 3.2 **Work with** local fair housing education and enforcement organizations to develop and publicize a uniform set of materials to make available to jurisdictions.
- 3.3 **Provide technical assistance** on combating NIMBYism to local governments.
- 4.1 TDHCA **should** assume a leadership role to provide local governments information about how to mitigate fair housing barriers and affirmatively further fair housing choice.
- 4.2 TDHCA and TDA **should** develop a fair housing resource list for distribution to all relevant state agencies (those with housing, human services and similar roles) and COGs.
- 5.0 **Promote** and adopt best practices in local zoning and land use regulations to reduce barriers for development of affordable and special needs housing.
- 5.1 **Encourage** and reward communities that have implemented best practices land use and zoning regulations.
- 6.1 Use the county-level data in Section VII. Lending Analysis to **target the dissemination of educational materials**, trainings, meeting with lending professionals and, as appropriate, regulatory activities, to areas in the state where loan denials, lending disparities, and high-cost loans are the highest.
- 6.2 TDHCA and relevant Texas agencies **should** improve the information available to consumers about credit on their websites.
- 6.3 As new HMDA data are released, the state **should** analyze and monitor the data for lending concerns, alert federal and state regulators to such concerns, and target education and outreach efforts to areas that appear at risk for predatory and high-cost loans.
- 6.4 **Bolster** current programs and **explore** new programs to lower the rate of “unbanked” residents.
- 6.5 **As needed**, improve consumer information about lending and associated insurance.

Language and grammar have meaning. The language of the Phase 2 AI action steps does not constitute a commitment to take effective actions to overcome Texas impediments to fair housing choice.

8. Failure to assess the cause, nature, and extent of residential racial segregation.

CAUSAL FACTORS

The first step in overcoming a problem is to understand its cause. The FHPG makes clear that a jurisdiction preparing an AI must examine the causes of impediments to fair housing:

State and Entitlement jurisdictions must become fully aware of the existence, nature, extent, and causes of all fair housing problems and the resources available to solve them.⁵⁶

Where the community planning and development perspective looks directly at needs for housing and possible barriers to meeting those needs, the fair housing perspective focuses as much on the causes of needs of groups or persons protected by the Fair Housing Act as it does on the needs themselves.⁵⁷

The Phase 2 AI explores the causes of segregation solely by asking respondents in a general population survey what they think has caused segregation.

As shown in Figure III-16, the primary cause identified was “area is less desirable so prices are lower.” This is not a surprising result given housing market forces. However, about one in five stakeholders (22%) said zoning/land use policies caused the concentration. Twenty-nine percent said it has “always been that way,” which may indicate the persistence of historic housing segregation patterns within the housing market.⁵⁸

The State cannot rely on a public opinion survey to carry out its analysis of impediments to fair housing. This is obviously an insufficient effort to understand the problem and offers no insight into what actions need to be taken to overcome the factors that have produced residential segregation. The State should examine factors such as racial zoning, racially restrictive covenants, historical practices of segregating public and assisted housing, institutionalization of persons with disabilities, and State, local, and private sector policies and practices.

The Phase 2 AI does not identify the causal factors of residential racial segregation that is a requirement of an AI.

NATURE, EXTENT AND TRENDS

HUD requires:

In the AI, the jurisdiction should describe the degree of segregation and restricted housing by race, ethnicity, disability status, and families with children; how segregation and restricted housing supply occurred; and relate this information by neighborhood and cost of housing.⁵⁹

HUD explicitly requires that states produce certain data for the AI:

Evidence of segregated housing conditions (in the non-entitlement areas), and the housing desegregation plans or efforts of HUD or other Federal agencies. Such data should be available from census maps, the records of public housing authorities, HUD, and State housing agencies.⁶⁰

The Phase 2 AI does not measure the nature or extend of residential racial segregation. It fails to use or even mention any of the measures used by the Census Bureau to document the extent of residential segregation or the historical trends (such as the Dissimilarity Index, Isolation Index, etc.).⁶¹ The only data included in the Phase 2 AI are a set of multi-county maps showing concentrations of people of color in excess of 50 percent within census tracts. Even this data is inadequate because the scale of the maps is such that census tracts are not distinguishable within most cities. The data presented does not permit an assessment of the degree of residential segregation and no historical trend data is presented.

The failure to include or analyze the causes, nature, and extent of residential segregation renders the Phase 2 AI incomplete and non-compliant.

⁵⁶ HUD FHPG, Section 2, page 8.

⁵⁷ HUD FHPG, Section 2, page 20.

⁵⁸ Texas Phase 2 AI, Section III, page 22.

⁵⁹ HUD FHPG, Section 2, pages 28.

⁶⁰ HUD FHPG, Section 3, pages 9-10.

⁶¹ http://www.census.gov/hhes/www/housing/housing_patterns/app_b.html

9. Failure to identify housing affordability's disparate impact on racial and ethnic minorities as an impediment.

In the Phase 2 AI the State acknowledges it does not consider the impact of State regulations on housing affordability:

The FHA prohibits housing discrimination based on race, color, religion, sex, national origin, age, familial status (which includes pregnant women) or disability (which includes the frail, persons with AIDS, physically and developmentally disabled, mentally ill, and recovering alcoholics and drug addicts, but not current abusers who are not "recovering"). We refer to those groups as the "FHAA-protected persons." That list does not include low income persons as a distinct class and we did not specifically review impacts of state regulations on housing affordability. However, where there is believed to be a probable overlap between the FHAA-protected classes (such as persons with disabilities) and lower income populations, the section mentions potential impacts on affordability in some cases.⁶²

The FHPG states:

Impediments to fair housing choice are:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.⁶³

The decision of the State not to examine the race and ethnicity of persons in need of affordable housing is discussed at length in Section 10 of this analysis. Had the State examined this data it would have discovered that African-American and Hispanic households have a far greater proportional need for affordable housing than white, non-Hispanic households.

The State did provide, albeit indirectly, some data on race/ethnicity income levels in the Phase 1 AI:

As the Phase 1 mentions, minority populations continue to be overrepresented in the Texas population living under the poverty level. Among minorities, poverty is highest for Hispanic or Latino residents. All minorities are much more likely to be living in poverty than non-Hispanic Whites.⁶⁴

The lack of affordable housing has the effect of disproportionately restricting housing choices and limiting the availability of housing choices for members of protected classes. Therefore, housing affordability is an impediment to fair housing choice as defined in the FHPG.

The State's failure to recognize housing affordability's disparate impact on ethnic and racial minorities renders the Phase 2 AI incomplete and non-compliant.

10. Failure to include race and ethnicity in its housing market analysis.

A corollary of the Phase 2 AI's failure to identify housing affordability's disparate impact on racial and ethnic minorities as an impediment is the AI's failure to undertake a housing market analysis and affordable housing needs assessment that considers the race or ethnicity of those in the affordable housing market segment.⁶⁵

HUD's instructions in the FHPG are clear:

In the AI, the jurisdiction should describe the degree of segregation and restricted housing by race, ethnicity, disability status, and families with children; how segregation and restricted housing supply occurred; and relate this information by

⁶² Texas Phase 2 AI, Section V, page 1.

⁶³ HUD FHPG, Section 2, pages 7-8.

⁶⁴ Reported in Texas Phase 1 AI, Section I, page 10.

⁶⁵ Texas Phase 2 AI, Section 2

neighborhood and cost of housing. This description should also discuss the extent to which a broad variety of accessible housing for persons with disabilities are distributed throughout the jurisdiction, demonstrating efforts made to provide such housing in an integrated setting.⁶⁶

An AI is incomplete without data and analysis of housing cost burdens, overcrowding (especially for large families with children), and substandard housing conditions for racial and ethnic minorities, people living with disabilities, and other protected classes.

HUD has provided the State of Texas with a consolidated planning computer software package and data that provides easy access to this data for use in developing the Consolidated Plan. Yet the Phase 2 AI presents housing market data by income without including the essential details of race, ethnicity, family composition, and disability status.

11. Failure to properly analyze disproportionality in assisted housing programs.

The Phase 2 AI describes the purpose of its assisted housing disproportionality analysis as follows:

“Are minorities and people with disabilities participating at the same rate as the income eligible population?” This exercise is meant to reveal market areas where protected classes have limited options in the private market and/or opportunities for TDHCA to improve provision of programs to protected classes.⁶⁷

The programs examined in the Phase 2 AI are the State of Texas administered Section 8 Housing Choice Voucher program (6,327 households), the Texas Bootstrap Housing program (836 households), the Single Family Homebuyer program (12,055 households), public housing (57,083 units), and housing developed under the LIHTC program (206,976 units).

The Phase 2 AI assisted housing disproportionality analysis fails to include the 127,987 Section 8 Housing Choice Voucher holders in programs administered by public housing authorities other than TDHCA, 57,592 HUD assisted housing units, 14,637 housing units funded by USDA, an unspecified number of HOME, NSP, HOPWA and other HUD-funded housing units administered by jurisdictions other than the State of Texas, housing funded through local entitlement and State administered non-entitlement CDBG programs, 99,436 multifamily affordable housing units funded through tax-exempt bonds (either through the State or other jurisdictions), single family housing funded by the Texas State Affordable Housing Corporation (a State agency), and housing funded by the Texas Veterans Commission (a State agency).⁶⁸

We estimate that the Phase 2 AI assisted housing disproportionality analysis encompasses considerably less than one-half of assisted housing in Texas. The analysis is therefore incomplete and inferences from the limited data set are not useful in assessing the gaps in assisted housing availability within Texas.

12. Failure to consider significant court decisions.

The State itself, along with many local jurisdictions within Texas, has been subject to court decisions finding illegal discrimination against members of classes of persons protected under the Fair Housing Act. Several of the most significant of these decisions are not noted or considered in the Phase 2 AI.

The Phase 1 AI however did note two cases:

The AI found evidence of discrimination in the public sector based on two class action lawsuits (occurring in East Texas and the City of Dallas) against HUD and public housing authorities. The actions raised in the lawsuits date to the mid-1980s and

⁶⁶ HUD FHPG, 2-28.

⁶⁷ Texas Phase 2 AI, Section II, page 8.

⁶⁸ TDHCA, 2013 State of Texas Low Income Housing Plan and Annual Report, page 31.

required desegregation plans of HUD and the housing authorities.⁶⁹

These rulings are significant and should have been included in the Phase 2 AI because through them the courts found that local governments, public housing authorities and other levels of government engaged in widespread racial discrimination resulting in the segregation of racial minorities through the provision of segregated government-assisted housing across 36 counties in East Texas in the *Young* case⁷⁰ and in the Dallas metropolitan area under the *Walker* case.⁷¹ These areas include jurisdictions outside the 62 counties covered in the Phase 1 AI.

In the case of *Young*, the courts also found a governmental practice of denying public services to minority communities, and ordered the State of Texas to direct millions of dollars of HUD block grants to remediate the discrimination.

Among the court ordered remedies these cases produced were fair housing actions that the FHPG directs AIs to include. The following are FHPG listed housing enforcement requirements not examined in the Phase 2 AI:

- Access requirements for HUD-assisted privately owned developments.
- Equalization of public housing units and neighborhoods.
- Funding of fair housing education and enforcement agencies and mobility programs.
- Creation of housing mobility programs through which HUD provides Section 8 certificates and funding for mobility counseling for desegregative moves.

Also missing from the Phase 2 AI is any mention of public housing desegregation rulings related to the cities of Galveston, Beaumont, Port Arthur, and Orange, cities where the State itself is actively engaged in the reconstruction and new construction of public housing under the Hurricane Ike CDBG disaster recovery program.

13. Failure to analyze and identify impediments related to HUD funds for non-housing activities.

The obligation to AFFH applies to all HUD housing and community developments funds, regardless of whether they are used to fund housing or non-housing activities. The Phase 2 AI fails to include, analyze, or identify impediments related to the fair housing impact of non-housing programs funded with federal housing and community development funds, including programs that are directly administered by the State.

One of the major funding sources for housing and public infrastructure in Texas is the Community Development Block Grant (CDBG) program, both in the entitlement and non-entitlement programs.

We pointed out the omission of an analysis of the activities funded under the CDBG program in our comments on the Draft Phase 2 AI:

Relevant data regarding the fair housing impact of programs directly administered by the State is altogether excluded from the draft AI. One of the major funding sources for housing and housing infrastructure in Texas is the Community Development Block Grant Program (CDBG) program, but this program is not included in the 'disproportionality' analysis of Section 2, nor analyzed elsewhere in the report.⁷²

The State, in its response to comments on the Draft Phase 2 AI, asserts that:

Regarding Commenter 4's [TxLIHS and Texas Appleseed] comment, collection of "relevant data regarding the fair housing impact of programs directly administered by the State" (specifically the non-entitlement portion of CDBG) is not currently a

⁶⁹ Texas Phase 2 AI, Appendix A, page 1.

⁷⁰ *Young v. Cisneros*, E.D. TX, Civ. Action No. P-80-8-CA, Final Judgment and Decree (March 30, 1995).

⁷¹ *Walker v. U.S. Department of Housing and Urban Development*, 734 F.Supp. 1289 (N.D. TX 1989).

⁷² Texas Phase 2 AI, Appendix H, Page 12.

requirement from HUD, the addition of such a requirement, without additional funding, would reduce the amount of actual project funds available to non-entitlement communities.⁷³

The State's assertion is false. The State is responsible for authorizing CDBG-funded activities in non-entitlement jurisdictions and it collects and maintains location-specific data for these activities. The data is coded at the Census tract and block group level and would make conducting an analysis simple.

We speculate that the State's failure to account for or to analyze the impact of CDBG funds, policies, and procedures in the Phase 2 AI may stem from the fact that TDHCA, the State agency overseeing the development of the Phase 2 AI, does not directly administer CDBG funds (except a set-aside for colonia self-help centers). The Texas Department of Agriculture (TDA) administers the Non-Entitlement CDBG program and the GLO administers the CDBG Disaster recovery program. These agencies did not participate in the public hearings concerning the AI, nor did other agencies that administer HUD funds.

Analysis of the use of HUD funds for non-housing activities is essential in determining if whether the State and its subrecipients allocate and spend federal housing and community development funds in a manner that AFFH overall. The failure to include this analysis renders the Phase 2 AI incomplete and non-compliant.

We also note that HUD's proposed AFFH rule defines AFFH in a way that "clarifies that AFFH, while including anti-discrimination measures, requires proactive steps to foster more inclusive communities and access to community assets for all those protected by the Fair Housing Act."⁷⁴ The State's failure to analyze how the expenditure of HUD funds for non-housing community assets affects members of protected classes leaves out a major component of fair housing.

14. Failure to analyze area characteristics where assisted housing is concentrated.

The Phase 2 AI observes:

Nearly two in three stakeholders responded that housing opportunities low income persons can afford are concentrated in certain areas/neighborhoods. Many stakeholders characterized these concentrated areas as: Unsafe, Lacking access to transit/jobs, Occurring in minority-majority areas, and having poorly maintained or lower quality housing stock. Only 25% said housing opportunities for low-income people were available throughout the area in most neighborhoods.⁷⁵

This is perhaps one of the most important impediments to fair housing. But it is neither stated in the Phase 2 AI as an impediment nor is the readily available data analyzed to determine the cause and extent of the problem.

Texas is unique in that State law⁷⁶ requires operators of affordable housing receiving subsidy through the State of Texas, including Low Income Housing Tax Credits, to report on the income, family composition, race/ethnicity, and disability status of tenants. The State of Texas Low Income Housing Sponsor Report,⁷⁷ analyzed in connection with HUD's Picture of Subsidized Housing database, offers a ready method to assess the isolation of government-subsidized housing in segregated and/or distressed neighborhoods.

State housing programs obligated to submit data for the State of Texas Low Income Housing Sponsor Report make

⁷³ Texas Phase 2 AI, Appendix H, Page 12.

⁷⁴ See, e.g. 78 Fed. Reg. 139, Friday, July 19, 2013 at 43716.

⁷⁵ See generally Texas Phase 2 AI at III, 15-18.

⁷⁶ Section 2306.072 and Section 2306.0724 of the Texas Government Code.

⁷⁷ Current report found at: <http://www.tdhca.state.tx.us/housing-center/docs/12-HSR.pdf> Older reports are archived on TDHCA website as well.

up a large percentage of the Texas rental housing market. The Phase 2 AI notes that “[t]he state has administered programs, which helped subsidize 30 percent of multifamily units in Texas, according to the 2010 State of Texas Consolidated Plan Annual Performance Report.”⁷⁸

The Phase 2 AI does not analyze this data to determine the characteristics of neighborhoods in which assisted housing opportunities for low-income persons and persons of color, families with children, or persons with disabilities are concentrated.

TxLIHIS commissioned two of the State’s leading affordable housing researchers at the University of Texas at Austin to analyze data from the State of Texas Low Income Housing Sponsor Report to examine the impact of the LIHTC program on racial segregation. The results, published on the TxLIHIS web site in 2010, are summarized as follows:

The data presented in this report suggest that the current system used to score applications for Low Income Housing Tax Credits in Texas does not provide sufficient incentive for developers to locate in high opportunity neighborhoods (as indicated by low concentrations of poverty, high concentrations of non-Hispanic whites and by proximity to high performing elementary schools). The scoring system’s emphasis on financial feasibility and neighborhood support appears to outweigh modifications to the scoring system intended to reverse the tendency to locate developments in areas that are disproportionately poor, minority and characterized by high levels of violent crime. Overall, the scoring system provides contradictory and inconsistent incentives when it comes to valuing neighborhoods where housing will be placed.⁷⁹

Texas newspapers have also published a number of studies⁸⁰ based on the State of Texas Low Income Housing Sponsor Reports and other data collected by TDHCA. The results of these studies consistently demonstrate that State-funded housing developments have increased economic, racial and ethnic segregation. Both sides in recent litigation, including TDHCA, relied on data from the State of Texas Low Income Housing Sponsor Report in preparing exhibits in the State’s unsuccessful defense against charges of housing discrimination in the *ICP v. TDHCA* lawsuit.

The Phase 2 AI does not use the readily available data or reports to offer any analysis, nor does it offer its own analysis of the characteristics of neighborhoods in which assisted housing opportunities for low-income persons and persons of color are concentrated.

The failure to undertake this analysis renders the Phase 2 AI incomplete and non-compliant.

15. Failure to present a substantive analysis of the geographic distribution of assisted housing.

Geography is central to an analysis of fair housing. Understanding the geographic distribution of assisted housing relative to neighborhood economic, demographic and social conditions is essential in determining the extent to which affordable housing opportunities, and in particular assisted housing occupied by members of a protected class under the Fair Housing Act, is achieving the basic fair housing objective of providing non-segregated housing choices. This information is readily available to the State directly from HUD and through the detailed tenant characteristic reporting collected by the State through the annual State of Texas Low Income Housing Sponsor Report.⁸¹

The Phase 2 AI offers no substantive analysis of the geographic distribution of assisted housing relative to

⁷⁸ Texas Phase 2 AI, Section VII. page 3.

⁷⁹ Affordable Housing and Access to Opportunity: Locational patterns produced through state allocation of Low Income Housing Tax Credits in Texas, by Kathryn Howell, MPP, The University of Texas and Elizabeth Mueller, PhD, The University of Texas, November 2010, page 20. https://www.dropbox.com/s/ifa6kljgl5nj15/LIHTC_Report_November_2010.pdf

⁸⁰ For one example see: http://www.nytimes.com/2012/04/22/us/low-income-housing-program-compels-building-in-poor-texas-areas.html?_r=0

⁸¹ Current report found at: <http://www.tdhca.state.tx.us/housing-center/docs/12-HSR.pdf> Older reports are archived on TDHCA website as well.

neighborhood characteristics. The only presentation of data is a single map of the entire state of Texas with dots indicating LIHTC “Program Locations.”⁸² The map is presented at a scale that makes it impossible to determine the relationship of LIHTC properties to non-segregated areas of high opportunity. There are no maps showing the distribution of other types of assisted housing such as Section 8, public housing, or non-LIHTC state funded housing.

A minimum threshold analysis of this data should take at least three forms in a complete AI. First, a map of the location of assisted housing should be included for each of the 13 geographic regions presented in Section I of the Phase 2 AI. The data should be presented at a useable scale. This could be presented as a single page map, as TxLIHIS and Texas Appleseed demonstrated in the attachments to our letter to the State commenting on the draft Phase 2 AI.⁸³

Second, a table should be presented showing the distribution of assisted housing (by type) located in racially/ ethnically concentrated census tracts, further broken out by the predominate race/ethnicity of the tenants. This data is available in both the HUD assisted housing database and the State of Texas Low Income Housing Sponsor Report.

Third, a table should examine per capita availability of assisted housing under each subsidy program at the jurisdictional level to portray the relative availability a government-assisted housing in the State’s regions. The presentation of this data in the disproportionality analysis section of the Phase 2 AI is inadequate for this purpose as we discuss in Section 11 of this document.

Given that the locations of assisted housing are already coded by Census tract, the production of the maps and tables outlined above can be accomplished with minimal effort and expense. In fact, much of this analysis is already available to the State for the Low Income Housing Tax Credit properties it has financed. The San Antonio Express-News⁸⁴ and the New York Times⁸⁵ published authoritative analyses of the geographic characteristics of LIHTC developments funded by the State of Texas in their investigative stories reporting on the contribution of this housing toward increasing residential segregation in Texas. None of these findings are reported in the Phase 2 AI.

Had the State included such analysis in the Phase 2 AI the results would have led to highly substantive conclusions about the impact of the distribution of government-assisted housing on fair housing.

The San Antonio Express-News study reported that:

- Of the 193,000 tax-credit units subsidized statewide, 78 percent are in census tracts where more than half of all residents are minorities. By comparison, only 59 percent of all rented apartments are in the same areas, according to census data.
- Roughly 31 percent of the units across the state are in neighborhoods with high concentrations of minority residents — 90 percent or more — which is about twice the rate for all rental housing.
- Eighty percent of the low-income apartments, but only 64 percent of all rented units, are in poor census tracts where residents earned less than the state median household income, \$49,646.
- A study by the federal Department of Housing and Urban Development in 2009 ranked Texas fourth in the nation for placing tax-credit apartments in areas where more than half of the residents were minorities.⁸⁶

The State’s failure to include this analysis is especially troubling in light of the conclusions of these conclusions by investigative journalists. The segregated pattern resulting from the allocation of government-assisted housing funds represents a serious, large-scale failure on the part of the State to AFFH. The failure to conduct and include this analysis renders the Phase 2 AI incomplete and non-compliant.

⁸² Texas Phase 2 AI, Figure II-18.

⁸³ Reproduced in the Texas Phase 2 AI on an unnumbered page following Appendix H (see page 608 of the PDF file for map examples).

⁸⁴ <http://www.mysanantonio.com/default/article/Affordable-housing-fenced-into-poor-areas-3500680.php#page-1>

⁸⁵ http://www.nytimes.com/2012/04/22/us/low-income-housing-program-compels-building-in-poor-texas-areas.html?_r=0

⁸⁶ <http://www.mysanantonio.com/default/article/Affordable-housing-fenced-into-poor-areas-3500680.php#page-1>

16. Failure to assess the location of new affordable housing near high quality schools.

HUD instructed the State of Texas that, “[S]iting of new affordable housing should also consider whether sites provide ready access to better than average public schools and the AI should address this issue and methods for incentivizing housing locations near schools and in general in areas of higher opportunity.”⁸⁷

The Phase 2 AI acknowledges the importance in locating assisted housing near high performing schools, “[i]n the absence of open choice for schools, school quality (real or perceived) can be a strong driver of housing choice. Higher quality schools usually produce higher priced housing, which generates more tax revenue that can be used for school programming. Lower income households are usually priced out of the highest quality schools.”⁸⁸

Furthermore, the data collected by the State from survey and focus groups also points to schools as one of the largest influences on housing choice and a strong source of NIMBY. Two-thirds of Phase 2 AI survey respondents also noted that schools in minority neighborhoods were inferior.⁸⁹

However, the Phase 2 AI fails to offer any analysis of this issue or identify “methods for incentivizing housing locations near schools and in general in areas of higher opportunity.” The AI proposes no action steps to encourage housing to be developed near high performing schools.

TDHCA has sought to define school quality and provide incentives for proximity to higher performing schools for LIHTC-funded housing through the QAP. But these actions are not discussed in the Phase 2 AI, nor has the State applied this evaluation criteria to locational decisions for other HUD-funded housing activities.

Given the abundance of evidence that school quality has a tremendous impact on housing choice and on residential segregation, the failure of the State to examine data regarding the effects of its housing locational decisions or to identify this as an impediment is a major failing of the Phase 2 AI.⁹⁰

17. Failure to investigate the extent and nature of NIMBY as an impediment.

While acknowledging that focus group members overwhelmingly identified NIMBY as a principal impediment to fair housing, the Phase 2 AI states that it did not undertake a review of the nature or extent of the problem.

NIMBYism and fair housing analysis. NIMBYism is a complicated part of fair housing analysis for two main reasons. First, similar to subtle acts of discrimination, NIMBYism can be difficult to detect because there is no “database” of NIMBY activities. Instead, acts of NIMBYism are largely identified through reports of neighborhood opposition to developments and/or by reviewing community meeting transcripts.⁹¹

⁸⁷ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 4.

⁸⁸ Texas Phase 2 AI, Appendix D, page 6.

⁸⁹ Texas Phase 2 AI, Section III, page 17.

⁹⁰ The Phase 2 AI does discuss Texas School Funding Equalization (Appendix D, page 6) yet concludes it is no solution for school inequality. “In sum, property-wealthy school districts may be supplementing the funding of property-poor districts, but this does little to make the schools more economically or potentially racially or ethnically diverse.”

⁹¹ Texas Phase 2 AI, Appendix E, page 1.

Footnote 2. “2 Because of the number of Texas municipalities, such a review was beyond the scope of the Phase 2 AI.”⁹²

Yet the Phase 2 AI does note in passing that the Phase 1 AI did document and analyze this impediment.

The Phase 1 AI focused on NIMBY activities in the Houston/Galveston area and the Golden Triangle, including several cases in the City of Katy. As documented in the Phase 1 AI, NIMBY opposition in the Hurricane impacted areas manifested in public meetings and the press as resident concern over market rate and affordable multifamily developments in high opportunity areas. Common reasons for opposing such development included potential school overcrowding, concerns about decreases in residential property values and increased traffic and crime. Yet the Phase 1 AI did look at it in specific locations.⁹³

The failure of the Phase 2 AI to measure NIMBY impact in the wake of the Phase 1 AI’s listing it as an impediment is puzzling. The Phase 1 AI was prepared under great time pressures and was produced internally by State staff. The Phase 2 AI took 31 months for consultants to prepare at vastly greater expense.

Further, while the Phase 2 AI correctly notes, “acts of NIMBYism are largely identified through reports of neighborhood opposition to developments and/or by reviewing community meeting transcripts,” the Phase 2 AI fails to mention that given the reliance of most affordable housing development on either 4% or 9% Low Income Housing Tax Credits, many of those hearings actually take place before TDHCA. The State application process for LIHTC requires developers to submit transcripts of other hearings. Therefore, the great majority of the data, which the Phase 2 AI implies is unavailable because it is diffused across many local jurisdictions, can actually be found in own TDHCA’s files.

The Phase 2 AI fails to measure the impact of NIMBYism, to examine its causes, or to evaluate the State policies and interaction of State and local-level policies that foster NIMBYism. The State’s only proposed action is summed up in the Phase 2 AI as follows:

To help combat NIMBYism—in addition to addressing other fair housing impediments—the Phase 1 AI proposed that the state and local governments work to increase awareness of the fair housing claim process through additional literature or placement of a contact about fair housing issues on the state’s website.⁹⁴

While we are bewildered about what this recommendation actually means, we suppose it suggests that the State will produce a brochure and place a link on the State’s website to encourage developers to file fair housing claims based on NIMBY opposition. This is unlikely to effectively address an issue that both State focus groups and State agencies have identified as a principal impediment to fair housing, and clearly reflects the failure to examine the causes of NIMBYism. There is no remedy identified that developers would receive through a compliant process.

The Phase 2 AI fails to adopt, recognize or discuss the substantive HUD recommendations contained in HUD’s letter approving the Phase 1 AI dated May 13, 2011.

It is recommended that the [Phase 2] AI discuss NIMBYism from the perspective of developers who are deterred from building affordable housing in those communities where public opposition is negative about affordable housing. In addressing NIMBYism issues, the State should develop strategies that support elected and appointed officials in ensuring compliance with civil rights laws and avoid acceding to community opposition to the development of affordable housing or to the entry into a neighborhood of residents of that housing, especially when that opposition is based on the race, national origin, familial status or other protected status of the potential residents. Such strategies should include a mechanism for identifying if neighborhood resistance is rooted in the perpetuation of racial and national origin segregation. The State should consider implementing a written policy that specifically addresses subrecipients’ noncompliance with affirmatively furthering fair housing requirements as described above. Such a policy should be included in future written contracts between the state and its subrecipients. The policy should include, at a minimum, the actions that the State will consider to indicate a failure to affirmatively further fair housing, such as those described above, and the actions that the State may take for non-compliance with civil rights laws or for

⁹² Texas Phase 2 AI, Appendix E, page 1.

⁹³ Texas Phase 2 AI, Appendix E, page 1.

⁹⁴ Texas Phase 2 AI, Appendix E, page 2.

failing to affirmatively further fair housing, and requirements for subrecipient jurisdictions to report the actions taken against them and the resolution of those matters.⁹⁵

The State did take one substantive action related to NIMBY through the partial adoption of recommendations of the Texas Sunset Advisory Commission to lower the points awarded to neighborhood organizations in scoring LIHTC developments. However, as we discuss in Section 19 of this document, the effectiveness of this reform has been severely blunted by the increased points awarded, both positive and negative, to State representatives who often reflect the same NIMBY prejudices of their constituents. A number of Texas elected representatives in largely White, non-Hispanic districts have parlayed the authority they have delegated to themselves to effectively block all non-elderly LIHTC developments in their districts in response to local constituent NIMBY attitudes. In essence, the power to use NIMBY to block assisted-housing have largely been transferred from neighborhood associations to elected representatives.

The State's failure to adequately assess NIMBYism and to identify it as an impediment to fair housing choice, coupled with the State's subsequent failure to identify meaningful action steps to address this impediment are a significant defect in the AI, rendering it incomplete and non-compliant.

18. Failure to assess barriers to housing accessibility for persons with disabilities.

The Phase 2 AI omits an impediment and does not include any meaningful action steps to address the inadequate provision of public facilities or to enhance housing accessibility for persons with disabilities. This impediment is merely noted in the Phase 2 AI narrative as a "barrier" but not as an impediment requiring substantive action. The Phase 2 AI proposes no action to address the "barrier" beyond the following:

2.0 Improve housing options for persons with disabilities.

2.1 Work with stakeholders who are knowledgeable about the housing needs of person with disabilities to better understand their various housing and community development challenges.⁹⁶

This is simply educational.

Despite the omission, the Phase 2 AI reports that lack of accessibility in public facilities was prioritized as an impediment by focus groups and survey respondents:

Residents also identified accessibility barriers in their neighborhoods and communities. By far, the most common needed improvements were access to public transportation and accessibility improvements to sidewalks and streets.⁹⁷

The State's focus groups and survey respondents made the case for public facilities such as sidewalks for persons with disabilities. "People with disabilities rely on sidewalks to get around. One would never permit the construction of new housing stock in an area without roads, but housing is permitted in areas with no sidewalks all of the time;"⁹⁸

The State can hardly argue, as it often seeks to do in the case of other impediments, that there is no directly identifiable impediment to fair housing stemming from the lack of sidewalks for persons with disabilities. The absence of sidewalks means a person with a physical disability may not be able to move safely outside their home.

A compliant AI is one in which a jurisdiction examines the nature and extent of the impediment and proposes action steps. In this instance that requires a review of past grant expenditures to examine the number of public facility grants

⁹⁵ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 6.

⁹⁶ Texas Phase 2 AI, Section IX, page 15.

⁹⁷ Texas Phase 2 AI, Section VIII, page 14.

⁹⁸ Texas Phase 2 AI, Section III, page 23.

and the amount expended for sidewalks and other accessible public facilities relative to other activities, a commitment to adjust scoring to prioritize such grants in the future, a survey of subrecipients to determine the quality, extent and need of pedestrian facilities, coordination with the Texas Department of Transportation to make linkages between state and federal highway projects and CDBG public facility grants, etc.

Instead of concrete activities such as these, the State offers vague and non-specific activities such as “work with stakeholders” and “seeking to better understand challenges.” Such non-specific activities will not provide a single linear foot of accessible sidewalks for persons with disabilities.

19. Failure to classify overproduction of elderly only LIHTC developments as an impediment.

LIHTC developers in Texas have shifted, in a number of regions of the state, to submitting applications exclusively for elderly-only multifamily developments. This has occurred in response to widespread opposition from neighborhood organizations, city councils, county commissioners’ courts, and State representatives to LIHTC developments that include families with children among their tenants. Much of the testimony presented in public hearings and considered by the TDHCA board of directors in opposition to family LIHTC developments is based on the burden that family developments are thought to place on local schools and school tax rates.

TDHCA staff acted properly, in our opinion, by proposing a change to the State’s Qualified Allocation Plan that prohibited elderly developments in specific Texas counties to redress the overproduction of elderly-only units. The limited availability of housing tax credits, coupled with the fact the State does not cap the overall amount of tax credits that can be competitively awarded to elderly-only developments, has incentivized developers in some regional markets to emphasize elderly-only over family developments. Developers have publicly acknowledged they have done so in order to secure points for letters of support from local representatives, city councils, and neighborhood organizations who oppose development housing children. Despite the TDHCA board’s approval of the staff’s proposed prohibition of elderly-only developments in a few market areas, we believe that TDHCA should not have further reduced the counties in which the prohibition applies as the agency staff proposed. TDHCA should cap elderly-only overproduction across the board based on a market analysis of the need for family vs elderly developments within each market area in the state.

The State must ensure that the scored objections of neighborhood organizations, city councils, county commissioners’ courts, and State representatives to LIHTC developments is based on a non-discriminatory basis and not accepted without explanation as is the current practice. Certainly no objection based explicitly on a development having members of a protected class among its residents should be the basis for disqualifying a proposed development.

The underlying problem, not acknowledged as such in the Phase 2 AI, is the State Legislature’s prioritization of points for State legislative representative comments, comments by local elected bodies, and neighborhood association comments in the scoring system for LIHTC applications. The level of points awarded State representatives is determinative in a large number of cases in whether a LIHTC development is approved or rejected by the State.

The Phase 2 AI discusses the origin of the provision enacted by the Texas Legislature in 2003 which allocated a high number of points to letters from neighborhood associations, which are often opposed to housing developments. The State identifies the genesis of the law as the opposition of a largely white Houston suburban community to an application by a developer to build a LIHTC development:

Origins of community support requirement in the QAP. Responding to resident opposition to several LIHTC proposals in the City of Katy in 2003, state House legislator Bill Callegari sponsored a bill that changed the QAP calculation to award project points to proposals with community support. In both the 2005 and 2007 legislative sessions, additional weight toward community support was required in the QAP scoring. In the present version of the QAP, community support rewards the second highest number of points among all scoring factors; it is second only to the project’s financial soundness.⁹⁹

The Legislature took action in 2013 that should slightly reduce the impact of neighborhood comments. But the

⁹⁹ Texas Phase 2 AI. Appendix E, page 6.

Legislature also expanded the ability of the State representative in whose district a development is located to object to it and have points deducted from the application's competitive score. The impact of the increased points for State representative opposition is not discussed in the Phase 2 AI.

There is ample evidence that some State representatives actively use the authority over the LIHTC process they have given themselves through State statutes to entirely exclude government-assisted family developments from their districts. For example, see the video of a State legislative hearing on the TDHCA budget in the link footnoted.¹⁰⁰

In 2011 TxLIHIS conducted a study of the negative fair housing impact of elected official awarded points on LIHTC applications and presented it to TDHCA.¹⁰¹ The study found that in a number of instances the points awarded under State statute to elected representatives were the deciding factor in blocking LIHTC family developments from majority White, suburban State legislative districts. No mention of this study is made in the Phase 2 AI.

The Phase 2 AI does contain one proposed action item - that the points for neighborhood opposition be reduced. But the Texas Legislature acted on that recommendation six months before the Phase 2 AI was submitted to HUD. The Phase 2 AI contains no recommendations for actions to deal with the exclusion of family developments from the districts of State legislators who object to these developments.

The overproduction of elderly only LIHTC developments in response to bias against families with children, and often on the basis of race and ethnicity as well, remains widespread and has substantially limited the housing choices of families with children in many regions of Texas. Given their greater need for government-assisted housing this also has a disparate impact on families who are racial and ethnic minorities and families containing one or more persons with disabilities.

The Phase 2 AI should have identified the reduction of housing available to families with children resulting from the State's LIHTC policies and processes and identified NIMBYism as an impediment to fair housing choice. This should have triggered the State to propose meaningful action steps in the Phase 2 AI, including the use of demographic and market data to ensure that the housing needs of families with children are being met in proportion to their need. The Phase 2 AI failed to do so and in consequence it is incomplete and non-compliant.

20. Failure to examine barriers created by the State QAP for LIHTC.

The State's Qualified Allocation Plan for Low Income Housing Tax Credits has a major impact on the availability and location of housing for protected classes. Yet the Phase 2 AI restricts its examination of LIHTC fair housing and AFFH issues to a brief statement on the federal court decision finding that the State's administration of the LIHTC in Dallas illegally discriminated on the basis of race, and two statewide maps showing the location of LIHTC developments with no accompanying analysis.

There are a number of other QAP provisions that constitute barriers to fair housing choice including LIHTC scoring criteria related to school quality, neighborhood quality, neighborhood safety, and the concentration of members of protected classes. None of these provisions are examined in the Phase 2 AI.

21. Failure to identify impediments created by local land use and zoning policies.

The State presents this issue in the Phase 2 AI as follows:

During the interview process as part of the Phase 1 AI, at least one of the interviewees made reference to lot size and zoning as one of the problems for not moving forward with affordable housing.

¹⁰⁰ <http://texashousers.net/2011/06/14/state-rep-riddle-says-she-wants-no-low-income-housing-in-her-district/> Also see: <http://texashousers.net/2013/04/29/riddle-amendment-to-tdhca-sunset-bill-is-ill-conceived-and-discriminatory/> and <http://texashousers.net/2013/04/26/house-passes-amendment-giving-each-state-representative-power-to-choose-or-veto-housing-tax-credit-developments/>

¹⁰¹ <http://texashousers.net/2011/07/01/effect-of-elected-official-letters-on-the-2011-lihtc-round/>

The Phase 1 review of the Golden Triangle found that some communities have no regulations, no building codes and permit through the county rather than a local government. No direct investigation as to the racial impact on the zoning restrictions mentioned was conducted as part of the Phase 1 AI, as it was beyond the scope of the study (e.g., it would have required an in-depth review of the number of permits issued in communities with restrictions on lot sizes and minimum home sizes and analyze the number of racial minorities or persons with disabilities that have built in that community since the restrictions were put in place measured against other nearby communities or the percentage of the existing minority population).

As TDHCA has rebuilt homes in Port Arthur, we have had at least 46 applicants who may have been denied assistance to rebuild their home as their lots were considered to be substandard— most due to the lot being considered too small. The city did in most of the cases look for alternative lots, but at some point when the alternative lots were gone, it increased the cost to the program. Figure V-1 shows the communities that have a minimum lot size equal to or greater than Port Arthur (Sabine Pass, Port Acres, Silsbee, Bridge City, Lumberton).

Another mechanism that has been determined to have potential Fair Housing violations is a minimum square footage for homes. This not only increases costs, but can also bar manufactured housing from a community, both potentially affecting low income persons which can disproportionately [*sic*] impact racial minorities. Several communities have requirements that exceeded the floor plans built in Rounds I and II of Hurricane Rita. The SETRPC program in Ike Round 1 adjusted to meet most communities by increasing their minimum size home for the program. At the time, all but one city would have been included in the 1,300 square foot home. Figure V-2 includes communities with minimum square footages for homes over 1,000 square feet (Groves, Lumberton, Nederland, Port Neches and Taylor Landing).

There may actually not be issues with any of these requirements as long as they do not have the effect of keeping out protected classes including racial minorities and persons with disabilities. If it appears that these local ordinances and restrictions have lessened the number of protected classes from building in communities, the purpose of the requirements would need to be examined by the local community to see if they had a discriminatory affect. Current ordinances and policies in the Gulf Coast have not been reviewed to identify all potential discriminatory issues.¹⁰²

The Phase 2 AI fails to evaluate the impact of local land use and zoning policies like minimum lot and house sizes on members of protected classes, merely acknowledging that they are “potential” impediments and asserting that the responsibility for determining the impact of these practices is limited to the local jurisdiction itself. This is inadequate.

For example, local policies setting minimum lot and house sizes are clearly an impediment to fair housing choice in Southeast Texas.

Port Arthur is a city with a minority majority population surrounded by virtually all white bedroom communities. It is impacted by some of the most severe environmental pollution problems in the country as a result of being surrounded by the largest concentration of petrochemical and hazardous waste facilities in the nation. When non-Hispanic Whites fled Port Arthur to escape deteriorating conditions in the 1980’s, many moved to the virtually all non-Hispanic White, suburban communities which had minimum lot size and minimum house size requirements.¹⁰³

As a result, Port Arthur, located in Jefferson County, along with the adjoining county of Orange, suffer from extreme levels of racial and ethnic residential segregation. Segregated housing patterns exist between virtually all non-Hispanic White, smaller bedroom cities adjacent to or near the larger cities of Beaumont, Port Arthur, and Orange. Examples include all of the cities described in the excerpt from the Phase 2 AI above and especially Bridge City and Groves which are majority non-Hispanic White cities adjacent to Port Arthur.

According to the 2010 U.S. Census, Port Arthur has 53,818 residents. Forty percent (21,694) are African-American, 30 percent (15,917) are Hispanic, and six percent (3,139) are Asian. A majority of the City’s elected officials are people of color. As African-Americans moved out of the West Side into formerly all -non Hispanic White neighborhoods in the city of Port Arthur, White, non-Hispanics moved out to adjacent bedroom communities.

The city of Groves (population 16,181) adjoins the city of Port Arthur to the east and north and has an African-American population of only 2 percent according to the 2010 Census. Bridge City (population 7,840) which is just across the bridge from Port Arthur to the east, has an African-American population of 0 percent. Nederland

¹⁰² Texas Phase 2 AI, Section V, pages 56-57.

¹⁰³ These cities have received funds from the State of Texas under CDBG-DR and the Texas CDBG non-entitlement program.

(population 17,547) adjoins Port Arthur to the north and has an African-American population of 0 percent.

This pattern of extreme residential racial segregation is also found in adjoining Orange County where the city of Vidor (population 10,579, 0 percent African-American) is located two miles east of Beaumont (population 118,296, 47.3 percent African-American) and seven miles west of the city of Orange (population 18,595, 33 percent African-American).

The Phase 2 AI does not recognize the practice of minimum lot or home size as an impediment. The State notes that:

“No direct investigation as to the racial impact on the zoning restrictions mentioned was conducted as part of the Phase 1 AI, as it was beyond the scope of the study...”¹⁰⁴

The State elected in the Phase 2 AI to ask the Stakeholders representing organizations that develop affordable housing if minimum lot size and minimum square footage are impediments. 31% of these Stakeholders identified minimum lot size and 24% identified minimum square footage as impediments. Despite this widespread concern, the State does not identify these restrictions as impediments in the Phase 2 AI.

The agencies administering disaster recovery for the region have identified this impediment in the CDBG-DR program, detailed analysis of fair housing issues in Beaumont, Port Arthur, and Orange conducted by TxLIHIS and Texas Appleseed related to the siting of public housing identifies this impediment, the Stakeholders selected by the State to identify impediments identify this impediment, however, the Phase 2 AI does not identify local land use and zoning policies as an impediment to fair housing choice, rendering the AI incomplete and non-compliant.

22. Failure to identify lack of regional planning and coordination as an impediment.

The situation in Southeast Texas (described above) also demonstrates that a lack of regional planning and coordination is an impediment to fair housing choice in Texas. When individual jurisdictions are monoracial, they simply cannot comply with their obligations to AFFH without a regional fair housing plan and coordinated action.

23. Failure to assess segregation protected populations in substandard housing outside incorporated areas.

The Phase 2 AI identifies several State statutes and rules related to the powers of incorporated jurisdictions and counties to exercise land use, development controls and housing standards. The State analyzes the impact of these statutes and rules narrowly to determine if they have any impact on the cost of housing. The Phase 2 AI analysis fails to consider the impact of these rules in segregating affordable housing for extremely low-income households and members of protected classes. This segregation occurs through State statutes and rules that grant cities but not counties powers to exclude lower quality housing and subdivisions. The phenomena of segregated, substandard and highly impoverished colonias, almost unique to Texas, is produced by the combination of these State statutes and rules.

The Texas Department of Housing and Community Affairs maintains the following description of colonias on the State agency's website:¹⁰⁵

In today's world, Texas Colonias are considered an observable fact. Their beginnings date back to the 1950's. As a response to the reconstruction era, Texans adopted a state constitution to minimize the powers of government. By making counties subdivisions of the state with no home rule powers, Texans guaranteed that no county could take an action or adopt a rule until it is first voted on by the state. Thus, in Texas, all regulatory powers originate with cities and the state. Areas outside city limits are "regulation free zones" until problems become so serious that the entire state is ready to empower a county to deal with them.

¹⁰⁴ Texas Phase 2 AI, Section V, page 56.

¹⁰⁵ <http://www.tdhca.state.tx.us/oci/background.jsp>

These regulatory free zones enabled colonia developers to purchase or own tracts of land with a marginal agricultural value. Some of these tracts were flood prone and drained poorly; some were too hilly to irrigate; some were land with a declining value due to changes in agricultural economics. These developers platted their tracts, bulldozed roads, and sold the undeveloped lots on 10 to 20 year contracts for deed starting anywhere between \$8,000 to \$20,000 at an interest rate of 10% to 17% annually. A contract for deed is an instrument used to sell land. Title to the property is not transferred until the balance is paid in full. ...

A "Colonia," Spanish for neighborhood or community, is a geographic area located within 150 miles of the Texas-Mexico border that has a majority population composed of individuals and families of low and very low income. These families lack safe, sanitary and sound housing and are without basic services such as potable water, adequate sewage systems, drainage, utilities, and paved roads. With living conditions often compared to Third World countries, the colonias present one of the most critical housing needs in the State. Housing in the colonias is primarily constructed with scarce materials. Professional builders are rarely used. Residents frequently start with makeshift structures of wood, cardboard or other materials, and as finances allow they continue to improve their homes.

One developer in the Texas Lower Rio Grande Valley quoted in the Phase 2 AI characterizes the results as follows:

"All cities lack affordable housing for sure, even McAllen; by far the unincorporated areas of the County in the Colonias/ model subdivisions are certainly concentrated areas of very low to moderate income families. The cause? There are multiple reasons and opinions. My opinion is that folks can purchase land in the County without going through conventional loans that they would never qualify for because they have no credit....not BAD credit... NO credit. So, now in the model subdivisions half acre lots are selling for close to \$30,000, owner financed, at about 24-28 percent interest. So consequently, people then construct their own home, or purchase a dilapidated mobile home. Some are under the opinion that this happened because the lots are cheap. I don't call that cheap. While the model subdivisions do have the infrastructure, they are loaded now with substandard housing." (Affordable housing developer and lending focus group)¹⁰⁶

A study of colonias by the Federal Reserve Bank of Dallas, presented on the Texas Secretary of State's "Colonia FAQs" webpage,¹⁰⁷ documents the extremely low incomes of many residents of colonias:

Colonia residents generally have very low incomes. Per capita annual income for all Texas counties bordering Mexico-where most of the colonias are located-tends to be much lower than the state average of \$16,717. In border counties such as Starr, Maverick and Hidalgo, per capita annual incomes in 1994 were \$5,559, \$7,631 and \$8,899, respectively.

According to the Texas Secretary of State's Colonia FAQs webpage there are approximately 400,000 persons living in Texas colonias today. The Texas Secretary of State also reports 35.6% of all colonia residents were born outside the United States. The foreign born percentage of colonia heads of households is actually much greater. The statistic includes the 85 percent of colonia residents who are children and were born in the United States. Colonias contain a far greater concentration of foreign-born persons and persons with limited English proficiency than adjacent incorporated jurisdictions. Colonia residents are concentrated and isolated enclaves of impoverished persons who are explicitly protected under the Fair Housing Act because of their national origin.

The Secretary of State answers the question, "Why do people buy land in colonias?":

A limited supply of adequate, affordable housing in cities and rural areas along the Texas- Mexico border, coupled with the rising need for such housing has contributed to the development of new colonias and the expansion of existing ones. People with low-incomes often buy the lots through a contract for deed, a property financing method whereby developers typically offer a low down payment and low monthly payments but no title to the property until the final payment is made. Houses in colonias are generally constructed in phases by their owners and may lack electricity, plumbing and other basic amenities. Colonia residents build homes as they can afford materials.

Colonias are not simply a border phenomenon in Texas. Colonias have developed outside the municipal boundaries of Dallas, Houston, Austin, San Antonio, and many other Texas cities. Wherever they occur, the growth of colonias in Texas and the widespread effect they have of segregating low-income foreign-born persons can be traced in large part to the effect of State statutes and rules in six areas:

1. Disincentives for municipal annexation of low-income subdivisions and colonias
2. State refusal to permit counties power to adopt and enforce building standards
3. Separate and inferior "colonia housing standards"

¹⁰⁶ Texas Phase 2 AI, Section 4, page 7.

¹⁰⁷ <http://www.sos.state.tx.us/border/colonias/faqs.shtml>

4. State Model Subdivision Rule encourages the segregation of substandard housing in colonias
5. Absence of county zoning and land use authority concentrates substandard housing in colonias
6. Manufactured housing quality regulations concentrate substandard manufactured housing in colonias

1) Disincentives for municipal annexation of low-income subdivisions and colonias

The State of Texas has enacted strong fiscal disincentives that discourage incorporated jurisdictions from annexing adjacent or nearby colonias.

Data and analysis supporting this is presented in the Phase 2 AI:

In Texas, municipalities have little fiscal incentive to annex already-developed lands with below average property tax or low sales tax productivity because they must also provide services to the annexation, and service costs may exceed revenue generated by the annexation. Municipalities generally only annex a low income area to exert land use control or preserve its growth path, and those factors usually must outweigh any adverse fiscal implications of the annexation.

The embedded incentives in Texas' local government fiscal structure have led, in some areas, to low income unincorporated enclaves between or within cities that are often marked with poor drainage and inadequate water and sanitation systems. Examples of urban unincorporated enclaves are the Northridge Acres neighborhood located between Austin and Round Rock and the North Houston and Fresno neighborhoods near Houston.^{4,5} Texas state law requires municipalities to extend urban services to a newly annexed area within 2 years of annexation. If the capital cost of extending water and sewer infrastructure and the ongoing operations cost of water, sewer, police, fire and other urban services outweighs the additional tax revenue produced in the proposed annexation, municipalities often will not annex an area. If a low income area is annexed to preserve the path of growth—as in the case of historic Frenchtown in Houston—oftentimes infrastructure deficiencies can remain until funding is available to address them, which may discourage private investment, economic development and housing stock improvements.

Residents of an unincorporated enclave may petition a neighboring municipality for annexation, but the municipality is under no obligation to annex if its citizens do not approve it in an election. However, if municipalities are able to obtain state or federal funding for infrastructure extension through grants, they may be more apt to annex these enclaves.¹⁰⁸

Phase 2 AI Appendix D, Municipal Public Finance Overview describes seven fiscal impediments to local governments annexing or providing services to subdivisions with lower income populations.

The Texas local government fiscal structure causes fiscal disincentives for municipal support of affordable housing.

Property tax is the largest revenue source for Texas municipalities. Therefore, Texas municipalities have a fiscal disincentive to support construction of housing with the relatively lower property values. It is acknowledged, however, that municipalities need a certain level of revenues to provide public services, and communities with predominantly lower-priced housing will have fewer resources than those with a higher property tax base.

Sales tax is the second largest revenue source for Texas municipalities. There is also a fiscal disincentive to for Texas municipalities to allow housing targeted for lower income residents, as they generally spend less than an average income household does on taxable purchases.

Developing housing in the densities required for affordability may be viewed by Texas municipalities as fiscally unattractive due to the perceived higher service costs associated with dense multifamily development, coupled with lower than average property values.

Currently, many Texas municipalities are recovering from lower than average revenues due to declines in property values and retail sales. This tenuous revenue stability exacerbates municipal aversion to permitting affordable housing development.

There is no fiscal incentive for a municipality to annex lower value residential development. This can lead to unincorporated neighborhoods in urban and rural areas with substandard public infrastructure.¹⁰⁹

Each of these impediments is rooted in State law and fiscal policies. Each could and should be addressed by State action. Yet these impediments are not included as impediments in the Phase 2 AI nor are actions proposed to address their impact on protected classes.

¹⁰⁸ Texas Phase 2 AI, Appendix D, Page 5

¹⁰⁹ Texas Phase 2 AI, Appendix D, page 7.

2) State refusal to permit counties power to adopt and enforce building standards

In its analysis of the impact of State authority for jurisdictions to enact building codes the Phase 2 AI concludes:

The adoption of an internationally recognized building code is a reasonable response to the need to protect public health and safety, and resulting increases in housing costs may be offset by the efficiencies of using a predictable set of building standards across the state. The requirement for a building rehabilitation code or code provisions is a best practice that tends to keep the existing housing stock habitable and extends its useful life. Because much of the nation's affordable housing stock is in older structures, this tends to increase the supply of affordable housing.¹¹⁰

But this "reasonable response" is not extended by the State to counties that are generally prohibited or more restricted from enacting or enforcing building codes. The impact of this State prohibition is not considered in the Phase 2 AI. The Texas Secretary of State reports that substandard housing conditions are widely prevalent in colonias: "Houses in colonias are generally constructed in phases by their owners and may lack electricity, plumbing and other basic amenities."¹¹¹

Legislation proposing to grant counties the power to enact and enforce effective building codes and standards, particularly in areas with large numbers of colonias has been repeatedly defeated.

The inability of counties to protect residents through building codes and the effect this prohibition has in concentrating affordable housing outside of incorporated jurisdictions are not identified as impediments in the Phase 2 AI.

3) Separate and inferior "colonia housing standards"

Texas Administrative Code Title 10, Part 1, Chapter 1, Subchapter A, Rule 1.18 establishes separate and lower housing quality standards for colonias than have generally been adopted under State law in incorporated places. These "colonia housing standards" are also lower than those used by TDHCA in housing programs in areas other than colonias within 150 miles of the US-Mexico border.

The State constructs and rehabilitates housing using the lower colonia housing quality standards in carrying out housing activities with federal and state funds in colonias while adhering to higher housing quality standards and municipal building codes within adjacent incorporated jurisdictions.

The Phase 2 AI examines the State's separate colonia housing standards and concludes:

These standards are intended to ensure the basic habitability of TDHCA projects in very low-income unincorporated communities, most of which were constructed before (or in violation of) county subdivision and building controls. Although very basic, these regulations will tend to make Colonia units more usable by persons with disabilities, as well as safer for families with children. They do not create barriers to fair housing choice.¹¹²

The Phase 2 AI analysis is erroneous. There is no evidence that homes in colonias were generally constructed in violation of county subdivision and building controls. For the most part these homes were constructed in areas where state law precluded, at the time the homes were constructed, the adoption of subdivision standards. State law presently generally prohibits counties from adopting building codes and building standards. Therefore, the homes in colonias are generally not constructed in violation of these codes.

Furthermore, the colonia housing standards do create a barrier to fair housing. They create through State law a concentration of lower quality housing in colonias. This lower quality housing stock ensures that higher quality housing will not be built in colonias for economic reasons. State law in this case directly reenforces the concentration of poorer quality housing in colonias. This in turn segregates extremely low income foreign born households in colonias.

The rule adopted by the State is on its face discriminatory. It reinforces lower housing quality standards in colonias

¹¹⁰ Texas Phase 2 AI, Section V, Page 25.

¹¹¹ <http://www.sos.state.tx.us/border/colonias/faqs.shtml>

¹¹² Texas Phase 2 AI, Section V, page 29.

that segregates low-income households with high percentages of foreign-born persons with limited English proficiency. Under its rule, the State provides a lower level of housing quality to residents of colonias assisted with HUD and State funds. This has a disparate impact on colonia residents based on their national origin.

4) State Model Subdivision Rule encourages the segregation of substandard housing in colonias

Texas Local Government Code Chapter 232 Subchapter B (§232.022, 232.023, and 232.024) provides specialized authority to adopt county platting regulations for areas near the Texas border with Mexico.¹¹³ While on its face well intentioned, this statute has the effect of encouraging the development of lower quality subdivisions (colonias) with massively substandard housing for extremely low-income households outside of incorporated areas along the Texas-Mexico border.

The statute was intended to solve two problems. First, the substandard conditions, lack of water, wastewater, paved streets, and substandard housing produced by the refusal of the State to grant counties in the rapidly growing border region of Texas the ability to impose zoning and land use standards. And second, the failure of State and local officials to provide affordable housing within incorporated areas of the border region.

But the statute has failed to achieve these objectives. The statute permits only a minimal and substandard set of standards (relative to those for municipal subdivisions) for these unincorporated residential subdivisions. The insufficient residential development standards for non-incorporated areas consigns the large and growing population of extremely low-income, disproportionately foreign-born and limited English proficiency households into substandard housing outside of incorporated areas. Adjacent, higher-opportunity incorporated areas, which want to limit the number of impoverished, foreign born persons living within their boundaries, have benefitted from this segregation of affordable housing into the unincorporated colonias.

The Phase 2 AI fails to properly assess this impediment and proposes no action steps to address it.

5) Absence of county zoning and land use authority concentrates substandard housing in colonias

The Phase 2 AI notes that “The State of Texas does not grant zoning authority to counties, with a few exceptions.”¹¹⁴ The Phase 2 AI does not assess the fair housing impact of the State’s failure to grant counties authority to control land uses. The inability of counties to regulate land uses within residential areas such as colonias results in environmental blight and environmental hazards in colonias. The large foreign-born population who reside in colonias are excluded by the high cost of housing from affordable housing within urban areas and forced to reside in colonias with environmental blight and environmental hazards.

6) Manufactured housing regulations concentrate substandard manufactured housing in colonias

The Phase 2 AI discusses several State statutes that permit cities to regulate and restrict certain types of old, obsolete and substandard mobile homes and manufactured housing. The State does not permit counties to exercise these same powers.

Chapter 1201 also grants authority for municipalities to regulate manufactured homes, establishes replacement regulations, requires compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, and establishes transportation standards. Section 1201.252 grants authority for local governmental units to adopt different standards for construction and installation if the new standards is for public health and safety reasons. Section 1201.008 grants municipalities the authority to prohibit mobile homes (as opposed to manufactured homes) from being used as a residential dwelling.¹¹⁵

The Phase 2 AI observes:

the public health and safety benefits of requiring manufactured housing to meet federal safety standards is generally considered to outweigh the value of making these now-very-old units available to the public. Interestingly, Texas counties

¹¹³ Texas Phase 2 AI, Section V, page 6-12.

¹¹⁴ Texas Phase 2 AI, Section V, page 13.

¹¹⁵ Texas Phase 2 AI, Section V, pages 15-16.

(as opposed to cities) do not have the ability to prevent the use of pre-HUD mobile homes as residences.¹¹⁶

The Phase 2 AI fails to assess the fair housing impact of permitting municipalities to regulate manufactured housing conditions while prohibiting counties from doing so. This distinction between incorporated jurisdiction vs. county powers drives impoverished persons to seek lower priced, substandard mobile homes and manufactured housing in unincorporated and substandard colonias.

In many, and arguably most colonias the largest housing type available are pre-HUD code and substandard, secondhand manufactured housing. TxLIHIS has created a slideshow illustrating the substandard housing provided by unregulated mobile homes and manufactured housing permitted under the statute in South Texas colonias.¹¹⁷

The Phase 2 AI fails to analyze the impact of permitting municipalities to prohibit substandard mobile homes and manufactured housing and to enforce standards for the quality of this housing while denying counties similar authority.

24. Failure to properly assess impact of State zoning laws on protected classes in homeless shelters.

The Phase 2 AI presents the following analysis of the fair housing impact of a State statute regarding local jurisdictions' use of zoning to restrict the location of homeless shelters:

This statute requires a city that has chosen not to adopt zoning to impose zoning-like controls over homeless shelters (which could limit the availability of that housing), but then provides that the city may "consent" to exceptions to the spacing requirements (which could limit the impact of the restriction). Nevertheless, since homeless individuals are not an FHAA-protected group, this does not constitute a clear violation of the FHAA, but in a given area or locale other factors may lead to the homeless population having a high level of overlap with one or more protected classes, such as in communities where significant numbers of persons exiting certain facilities become a large component of that area's homeless population.

Texas Local Government Code Sections 244.021 through .023 includes spacing and locational requirements for homeless shelters, but only applies to cities with a population over 1.6 million — i.e. to Houston, the one large city in Texas that has chosen not to exercise its option to adopt zoning controls.¹¹⁸

The Phase 2 AI fails to recognize the disparate impact of this zoning statute. According to *HUD's 2010 Annual Homeless Assessment Report to Congress*, 58 percent of the persons sheltered in emergency or transitional housing are members of a minority group and 37 percent have a disability (significantly above the general population)¹¹⁹

25. Failure to assess the State ban on inclusionary zoning as an impediment.

In 2005 the Texas Legislature passed legislation prohibiting Texas cities from enacting inclusionary zoning ordinances. The legislation drew widespread opposition from Texas affordable housing and fair housing advocates.

The Phase 2 AI provides the following analysis of the statute:

These statutes remove local government tools that are used in many communities to increase the supply of housing for low-income groups (commonly called "inclusionary zoning."). Their impacts on FHAA-protected groups should be equal except

¹¹⁶ Texas Phase 2 AI, Section V, page 16.

¹¹⁷ <http://texashousers.net/2011/07/31/colonia-improvements-still-leave-poor-in-deplorable-housing/>

¹¹⁸ Texas Phase 2 AI, Section V, page 24.

¹¹⁹ HUD's 2010 Annual Homeless Assessment Report to Congress, reported at: http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2011/HUDNo.11-121

in cases where a nexus exists between affordability and protected class. Although creating a barrier to affordable housing, these statutes do not directly create a barrier to fair housing choice.¹²⁰

There is a clear relationship between African-American and Hispanic households, poverty, and high housing cost burden.¹²¹ In the words of the Phase 2 AI, “a nexus exists between affordability and protected class”. The Phase 2 AI is clearly wrong in concluding, “[a]lthough creating a barrier to affordable housing, these statutes do not directly create a barrier to fair housing choice.” It is not only facially discriminatory policies that create impediments to fair housing choice, it is also actions, omissions or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of protected class status.

Inclusionary zoning is one of the principal tools used by communities across the country to integrate affordable housing into market rate housing developments and produce residential integration. Texas is one of only two states in the country that outlaws inclusionary zoning.

The Legislature’s enactment of a law in 2005 prohibiting Texas cities from adopting inclusionary zoning is a clear and important impediment to fair housing choice that is not identified in the Phase 2 AI.

26. Failure to include appropriate action steps to overcome the segregation of Housing Choice Vouchers.

The Section 8 Housing Choice Voucher Program offers voucher holders the opportunity to exercise fair housing choice in their selection of rental housing. That opportunity can be frustrated, however, if the maximum permitted voucher rent is set (by the public housing authority) so low that the only housing available is in high poverty, racially segregated, low opportunity neighborhoods. The Phase 2 AI notes that hyper segregation of assisted housing is present, for example, in the Dallas area.

An analysis of HUD’s most recent data on subsidized units for this AI found very similar trends: 1.1 percent of HUD-assisted units are in White, non-Hispanic Census tracts and just 20 percent of these units are occupied by minorities. Twenty-six percent of HUD-assisted housing is in White, non-Hispanic Census tracts and 96 percent of these units are occupied by minority households.¹²²

The Phase 2 AI also provides a useful series of maps of major Texas urban areas showing rent levels and areas of minority concentration. The maps indicate that the use of area FMRs instead of ZIP code level FMRs in cities beyond Dallas is also an impediment to fair housing. The State concludes:

Figures II-33 through II-39 in Section II. Housing Market confirm that ZIP code level FMRs would provide more options for Section 8 voucher holders to live affordably, particular [sic] in suburban locations. This impediment is mostly prevalent in large urban areas where affordability of housing can vary considerably by ZIP code. Impediment No. 7 in the Phase 2 AI concerns barriers created by lack of affordable housing.¹²³

Unfortunately, despite what the State writes in the Phase 2 AI, there is no Impediment 7 addressing this issue.¹²⁴ There are only six impediments in the Phase 2 AI.

The FHPG states clearly, “[c]onclusions require appropriate actions by the jurisdiction to assist in eliminating such

¹²⁰ Texas Phase 2 AI, Section V, pages 48-49.

¹²¹ This is also true for other protected classes, including families with children (in particular female-headed households) and persons with disabilities.

¹²² Texas Phase 2 AI, Section II, page 32.

¹²³ Texas Phase 2 AI, Section VIII, page 19.

¹²⁴ The Impediments in the Phase 2 AI are found in Section VIII, pages 4-17.

problems.”¹²⁵ Having documented this impediment to fair housing choice, the Phase 2 AI does not actually declare it an impediment or propose any action to address it. There is no analysis of other factors that might contribute to the segregation of HCV holders, for example, whether landlords refusal to accept vouchers is a proxy for racial discrimination or discrimination against families with children.

27. Failure to examine impediments created by State statutes regulating public housing authorities.

The Phase 2 AI fails to examine the State law governing the operation of public housing authorities except to note:

Local Government Code Chapter 392 outlines requirements for housing authorities established by municipalities and counties. The operation of these authorities are subject to all requirements of federal law, including the FHAA and the Americans with Disabilities Act, and their general intent is to increase the supply of affordable, habitable housing. A preliminary review of these enabling acts has not identified any provisions creating barriers to free housing choice for FHAA-protected persons.¹²⁶

The State’s “preliminary review” of the Texas enabling acts failed to identify a number of important impediments within the statute. A partial list is presented below.

Sec. 392.005 of the Local Government Code grants housing authorities a tax exemption, but provides:

(b) If a municipality, county, or political subdivision furnishes improvements, services, or facilities for a housing project, an authority may, in lieu of paying taxes or special assessments, agree to reimburse in payments to the municipality, county, or political subdivision an amount not greater than the estimated cost to the municipality, county, or political subdivision for the improvements, services, or facilities.

If housing authorities were accorded a tax exemption without the imposition of an “in lieu” payment, as are some private non-profit organizations providing affordable housing, then housing authorities would retain funds which would allow them to maintain existing housing to higher housing quality standards, to avoid the reduction of public housing stock, and to operate housing mobility programs for their tenants. It would also increase the financial resources necessary to allow public housing authorities to acquire sites for assisted housing in higher cost, lower poverty, less racially and ethnically segregated neighborhoods.

Sec. 392.011, Sec. 392.012, and Sec. 395.013 of the Local Government Code govern how and where public housing authorities are created and where they can provide housing at the municipal, county and regional levels. A large number of the 254 counties in Texas are not served by a housing authority. A large number of Texas cities are also not served by a housing authority. In recent years a number of housing authorities have ceased operation, leaving residents in these areas without access to assisted housing and rent vouchers. Few regional housing authorities exist in Texas despite their potential to expand regional fair housing opportunities. The State does not recognize in the statute the value of regionalized public housing authorities. Changes in the State statute would permit the regionalization of PHAs to increase the access of protected classes to affordable housing and permit public housing residents, who are largely made up of classes of persons protected under the Fair Housing Act; to more easily obtain housing in less segregated communities.

Sec. 392.014 defines the geographic area of operation of a public housing authority. It defines the area of operation of a municipal housing authority as the municipality for which the authority is created and the area that is within five miles of the territorial boundaries of the municipality and is not within the territorial boundaries of another municipality. An amendment to this statute increasing the area of operation of housing authorities would remove a significant impediment to fair housing by enabling housing authorities to provide housing within jurisdictions that do not have a local public housing authority (which are principally largely white suburban areas surrounding larger cities with much greater minority populations).

Sec. 392.017 similarly restricts county housing authorities from providing housing within an incorporated area of the

¹²⁵ HUD FHPG, Section 2, page 29.

¹²⁶ Texas Phase 2 AI, Section V, pages 50-51.

county unless a resolution is adopted by the governing body of the municipality and by the housing authority authorized to exercise its powers exclusively in the municipality. Like the previous recommendation, a statutory change lifting the restriction on where housing authorities can provide housing would permit lower-income persons, who are largely members of protected classes, to reside in jurisdictions not served by housing authorities or any other form of assisted housing. If a local jurisdiction wished to directly assume responsibility for the operations of a housing authority within their jurisdiction it could do so by creating a municipal housing authority.

Sec. 392.053 creates a process that allows NIMBYism to have a significant impact on the siting of assisted housing. This statute mandates that any housing authority activity,

...that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity may not be developed unless:

...the commissioners of an authority hold a public meeting about a proposed housing project before the site for the project is approved, the authority may not authorize the construction of the housing project or obtain a permit, certificate, or other authorization required by a municipality or other political subdivision for any part of the construction of the housing project. A majority of the commissioners must attend the public meeting.

(c) The commissioners shall hold the meeting at the closest available facility to the site of the proposed project.

(d) The commissioners shall allow a person who owns or leases real property within one-fourth mile of the proposed site to comment on the proposed project.

(e) If a housing authority has not complied with the requirements of this section and Section 392.054, a municipality or other political subdivision may not issue a permit, certificate, or other authorization for any part of the construction of, or for the occupancy of, a housing project.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Our conversations with housing authority officials across Texas and the testimony of those officials before the TDHCA board, shows that Sec. 392.053 is a political hurdle that is often difficult to overcome and an impediment that prevents the acquisition of affordable housing sites outside low-income, high poverty, and racially segregated communities.

The statute actually goes further by requiring a housing authority to paint a "scarlet letter" on any proposed affordable housing site.

Sec. 392.054. NOTICE OF PUBLIC MEETING. (a) In addition to any other notice required by law, the commissioners of an authority shall post notice of the date, hour, place, and subject of a meeting required by Section 392.053. The notice must be posted before the 30th day before the date of the meeting on a bulletin board at a place convenient to the public in:

(1) the county courthouse of the county in which the proposed site is located; and

(2) the city hall of the municipality in which the proposed site is located, if applicable.

(b) Before the 30th day before the date of the meeting, the commissioners shall publish a copy of the notice required by Subsection (a) in a newspaper with, or in newspapers that collectively have, general circulation in the county in which the proposed project is located.

(c) Before the 30th day before the date of the meeting, the commissioners shall mail a notice containing the same information as the notice required by Subsection (a) to each person who owns real property within one-fourth mile of the site of the proposed project. The commissioners may rely on the most recent county tax roll for the names and addresses of the owners.

(d) At a location at the proposed site that is visible from a regularly traveled thoroughfare, before the 30th day before the date of the meeting the commissioners shall post a sign not less than four feet by four feet with a caption stating "Site of Proposed Housing Project" in eight-inch letters. The sign must state the nature and location of the proposed project, the names and addresses of the governmental entities involved in the development of the project, and the date, time, and place of the meeting.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

These State statutes all have an obvious and significant impact on the availability of fair housing choice. Their omission from the Phase 2 AI coupled with the Phase 2 AI's assertion that, "The State's 'preliminary review' of the State enabling acts [concerning public housing authorities] failed to identify impediments within the State statute" is a serious deficiency in the AI that renders it substantially incomplete.

The Phase 2 AI also fails to evaluate the statute governing the operation of the Texas Department of Housing and Community Affairs as a public housing authority administering Housing Choice Vouchers. An amendment to that statute could direct TDHCA to serve as a “balance of state housing authority” to preserve Housing Choice Vouchers in areas where local housing authorities do not exist or where housing authorities have ceased operation. TDHCA arguably has the authority to undertake this function now but, absent a State statutory mandate to do so, has elected not to fill this role.

28. Failure to assess the lack of State and local authority to transfer public property for affordable housing.

The Phase 2 AI notes that:

The manner in which public property is disposed can help remove barriers to housing if the criteria for disposal require that those needs be taken into account when negotiating sales terms and selecting purchasers for the property. Texas Local Government Code Chapter 253 authorizes municipalities to sell land to a nonprofit organization that develops housing for low-income individuals and may also determine qualification standards for low-income housing based on median individual and family income.

Section 253.010 potentially increases the supply of housing for lower-income groups, which could reduce barriers to fair housing choice by improving affordability for certain protected classes.¹²⁷

The State Phase 2 AI is correct that the sale of public property for affordable housing sites could remove barriers to housing if criteria for disposal of public property required that affordable housing needs were considered when property was sold. But the State statute does not require this and the Phase 2 AI does not recommend it as an action step or as a “Best Practice in Zoning and Land Use.”¹²⁸

Further, based on the statutes presented in the Phase 2 AI it appears there is no corresponding statute permitting the State itself to discount surplus land sales for affordable housing, much less require that the State be required to consider the land for affordable housing needs prior to selling it for other purposes.

Having identified a potential appropriate action to AFFH, once again the Phase 2 AI fails to follow through by recommending that it be carried out.

29. Failure to adequately assess discrimination in the homeowner insurance industry.

In 2003 the State of Texas AI identified discrimination in the homeowner insurance industry as an impediment to fair housing choice. The finding was based on a survey conducted by the Texas Commission on Human Rights in racially concentrated areas. The 2003 AI found that:

Discrimination exists in the homeowner insurance industry. The Texas Commission on Human Rights conducted an analysis of the disparity in housing, real estate, and insurance for home owners in racially concentrated areas. The survey utilized a questionnaire designed to solicit information about the types of insurance companies, types of policies, rate premiums and coverage. A minimum of 25 homeowners were interviewed within each targeted neighborhood. The survey identified, by ZIP code, the names of insurance companies, the types of insurance, the rate premiums and the types of policies provided.

The survey analysis found that:

- Neighborhoods in targeted cities that are predominantly composed of minority homeowners are primarily served by the non-regulated insurance industry such as surplus line companies.
- Homeowners in predominantly minority neighborhoods pay higher rates charged by non-regulated companies for less coverage.

¹²⁷ Texas Phase 2 AI, Section V, page 47.

¹²⁸ Texas Phase 2 AI, Section V, pages 58-60.

- Certain criteria included in underwriting guidelines may not always relate to clearly defined risk factors.
- Certain non-regulated insurance companies or their agents doing business in predominantly minority neighborhoods have a financial interest in premium finance companies which advance the cost of homeowner insurance premiums.
- Non-regulated insurance companies doing business in predominantly minority neighborhoods will sometimes cancel policies without proper notification to the homeowner.
- Some non-regulated insurance companies doing business in predominantly minority neighborhoods limit the amount of coverage provided homeowners based on location without regard to the condition of the property.¹²⁹

The Phase 2 AI includes the 2003 AI findings as an appendix but fails to address the Texas Commission of Human Rights findings or homeowner's insurance in any substantive manner. Since this was one of only eight impediments in the State's previous AI the failure to follow up or investigate insurance redlining is a glaring omission. The likelihood that homeowner's insurance is a significant impediment to fair housing, particularly for people of color, is made clear in recent revelations regarding racist emails¹³⁰ between officials of the State administered Texas Windstorm Insurance Association (TWIA), the state's insurer of last resort for wind and hail coverage in the fourteen coastal counties and parts of Harris County.

According to the Austin American-Stateman, "Many of the emails are crude or offensive jokes or anti-immigrant "petitions," sent to and from high-ranking TWIA officials in 2008 and 2009."¹³¹

The Phase 2 AI also found that information about homeowner's and renter's insurance was not available to persons with limited English proficiency:

No fair housing concerns were found in the review of insurance regulations. Of note is that state law requires consumer information related to automobile insurance to be provided in Spanish. A similar requirement could not be found for residential property insurance. Such a requirement would be a proactive step in helping the state's residents with limited English better understand the reasons for and provisions of carrying homeowners' and renters' insurance.¹³²

The apparent contradiction between the State of Texas 2003 AI which listed, "[d]iscrimination exists in the homeowner insurance industry" as Impediment 7,¹³³ the Phase 1 AI (2011) which listed, "[m]inority neighborhoods in disaster areas are primarily served by non-regulated insurance companies that do not adhere to underwriting guidelines and may be discriminated against in the provision of insurance," as Impediment 15,¹³⁴ and the Phase 2 AI's conclusion that, "[n]o fair housing concerns were found in the review of insurance regulations" requires an explanation that the Phase 2 AI does not offer. Even if the latter assertion seeks to make a distinction between the unlawful practices of the insurance industry and the statute, it is important to note that the State regulates the industry. If unlawful discrimination is taking place under the operation of the Texas Department of Insurance the underlying statute must have a defect that permits these practices to go on.

Until this year, Texas had the highest homeowner insurance premiums in the nation¹³⁵. In the aftermath of Hurricanes Rita, Dolly, and Ike it was discovered that a large majority of racial and ethnic minority homeowners, particularly those living in lower-income and racially/ethnically segregated neighborhoods that were often more vulnerable to storm impacts like flooding, were either un-insured or underinsured. Federal CDBG-DR funds are often necessary to help these homeowners rebuild their homes. The combined federal assistance from CDBG-DR received by the State of Texas exceeds \$3.5 billion. The cost of insurance discrimination is potentially high for both the families involved and

¹²⁹ State of Texas Analysis of Impediments to Fair Housing, 2003, reproduced in Texas Phase 2 AI, Appendix A, pages 3-4.

¹³⁰ See, m.statesman.com/news/news/state-regional/offensive-emails-show-culture-of-racism-in-quasi-s/nCHD6/

¹³¹ <http://www.statesman.com/news/news/state-regional/offensive-emails-show-culture-of-racism-in-quasi-s/nCHD6/>

¹³² Texas Phase 2 AI,, Section VII, page 5.

¹³³ Cited in the Texas Phase 2 AI, Appendix A, page 3.

¹³⁴ Cited in the Texas Phase 2 AI, Appendix A, page 7.

¹³⁵ Texas has now dropped to the second most expensive state.

the federal government. For the Phase 2 AI to simply ignore this impediment renders it incomplete and non-compliant.

30. Failure to undertake a proper mortgage lending analysis, identify impediments and action steps.

The Phase 2 AI documents loan rejection rates and subprime lending rates for Hispanics and African-Americans that are among the worst in the nation. However, the six action steps included propose no additional legal enforcement or testing and instead rely exclusively on providing information and education to borrowers.¹³⁶

According to the 2010 HMDA data, there were approximately 31,000 subprime loans in Texas— 7 percent of all originated loans. By comparison, in the United States as a whole, only 3 percent of all originated loans were subprime. Figure VII-7 on page 10 displays subprime rates by state/territory for the United States in order of highest subprime rate to lowest. Texas had the sixth highest subprime rate. Overall, 14 percent of subprime loans originated in the U.S. in 2010 went to Texas borrowers, compared to 6 percent of all originated loans. Texas' share of subprime loans was almost three times the share of California.¹³⁷

The Phase 2 AI's discussion of mortgage lending¹³⁸ also fails to examine the impact of the reliance of lower-income households in Texas on three of the most common types of subprime and predatory lending: contract for deed, deed in lieu of sale, and payday lending.

These subprime lending products were among the major issues before the 2013 session of the Texas Legislature and have been extensively covered in statewide news accounts. A number of major Texas cities have examined the impact of payday loan products on low-income and minority populations, and have passed local ordinances restricting some of the most egregious provisions of these loan contracts. The State legislature, however, failed to pass meaningful payday lending reform in the 2013 session, and is under intense pressure to preempt local regulation of these subprime loan products.

Focus group members in the Phase 2 AI repeatedly mention these forms of predatory lending as impediments to fair housing choice. The Phase 2 AI, however, never considers the impact of these particular forms of subprime lending, identifies their prevalence as an impediment or proposes action steps to address it.

This is an essential component of a compliant AI. The Phase 2 AI presents an inadequate analysis and fails to properly identify impediments or propose appropriate action steps.

31. Failure to adequately assess the impact of environmental issues as impediments.

HUD's May 2011 letter accepting the State's Phase 1 AI described the State's Phase 1 AI discussion of environmental issues as "limited" and recommended that it be expanded.

There are environmental issues discussed in the AI, such as pollutants from refineries in minority impacted neighborhoods; but the discussion is limited and could be expanded with useful solutions and recommendations for addressing the problems that have been identified.¹³⁹

¹³⁶ Texas Phase 2 AI, Section IX, page 16. We note again that many of these discriminatory policies and practices are at a systemic level that are invisible to the individual borrower.

¹³⁷ Texas Phase 2 AI, Section VII, page 11.

¹³⁸ Texas Phase 2 AI, Section VII.

¹³⁹ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, page 4.

The Phase 2 AI describes the environmental inequality analysis it presents as follows:

This portion of the housing analysis examines the relationship between land parcels with environmental issues and location of protected classes and affordable housing. There are four types of hazardous and industrial waste that may contribute to environmental issues: hazardous waste, industrial waste, municipal solid waste and universal waste. The following maps focus on hazardous, industrial and municipal solid waste sites, which are considered the “worst of the worst.”¹⁴⁰

The State’s analysis largely consists of two statewide maps showing waste sites as defined above. The first map shows the location of waste sites overlaid on areas of extreme poverty and the second map shows waste sites overlaid on minority majority census tracts.¹⁴¹ The Phase 2 AI environmental inequality analysis consists of the following statements:

Of the 1,251 waste sites in Texas, only 3 percent are located in minority poverty Census tracts. That is, the waste sites are not disproportionately concentrated in areas of minority poverty.¹⁴²

The Phase 2 AI provided an even more limited discussion of environmental issues and fair housing than the Phase 1 AI. Further, the State did not act on HUD’s suggestion that it provide solutions and recommendations. The Phase 2 AI in fact avoided the problem by not discussing or identifying any environmental issues related to fair housing in Texas beyond presenting the two statewide maps. The total extent of the State’s analysis is to quote one paragraph from the Phase 1 AI about a refinery in Beaumont along with this sentence:

The map, however, does not reveal some of the housing challenges related to environmental issues.¹⁴³

The Phase 2 AI analysis of environmental inequality (or environmental racism) is inadequate and draws erroneous conclusions.

First, the data examined is insufficient. The State fails to examine a great number of environmental factors. The State has elected to only examine Texas Commission for Environmental Quality identified sites and to ignore certain EPA identified sites. The Phase 2 AI appears to have not considered the following: 1) Emissions and Generation Resource Integrated Database (eGRID) – Emissions data from power generation sites, like coal burning power plants; 2) Sites EPA tracks, government properties, superfund sites, active permitted polluters, etc.; 3) TRI by county;¹⁴⁴ 3) Air Facility System, which has all plants and sites that report to the EPA for air quality, testing, permitting, etc.¹⁴⁵

Second, the State fails to properly examine even that data. The scale of the maps presented (statewide) in the Phase 2 AI renders them useless for drawing any conclusions.

Third, the Phase 2 AI fails to examine published governmental and private source reports and findings that document the widespread disproportionate exposure of minority majority populations in Texas to environmental hazards.

To assess the impact of environmental hazards on concentrations of protected classes would have required the State to use the appropriate data and produce maps at a larger scale.

Prompted by HUD’s May 13, 2011 direction to the State to examine environmental issues in more depth we undertook our own brief examination of the exposure of ethnic and racial minority populations in a few Texas coastal communities. We used State and EPA data sources to examine the proximity of African-American and Hispanic populations to environmental hazards in the Houston area. As can be clearly seen in the Houston area maps TxLIHIS

¹⁴⁰ Texas Phase 2 AI, Section 2, page 39.

¹⁴¹ Texas Phase 2 AI, Section 2, page 40.

¹⁴² Texas Phase 2 AI, Section 2, page 39.

¹⁴³ Texas Phase 2 AI, Section 2, page 39.

¹⁴⁴ <http://www.epa.gov/enviro/facts/tri/search.html>

¹⁴⁵ <http://www.epa.gov/enviro/facts/afs/search.html>

produced,¹⁴⁶ had the State undertake a more thorough environmental inequality analysis a clear conclusion would emerge that census tracts with high levels of racial and ethnic minority segregation are vastly more exposed to environmental hazards than are areas with predominately white, non-Hispanic populations. This is a clear impediment to fair housing that requires State action to address.

We also examined proximity of LIHTC housing developments approved and financed by TDHCA in Texas coastal communities to determine their proximity to environmental hazards.¹⁴⁷ The areas examined were: Port Arthur, Beaumont, Orange, Texas City, Corpus Christi, and Gulf Coast Counties.

Our proximity analysis of State funded affordable housing developments in these communities found:

Chemical Manufacturing NAICS code plants:

52 LIHTC properties are located within a mile, and of these
7 LIHTC properties are located within half a mile

Fossil Fuel Electric Power Generation NAICS code plants:

5 LIHTC properties are located within a mile of these, and of these
3 LIHTC properties are located within half a mile

Hazardous Waste Treatment and Disposal NAICS code plants:

2 LIHTC properties are located within a mile

Lead Smelting NAICS code plants:

2 LIHTC properties are located within a mile of these, and from these

Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing NAICS code plants:

1 LIHTC properties are located within a mile of these

Petroleum and Coal Products Manufacturing NAICS code plants in Texas:

45 LIHTC properties are located within a mile of these, and of these
7 LIHTC properties are located within half a mile

6 LIHTC properties are located within n 2 miles of TCEQ permitted radioactive sites

98 LIHTC properties are located within 0.5 miles of TCEQ permitted wastewater outfalls

352 LIHTC properties are located within 1 mile of TCEQ permitted wastewater outfalls

829 LIHTC properties are located within 2 miles of TCEQ permitted wastewater outfalls

11 LIHTC properties are located within 0.5 miles of permitted industrial hazardous waste sites

37 LIHTC properties are located within 1 mile of permitted industrial hazardous waste sites

145 LIHTC properties are located within within 2 miles of permitted industrial hazardous waste sites

An analysis of the disproportionate proximity of members of protected classes to environmental hazards is an essential component of a compliant AI. The data presented in the Phase 2 AI and the analysis of that data is incomplete, insufficient and fails and draws incorrect conclusions.

The Phase 2 AI also fails to follow HUD's specific instructions.

The Phase II AI should address impediments for those communities where environmental issues are a concern for impacted areas. Jurisdictions may consider apportioning a certain percentage of CDBG funds yearly to those communities to mitigate the problem or help provide funding, possibly in the form of housing choice vouchers, for those who may want to move

¹⁴⁶ <http://texashousers.net/2013/11/26/where-are-environmental-hazards-and-air-pollution-in-houston-just-find-a-low-income-minority-neighborhood/>

¹⁴⁷ Environmental Justice Data and Analyses, Texas Low Income Housing Information Service, July 11, 2013

because of the health hazards that have been created in the area but cannot afford to do so.¹⁴⁸

Port Arthur, again, is an outstanding example of the links between racial segregation and exposure to environmental hazards. The West Side of Port Arthur, surrounded on three sides by hazardous environmental uses including the largest refinery in the country, was the designated African-American neighborhood under *de jure* segregation. Similarly, the housing closest to the fence lines of major refineries in Texas City and Corpus Christi is overwhelmingly occupied by racial and ethnic minority households.

The failure to identify these impediments and identify meaningful actions to address them renders the Phase 2 AI incomplete and non-compliant.

32. Failure to analyze and propose action steps to address racially exclusionary conditions in Sundown Towns.

In its letter approving the Texas Phase 1 AI, HUD directed the State to undertake a more detailed analysis of Sundown towns:¹⁴⁹

In reviewing the comprehensive Phase I AI for the State, this Office recommends additional items for the State to consider when developing the Phase II AI. It is recommended that the AI discuss more fully the issue of "sundown towns" within the state. Vidor, Texas, may not be the only town in the state that Black individuals and people of color perceive to avoid as a place to reside or even enter once the sun goes down. It is recommended that an analysis be conducted to identify what other towns, in addition to Vidor, Texas, may have the same reputation for excluding minorities. An analysis of policies and statutes for these particular cities, towns, or localities which perpetuate discrimination and discourage minorities from wanting to live, visit, or open businesses in these communities should be conducted and the State should identify strategies, including testing, that may identify potential discriminatory practices.¹⁵⁰

The Texas Phase 2 AI contains a short description of the phenomena of Sundown Towns. These are all-white cities with a history of intimidation designed to exclude African-Americans (and often other racial and ethnic minorities). The AI discussion reports the existence of, but does not name the 39 such communities in Texas. The Phase 1 AI provides a brief description of the Vidor public housing desegregation failure as an example.

The State has failed to produce the analysis of policies and statutes relating to Sundown towns that HUD requested. The Phase 2 AI also fails to "identify strategies, including testing, that may identify potential discriminatory practices".¹⁵¹

Despite the discussion of Sundown Towns in relation to the provision of assisted housing, the Phase 2 AI does not acknowledge the existence of these all white communities with violent and racist histories as an impediment to fair housing choice nor propose any action steps to overcome this legacy of segregation.¹⁵²

¹⁴⁸ Ibid, page 6.

¹⁴⁹ Texas Phase 2 AI, Appendix E, pages 8-9.

¹⁵⁰ Letter from Gary L. Sweeney, Director, Fort Worth Office of fair Housing and Equal Opportunity, Region VI, United States Department of Housing and Community Affairs, to Kevin Hamby, Senior Counsel, Texas Department of Housing and Community Affairs, dated May 13, 2011, pages 5-6.

¹⁵¹ Ibid, pages 5-6.

¹⁵² TxLIHIS and Appleseed have written three detailed reports on three cities that are affected by their proximity to former Sundown Towns. https://www.dropbox.com/s/phbtzlovfno3c8f/Beaumont_report_final.pdf
https://www.dropbox.com/s/lgqng17r9lxd4d5/Orange_report_final.pdf
https://www.dropbox.com/s/225mp8i1a2nt82c/Port%20Arthur%20Fair%20Housing_final.pdf

33. Failure to assess implementation of the fair housing Conciliation Agreement.

The Conciliation Agreement signed by the State of Texas in May 2010 included a provision requiring the State of Texas to conduct a new AI. The State's lack of a compliant AI was one of the issues raised by the Fair Housing complaint that resulted in the Conciliation Agreement.¹⁵³

It is important to highlight the legal complaint that led to the completion of both the Phase 1 and Phase 2 AIs: Texas Low Income Housing Information Service and Texas Appleseed v. The State of Texas et al. The complaint alleged that the state violated the FFHA in administration of its federal housing and community development funds by 1) making housing unavailable on the basis of race, color and national origin; 2) discriminated in the terms, conditions or privileges of sale or rental and in provision of services or facilities because of race, color and national origin; and 3) failed in its obligation to affirmatively further fair housing. The complaint resulted in a conciliation agreement which requires, among other things an updating of the Texas AI, in two phases, of which this is [sic] the second, training to recipients of federal housing and community development funds and specific methods for distributing disaster recovery funds.¹⁵⁴

Having entered into an agreement to carry out a number of significant activities to AFFH related to the \$3 billion CDBG disaster recovery program, the State does not analyze nor report on its progress in any of these activities in the Phase 2 AI. This is insufficient under the standard set out in the FHPG.

If HUD has placed contract conditions on grants or loans awarded to the jurisdiction, or denied funding because of evidence of a violation of one or more applicable civil rights laws, has the jurisdiction taken all the steps required to meet the stipulations in these contract conditions or to remove the basis for funding denial?¹⁵⁵

Having entered into a Conciliation Agreement, the State must demonstrate in the Phase 2 AI that it has complied with that agreement. The following is a partial list of fair housing specific provisions in the Conciliation Agreement that should be addressed.

- Provide mandatory training to Recipients on AFFH and civil rights compliance.
- Upon HUD's acceptance of phase 1 of the updated AI, TDHCA and TDRA shall conduct additional mandatory training with respect to Hurricane Recovery Funds to review with Recipients the impediments identified in phase 1 of the updated AI, to provide guidance and assistance on how to use phase I of the updated AI to inform their recovery activities regarding The Hurricanes, to help prepare them to carry out their responsibilities to AFFH, and to prepare them to meet their compliance requirements in administering their Programs in a manner consistent with this Agreement.
- Establish procedures to collect data relevant to actions to AFFH for any Programs and shall require each Recipient to collect and report to TDHCA or TDRA, as applicable, on a quarterly basis, data relevant to actions to AFFH and ensure compliance with civil rights certifications.
- TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds and Program income on Programs to benefit low- and moderate-income persons.
- TDHCA and TDRA shall expend at least 55 percent of Hurricane Block Grant Funds on housing Programs.
- TDHCA shall require Recipients to adhere to expenditure performance requirements with respect to the applicable Hurricane Recovery Funds used for housing, and to submit to performance evaluations of their expenditure rates every six months during the term of this Agreement. TDHCA's proposed performance standards shall be set at a level of incremental expenditure to reasonably assure that, within a period of no more than eighteen months from the date of the commencement of the Program, each Recipient will have identified sufficient eligible beneficiaries such that the Recipient will be able to provide reasonable assurance that the Recipient will be able to expend all applicable Hurricane Recovery Funds utilized for housing in compliance with TDHCA established benchmarks.
- The one-for-one replacement or rehabilitation of all family and elderly public housing units that were damaged or destroyed as a result of The Hurricanes within the local jurisdictions in a manner that affirmatively furthers fair housing in compliance with phase I of the updated AI.

¹⁵³ United State Department of Housing and Urban Development, Case No. 06-10-0410-8 *Title VIII), Case No. 06-10-0410-6 *section 109).

¹⁵⁴ Texas Phase 2 AI, Section VI, page 13.

¹⁵⁵ HUD FHPG, 3-29.

- The rehabilitation, reconstruction or construction of single-family and multifamily rental housing units damaged or destroyed by The Hurricanes within the jurisdictions or surrounding regions in a manner that affirmatively furthers fair housing in compliance with phase I of the updated AI in sufficient numbers and at appropriate rents to affordably house an equal number of Housing Choice Voucher holders as were living within each jurisdiction at the time of The Hurricanes.
- TDHCA shall set aside \$18 million of Hurricane Recovery Funds to fund relocation and buyout assistance for low and moderate income victims of The Hurricanes living in FEMA designated "High Risk Areas" and areas of high minority and poverty concentration as approved by TDHCA. These activities will be administered by the COGs under policies developed by TDHCA, and will use relocation counselors and licensed real-estate professionals.
- TDHCA and Complainants shall work together to prepare a request to HUD for an allocation of additional Housing Choice Vouchers, or assistance in developing alternative tenant-based rental assistance for eligible households. Contingent on securing federal appropriations to fully fund Housing Choice Vouchers or equivalent tenant-based rental assistance to assist up to 2,500 eligible households, TDHCA shall propose to establish a Moving to Opportunity Program, funded at \$1 million per year for five years and operated by Public Housing Authorities, to permit eligible renter households in areas affected by The Hurricanes to locate alternative rental housing in higher opportunity areas.
- TDHCA shall establish clear standards under which all housing constructed or rehabilitated with Hurricane Recovery Funds shall be designed to be visitable by people with disabilities.
- Visitability standards set forth in Texas Government Code §2306.514(b) shall apply to all housing constructed with Hurricane Recovery Funds except if a waiver is granted under Section 11.8.5.a. of this Agreement.
- TDHCA and TDRA shall establish rules, procedures and funding guidelines requiring their contractors and Recipients to (i) adequately assess the needs of survivors of The Hurricanes with disabilities for funding to be carried out with Hurricane Recovery Funds and (ii) assign the highest funding priority to Programs serving low and moderate income households within this population.

The State has failed to document in the Phase 2 AI that it has taken or is taking the steps necessary to meet the provisions related to fair housing in the Conciliation Agreement.

34. Failure to review State laws, regulations, administrative policies, procedures, and practices.

The AI is a review of impediments to fair housing choice in the public and private sector. The AI involves:

- A comprehensive review of a State or Entitlement jurisdiction's laws, regulations, and administrative policies, procedures, and practices
- An assessment of how those laws, etc. affect the location, availability, and accessibility of housing¹⁵⁶

The Phase 2 AI contains only a partial review and assessment of selected State laws and omits a host of other State laws that may impede the State's ability to AFFH. Further, the Phase 2 AI restricts its review to only the State's statutes. It fails to review and assess the State's applicable regulations, administrative, policies procedures and practices, even those of state agencies that administer federal housing and community development funds.

Some of the laws, regulations, and administrative policies, procedures, and practices that have immediate and direct impact upon AFFH that the Phase 2 AI fails to consider are:

- Statutes governing the Texas Department of Housing and Community Affairs, the Texas Department of Agriculture, and the Texas Health and Human Services Commission.
- Administrative rules and procedures of the Texas Department of Housing and Community Affairs, the Texas Department of Agriculture, and the Texas Health and Human Services Commission.
- Statutes governing the Texas State Affordable Housing Corporation.
- The Texas Qualified Allocation Plan for Low Income Housing Tax Credits.
- State regulations, and administrative policies, procedures, and practices affecting the approval of sites and other building requirements used in the approval process for the construction of public (assisted) and private housing, especially with regard to housing programs funded by the Texas Department of Housing and Community Affairs and the Texas State Affordable Housing Corporation.

¹⁵⁶ HUD FHPG, Section 2, pages 7-8.

- Statutes, rules, regulations and procedures concerning the administration of the State of Texas Non-Entitlement CDBG Program by the Texas Department of Agriculture.
- Statutes, rules and procedures regarding housing programs and home loans issued by the Texas Veterans Commission.
- Statutes governing the Texas Bond Review Board and its issuance of affordable housing bonds.
- Statutes defining the criteria for the competitive award and the issuance of private activity bonds to finance affordable housing.
- Statutes governing the issuance of public purpose bonds for affordable housing.
- Statutes regarding the establishment and operation of public housing authorities.
- Statutes governing the use of Tax Increment Financing for affordable housing.
- Statutes regarding property taxes, deferrals and exemptions for certain persons including persons with disabilities and the elderly.
- Statutes regarding the operation of housing land banks.
- Statutes regarding the seizure and condemnation of substandard residential properties.
- Statutes governing the ability of State owned property to be provided for affordable housing.
- Statutes, rules and procedures of the Texas Real Estate Commission.
- Insurance regulations, and administrative policies, procedures, and practices associated with the State's administration of the Texas Department of Insurance and the Texas Windstorm Insurance Association.
- Statutes and regulations governing home mortgage, home equity and home refinance lending, including the regulations of lenders and mortgage brokers.
- Statutes regarding certain subprime lending activities affecting low-income homeowners including property tax loans.
- Statutes pertaining to landlord/tenant laws.

The Phase 2 AI is incomplete because it fails to incorporate a comprehensive review of the State's laws, regulations, and administrative policies, procedures, and practices and an assessment of how those standards affect the location, availability, and accessibility of housing.

35. Failure to properly provide public participation or to involve State decision makers in AI formulation.

While the Phase 1 AI, conducted concurrently with startup of the State's Disaster Recovery program, was somewhat cursory, the State nevertheless identified a number of substantive impediments and committed to significant action steps to overcome those impediments. The process was inclusive of key parties including State housing and community development officials, regional government officials implementing disaster recovery programs, advocates for rural communities, and fair housing advocates. It also included a survey and a number of focus groups and interactive public hearings.

In the Phase 2 AI public participation was limited to a small scale telephone survey of the general public, focus groups responding to a set of scripted questions, and a web-based survey.

The public hearings offered no opportunity to have questions answered or discuss the draft plan. The TDHCA staff conducting the hearing read a short statement describing the purpose of the AI and then stated that they would not answer questions or respond to comments *see transcript of hearing in Appendix A). The public review of the draft plan by the TDHCA board, which is the public body responsible for adopting the plan, simply consisted of the board listening to public comments.¹⁵⁷ Beyond a short statement by the executive director, the TDHCA board and staff did not discuss the Phase 2 AI before voting at the public hearing to adopt it and submit it for HUD's review.

Transcripts of a public hearing on the Phase 2 AI and the TDHCA board public hearing, discussion and adoption of the Phase 2 AI are presented in Appendix A of this document. We present these transcripts in order to illustrate the fact that these hearings were an inadequate public engagement process.

¹⁵⁷ A full transcript of that hearing is reproduced below.

On August 19, 2013 TxLIHIS and Texas Appleseed submitted a sixteen page letter detailing deficiencies and objections to the Texas Department of Housing and Community Affairs regarding the draft Phase 2 AI (attached as Appendix B).¹⁵⁸ The State's responses to our comments in the draft submitted to HUD¹⁵⁹ are dismissive and in some cases present erroneous information.¹⁶⁰

The HUD FHPG states:

State and Entitlement jurisdictions should establish a structure for the AI that clearly spells out the responsibilities, objectives, measurable results, and lines of communication and coordination. The chief executive should articulate these factors and they should be endorsed by all those cooperating in the analysis.¹⁶¹

The AI structure should provide for effective, ongoing relationships with all elements of the community with clear and continuous exchange of concerns, ideas, analysis, and evaluation of results. Involvement by the chief executive is necessary whether the State or Entitlement jurisdiction is conducting the AI on its own or is participating with other jurisdictions in a metrowide/regional AI.¹⁶²

The omissions and errors in the Phase 2 AI and the lack of public discussion suggests the document is essentially the insufficiently considered report of a consultant. The State appointed and elected officials responsible for policy do not appear to have considered the analysis of impediments or committed to meaningful actions to overcome those impediment.

Throughout the document the passive voice in the action items signals a lack of meaningful commitment to completing such practices. This is particularly troublesome in light of the State's failure to follow through on many action steps it committed to carry out under the Phase 1 AI.

The Phase 2 AI is based on incomplete and faulty data and analysis, with significant omissions and misinterpretations. It includes a few vague, generalized, and non-concrete actions the State may consider taking to AFFH. The Phase 2 AI is substantially incomplete and non-compliant and should be returned to the State for substantial revisions.

APPENDIXES

A. Transcript of public and TDHCA board hearings on the Phase 2 AI.

The public hearings offered no opportunity to have questions answered or discuss the draft plan. The TDHCA staff conducting the hearing read a short statement describing the purpose of the AI and then stated that they would not

¹⁵⁸ Our letter of objection is reproduced on page 602 of the State of Texas Phase 2 AI.

¹⁵⁹ Texas Phase 2 AI, Appendix H, Page 12.

¹⁶⁰ For example, in response to our comment that the AI failed to analyze the impact of the annual CDBG program, the State said that "collection of 'relevant data regarding the fair housing impact of programs directly administered by the State' (specifically the non-entitlement portion of CDBG) is not currently a requirement from HUD "

¹⁶¹ HUD Fair Housing Planning Guide, Section 2, page 10.

¹⁶² HUD Fair Housing Planning Guide, Section 2, page 12.

answer questions or respond to comments.¹⁶³ The review of the draft plan by the TDHCA board, which is the public body responsible for adopting the plan, involved no substantive discussion of the AI.¹⁶⁴ Beyond a short statement by the executive director, the board and staff did not discuss the Phase 2 AI before voting to adopt it and submit it for HUD's review.

In addition to our written comments we testified at the two opportunities provided by the State. We present transcripts below to illustrate the fact that these hearing to show the inadequate nature of the public engagement process the State used in developing the Phase 2 AI.

On July 23, 2013 John Henneberger, co-director of TxLIHIS, testified on the draft Phase 2 AI at the public hearing held by the Texas Department of Housing and Community Affairs (TDHCA):

MR. HENNEBERGER [TxLIHIS]: My name is John Henneberger. I am the co-director of the Texas Low Income Housing Information Service in Austin. And I am a member of Texans United for Fair Housing, a statewide coalition of people who are advocates for Fair Housing. I am here to speak on behalf of my organization today, the Texas Low Income Housing Information Service.

In 2010, my organization entered into a conciliation agreement with the State of Texas regarding the State's failure to produce a materially compliant analysis of impediments to Fair Housing.

A stipulation in the conciliation agreement entered into between my organization, Texas Appleseed, and the State of Texas was, that within 180 days of HUD's issuance of its forthcoming guidance on the preparations of AI, TDHCA shall produce for public comment a materially compliant draft of a statewide analysis of Fair Housing impediments.

Last week, HUD issued its guidance on the preparation of AIs. The document, the draft document which is the subject of this public hearing, is substantially non-compliant with the guidance which HUD has issued.

¹⁶³ The following is from the transcript of the public hearing appearing on the 621st page of the PDF of the Texas Phase 2 AI.

PROCEEDINGS

MS. YEVICH: We are going to go ahead and start, and welcome to the 2013 State of Texas Phase Two Plan for Fair Housing Choice Analysis to Impediments to Fair Housing for the public hearing, here in Austin.

This hearing is an opportunity to comment on the State of Texas Analysis to Impediments. In its entirety, the document under review is available off the Texas Department of Housing and Community Affairs website, 1at www.tdhca.state.tx.us.

And if you have not already done so, please take a moment to silence some of those cell phones. For anyone interested in speaking, we need you to fill out one of these witness affirmation forms. They are located back there.

So please fill this out if you are going to speak. If you are not planning on speaking, we would ask you also to sign in at the table back there. As a reminder, we are here to accept public comment. We will not be able to respond to questions about the rules of the documents. This is a hearing only today.

The comment period for the 2013 State of Texas Phase Two Plan for Fair Housing Choice Analysis of Impediments, commonly referred to as the AI, is Friday July 5, to Friday August 19, 2013. Any comment received at the public hearing will be considered official public comment for the AI. Written comment is encouraged and may be provided at any time during the public comment period.

Public comment on the AI may also be made and provided in writing to BBC Research and Consulting, 1999 Broadway, Suite 2200, Denver, Colorado, 80202, or by fax to 303-399-0448, or by email to Jennifer Garner. Her email address is jgarner@bbcresearch.com.

Now the State of Texas Phase Two Plan for Fair Housing Choice Analysis of Impediments, the State of Texas is a recipient of funds from the U.S. Department of Housing and Urban Development, known as HUD. For several programs, including the Home Investment Partnerships Program, the Emergency Solutions Grant Program, commonly referred to as ESG, both of these are administered by TDHCA.

The Community Development Block Grant program, known as CDBG, that is administered by the Texas Department of Agriculture. And the Housing and Opportunities for Persons with AIDS, known as HOPWA, and that is administered by the Department of State Health Services. As a recipient of HUD funds, the State of Texas certifies that it will affirmatively further Fair Housing.

Affirmatively furthering Fair Housing is defined as the preparation of an Analysis of Impediments to Fair Housing Choice, taking appropriate actions to overcome the effects of any impediments identified through the analysis and maintaining records reflecting the analysis and actions. As the Agency which administers the large portion of HUD funded programs in the state, the Texas Department of Housing and Community Affairs has taken responsibility for maintaining a current AI. The AI covers Fair Housing observations and impediments across the entirety of the State of Texas, and is a supplement to the observations and impediments noted in Phase One, Hurricane Impacted Communities. The AI includes a Fair Housing Action Plan which includes actions and changes intended to ameliorate the effects noted in the impediments and observations sections of the AI.

At this time, I would like to begin calling forward our speakers.

¹⁶⁴ A full transcript of that hearing is reproduced below.

I will provide as well the coalition substantial comments in detail outlining the numerous failings of the draft AI in writing prior to the end of the public comment period.

I will point out that my organization and others who are Fair Housing advocates were included by the State of Texas in the preparation of the Phase One AI, in the form of formal membership on the committee which developed the methodology for preparing that AI, which evaluated the impediments and which made recommendations to the State on the actions to overcome those impediments.

A number of months ago, in a preliminary meeting regarding the retaining the consultants to prepare the Round Two AI, we stated very clearly our concerns, that based upon the previous work of the consultant which the State had engaged to prepare the Round Two AI, that we believed that there had not been a sufficient demonstration that that consultant understood the requirements of producing a materially compliant AI. And we offered to assist the State methodologically with the development of a strategy to achieve a materially compliant AI.

That process will be further informed by the regulations which HUD released last week. Despite our offer, the State chose to go forward without the inclusion of any of the State's Fair Housing advocacy organizations, in terms of allowing them input into the design of the methodology for the AI that we are here to review today.

And the results are, as I said, a materially non-compliant AI. The State's AI is incomplete and unacceptable, because it fails to identify and address the patterns of segregation based on race and national origin. It fails to identify appropriate actions to address identified housing discrimination.

It fails to address access to housing and services by persons with disabilities. It fails to address access to services and housing facilities by persons with limited English proficiency. It fails to contain any substantive corrective actions to address the impediments identified by the AI, which themselves are substantially insufficient and do not meet the standards of a reasonable assessment of the impediments.

It lacks reference to the progress which the State has made, or the lack of progress the State has made, on its existing AI, including both the statewide AI from 2009 and the Phase One AI, which is known as the interim AI.

There is no reporting of the activities that have been undertaken and the accomplishments or any analysis of steps which need to be taken to address meeting the previous commitments which the State has made under the earlier AIs.

The document fails to record the State's actions in addressing these impediments. Therefore, the AI which is presented is materially non-compliant, and when -- in our opinion, when it is presented as required under the conciliation agreement, HUD will be forced to reject it.

We will provide our detailed comments in writing before the end of the comment period. Thank you very much.

MS. YEVICH {TDHCA}: Thank you, Mr. Henneberger. Are there any other speakers here?¹⁶⁵

On November 7, 2013 the State adopted the Phase 2 AI through action of the board of directors of the Texas Department of Housing and Community Affairs. The following is the complete official transcript of that hearing.

MR. IRVINE {Executive Director, TDHCA}: I'm going to present the first item on the action agenda.

MR. OXER [Board chair, TDHCA]: Well, in that case, let's get started.

MR. IRVINE: First item on the action agenda. The State of Texas is required by HUD to have in place and keep current an Analysis of Impediments to Fair Housing Choice. We call it the AI. As part of the resolution of a fair housing complaint, Texas has updated its AI in two phases. The first phase was submitted to HUD in March 2011 and it focused primarily on the use of CDBG Disaster Recovery funds in regions that had been impacted by Hurricanes Ike and Dolly.

This current phase is phase two, and it covers the entire state. This got rolling in late 2011 when we conducted a public procurement process that ultimately led to the selection of BBC Research and Consulting to perform this analysis for us, and BBC's work has been pretty significant. It spanned the compilation and analysis of a tremendous amount of data, it's assessed complaints and court cases that have bearing on fair housing issues, and perhaps most importantly, it's been a very broad public outreach process.

Throughout the project we've been very intentional about the maximization of outreach, trying to make sure that as many viewpoints were brought in and represented as possible. There were public forums, both physical and virtual, there were surveys, there were hearings, there were focus groups. As you can imagine, this document reflects a lot of different perspectives that came out of this input process. And I've got to say that a really valuable byproduct of this process is engagement and input. I think as a result of this process, a whole lot more Texans, local governments, elected officials, neighborhood organizations, just a wide array of folks are more aware of the requirement to further the Fair Housing Act's

¹⁶⁵ Transcript, TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS, HOUSING AND HEALTH SERVICES COORDINATION COUNCIL, PUBLIC HEARING ON DRAFT OF PHASE 2 OF THE STATE OF TEXAS PLAN FOR FAIR HOUSING CHOICE: ANALYSIS OF IMPEDIMENTS, July 23, 2013, at page 24.

purposes in an affirmative manner. I think that the awareness and engagement on fair housing is just intrinsically a really, really valuable part of all of this.

At this time, staff is recommending that the Board authorize us to submit this to HUD, but I really want to underscore this is just one step along the way, this is a process, and I think it's critical that we embrace the precepts here, the importance of affirmatively furthering fair housing all the time in all of our activities.

This AI has been a huge task for a lot of people, not just our consultants, but our staff, Brenda Hull, Jennifer Molinari, Elizabeth Yevich, a lot of others, devoted a huge amount of time and energy to this. I know that I and Barbara and Michael have spent a lot of hours reviewing this pretty meticulously. It's a large and it's a complex document, but anyway, that's where we are right now, and staff is recommending that we receive Board authorization to move to the next step.

MR. OXER: Any questions from the Board members?

(No response.)

MR. OXER: Very well. We'll have a motion to consider.

MR. THOMAS [Board member, TDHCA]: So moved.

MR. McWATTERS [Board member, TDHCA]: Second.

MR. OXER: And a second by Professor McWatters.

We have some public comment on this. Good morning.

MS. SLOAN [Texas Appleseed]: Good morning. Maddie Sloan with Texas Appleseed. I want to say we certainly appreciate the hard work of the staff that went into this analysis of impediments and Texas Low Income Housing Information Service and Texas Appleseed submitted public comments on this, written comments. We think some of our most substantive concerns weren't addressed; our major concern is the lack of meaningful commitment to action steps that address the identified impediments. We don't think this meets HUD's standards for an AI and we're concerned it's going to be rejected.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: I have a question. What were the parts that you felt didn't meet those, or have you submitted those comments?

MS. SLOAN: We submitted, I think, pretty extensive written comments. Our major concern is that the analysis of impediments, the analysis and identification of impediments is the first step and we had some concerns about the small number of impediments, the split of what we saw as all impediments and to impediments on observations

But the second step, and really in a way the most important, is that the state needs to commit to meaningful actions that address the impediments conditional language: people should consider this, people should examine this, people should work with. You know, it's sort of a concern that the state can't even commit to considering something. We don't think that's a commitment to meaningful action steps and we don't think some of the action steps really address the impediments that were identified.

MR. OXER: Hold on just for a second. I'll explain this to you here in just a second, but hold on. This is not nearly as interesting as it looks. You can probably hear me, most of you, without the microphone, but this is our first time in this particular venue, it's been recently remodeled, it's a House office building, there are often hearings in here. The chair position, everybody has a mic button under here that goes like this to turn on the mic and turn it off, but in the chair there's this big white button that's contained in a control box in here that if you push it, he shows up with a gun. I don't want to say I was just testing it, but since I hit it apparently, we're more than glad to see that he showed up. So let this be a warning to all of you. Apparently you don't have to push it very hard.

(General laughter.)

MR. McWATTERS: Mr. Chair, this doesn't reflect your response to Ms. Sloan's testimony.

MR. OXER: I understand that. She's just going to have to hold on for a second. Make sure that you're tweeting a timeout here, Michael.

MR. THOMAS: The chairman called the cops.

MR. OXER: More importantly, they showed up.

All right. Ms. Sloan, we'll continue. This is apparently going to take a minute. Everybody can hear me, I'm sure. Any questions from the Board? I've got this microphone right here, I don't mind standing up for a minute, as tired as I get of sitting down. Are there any other questions from the Board?

MS. BINGHAM ESCAREÑO [Board member, TDHCA]: Did you have any other comments, Ms. Sloan?

MR. OXER: We heard you, we understand your

MR. OXER: Okay. Thanks very much.

John, good morning.

MR. HENNEBERGER [TxLIHIS]: Good morning. My name is John Henneberger. I'm the co-director of the Texas Low Income Housing Information Service, a statewide nonprofit organization that advocates for the needs of poor people and affordable housing.

I'm here to agree with Ms. Sloan's comments. We have submitted our written comments, and I'd like to just supplement that by saying that the activity of creating an analysis of impediments to fair housing is intended to be a deliberative one on the part of policy decision makers at the state level. Too often in the past the analysis of impediments to fair housing has been a consultant-driven document in which lots of research is poured into gathering demographic data and facts and assessing information, but that is a meaningless exercise unless policymakers actually take that information and do the analysis of the impediments and then translate that analysis into specific action steps in order to overcome the impediments that are identified in the AI.

You have a 900-page document or something like that, the last time I counted, and it's a tree-killer. This is a lot of demographic information. I know because I actually read it, and I have to say that I came out of this document thinking well, there's a lot of information here but where's the plan, where is the commitment on the part of the state to undertake specific activities to overcome these impediments to fair housing.

I think the problem we're facing here, if I can kind of put myself in your shoes -- which is a dangerous thing for both of us -- but I think the problem is --

MR. OXER: My position is available, by the way.

MR. HENNEBERGER: I might take it just to vote on the AI.

The problem is that I believe that the state has become hypersensitized to its fear of being challenged about fair housing activities under this, and I understand it. I mean, my organization and Maddie, we filed a complaint on fair housing, but we filed it after two years of talking about what all the problems are with disaster recovery stuff. It wasn't like it just came out of the blue.

What I see going on with this is essentially there are no substantive commitments to undertake specific activities, and I believe that that stems from the notion that if you make an admission that there is a problem that you're going to get sued. And we will never solve the fair housing problem until we overcome this structural problem and until this Board exercises the responsibility that it really has to assess what these problems are and come up with a reasonable plan to address these problems. If you are acting reasonably, if you are taking steps as a board to deliberate and figure out what the problems are and set some reasonable goals, that is the best insurance against future complaints and litigation and other things on fair housing. And that's what's completely lacking, frankly, in the draft AI before you. It's a 900-page document that consultants have generated and it contains no effective policy remedies to address the fair housing problems in the state.

Thank you very much.

MR. OXER: Okay. Are there any questions from the Board?

(No response.)

MR. OXER: I have a question, John. Your summary statement is that you see this as something that should be a call to action rather than something to guide future action.

MR. HENNEBERGER: Yes. I see it as a -- I believe that the AI requirement of the state is for a decision-making body to assess what the impediments are and to come up with specific action steps in order to address those impediments.

MR. OXER: Good. Thanks.

MR. HENNEBERGER: Thank you.

MR. OXER: There's no further public comment. We have a motion by Mr. Thomas, second by Professor McWatters, to accept staff recommendation. Any other comments from the Board?

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Thanks very much.¹⁶⁶

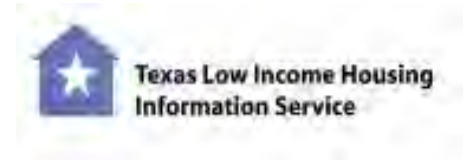
The State policy body responsible for the AI and all housing programs thus formally approved the draft Phase 2 AI¹⁶⁷ with no changes or substantive questions at the November 7, 2013 board meeting of the Texas Department of Housing and Community Affairs, thirty months following HUD's approval of the Phase 1 AI¹⁶⁸

B. TxLIHIS/Texas Appleseed comments of draft Phase 2 AI (8/19/2013).

¹⁶⁶ Transcript, Board Meeting, Texas Department of Housing and Community Affairs, November 7, 2013 <http://www.tdhca.state.tx.us/board/docs/transcripts/131107-board.pdf>

¹⁶⁷ <http://www.tdhca.state.tx.us/housing-center/fair-housing/docs/DRAFT-FairHousingChoice-AI-Phase2.pdf>

¹⁶⁸ Transcript, Board Meeting, Texas Department of Housing and Community Affairs, November 7, 2013 <http://www.tdhca.state.tx.us/board/docs/transcripts/131107-board.pdf>



July 19, 2013

Tim Irvine
Executive Director
Texas Department of Housing and
Community Development
c/o Jen Garner
BBC Research & Consulting
1999 Broadway, Suite 2200
Denver, CO 80202-5742

Comments of the Texas Low-Income Housing Information Service and Texas Appleseed on the draft State of Texas Plan for Fair Housing Choice: Analysis of Impediments

Dear Mr. Irvine:

TxLIHIS and Texas Appleseed submit the following comments on the draft State of Texas Plan for Fair Housing Choice: Analysis of Impediments (draft AI).

The State of Texas receives federal funding from the Department of Housing and Urban Development (HUD). As a condition of receiving federal funds, Texas must certify that it “will affirmatively further fair housing.”¹ Under federal regulations, this means that the State must truthfully certify that it (a) has or will conduct an analysis to identify impediments to fair housing choice within the state, (b) take appropriate actions to overcome the effects of any impediments identified through that analysis, and (c) maintain records reflecting the analysis and actions in this regard. *See* 24 CFR §570.487(b)(2); 74 Fed. Reg. 7254. The State in fact has a *dual responsibility* to affirmatively further fair housing. It must engage in its own activities that affirmatively further fair housing, and must also ensure that any subrecipient jurisdictions to which it is providing funds comply with their individual certifications in order to affirmatively further fair housing.²

¹ 74 Fed. Reg. 7254 citing 24 C.F.R. §570.487(b)(2)

² *See e.g.* HUD OFFICE OF FAIR HOUSING AND OPPORTUNITY (FHEO), FAIR HOUSING PLANNING GUIDE: VOLUME 1 at 3.3-3.49, Chapter 3: Fair Housing Planning Guidelines for States and State-Funded Jurisdictions, (#HUD-1582B-FHEO).

On December 1, 2009, TxLIHIS and Texas Appleseed submitted a Fair Housing Complaint to HUD alleging the State had violated 42 U.S.C. §§3604(a), 3604(b) and 3608 in its administration of certain Hurricane Block Grant Funds, in part by its failure to have a compliant and current Analysis of Impediments to Fair Housing Choice. The Complaint was resolved in a Conciliation Agreement between TxLIHIS, Texas Appleseed, the State of Texas, and HUD approved on May 25, 2010. A major provision of the Conciliation Agreement was the State's agreement to conduct a new Analysis of Impediments. The AI was conducted in two phases, the first of which cover the portion of the state eligible to receive CDBG Disaster Recovery funds related to the 2008 hurricanes. The first phase of the State's AI was reviewed by HUD and approved on May 11, 2011. Section II.A.2.f of the Conciliation Agreement states:

Phase 2. Under phase 2, which will begin once phase 1 of the updated AI is accepted by HUD, TDHCA will, as promptly as reasonably possible produce for public comment a materially complete draft of that portion of its AI covering the balance of the State, Phase 2 must be developed by a qualified consultant or organization with experience in the development of AIs. After TDHCA produces phase 2 of the updated AI for public comment; the public shall have thirty (30) days, pursuant to applicable law, to provide comments. After the close of the public comment period, TDHCA shall submit phase 2 of the updated AI to HUD for review, including written responses to any public comments as part of the submission.

A fair housing certification "is not satisfactory to the Secretary" when HUD reviews applicable documents and data and concludes that "(1) the jurisdiction does not have an AI, (2) an AI was substantially incomplete, (3) no actions were taken, (4) the actions taken were plainly inappropriate to address identified impediments, or (5) the jurisdiction has no records."³ HUD provides clear guidelines specifying the obligatory scope of the analysis. In addition to its Fair Housing Planning Guide (FHPG), HUD has provided specific guidance to the State of Texas in its May 13, 2011 letter reviewing Phase 1 of the State's updated AI.

The draft Texas AI fails to adequately fulfill HUD's requirements, and therefore, not only cannot serve as a tool for addressing the impediments that exist within the State, but places millions of dollars in federal funds at risk. In 2010, the State of Texas received over \$129 million in HUD funds, not including funds for public and subsidized housing and \$3 billion in CDBG Disaster Recovery funds.

The draft AI is voluminous but not substantive, and does not meet the state's duty under the Fair Housing Act as detailed under the Fair Housing Planning Guide or HUD's specific

³ HUD, GUIDANCE MEMORANDUM; ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE REISSUANCE, (September 2, 2004).

direction to Texas in its letter accepting the Phase 1 AI.⁴

The draft phase 2 AI failures fall under four major categories.

1. Action Plan lacks specific "milestones, timetables, and measurable results."
2. The draft AI denies the state's responsibility for fair housing within its borders.
3. Conclusions ignore evidence of additional impediments to fair housing choice.
4. Draft improperly relies on direct resident experiences to estimate structural conditions.

I. Summary of Failures

Action Plan Lacks Specific "milestones, timetables, and measurable results."

1. The Fair Housing Planning Guide (at 2-22) states, "The jurisdiction should define a clear set of objectives with measurable results that it intends to achieve. The sole measure of success for FHP is the achievement of results." The draft AI fails to meet this HUD requirement, containing instead a vague list of goals with no measurable benchmarks available to empirically determine completion.
2. Examine Action Goal 2.1: "the state should work with stakeholders who are knowledgeable about the housing needs of persons with disabilities to better understand their various housing and community development challenges." This so-called action item includes no deadlines for completion, no designated party responsible for the State's task, and no benchmark for completion of the State's vague plan to "work" with stakeholders. This pattern is repeated throughout the proposed "Fair Housing Action Plan," rendering it nearly impossible to ever "measure the success" of Texas's implementation of this plan.
3. By comparison, the Texas Analysis of Impediments for Hurricane Impacted Communities ("Phase 1") contained a "Timeline for Phase 1 Analysis of Impediments," listing the responsible party and providing an explicit timeline for completion for each discrete, specific task. That document demonstrates that the State has experience creating such a timeline, making its absence here all the more egregious.
4. Even when Actions refer to specific activities, the language in the Action Plan often fails to commit the State to performing such activities. Examine Action 1.1, which is the claim that a list of State agencies "can engage in practices" to encourage local jurisdictions to further fair housing choice. The passive voice in the action item signals a lack of meaningful commitment to completing such practices. Language and grammar have meaning. The phrase "These agencies can engage in practices" is not equivalent to "These agencies will engage in these [specific, named] practices," and does not constitute a meaningful plan of action for adoption by the State.

⁴ On June 25, 2013, HUD issued a proposed rule providing new guidance for HUD program participants on the fair housing assessment and planning process. (Docket No. FR-5173-P-01) While the rule is not yet final, it provides valuable insight into the standards HUD will be using to assess fair housing planning, and reinforces the importance of adequately identifying impediments to fair housing and engaging in meaningful actions to address those impediments.

5. Consider the language in the draft AI in light of the December 21, 2010 letter from HUD to Westchester County regarding the proposed AI for that jurisdiction. "In proposing actions in each of these areas, the AI should be specific and include deadlines for completion; identify resources, from county, local, state, and federal agencies or programs as well as from financial, nonprofit, and other organizations that have agreed to finance or otherwise support fair housing choice actions; and identify individuals, groups, and organizations to be involved in each action and define their responsibilities."⁵ That letter concludes, "The County's AI is incomplete and unacceptable because it fails to link the information that the County presents with a set of sufficiently responsive actions that will further fair housing choice." This critique equally applies to the Texas draft AI.

The Draft AI Denies the State's Responsibility for Fair Housing Within Its Borders

6. The State's failure to acknowledge the severity of, and refusal to take responsibility for, the fair housing challenges within its borders are evident throughout this draft. This shortcoming appears most notably in section 6 at page 4, in the statement, "This study acknowledges that the role of the state in causing—and eliminating—impediments to fair housing choice is limited. Many of the impediments found in the Phase 2 AI were not the cause of a state level action, omission or decision but instead are associated with local actions, perceptions or decisions."
7. The State should note that the Fair Housing Planning Guide states (at 1-3) "The AFFH obligation extends to all housing and housing-related activities **in the grantee's jurisdictional area** whether publicly or privately funded." The State's obligation to affirmatively further fair housing stretches from the Rio Grande to the Red River, regardless of the involvement of a local jurisdiction. The State, in fact, has a "dual responsibility" to assure that both itself and its sub-recipients are Affirmatively Furthering Fair Housing.⁶ The draft AI ignores the fact that the State has significant leverage and authority over local actions should it choose to use the entire range of tools available to it under the Texas constitution and HUD program rules. Texas may allow significant local control of the means that local jurisdictions can use to overcome impediments to fair housing, but delegating that control does not exculpate the State of responsibility for the outcomes of that delegation. In sum, if local actions are restricting fair housing choice for Texans, then the State's lack of active oversight over local actions resulting in a disparate impact on protected classes within its borders is an impediment in itself and should be enumerated as such.
8. Despite widespread use of "local control" rhetoric, in practice the State does not actually defer to the decisions of local jurisdictions on fair housing issues. For example, the State of Texas, under Section 214.904 Local Government Code, explicitly bans

⁵ Fair Housing Planning Guide at 2-22.

⁶ Fair Housing Planning Guide at 3-3.

inclusionary zoning by local jurisdictions. The Massachusetts AI calls inclusionary zoning ordinances "important tools for furthering fair housing."⁷ The State's choice to bar local jurisdictions from using this "important tool" demonstrates its direct oversight and control of local actions and decisions.

9. The draft AI disclaims the State's responsibility to examine impediments associated with "local" conditions, stating: "Please note that given the size of the [sic] Texas, as well as budget, scope and timing constraints, the impediments could not be analyzed at the level of thousands of individual jurisdictions." Curiously, the size of Texas is not listed as an impediment to fair housing, and in fact, Texas's size is not disproportionately large given its amount of funding it receives under the federal programs triggering this AI process.⁸ The State investigates hundreds of local non-entitlement jurisdictions to determine relative need and monitor expenditures under those programs, and it could analyze local impediments to fair housing in a similar process.
10. In addition to dismissing most impediments as "local" problems, data is misleadingly presented in the draft AI to hide the State's direct role in creating impediments to fair housing. The state of Texas directly allocates Low Income Housing Tax Credits (LIHTCs) through the Qualified Allocation Plan (QAP) process.⁹ Figure II-18 in the draft AI is a map of LIHTC properties in relation to racial and ethnic concentrations in Texas. The conclusion drawn from this "analysis" is that "The map shows a distribution of tax credit properties mostly in metropolitan areas."
11. This finding makes a mockery of the analysis of impediments process and is emblematic of the failure of the State to critically examine the data it has on hand. We used data in the 2012 State of Texas Housing Sponsor Report, produced by the Texas Department of Housing and Community Affairs (TDHCA) to compare the distribution of multifamily properties receiving assistance from TDHCA (including LIHTC units) to the distribution of the general population of the state. This analysis shows that statewide such properties are more likely to be in a majority-minority census tract than the population at large. Notably, units not restricted to elderly residents (i.e. potentially available to families with children), are over one-and-a-half times more likely to be in a majority-minority census tract than the population at large. They are also more likely to be in low-income and high poverty tracts.

⁷ "Analysis of Impediments to Fair Housing Access and Action Steps to Mitigate Impediments" State of Massachusetts, June 2007, at Page 107.

⁸ For comparison, Idaho independently evaluated every county in Idaho in its AI. Texas has 6 times the number of counties as Idaho, but receives 8 times the level of funding under the annual CDBG program alone, more than compensating the state for the requirement of any additional analysis. BBC, the same consultant hired to perform the Texas AI, prepared the Idaho AI. "2011 Analysis of Impediments to Fair Housing Choice," State of Idaho. May 22, 2012.

⁹ As noted in section six, page 15, of the draft AI in 2012 a court found that the state's allocation of LIHTCs had a disparate impact on protected classes.

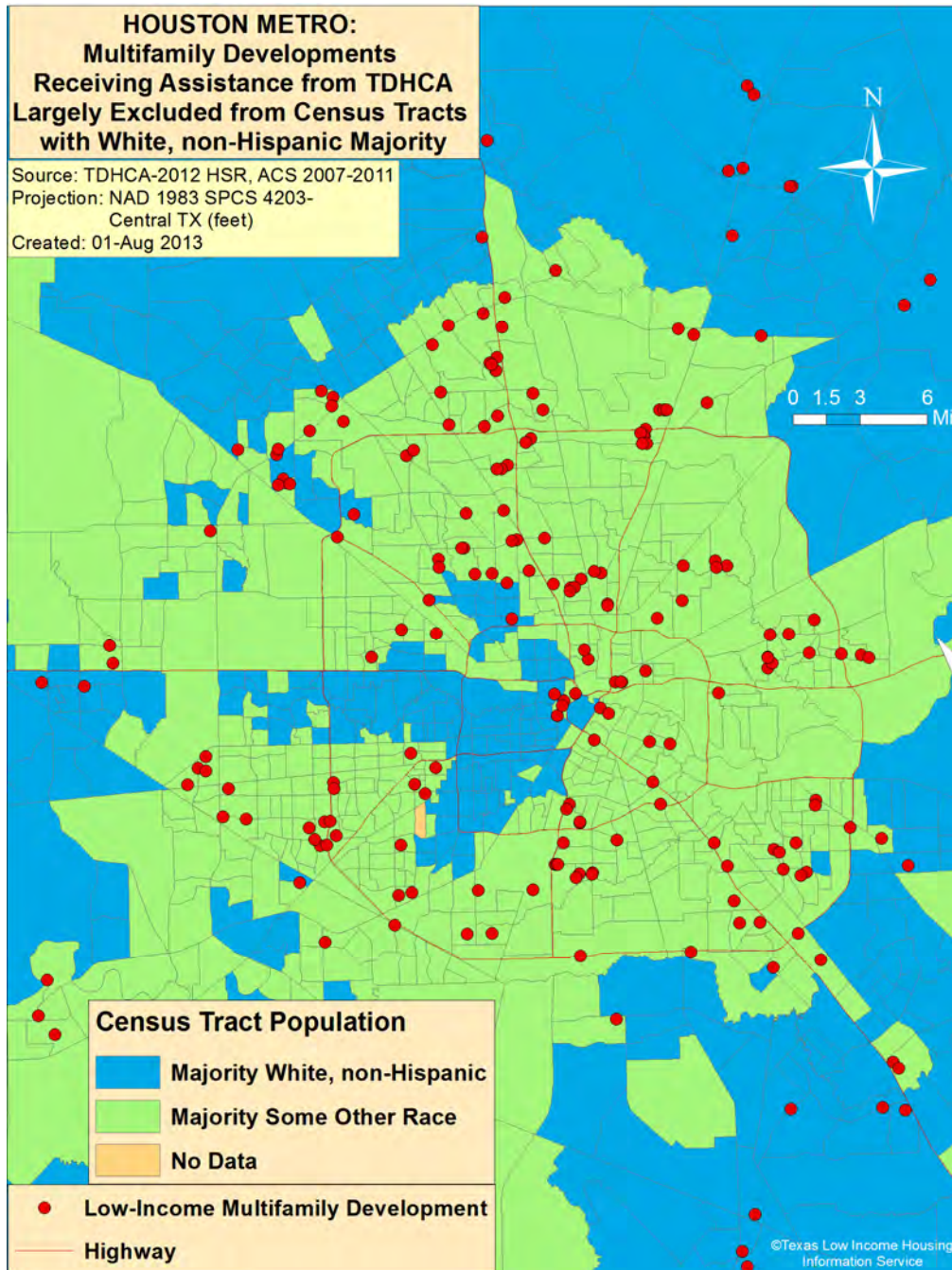
TEXAS	Type of Household (%)		
	Census tracts where:	Elderly Only*	Non-Elderly*
<50% White, non-Hispanic	67.8	81.7	48.8
>20% Households below poverty	54.4	70.4	31.7
MFI < 80% TX MFI***	54.6	70.3	32.5

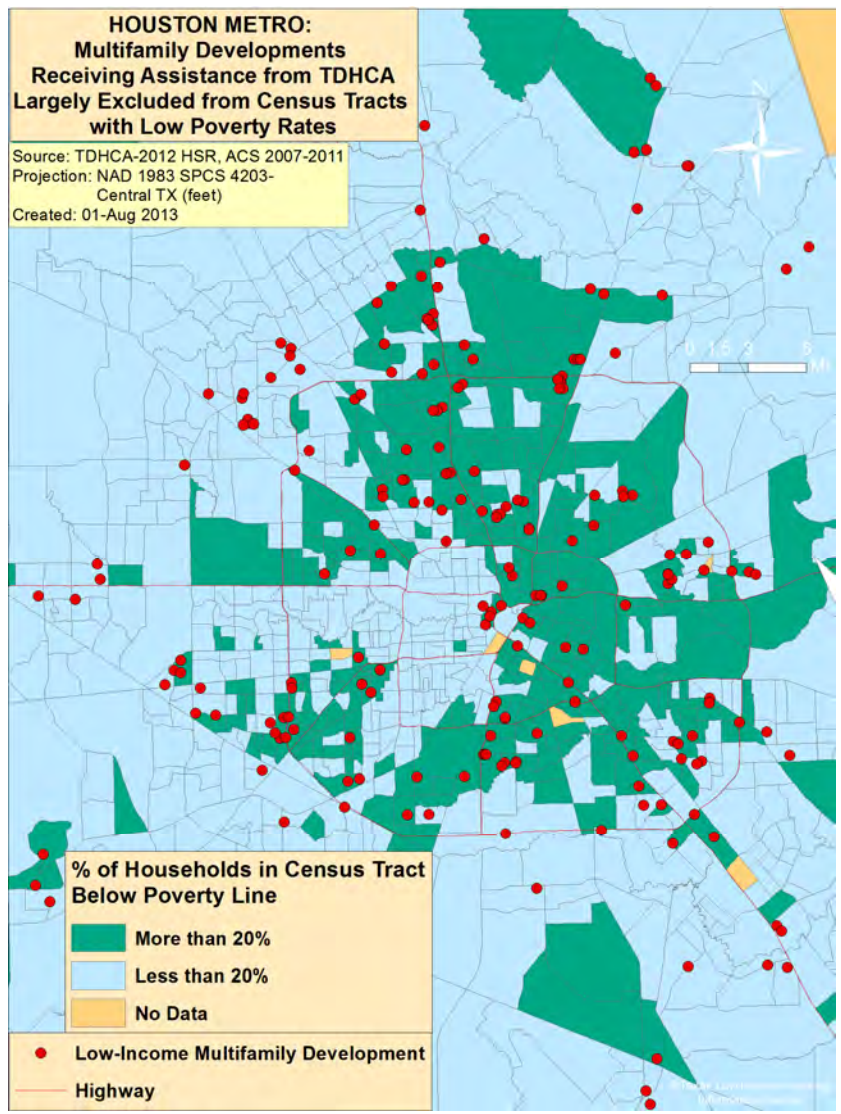
* Based on total number of low-income units from 2012 Housing Sponsor Report.

** Based on total households by census tract from ACS 2011 data.

*** Median Family Income (MFI) less than Texas MFI (100% = \$59,929 in 2011.)

12. Examination of the placement of units in this State-administered program at the city or neighborhood level also makes clear that the State's method of allocation of LIHTC is an impediment to fair housing choice, with LIHTC units excluded from many predominantly white, non-Hispanic urban neighborhoods. LIHTC units are also excluded from many low-poverty urban neighborhoods. The following maps and table demonstrate these effects in the Houston area.

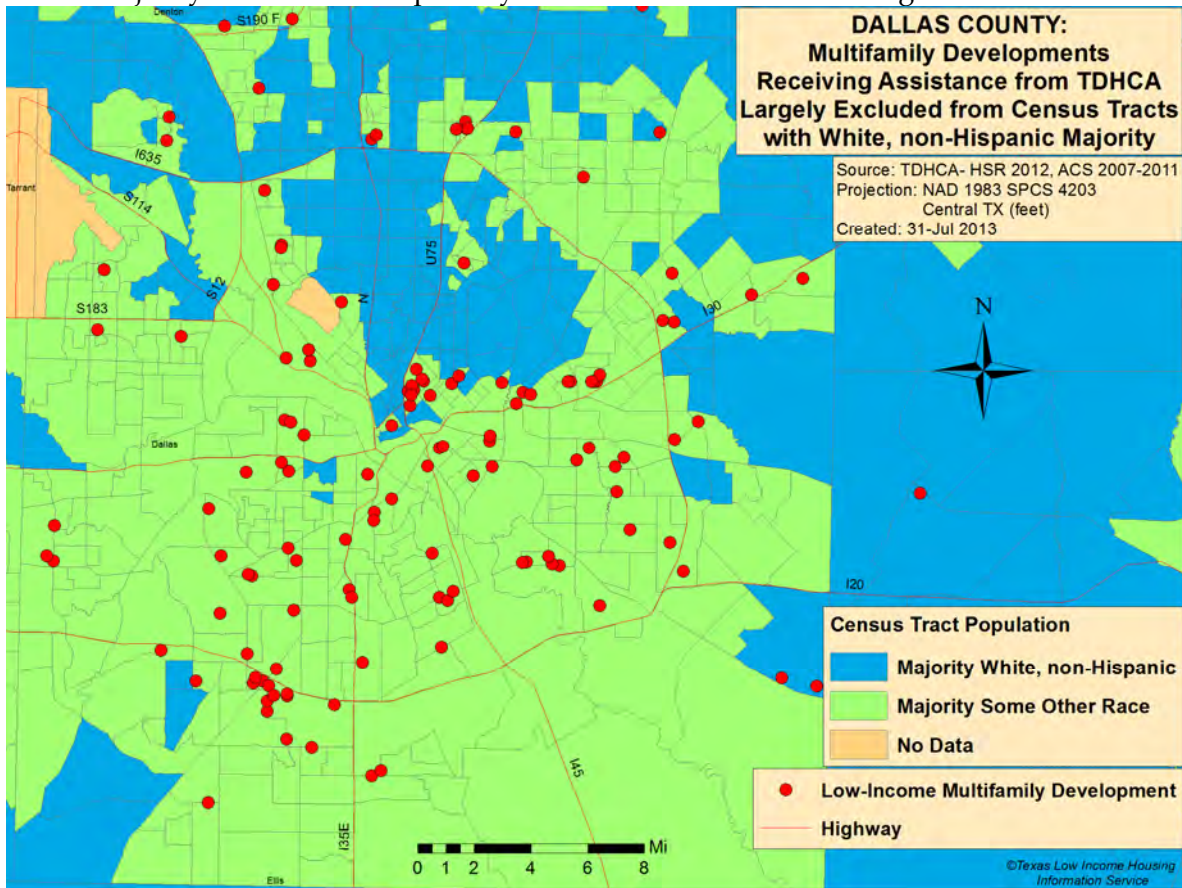


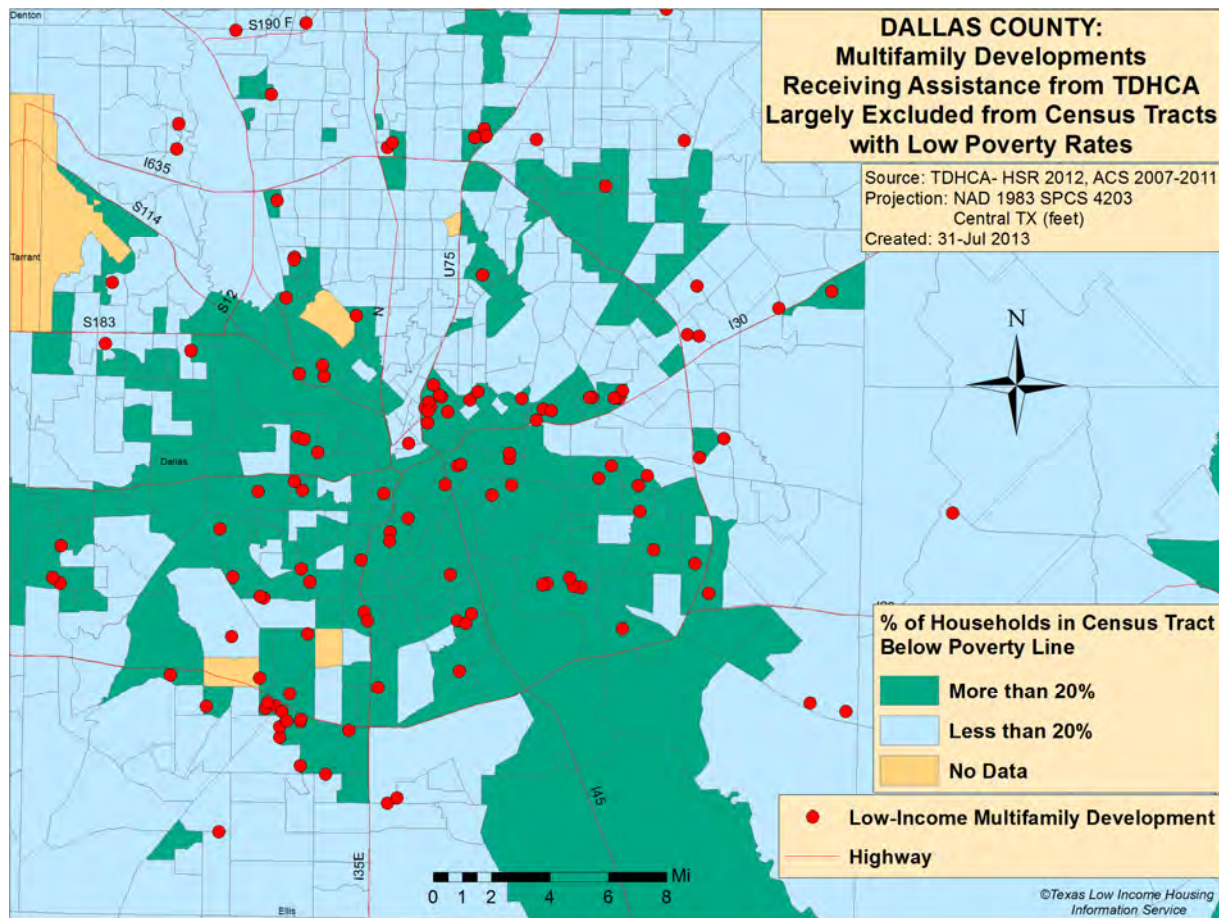


HOUSTON METRO	Type of Household (%)		
	Census tracts where:	Elderly Only*	Non-Elderly*
<50% White, non-Hispanic	74.3	84.3	55.8
>20% Households below poverty	47.7	64.7	28.9
MFI < 80% AMFI***	55.9	71	36.1

* Based on total number of low-income units from 2012 Housing Sponsor Report.
 ** Based on total households by census tract from ACS 2011 data.
 *** Median Family Income (MFI) less than Houston Area MFI (100% = \$65,955 in 2011.)

13. Likewise, the following maps and table illustrate the concentration of state allocated LIHTC apartments in majority-minority Census tracts and their virtual exclusion from majority White and low-poverty Census tracts in the Dallas region.





DFW METRO	Type of Household (%)		
	Census tracts where:	Elderly Only*	Non-Elderly*
<50% White, non-Hispanic	68.4	75.6	35.5
>20% Households below poverty	55.3	69.3	24.4
MFI < 80% AMFI***	71.9	83.6	44.3

* Based on total number of low-income units from 2012 Housing Sponsor Report.

** Based on total households by census tract from ACS 2011 data.

*** Median Family Income less than Area Median Family Income (100% = \$69,137 in 2011.)

14. The draft AI neither acknowledges nor addresses this pattern, which demonstrably contributes to furthering patterns of racial segregation in Texas.
15. Relevant data regarding the fair housing impact of programs directly administered by the State is altogether excluded from the draft AI. One of the major funding sources for housing and housing infrastructure in Texas is the Community Development Block Grant Program (CDBG) program, but this program is not included in the "disproportionality" analysis of Section 2, nor analyzed elsewhere in the report. The draft AI notably does not include a 2010 letter to the Texas Department of Rural Affairs (at the time the State agency responsible for the administration of the State's CDBG program) from the City of Goodlow, which is 95% African-American, alleging that the State's allocation of annual CDBG grants fails to affirmatively further fair housing and asking TDRA to bring the program into compliance. Nor does the AI evaluate the use of ESG or HOPWA grants.
16. The draft AI avoids confronting the past failures of the AI process in Texas. The Fair Housing Planning Guide (at 2-19) calls for AIs to "Assess Prior and Current Actions to Affirmatively Further Fair Housing." In an apparent nod to this HUD requirement, Appendix A contains a cut-and-paste restatement of the findings of previous AIs by the State of Texas. This review, does not meet the intent of the Fair Housing Planning Guide.¹⁰ It fails completely to assess the State's progress on the actions proposed in the reviewed AIs, allowing it to ignore the impact of that progress on the current state of fair housing in Texas. If, for example, the State has failed to perform on the actions committed to in the Phase I or 2003 AIs, this failure would be an impediment to fair housing that should be acknowledged in the draft AI.
17. The draft AI fails to meaningfully address many of the issues raise in HUD's May 13, 2011 letter accepting the Phase I AI, some of which relate to the State's direct responsibility for local action. HUD's May 13, 2011 letter is explicit about the State's responsibilities and suggests specific actions the State could take to carry out these responsibilities. For example, "Texas should conduct a further review in Phase II of the AI of zoning and land use practices . . . and develop a policy that addresses those types of exclusionary practices and identifies actions the State will take when subrecipient jurisdictions take actions" and "[w]e also recommend that the State develop a policy that addresses actions that the State will take when subrecipients of State funding engage in actions that are found to violate fair housing and other civil rights laws or which are identified as failing to affirmatively further fair housing." (pg. 3) Such a policy is not considered within the draft AI.
18. These comments would not be complete without highlighting a particularly cringe-worthy example of the State's refusal to come to grips with the magnitude of the fair housing challenges within its borders. Section VII of the draft AI states "Focusing only on the impediments in the Phase 1 and Phase 2 AIs can create an overly negative and misconceived impression about fair housing in Texas." The State apparently confuses

¹⁰ "The sole measure of success for FHP is the achievement of results." The Fair Housing Planning Guide at 2-22.

the purpose of the draft AI with the mission of the Texas Tourism Bureau. The purpose of the document is to analyze the impediments to fair housing, not to deny or minimize their importance.

Conclusions Ignore Evidence of Additional Impediments to Fair Housing Choice

19. The six enumerated impediments identified in the State's draft AI are a selective interpretation of the data presented in the rest of the document, and further evidence of the State's attempt to deny the obvious conclusion that systemic fair housing failures in the Texas have been actively supported by the State's activities.
20. For example, in a glaring omission from its list of enumerated impediments, Appendix E identifies, by name, three communities perceived as being unwelcome to non-White residents. Nevertheless, this perception is not recognized as an impediment to fair housing choice in the report's conclusions despite the fact that HUD specifically recommended that the AI "discuss more fully the issue of "sundown towns" within the state" in its May 2011 letter (pg. 5).
21. The draft AI fails to evaluate or integrate impediments identified by local Texas jurisdictions in their AIs and/or Phase I FFAST Forms. For example, expanded job creation activities was a cited as a "major theme" impediment in the review of jurisdictional AIs, and the underlying analysis shows multiple jurisdictions identified transportation as an impediment to fair housing choice, but neither impediment is referenced in the statewide conclusion of the draft AI. It is hard to imagine why impediments noted in jurisdictions across the State should not be addressed in the statewide AI. HUD's May 2011 letter asked the State to address access to housing through transportation and whether housing is sited near "better than average" schools. The draft AI generally fails to address disparities in access to community assets and opportunity.
22. HUD's letter also asked the State to "address impediments for those communities where environmental issues are a concern for impacted areas." (pg. 6) The draft AI includes three paragraphs on this issue and two maps which analyze only hazardous and industrial waste sites, ignoring many of the environmental hazards that have the most impact on minority communities, including emissions of toxic chemicals. There is no mention of environmental issues in the impediments section.
23. The document avoids explaining patterns evident in the presented data that might lead to identification of additional impediments. For example the disproportionality data presented in Section II demonstrates "Hispanic residents are generally underserved by the Section 8 program," but no analysis is done to determine why this pattern exists and whether it is evidence of an impediment.
24. This failure to analyze the patterns in the data is most evident in relating to the "observation" that "Racial and ethnic concentrations exist in many areas within Texas." The draft states (at 8-16) "Many factors may have contributed to racial and ethnic

concentrations in Texas communities and it is difficult in a statewide study to pinpoint these for all concentrated areas."

25. The difficulty of the task does not relieve the State from the responsibility of carrying out such an analysis. Listing factors that "may" contribute to concentrations is not a meaningful analysis of the impediments creating such patterns, and does not provide the basis for a meaningful plan to address such impediments. We recommend that the State review HUD's December 21, 2010 letter to Westchester County rejecting their AI. "The data presented in the AI includes clear evidence of racial segregation, but the County fails to explain these segregation patterns." This critique applies equally here.
26. The data presented on Section 1, page 10 of the draft AI clearly demonstrates that in Texas protected classes are disproportionately persons with low-incomes, drawing a clear link between the availability of affordable housing and the housing choices facing members of protected classes. Nevertheless, the draft AI relies on the distinction between "affordable housing" and "fair housing" in Section 5, page 1 to dismiss the need to examine the State's regulations regarding affordable housing as a possible impediment.¹¹ Recognizing the demonstrated link in Texas between these concepts would support the inclusion of findings of Appendix D, "The Texas local government fiscal structure causes fiscal disincentives for municipal support of affordable housing," and "State and local school funding practices can perpetuate the sorting of families and influence housing stock and access to opportunity based on economic status," as enumerated impediments to fair housing in the State.
27. The draft AI divides fair housing issues into "Impediments" and "Observations." The assertion that the issues classified as "Observations": racial and ethnic segregation, municipal revenue structures, the failure to conduct an adequate Analysis of Impediments to Fair Housing Choice, and local land use zoning, are issues "that could not be clearly linked to one or more protected classes or a particular action, omission or decision" is ludicrous.

¹¹ Oddly, page 450 of the draft AI references "The need for affordable housing for the state's lowest income residents" as an enumerated impediment, but it does not appear in the actual enumeration.

Draft Improperly Relies on Direct Resident Experiences to Estimate Structural Conditions

28. The telephone survey of residents is one of the few analyses contained in the draft AI that is used to draw substantial conclusions. For example, the introductory finding in the executive summary of the state of fair housing in Texas is "Overall, few (3%) Texas residents feel they have been discriminated against in trying to find housing."¹²
29. In using this statement to characterize the state of fair housing in Texas, the State improperly prioritizes the results of the telephone survey over other, more appropriate, data sources. While certain types of direct discrimination may be identified by telephone surveys of the general population, the report's over-reliance on this technique ignores the fact much structural discrimination will not be captured by a telephone survey. For example, HUD-funded matched pair testing has shown the existence of discriminatory practices such as steering in Texas housing markets.¹³ Steering involves not making residents aware of certain housing options. By definition, residents subject to racial steering would not be aware of the options they were not made aware of and would not be able to report such discrimination in a telephone survey.
30. Matched-pair testing has documented discrimination rates an order of magnitude greater than that suggested by the telephone survey relied upon in the draft AI. For example, a 2011 study by the North Texas Fair Housing Center found "The Rental Audit illustrates that African Americans who are otherwise qualified can expect to encounter discrimination in 37% of their housing searches in the Metroplex. This means that African Americans will face discrimination in two out of every five housing searches. The Rental Audit also shows that Hispanics can expect to encounter discrimination in 33% of their housing searches in North Texas."¹⁴
31. Despite acknowledging the existence of matched pair testing in Section VI of the draft AI, these findings are not used to characterize the state of fair housing in Texas, discussed in the identification of enumerated impediments, nor used to evaluate the reliability of the telephone survey. Matched pair testing demonstrates that the telephone survey fails to fully capture housing discrimination in Texas, and is not a reliable tool to draw conclusions about the state of fair housing in Texas.
32. The telephone survey further ignores the unique experiences of several protected classes. For example, while Texans with disabilities are broken out (with 8.8% of them reporting directly experiencing housing discrimination), the experiences of families with children and the experiences of women are not broken out, preventing the use of this survey in understanding the direct perceptions of discrimination of those groups.

¹² Even relying solely upon the telephone survey results, characterizing these results as the problem of a "few" is inappropriate. The underlying survey data shows 6.3% of non-whites (or one of every fifteen) report experiencing discrimination in trying to find housing, three and a half times the 1.7% rate experienced by non-Hispanic whites. It is unlikely these people, statistically representing hundreds of thousands of Texans, believe their experience is the problem of a "few."

¹³ See for example, the studies referenced in the draft AI at 6-11, as well as Housing Discrimination against Racial and Ethnic Minorities The Urban Institute, Turner et al. 2012.

¹⁴ "Rental Audit Dallas-Fort Worth Metroplex, April 2011", North Texas Fair Housing Center at page 3.

Matched-pair testing has documented stunning levels of discrimination against families with children in Texas: a 2001 study by the Greater Houston Fair Housing Center found, "families with children who are otherwise qualified can expect to be discriminated against in 85% of their efforts to find quality housing in Houston."¹⁵

33. The telephone survey results are used improperly throughout the report. For example, despite the fact NIMBYism was cited as a problem in focus groups and acknowledged in the State's 2003 AI, the draft AI relies on the telephone survey findings to state that "In sum, NIMBYism by Texas residents overall does not appear to create an impediment to housing choice for protected classes." This statement ignores the actual experience of TDHCA, as evidenced by thousands of hours of public hearings in which residents opposed multifamily developments disproportionately housing members of protected classes. TDHCA, in its 2009 self-evaluation report to the Texas Sunset Advisory Commission, directly referenced NIMBYism as a "key obstacle" it encounters in its work.¹⁶ A "statistically valid" telephone survey of the opinions of randomly selected residents is not more informative about the problem of NIMBYism in Texas than the agency's direct experience, and ignores HUD's recommendation that the AI "discuss NIMBYism from the perspective of developers who are deterred from building affordable housing in those communities where public opposition is negative about affordable housing," (pg. 6).

II. Conclusion

"[W]here a family lives, where it is allowed to live, is inextricably bound up with better education, better jobs, economic motivation, and good living conditions."¹⁷ The AI is a tool that communities can use to help eliminate these disparities in opportunities for protected classes. Compared to any reasonable standard, this AI falls short.

The draft AI utterly fails to comply with the requirements set out in law, regulation, and in HUD's specific guidance to the State of Texas. It does not adequately assess the current state of fair housing in the state and lacks actionable steps that can be taken to overcome these impediments and affirmatively further fair housing.

As a result, this AI is not compliant with HUD regulations as it neither analyzes the impediments to fair housing choice nor provides remedies to overcome them. The draft AI is substantially incomplete and cannot form the basis for a certification that the State is affirmatively furthering fair housing.

Sincerely,

¹⁵ "Houston Rental Audit," 2001, Greater Houston fair Housing Center at page 5.

¹⁶ 2009 Self Evaluation report to the Sunset Advisory Commission, Texas Department of Housing and Community Affairs, at 9.

¹⁷ 114 Cong. Rec. 2276-2707 (1968)

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cc:

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J. Paul Oxer, P, Chair, Texas Department of Housing and Community Affairs Board

Sara Pratt, Deputy Assistant Secretary for Fair Housing and Equal Opportunity, United States
Department of Housing and Urban Development

Yolanda Chavez, Deputy Assistance Secretary for Grant Programs, United States Department of
Housing and Urban Development

2

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
JUNE 5, 2014

Presentation, Discussion, and Possible Action on the Agency Strategic Plan for Fiscal Years 2015-2019

RECOMMENDED ACTION

WHEREAS, Texas Government Code Chapter 2056 requires all state agencies to conduct a comprehensive strategic planning process which produces a formal document that communicates its goals, directions, and outcomes to the Governor and the Legislature, client and constituency groups, and the public;

WHEREAS, the *Instructions for Preparing and Submitting Agency Strategic Plans for Fiscal Years 2015 to 2019*, issued jointly by the Governor's Office of Budget, Planning and Policy and the Legislative Budget Board were released on March 28, 2014, and;

WHEREAS, the Department has prepared the Agency Strategic Plan for Fiscal Years 2015-2019 in accordance with the prescribed instructions;

NOW, therefore, it is hereby

RESOLVED, that the Agency Strategic Plan for Fiscal Years 2015-2019, in the form presented to this meeting, is hereby approved, and

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to file and distribute such plan, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to the appropriate legislative and oversight offices.

BACKGROUND

Strategic planning is a long-term, iterative, and future-oriented process of assessment, goal setting, and decision-making. It includes a multiyear view of objectives and strategies for the accomplishment of state agency goals. Clearly defined results influence future planning, resource allocation, and operating decisions. The strategic planning process incorporates and sets direction for agency operations.

The following sentence from the Legislative Budget Board's report preparation instructions sums up the purpose of this document well.

“An agency’s strategic Plan is a formal document that communicates an agency’s goals, directions, and outcomes to various audiences, including the Governor and the Legislature, client and constituency groups, the general public, and the agency’s employees.”¹

By June 23, 2014, the Agency Strategic Plan must be submitted to the Governor, Lieutenant Governor, Speaker of the House, Comptroller of Public Accounts, State Auditor, Sunset Advisory Committee, House Appropriations Committee, Senate Finance Committee, Governor’s Office of Budget, Planning and Policy, Legislative Budget Board, Texas State Library, the Legislative Reference Library, and the Department of Information Resources.

The Plan provides a high level overview of issues that may affect the ongoing accomplishment of TDHCA’s mission over the next five years. Examples of internal issues the report must consider include the Department’s budget, workforce characteristics, technological assets and projects, organizational structure, and existing performance measures. External factors that may change over time are also studied. Such factors include TDHCA’s available funding resources, service population characteristics, service area boundaries, and the economic, legal, and environmental conditions in which it operates. Finally, the Plan provides TDHCA with an opportunity to describe some of its strengths, weaknesses, challenges, and opportunities for change.

Please note that while this is a “planning” document, it does not establish future performance measure targets or methods of finance (this is done through the Legislative Appropriations Request process); or program set asides or intended program activities. Those program specific decisions are made through program rule making, funding plans, and the State Low Income Housing Plan and Annual Report.

The Agency Strategic Plan for Fiscal Years 2015-2019 for approval by the Board is posted online at <http://www.tdhca.state.tx.us/board/meetings.htm>

¹ From the “Introduction” to the *Instructions for Preparing and Submitting Agency Strategic Plans Fiscal Years 2015-2019*, p. 3.

3

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers of the Department's Program Rules and Requests for Exemption from Undesirable Site Features

RECOMMENDED ACTION

WHEREAS, a 2014 competitive housing tax credit scoring notice was provided to the Applicant for Oak Grove Village (#14006);

WHEREAS, staff identified 14 points that the Applicant elected but that the Application did not qualify to receive under §11.9(d)(2) of the 2014 Qualified Allocation Plan ("QAP") related to Commitment of Development Funding by Local Political Subdivision;

WHEREAS, staff deducted five points from the Application pursuant to §10.201(7)(A) of the Uniform Multifamily Rules ("Rule"); and,

WHEREAS, the Applicant appealed the scoring notice and requests that the Board award a total of 14 points under §11.9(d)(2) of the QAP and reinstate the five points deducted under §10.201(7)(A) of the Rule.

NOW, therefore, it is hereby,

RESOLVED, the Applicant's appeal of the scoring notice for Oak Grove Village (#14006) is hereby denied.

BACKGROUND

An application was submitted for Oak Grove Village, located in Marble Falls, rural region 7, in which the Applicant requested 14 points under §11.9(d)(2) of the QAP, related to Commitment of Funding by Local Political Subdivision ("LPS"). In order to be eligible for points, the application must demonstrate development funding from either a city or county or eligible governmental instrumentality. Eligible instrumentalities include those that have either 60 percent of their board serving also as city council members or county commissioners or 100 percent of their board appointed by the city or county. In addition the Rule provides that, "the government instrumentality providing funding under this scoring item may not be a Related Party to the Applicant." The Application for Oak Grove Village proposes that funding will be provided by the Marble Falls Economic Development Corporation ("EDC"), which could be an eligible entity since 100 percent of the board is appointed by the City of Marble Falls. Mr. Mark Mayfield serves as one of those board members, and he is also the President and CEO of Texas Housing Foundation, the General Partner of the Owner of the Development. Section 2306.6702(11)(H),

Texas Gov't Code Chapter 2306, defines Related Parties as including "a person or organization and an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501), and that is controlled by that person or the person's family members or by that organization." Because Mr. Mayfield serves as a board member of the EDC (an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986), he has control of that EDC. Control is defined in §10.3(a)(27) of the Rule as, "the power, ability, or authority, acting alone or in concert with others, directly or indirectly, to manage [or] direct..." Staff has consistently viewed board members of an organization to have control of that organization under this definition. The Applicant addressed this in the original application submission, disclosing the fact that Mr. Mayfield serves on the board of the EDC and attempting to rectify the situation by his recusal from the EDC decision to commit funding to the development. Staff does not believe that this recusal causes the EDC not to be a Related Party to the Applicant. A board member's recusal from a particular decision does not negate his general ability to affect decisions of that board and is not provided for by the Rule. Therefore, staff recommends denial of the appeal related to points awarded under §11.9(d)(2) of the QAP.

Regarding the five points deducted from the application's final score, §10.201(7)(A) of the Rule calls for Administrative Deficiencies issued by staff to be resolved within five business days. If deficiencies are not resolved to the satisfaction of the Department by 5pm on the fifth business day following the date of the deficiency notice, then five points are deducted from the application's score. Staff issued such a deficiency on April 4, 2014, in which several issues that needed correction or clarification were identified. Specifically, the following language was included in the deficiency notice:

"Tab 37, Organizational Charts - Revise the organizational charts such that they illustrate ownership of the Development Owner down to the level of natural persons...
Tab 3, 38, 39 and 46 - The forms behind these tabs will be affected by any additions to the organizational charts. In the likely event that persons are added, be sure to adjust these forms or add forms as applicable and submit them also."

The Applicant did send a response to staff before the deadline of April 11, 2014, but it did not completely satisfy the deficiency. The organizational chart still did not reflect the ownership structure correctly, and some names of persons in the ownership structure were still missing from the chart. Staff worked with the Applicant on the day of the deadline to assist the Applicant in preparing the response, and eventually staff was able to accept the revised chart by the 5pm deadline. However, the revisions caused persons to be added to the chart that were not formerly listed, as anticipated by staff in the language in the deficiency notice. Therefore, certain forms needed to be completed and/or executed by these additional persons. It was the submission of these forms that occurred after the deficiency response deadline, on Monday, April 12, 2014, and it was this late submission that caused staff to deduct the points pursuant to the Rule.

The Applicant, in their appeal, claims that staff should have issued a new deficiency with a new deadline since the revised organizational chart required information about the special limited partner (of the limited partnership owner entity), and it was the addition of the details regarding the special limited partner that caused the Applicant to need the forms that were ultimately submitted after the deadline. Staff disagrees. First, the organizational chart should have contained this information in the original application submission. The Applicant points to previous applications submitted by Hamilton Valley Management (the special limited partner in this case) that did not include this information. This is

irrelevant. Ownership structures presented in previous applications in previous cycles have no bearing on staff's evaluation of the current application, and staff's request regarding the requirements of the organizational charts and related forms was in accordance with the Rule. The simple fact is that on April 4, 2014, staff requested a revised organizational chart *and the additional forms that may be required as a result of that revision*, and staff did not receive all of this information by the April 11, 2014, deadline. Therefore, staff recommends denial of the appeal with respect to the five point deduction under §10.201(7)(A) of the Rule.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Mark Mayfield

Phone #: (830) 693-4521

Email: mmayfield@txhf.org

Second Email: dennishoover@hamiltonvalley.com

Date: May 07, 2014

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

**RE: 2014 Competitive Housing Tax Credit (HTC) Application for Oak Grove Village, TDHCA Number:
14006**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2014 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that three scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the three scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, and §11.9(d)(6) Input from Community Organizations.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(2) "Cost of Development per Square Foot" and §11.9(e)(4) "Leveraging of Private, State, and Federal Resources" may be adjusted should the underwriting review result in changes to the Application that would affect these scores. Likewise, if an Application was awarded points under §11.9(d)(2) "Commitment of Development Funding by Local Political Subdivision" and should that Application receive an award of tax credits, the Applicant must provide a firm commitment of funds as a condition of the Commitment Notice. Applicants may substitute qualifying sources only if no points were elected under §11.9(d)(2)(C). If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 14006, Oak Grove Village

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	132
Score Awarded by Department staff (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	118
Difference between Requested and Awarded:	14

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	5
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Section 4:

Final Score Awarded to Application by Department staff:	146
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Section 5:

Explanation for Difference between Points Requested and Points Awarded by the Department as well as penalties assessed:

- §11.9(d)(2) Commitment of Development Funding by Local Political Subdivision. The government instrumentality providing Development funding is a Related Party to the Applicant. (Requested 14, Awarded 0)
- §10.201(7)(A) Administrative Deficiencies for Competitive HTC Applications. Administrative deficiencies were not satisfactorily cured by deadline established in deficiency notice. Deficiencies cured one (1) day late. (5 point penalty assessed)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. (CST), Thursday, May 15, 2014. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Kathryn Saar at (512) 936-7834 or by email at <mailto:kathryn.saar@tdhca.state.tx.us>.

Sincerely,

Jean Latscha

Jean Latscha
 Director of Multifamily Finance



May 9, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: THF Marble Falls Seniors Redevelopment Venture, LP, owner
Oak Grove Village
TDHCA #14006

Dear Mr. Irvine:

This is a formal appeal of the scoring notice received on the above mentioned application. This appeal addresses two scoring items that we believe this application is eligible for based on the 2014 QAP.

1. *11.9(d)(2) Commitment of Development Funding by Local Political Subdivision—
14 points requested – 0 points rewarded)*

The 14 points were deducted from the Application because of Staff's interpretation of the Related Party definition. A member of the Applicant's general partner is also a director of the Marble Falls Economic Development ("EDC") Board, which provided the Commitment for Development Funding from a Local Political Subdivision. TDHCA Staff determination was that this constituted a Related Party transaction and, therefore, they deducted the points. Mark Mayfield is the Executive Director of the Texas Housing Foundation, which is a member of the General Partner of the Applicant and, he also serves on the Board of the EDC. However, we strongly disagree with the staff determination. Applicant believes that notification should have been given when staff made an interpretation of the rule before points were removed.

Applicant is very familiar with the rule and aware that there was an appearance of a related party situation when the application was submitted. This is why steps were taken and documentation was submitted with the application stating the recusal of a board member of the funding entity in accordance with the statute below. (*Please find attached Exhibit A, the Conflict of Interest Affidavit, City Secretary Letter, Minutes from the meeting of the funding source stating the recusal of the board member, and the letter of support with terms and source from the funding source*).

The Texas Local Government Code Section 171 specifically provides for the situation when a Related Party transaction comes before a local governing body and also provides for the method to handle such a situation:

Sec. 171.002. SUBSTANTIAL INTEREST IN BUSINESS ENTITY. (a) For purposes of this chapter, a person has a substantial interest in a business entity if:

- (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

Sec. 171.004. AFFIDAVIT AND ABSTENTION FROM VOTING REQUIRED. (a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

It is very clear that upon filing the affidavit with the City Secretary's Office, the person signing affirms that they will abstain from any decision involving the situation now and in the future whatsoever. According to Section 171.004 if, after signing the affidavit they violate this agreement it is a Class A Misdemeanor, which carries a penalty of a fine and possible jail time.

Marble Falls is a small town with a population just over 6,000. Most smaller, rural cities have numerous people who volunteer or are elected to boards for the city, county and similar entities that could serve as funding sources and meet the criteria of the 2014 QAP. In small towns, it is often likely that the same people serve on every board. It is difficult to find a city or county affiliated funding source not affiliated with some person involved in a Project. That was certainly the case in Marble Falls, where the EDC is essentially the only source of funds that meet the QAP requirements.

Nowhere in Section 11.9(d)(2) does it state that you cannot use recusal in accordance with Texas law as a method to resolve the related party issue. This is an allowable way to handle this situation. The deduction of points was done simply on staff interpretation. We believe our interpretation better conforms to Texas laws and should be adopted.

We believe that the points should be reinstated. In the alternative, at the very least Applicant should have been apprised of staff's interpretation and given the opportunity to replace the funding source. Given the lack of guidance in the QAP, perhaps this should be addressed in next year's QAP so it will be clear to **all** applicants in the future.

2. 10.201(7)(A) of the Uniform Multifamily Rules (5 points deducted)

Deficiency issued on April 4 was not resolved to the satisfaction of the Department by the deadline of 5pm on April 11, 2014.

Applicant received the Department's Eligibility/Selection/Threshold review on Friday, April 4, 2014 at 4:12 PM giving the normal 5 business day response time. The issue arises with respect to the following deficiency item:

“Tab 37, Organizational Charts – Revise the organizational charts such that they illustrate ownership of the Development Owner down to the level of natural persons. You have entities on the charts currently, which do not show their full ownership. You will need to rearrange the charts so that entities that don't own one another are not stacked. The ownership should flow downward with no loops. If you have questions give me a call.”

On Thursday April 10, a full day before the deadline to submit responses, Kim Youngquist had all items prepared to send by the TDHCA U-SERV system with the exception of copies of some letters to the tenants and three signature pages. Ms. Youngquist sent the updated organizational charts and information to Elizabeth Henderson for review on Thursday, April 10. Ms. Henderson had concern about the format of the Owner's Organizational Chart. The chart was updated and, on Thursday afternoon, the final version was sent for her review at 5:06 (*see Exhibit B email attached-still a day before the due date*). Ms. Youngquist and Ms. Henderson spoke on the phone after her review and, although not completely satisfied with the chart changes, Ms. Henderson said that she would accept it as is and could mark it up for the next phase of review.

An email was sent at 7:34 PM, Thursday the 10th (*see Exhibit B*) letting Ms. Henderson, and all concerned know that the response package had been uploaded to U-SERV. Also in the email were instructions of how to contact the attorney who prepared the original organizational chart just in case there were any further questions. Ms. Youngquist also gave her cell number in case there were any further problems or concerns since she was out of town on Friday. Another Hamilton Valley Management (“HVM”) employee, not as familiar with the process, was contacted by Ms. Henderson on Friday when the question came up concerning the Developer's Organizational Chart. Since this was a **new item** and not on the original Deficiency list Applicant should have received a new Deficiency notice and been given five days to make the correction, but Ms. Henderson indicated that it could just be corrected and sent ASAP.

Then the Owner's Organizational chart came in question again with Nan Boyles at HVM. The question was who owns the Owner of the Special Limited Partner. This started an entirely new topic because the Special Limited Partner is a Corporation and is owned by another Corporation. The original Organizational Chart took it to the first natural person, Dennis Hoover, the only related party. This is consistent with all other applications submitted by an HVM entity. Ms. Henderson explained that the Organizational Chart needed to be changed again to reflect all natural persons that are owners or members of the Owner of the Special Limited Partner.

HVM has used this same structure of ownership in past applications and the Organizational Charts have always been accepted the way they were presented in the original ownership chart. By the time Applicant was aware that they needed to add so many new people and get Certifications from them, it was very late on the Friday afternoon when the response was due back to TDHCA. Because this became a new issue for the applicant and additional information was needed, including getting signatures on additional Certifications of Principals and Credit Limit Certifications, the Applicant should have received a new deficiency. This is particularly true because Ms. Henderson originally accepted the response on Thursday when the proper respondent submitted the information.

Applicant has attached all the correspondence back and forth during the course of the week between staff (Elizabeth Henderson), original applicant representative (Kim Youngquist) and applicant representative Nan Boyles.

We respectfully request a favorable ruling on each of the two issues on appeal. These issues do not raise policy issues and therefore, we believe that they are more appropriately handled at your level. That being said, should you decide that you cannot rule in our favor at this juncture, we reserve the right to appeal at the next board meeting.

We thank you for your consideration and concern for this project. Should you require further information, please contact me directly.

Sincerely,



Claire G. Palmer

cc: Dennis Hoover
Kim Youngquist
Nan Boyles
Cameron Dorsey
Jean Latsha
Kathryn Saar

Exhibit A

LOCAL GOVERNMENT CODE CHAPTER 171. REGULATION OF CONFLICTS OF INTEREST OF OFFICERS OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS.

Local Government Code § 171.001. DEFINITIONS

1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local government entity who exercises responsibilities beyond those that are advisory in nature.

2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law.

Government Code § 573.023. COMPUTATION OF DEGREES OF CONSANGUINITY

a) Two individuals are related to each other by consanguinity if:

- 1) One is a descendant of the other; or
- 2) They share a common ancestor.

Government Code § 573.024. DETERMINATION OF AFFINITY

a) Two individuals are related to each other by affinity if:

- 1) They are married to each other; or
- 2) The spouse of one of the individuals is related by consanguinity to the other individual.

b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

Government Code § 573.025. COMPUTATION OF DEGREES OF AFFINITY

a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity.

CONFLICT OF INTEREST AFFIDAVIT

THE STATE OF TEXAS §
COUNTY OF BURNET §
CITY OF MARBLE FALLS §

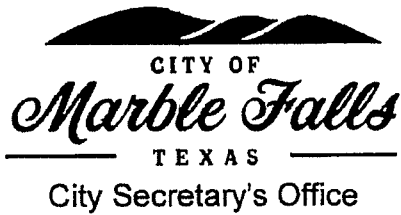
I, Mark Mayfield, as a member of the Marble Falls Economic Development Corporation make this affidavit and hereby on oath state the following: I have a substantial interest in a business entity or real property as defined in Chapter 171, Texas Local Government Code, and a vote is to be taken or a decision is to be made that will have a special economic effect on this business entity or real property.

The agenda item 118, 20 14, affecting this business entity or real property is:

COMPLETE (A) or (B): (A) The business entity is Oak Grove Seniors, LP (name); or
(B) The real property is located at: _____.

I have a substantial interest for the following reason(s): (check all which are applicable)

- Ownership of 10% or more of the voting stock or shares of the business entity.
- Ownership of either 10% or more or \$15,000 or more of the fair market value of the business entity.



STATE OF TEXAS §
COUNTY OF BURNET §
CITY OF MARBLE FALLS §

I, Christina McDonald, the undersigned, City Secretary of the City of Marble Falls, Texas, a municipal corporation, in the functions of my office, do hereby certify that the attached document is a true and correct copy of the same document entered into the official records of the City of Marble Falls, Texas, and that I am the lawful possessor and have legal custody of the City records.

Witness my hand and seal of office at my office in Marble Falls, Texas, this the 19th day of February, 2014.

Christina McDonald

Christina McDonald, TRMC
City Secretary
City of Marble Falls, Texas

- Funds received from the business entity exceed 10% of gross income for the previous year.
- Real property is involved and has an equitable or legal ownership with a fair market value of \$2,500 or more.
- Related to a person in the first degree by consanguinity or affinity having a substantial interest in the business entity or property that would be affected by a decision of the public body of which I am a member.
- Other: President of proposed General Partner

Upon filing of this affidavit with the City Secretary's Office, I affirm that I will abstain from voting on any decision involving this business entity or real property and from any further participation on this matter whatsoever. I understand under Section 171.003 that a local public official commits an offense if he/she knowingly violates Section 171.004; act as surety for a business entity that has work, business, or a contract with the governmental entity; or acts as surety on any official bond required of an officer to the governmental entity; and that an offense under this section is a Class A Misdemeanor, which carries a penalty of a fine not to exceed four thousand dollars (\$4,000.00), or confinement in jail for a term not to exceed one (1) year, or both.

Signed this the 8th day of January, 2014.

[Signature]
 Signature of Official
President of G.P.
 Title

THE STATE OF TEXAS §
 COUNTY OF BURNET §
 CITY OF MARBLE FALLS §

Before me Christina McDonald on this day personally appeared Mark Mayfield known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 8th day of January 2014.
Christina McDonald
 Notary Public in and for the State of Texas



**STATE OF TEXAS
COUNTY OF BURNET
CITY OF MARBLE FALLS**

On this the 8th day of January, 2014 the Marble Falls Economic Development Corporation of the City of Marble Falls convened in regular session at noon at the regular meeting place in City Hall, with notice of meeting giving time, place, date, and subject having been posted as described in Chapter 551 of the Texas Government Code.

PRESENT:

John Packer	President
Steve Reitz	Director
Jane Marie Hurst	Director
George (Butch) Kemper	Director
Mark Mayfield	Director
Judy Miller	Director

ABSENT: None

STAFF:

Christian Fletcher	Executive Director
Rose Metzler	Administrative Assistant
Christina McDonald	Secretary and City Secretary
Margie Cardenas	Treasurer and City Finance Director
Monte Akers	City Attorney
Robert Moss	Parks and Recreation Director

VISITORS: Emily Zendt (The Highlander), Dennis Hoover (Hamilton Valley Management)

1. **CALL TO ORDER AND ANNOUNCE QUORUM IS PRESENT.** President Packer called the meeting to order.
2. **CITIZENS COMMENTS.** None
3. **APPROVAL OF MINUTES**
 - **December 4, 2013 regular meeting.** Director Mayfield made a motion to approve the minutes. Director Miller seconded the motion. The minutes were approved by a vote of 6-0.
4. **PRESENTATIONS AND UPDATES**
 - **Update from the City of Marble Falls.** Mayor Russell was not available to give the update.
5. **DIRECTOR'S REPORT.** Executive Director Christian Fletcher gave an update on marketing, web site activity and the Local Option Election petition.
6. **DISCUSSION AND ACTION ITEMS**
 - a) **Public hearing, discussion and action on Resolution 2014-R-01 amending the EDC's project list.** President Packer opened the public hearing. Christian Fletcher,

Executive Director addressed the board. There being no further discussion, President Packer closed the public hearing. Director Reitz made a motion to approve Resolution 2013-R-01. Director Hurst seconded the motion. The motion carried by a vote of 6-0.

- b) **Discussion and action on Performance Agreement with Oak Grove Seniors, LP.** Representative Hoover was present. Director Mayfield recused himself. Secretary Christina McDonald acknowledged that a Conflict of Interest Affidavit was on file. Director Hurst made a motion to approve the performance agreement subject to the note being executed by the then property owner and secured by a second lien deed of trust which is subordinate only to the first lien construction loan without renewals and extensions. President Packer seconded the motion. The motion carried by a vote of 5-0.
- c) **Discussion on replacement for vacant Board seat.** Discussion only. No action.

7. **EXECUTIVE SESSION**

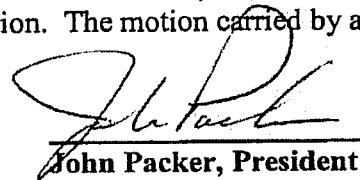
Close Open Session and Convene Executive Session pursuant to §551.087 (*Economic Development*), pursuant to §551.071 (*Private Consultation between the Board and its Attorney*), and pursuant to §551.072 (*Deliberation Regarding the Purchase, Exchange, Lease or Value of Real Property*) the Marble Falls Economic Development Corporation Board will meet in Executive Session to discuss the following:

- **Economic Development Prospects**
- **Discussion on acquisition of property to support the Downtown Master Plan**
- **Seek privileged advice from the Board's attorney regarding the Board's legal obligations and discuss financial and other incentives with regard to the following project and location:**
 - **CorWorth Building Systems, LLC**
 - **Proposed terms of lease incentives for Frank Fickett Center**

12:40 pm Convened to Executive Session

1:20 pm Returned to Open Session

8. **RECONVENE TO OPEN SESSION FOR POSSIBLE ACTION RESULTING FROM ITEMS DISCUSSED IN EXECUTIVE SESSION.** Director Mayfield made a motion to move forward with negotiations with Corworth as discussed in Executive Session and to authorize the EDC President to execute the agreement. Director Miller seconded the motion. The motion carried by a unanimous vote (6-0).
9. **FUTURE AGENDA REVIEW.** Items for the February meeting agenda were reviewed.
10. **ADJOURNMENT.** There being no further business to discuss, Director Reitz made a motion to adjourn. Director Hurst seconded the motion. The motion carried by a vote of 6-0.



John Packer, President

ATTEST:

Christina McDonald
Christina McDonald, EDC Secretary



February 19, 2014

THF Marble Falls Senior Redevelopment Venture LP
1110 Broadway
Marble Falls, TX 78654

RE: EDC support for Oak Grove Village project

To Whom It May Concern:

This letter and attachments summarize the Marble Falls Economic Development Corporation's favorable action related to your project. Enclosed are a copy of the minutes from our January 8, 2014 board meeting and a draft copy of the performance agreement and promissory note that were approved with Oak Grove Seniors LP at that meeting. Because Oak Grove Seniors LP and THF Marble Falls Senior Redevelopment Venture LP are one and the same, the name will be changed from the former to the latter prior to final execution of these documents.

In short, the EDC agreed to a firm commitment for a \$60,000 loan at 3% over 5 years to Oak Grove Seniors LP. The source of these funds is the half-cent economic development sales tax in the city of Marble Falls; more specifically, this will be an expenditure from the recruitment and retention line item in our budget. Funding would be available by September 1, 2014.

The EDC looks forward to working with you in advancing this project.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Christian Fletcher", with a horizontal line extending from the end of the signature.

Christian Fletcher
Executive Director

Exhibit B

Kim Youngquist

From: Kim Youngquist
Sent: Thursday, April 10, 2014 5:06 PM
To: elizabeth.henderson@tdhca.state.tx.us
Subject: TDHCA #14006 Marble Falls
Attachments: ORG_CHART_(Part 1 - Owner).doc

Importance: High

Elizabeth, Could you please take a look at the org chart attached. I am going to send you all the responses to the def. notice in a minute but, I wanted you to take a look and be sure this is what you were needing. I am going to be out of the office tomorrow but if there is anything that needs fixing after you review in the morning please contact Nan at ext. 207 or email her at nboyles@hamiltonvalley.com. Also, if you need the org chart changed please email or call Nick Audino, the attorney for this project. He has the changeable form and said he would be available all day tomorrow if he needs to fix anything.

Thank you Elizabeth and I will email you when I have uploaded everything with the exception of parts b. and c. of number 3. Dennis and Mark are working on that and will probably email you the GIN letters and the Relocation Budget. I can upload them on Monday if you want me to but wanted to be sure you received everything before 5 tomorrow.

If you need me for anything please call me on my cell at 512-203-1840.

Kim Youngquist

Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

Kim Youngquist

From: Kim Youngquist
Sent: Thursday, April 10, 2014 7:34 PM
To: elizabeth.henderson@tdhca.state.tx.us
Cc: Dennis Hoover; mmayfield@txhf.org; Nan Boyles; Jason Burr (jason.burr@tdhca.state.tx.us); nross@txhf.org
Subject: TDHCA #14006 Oak Grove Village

Importance: High

Tracking:	Recipient	Read
	elizabeth.henderson@tdhca.state.tx.us	
	Dennis Hoover	Read: 4/11/2014 8:55 AM
	mmayfield@txhf.org	
	Nan Boyles	Read: 4/10/2014 8:38 PM
	Jason Burr (jason.burr@tdhca.state.tx.us)	
	nross@txhf.org	

Elizabeth,

The deficiency response has been uploaded to the Serv-U system. It is titled "Def Response 14006". All items have been addressed in this file with the exception of the GIN letters. We are waiting for the final ones and will send those to you Friday the 11th before 5:00 PM. If you have any questions on any of the responses after your review this morning, please contact Nan Boyles at ext 207 of nboyles@hamiltonvalley.com and copy Dennis Hoover at dennishoover@hamiltonvalley.com. You can reach me on my cell phone at 512-203-1840 if you need to today. Nan will send over the signed Credit Limit Doc Certification for Danna Hoover, Benjamin Farmer and Paul Farmer by email today (Tab 46).

Thank you and please let us know if there is anything further that you need.

Kim Youngquist

Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

Kim Youngquist

From: Kim Youngquist
Sent: Thursday, April 10, 2014 7:34 PM
To: elizabeth.henderson@tdhca.state.tx.us
Cc: Dennis Hoover; mmayfield@txhf.org; Nan Boyles; Jason Burr (jason.burr@tdhca.state.tx.us); nross@txhf.org
Subject: TDHCA #14006 Oak Grove Village

Importance: High

Tracking:	Recipient	Read
	elizabeth.henderson@tdhca.state.tx.us	
	Dennis Hoover	Read: 4/11/2014 8:55 AM
	mmayfield@txhf.org	
	Nan Boyles	Read: 4/10/2014 8:38 PM
	Jason Burr (jason.burr@tdhca.state.tx.us)	
	nross@txhf.org	

Elizabeth,

The deficiency response has been uploaded to the Serv-U system. It is titled "Def Response 14006". All items have been addressed in this file with the exception of the GIN letters. We are waiting for the final ones and will send those to you Friday the 11th before 5:00 PM. If you have any questions on any of the responses after your review this morning, please contact Nan Boyles at ext 207 of nboyles@hamiltonvalley.com and copy Dennis Hoover at dennishoover@hamiltonvalley.com. You can reach me on my cell phone at 512-203-1840 if you need to today. Nan will send over the signed Credit Limit Doc Certification for Danna Hoover, Benjamin Farmer and Paul Farmer by email today (Tab 46).

Thank you and please let us know if there is anything further that you need.

Kim Youngquist

Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

Kim Youngquist

From: Kim Youngquist
Sent: Tuesday, April 15, 2014 2:08 PM
To: 'Claire Palmer'
Cc: Nan Boyles; Dennis Hoover
Subject: RE: Oak Grove Village TDHCA # 14006
Attachments: #5.pdf

Then to pick it up on Monday...After Nan and Dennis collected signatures for the Certifications of Principals, and had made additions to the Organizations and Principals chart, Previous Participations, corrected the Part I of the Applicant Credit Limit Documentation and Certifications and did additional Part II to match, sent it all on Saturday we began receiving new emails from Elizabeth. I have attached the series of emails (titled #5) in time order beginning at 11:08 to Nan and then I started responding once Nan and I went over everything. The last email attached at 2:34 from Elizabeth was after she and I had a phone conversation concerning the Org Chart again. She made up her own and sent it to me. That should be the last page in the attachment. After that I finished up all the requests and changes on all the documents she requested and sent them to her. She called me around 4:45 PM and told me that everything was in and we were good to go but, we would have 5 points deducted because all was due on Friday. I talked to her for some time about it and then called Jean as well. Jean was sympathetic but said that there is always the possibility of the other application losing points as well and that we could try to protest it once they complete the points. I also told her that we had heard rumor that the Liberty Hill application was going to protest. She told me that we would receive that after the points were finalized.
Thanks Claire. Please call us if you have any questions.

Kim Youngquist

Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

From: Nan Boyles
Sent: Tuesday, April 15, 2014 1:15 PM
To: Kim Youngquist
Subject: RE: Oak Grove Village TDHCA # 14006

At 4:39 I notified Dennis, Mark, Nancy and you that all had been sent to TDHCA, thanked them for all of the time and assistance and told them I was waiting by and daring the phone to ring. Sometime after 5:00 I called Elizabeth, at this point she started listing off errors, the first one being the Developer chart. I argued that the Developer Chart was nowhere on the deficiency we had received on 4-4-14 and requested a new deficiency be generated for that item. She told me she was working on an email for me to receive to fix the additional items she had found and would email it as soon as she was finished. In the mean time I attempted to correct what I thought she was talking about on the Development chart and sent it to her.(bottom of the attached)At 6:14 PM she sent the top part of the attachment with a long list of items. She said she would wait for me to correct them , but did not think I could do so quickly, as I needed signatures from individuals. I worked on those until after 7:30, decided I was making too many errors, packed up and went home. Came back in on Saturday to finish and get Dennis to get me the 4 signature I thought I was in need of, which is why I was in all day Saturday.

Nan S. Boyles
Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

From: Kim Youngquist
Sent: Tuesday, April 15, 2014 12:29 PM
To: Claire Palmer; Claire Palmer (clairepalmerpllc@sbcglobal.net) (clairepalmerpllc@sbcglobal.net)
Cc: Dennis Hoover; Nan Boyles
Subject: Oak Grove Village TDHCA # 14006
Importance: High

Good Morning all,

I am going to attempt to re-cap the events that led to our loss of 5 points on the above referenced application in Marble Falls.

The deficiency was due on Friday by 5:00 April 11th. On Thursday the 10th Elizabeth Henderson with TDHCA and I visited on the phone concerning the Org Chart, after I sent her the attached revised copy titled #1. She had been not pleased with the lay out of the chart but told me that she would except what I sent and mark it up, it would be ok to pass on for others to review. I uploaded our responses on Thursday evening so that Elizabeth could review Friday morning. At that point the only items missing that I was aware of was the GIN's which we were waiting to receive from Nancy at THF. I called Nick, the attorney, and emailed Elizabeth. I asked Nick if he would be available on Friday to answer in any further questions concerning the Org Chart just in case and he told me he would be in his office all day if Elizabeth needed him. I had asked Elizabeth to call Nick concerning the Org Chart if she had any further questions. (Please see attachment #2 for three emails) I asked her to contact Nan in case there was further information needed in all other already submitted responses. Also, Nan was going to forward the GIN's as soon as she received them from Nancy.

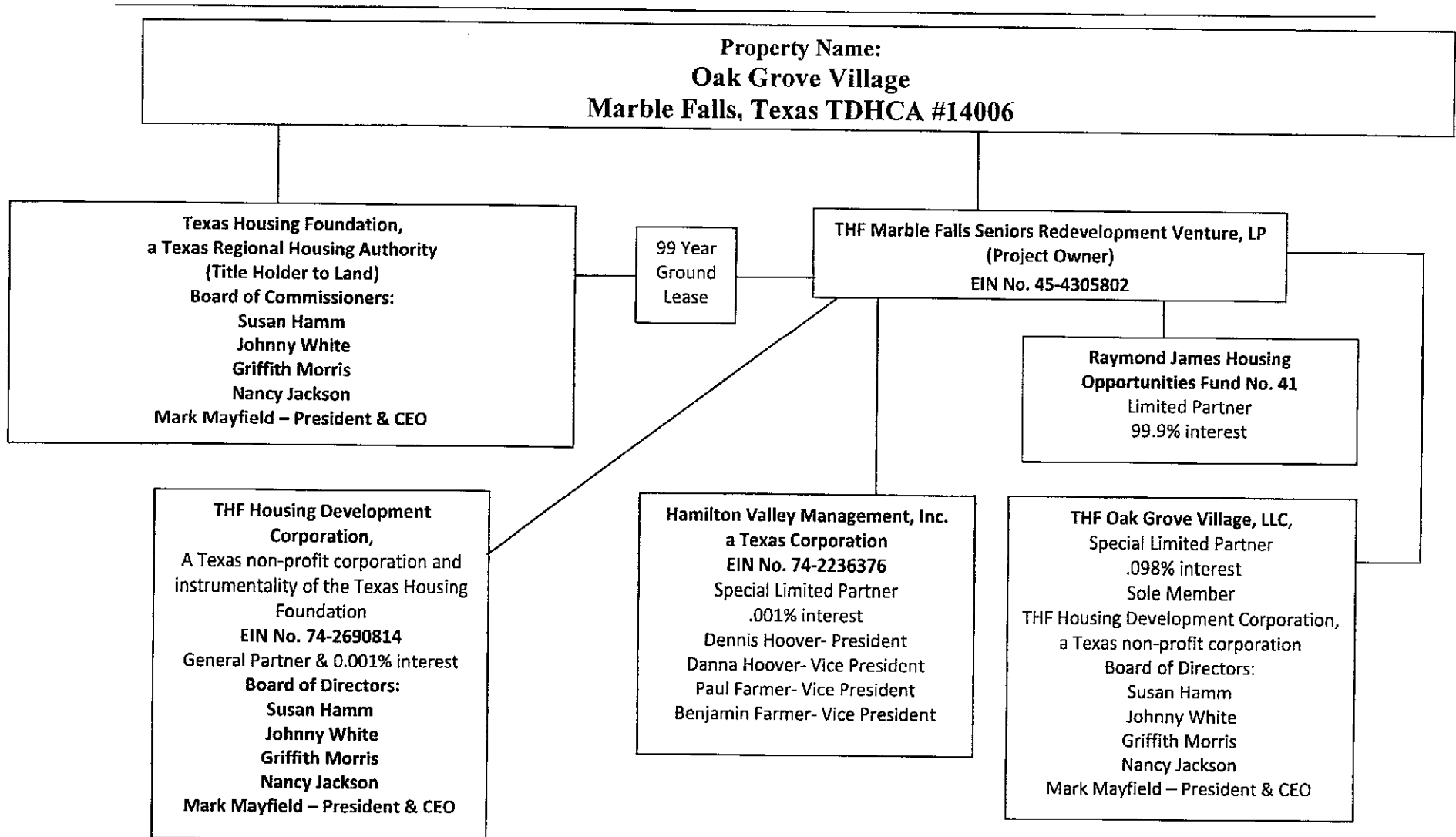
Between the email I sent to Elizabeth at 5:06 and the email at 7:34 where I notified her that the file had been uploaded, she and I had the conversation on the phone concerning the Org Chart and this is when she said it was not the lay out that would be most helpful but she would mark it up to forward on through the review process.

On Friday morning, Elizabeth called Nan still concerned about the Org Chart even after our conversation on Thursday evening. During the conversation between Elizabeth and Nan, the subject of who owns BHHH (the sole owner of Hamilton Valley serving as a Special Limited Partner with .001%) came up. She forwarded a marked up version of the format that she wanted to see (I have attached her email and the marked up org chart titled #3) in her email she stated that she crossed through what she did not want and wrote what was left off (i.e. J&V owner of BHHH with 99% ownership and Dennis Hoover with 1%). She also stated that all was cleared on the deficiency at that point except for the GIN's, the organizational chart, again because the additional entities needed to be added down to the natural people. And, because of those changes, the Certification of Principals, the List of Org and Principals, Previous Participations and the Applicant Credit Limit Docs and Certs all needed to be updated. Also included in attachment #3 is the email correspondence between Elizabeth, Nan and Nick concerning the Org chart changes, etc.

At 1:22 pm on Friday, Nick emailed Nan with his ok on the chart. But, prior to that, Nan sent the updated chart to Elizabeth at 12:52 to get her to review it. At that point Elizabeth emailed back at 1:04 and said that since J&V had been introduced to the mix, she needed to see who own that and all of it needed to be added to the chart down to the natural person. Nan email Dennis with this at 1:10. Dennis sent Nan the breakdown of ownership of J&V at 1:44 and forwarded the newest version of the Org Chart to Elizabeth for review at 1:57 and said she was working on the Previous Part and signatures on all other docs needed. At 4:13 Nan emailed the final Org Chart to Nick for a final review and then uploaded all the documents that she thought would complete the response at 3:55.34. Nan did not get a response from Elizabeth until Monday morning when we were made aware that because of all the updates and changes a few of the entities needed Certificate of Principals, Previous Participations and Credit Limit forms filled out. Attachment #4 is all the emails in date order and the org charts as they progressed.

Nan, I tried to follow the time line as closely as possible. I am a little unclear of what happened between when you uploaded the response at 3:55 and why you were in on Saturday and what happened at that time and why. You may want to pick up there. Thanks, Kim

**THF Marble Falls Seniors Redevelopment Venture, LP
Ownership Entity Organizational Structure Chart**



111

Kim Youngquist

#2
Nick
Part 1

Subject: FW: THF Org Chart
Attachments: ORG_CHART_(Part 1 - Owner).doc

Kim Youngquist
Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

From: Kim Youngquist
Sent: Thursday, April 10, 2014 4:47 PM
To: DominicAudino@yahoo.com; Dominic Audino (audinolaw1@gmail.com)
Cc: mmayfield@txhf.org
Subject: THF Org Chart

Nick,
Thanks for your help. Attached is the changeable Org chart we talked about on the phone. I will tell Elizabeth Henderson at TDHCA to call you if she needs any changes to it. My cell phone number, in case you need me for anything tomorrow is 512-203-1840.
Kim Youngquist

#2

Part 2

Kim Youngquist

From: Kim Youngquist
Sent: Thursday, April 10, 2014 5:06 PM
To: elizabeth.henderson@tdhca.state.tx.us
Subject: TDHCA #14006 Marble Falls
Attachments: ORG_CHART_(Part 1 - Owner).doc

Importance: High

Elizabeth, Could you please take a look at the org chart attached. I am going to send you all the responses to the def. notice in a minute but, I wanted you to take a look and be sure this is what you were needing. I am going to be out of the office tomorrow but if there is anything that needs fixing after you review in the morning please contact Nan at ext. 207 or email her at nboyles@hamiltonvalley.com. Also, if you need the org chart changed please email or call Nick Audino, the attorney for this project. He has the changeable form and said he would be available all day tomorrow if he needs to fix anything.

Thank you Elizabeth and I will email you when I have uploaded everything with the exception of parts b. and c. of number 3. Dennis and Mark are working on that and will probably email you the GIN letters and the Relocation Budget. I can upload them on Monday if you want me to but wanted to be sure you received everything before 5 tomorrow.

If you need me for anything please call me on my cell at 512-203-1840.

Kim Youngquist

Development Coordinator
Hamilton Valley Management
512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

Kim Youngquist

From: Kim Youngquist
Sent: Thursday, April 10, 2014 7:34 PM
To: elizabeth.henderson@tdhca.state.tx.us
Cc: Dennis Hoover; mmayfield@txhf.org; Nan Boyles; Jason Burr (jason.burr@tdhca.state.tx.us); nross@txhf.org
Subject: TDHCA #14006 Oak Grove Village

Importance: High

Tracking:	Recipient	Read
	elizabeth.henderson@tdhca.state.tx.us	
	Dennis Hoover	Read: 4/11/2014 8:55 AM
	mmayfield@txhf.org	
	Nan Boyles	Read: 4/10/2014 8:38 PM
	Jason Burr (jason.burr@tdhca.state.tx.us)	
	nross@txhf.org	

Elizabeth,

The deficiency response has been uploaded to the Serv-U system. It is titled "Def Response 14006". All items have been addressed in this file with the exception of the GIN letters. We are waiting for the final ones and will send those to you Friday the 11th before 5:00 PM. If you have any questions on any of the responses after your review this morning, please contact Nan Boyles at ext 207 of nboyles@hamiltonvalley.com and copy Dennis Hoover at dennishoover@hamiltonvalley.com. You can reach me on my cell phone at 512-203-1840 if you need to today. Nan will send over the signed Credit Limit Doc Certification for Danna Hoover, Benjamin Farmer and Paul Farmer by email today (Tab 46).

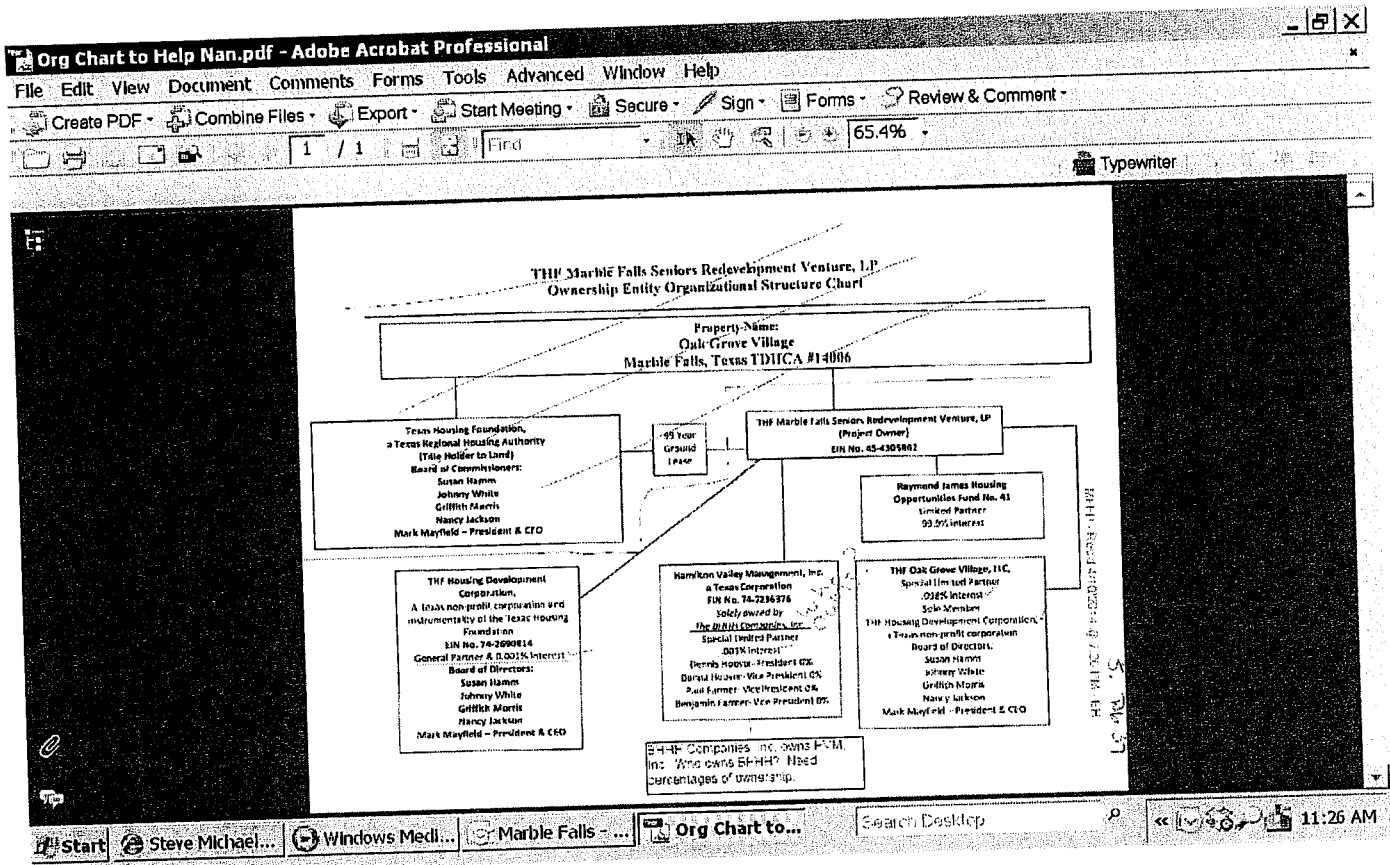
Thank you and please let us know if there is anything further that you need.

Kim Youngquist

Development Coordinator
 Hamilton Valley Management
 512-756-6809 ext 218 phone 512-756-9885 fax
KYoungquist@hamiltonvalley.com

Exhibit B (Part II)

#3



Kim Youngquist

From: Dominic Audino <dominicaudino@yahoo.com>
Sent: Friday, April 11, 2014 12:36 PM
To: Nan Boyles
Cc: Kim Youngquist; Dennis Hoover
Subject: Re: Here's the org chart with my suggested changes noted on it.
Attachments: ORG_CHART_Owner [2.0].doc

I made the changes that appear to be requested. Can you double check? Also, the EINs are missing on the Raymond James entity and The BHHH Companies, Inc. Not sure if they are required.

THE LAW OFFICES OF DOMINIC AUDINO*
9442 N. Capital of TX Hwy, Bldg. 1, Ste. 500
Austin, TX 78759
Voice 512-343-3638
Facsimile 512-252-2850
Website: <http://www.attorneyaudino.com>

*Dominic Audino is Board Certified by the Texas Board of Legal Specialization in Commercial and Residential Real Estate

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From: Nan Boyles <NBoyles@hamiltonvalley.com>
To: "dominicaudino@yahoo.com" <dominicaudino@yahoo.com>
Cc: Kim Youngquist <KYoungquist@hamiltonvalley.com>; Dennis Hoover <DennisHoover@hamiltonvalley.com>
Sent: Friday, April 11, 2014 12:09 PM
Subject: FW: Here's the org chart with my suggested changes noted on it.

Nick;
Please find attached the Org Chart with TDHCA's required corrections, is there any way I can have this by 3 pm this afternoon?
Liz has an email below that explains the why that want it this way.

Nan S. Boyles
Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

From: Elizabeth Henderson [<mailto:elizabeth.henderson@tdhca.state.tx.us>]
Sent: Friday, April 11, 2014 11:40 AM

To: Nan Boyles

Subject: Here's the org chart with my suggested changes noted on it.

I was not gentle. I crossed through what we don't need and wrote what we do need, which was left off. I hope it helps. If you or the lawyer have any questions let me know. I'd be glad to talk to him/her. And again, if they just want to make a chart showing who the title holder to the land is, have them put it on a separate page. The owner of the land isn't what the org charts are intended to show so it is truly extraneous info and takes up needed space. I'll be available by phone all day so don't hesitate to call!!

Great talking to you again, Nan!!!!

Elizabeth Henderson

Program Specialist III

Texas Department of Housing and Community Affairs

221 E. 11th Street | Austin, TX 78701

Office: 512.463.9784 | Fax : 512.475.0764

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

**THF Marble Falls Seniors Redevelopment Venture, LP
Ownership Entity Organizational Structure Chart**

**Property Name:
Oak Grove Village
Marble Falls, Texas TDHCA #14006**

**THF Marble Falls Seniors Redevelopment Venture, LP
(Project Owner)
EIN No. 45-4305802**

**Raymond James Housing Opportunities
Fund No. 41
Limited Partner
99.9% interest**

THF Housing Development Corporation,
A Texas non-profit corporation and
instrumentality of the Texas Housing
Foundation
EIN No. 74-2690814
General Partner & 0.001% interest
Board of Directors:
Susan Hamm
Johnny White
Griffith Morris
Nancy Jackson
Mark Mayfield – President & CEO

Hamilton Valley Management, Inc.
a Texas Corporation
EIN No. 74-2236376
Special Limited Partner
.001% interest
Dennis Hoover- President
Danna Hoover- Vice President
Paul Farmer- Vice President
Benjamin Farmer- Vice President
Rowena Guess- Treasurer
Carol Hoover- Secretary

The BHHH Companies, Inc.
Sole owner of Hamilton Valley Management,
Inc.
Owners:
J & V Hoover, Ltd. 99%
Dennis Hoover Signer
Dennis Hoover 1%

THF Oak Grove Village, LLC,
Special Limited Partner
.098% interest
Sole Member
THF Housing Development Corporation,
a Texas non-profit corporation
Board of Directors:
Susan Hamm
Johnny White
Griffith Morris
Nancy Jackson
Mark Mayfield – President & CEO

Kim Youngquist

From: Dominic Audino <dominicaudino@yahoo.com>
Sent: Friday, April 11, 2014 1:22 PM
To: Nan Boyles
Cc: Kim Youngquist; Dennis Hoover
Subject: Re: Oak Grove

OK, unless I am missing something we are ready to re-submit this?

THE LAW OFFICES OF DOMINIC AUDINO*
9442 N. Capital of TX Hwy, Bldg. 1, Ste. 500
Austin, TX 78759
Voice 512-343-3638
Facsimile 512-252-2850
Website: <http://www.attorneyaudino.com>

*Dominic Audino is Board Certified by the Texas Board of Legal Specialization in Commercial and Residential Real Estate

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From: Nan Boyles <NBoyles@hamiltonvalley.com>
To: "dominicaudino@yahoo.com" <dominicaudino@yahoo.com>
Cc: Kim Youngquist <KYoungquist@hamiltonvalley.com>; Dennis Hoover <DennisHoover@hamiltonvalley.com>
Sent: Friday, April 11, 2014 1:01 PM
Subject: Oak Grove

Nick;
I changed your chart to reflect Elizabeth's requirements, I removed the top two items per their instructions, plus I added BHHH EIN #. On the Raymond James EIN, we do not know at this time what fund they will be using. Per Elizabeth if the removed information is something you require, she suggested it be placed on a separate page all together. Thank you for all of your assistance.

Nan S. Boyles
Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

Nan Boyles

From: Nan Boyles
Sent: Friday, April 11, 2014 1:10 PM
To: Dennis Hoover
Subject: FW: Oak Grove
Attachments: UPDATED-ORG_CHART_Owner 2 0.doc

Importance: High

Ok, now we have opened the whole can of worms and it looks as if I may have to get signatures from the whole tribe before 5 pm.
Can I get your guidance?

Nan S. Boyles

Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

From: Elizabeth Henderson [<mailto:elizabeth.henderson@tdhca.state.tx.us>]
Sent: Friday, April 11, 2014 1:04 PM
To: Nan Boyles
Subject: RE: Oak Grove

We're getting closer. They've now introduced J&V Hoover, Ltd. Who owns that? It has to show on the chart too. You can pull the boxes up. You've got a good inch and a half of blank space at the top of the page now. Use it to make room at the bottom for his J&V entity. And if it's got other entities owning it, they'll have to be broken out too. I've moved the one you sent me around some to show you what I mean. And you have room for J&V but if there are more entities, you may have to shrink what you have to get them on there. We'll talk about it if that turns out to be the case.

Carry on!!

Elizabeth Henderson

Program Specialist III
Texas Department of Housing and Community Affairs
221 E. 11th Street | Austin, TX 78701
Office: 512.463.9784 | Fax : 512.475.0764

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §10.2(b)).

From: Nan Boyles [<mailto:NBoyles@hamiltonvalley.com>]
Sent: Friday, April 11, 2014 12:52 PM
To: Elizabeth Henderson
Subject: Oak Grove

Elizabeth;
Will you double check this, the atty fixed it (sort of) and then I fixed his fix. Before I send to him as the final I wanted your look see. We are still waiting on the GIN's from THF, I think they are scanning as we type.

Nan S. Boyles

Development Coordinator

THF Marble Falls Seniors Redevelopment Venture, LP
(Project Owner)
EIN No. 45-4305802

THF Housing Development Corporation,
A Texas non-profit corporation and
instrumentality of the Texas Housing
Foundation
EIN No. 74-2690814
General Partner & 0.001% interest
Board of Directors:
Susan Hamm
Johnny White
Griffith Morris
Nancy Jackson
Mark Mayfield – President & CEO

Hamilton Valley Management, Inc.
a Texas Corporation
EIN No. 74-2236376
Special Limited Partner
.001% interest

The BHHH Companies, Inc.
Sole owner of Hamilton Valley Management, Inc.
EIN #74-2475645
Owners:
J & V Hoover, Ltd. 99%
Dennis Hoover Signer
Dennis Hoover 1%

THF Oak Grove Village, LLC,
Special Limited Partner
.098% interest
Sole Member
THF Housing Development Corporation,
a Texas non-profit corporation
Board of Directors:
Susan Hamm
Johnny White
Griffith Morris
Nancy Jackson
Mark Mayfield – President & CEO

**Raymond James Housing
Opportunities
Fund No. 41**
Limited Partner
99.9% interest

Nan Boyles

From: Dennis Hoover
Sent: Friday, April 11, 2014 1:44 PM
To: Nan Boyles
Subject: J&V

J&V %s

Dennis	15.68%
Debra	15.68%
Dixie	15.68%
Danna	15.68%
Vivian	18.64%
John	18.64%
<hr/>	
totals	100.000%

Dennis Hoover
Hamilton Valley Management
512-756-6809 ext 212
Fax 512-756-9885
Cell 830-798-4273
dennishoover@hamiltonvalley.com

Nan Boyles

From: Nan Boyles
Sent: Friday, April 11, 2014 1:57 PM
To: 'Elizabeth Henderson'
Subject: FW: UPDATED-ORG_CHART_Owner 2 0.doc
Attachments: UPDATED-ORG_CHART_Owner 2 0.doc

This is the end of the line.
I am working on PP and signatures

Nan S. Boyles

Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

THF Marble Falls Seniors Redevelopment Venture, LP
(Project Owner)
EIN No. 45-4305802

THF Housing Development Corporation,
A Texas non-profit corporation and instrumentality of the Texas Housing Foundation
EIN No. 74-2690814
General Partner & 0.001% interest
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Susan Hamm
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Nancy Jackson
Mark Mayfield – President & CEO

Hamilton Valley Management, Inc.
a Texas Corporation
EIN No. 74-2236376
Special Limited Partner
.001% interest

The BHHH Companies, Inc.
Sole owner of Hamilton Valley Management, Inc.
EIN #74-2475645
Owners:
Dennis Hoover Signer
Dennis Hoover 1%

J & V Hoover, Ltd. 99%

Dennis Hoover	15.68%
Debra Ligon	15.68%
Dixie Farmer	15.68%
Danna Hoover	15.68%
Vivian Hoover	18.64%
John Hoover	18.64%

THF Oak Grove Village, LLC,
Special Limited Partner
.098% interest
Sole Member
THF Housing Development Corporation,
a Texas non-profit corporation
Board of Directors:
Susan Hamm
Johnny White
Griffith Morris
Nancy Jackson
Mark Mayfield – President & CEO

Raymond James Housing Opportunities Fund No. 41
Limited Partner
99.9% interest

Nan Boyles

From: Dominic Audino [dominicaudino@yahoo.com]
Sent: Friday, April 11, 2014 4:39 PM
To: Nan Boyles
Subject: Re: UPDATED-ORG_CHART_Owner 2 0.doc

They didn't ask for it, so I would send it as is.

THE LAW OFFICES OF DOMINIC AUDINO*
9442 N. Capital of TX Hwy, Bldg. 1, Ste. 500
Austin, TX 78759
Voice 512-343-3638
Facsimile 512-252-2850
Website: <http://www.attorneyaudino.com>

*Dominic Audino is Board Certified by the Texas Board of Legal Specialization in Commercial and Residential Real Estate

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From: Nan Boyles <NBoyles@hamiltonvalley.com>
To: "dominicaudino@yahoo.com" <dominicaudino@yahoo.com>
Sent: Friday, April 11, 2014 4:13 PM
Subject: FW: UPDATED-ORG_CHART_Owner 2 0.doc

Nick:

Here is the final org. chart per TDHCA, the only thing I think they might find is I left out the EIN for J & V Hoover, Ltd.

Nan S. Boyles
Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com

From: Tabitha Bingham
Sent: Friday, April 11, 2014 1:53 PM
To: Nan Boyles
Subject: UPDATED-ORG_CHART_Owner 2 0.doc

Use this one instead

Nan Boyles

From: Nan Boyles
Sent: Friday, April 11, 2014 4:39 PM
To: 'Mark Mayfield'; 'Nancy Ross'
Cc: Dennis Hoover; Kim Youngquist
Subject: Oak Grove

Thank you guys for your assistance today. It was one of those days when you opened one can another can popped up. All is at Elizabeth's desk and she is reviewing, and I am just during the phone to ring.

Nan S. Boyles

Development Coordinator
Hamilton Valley Management, Inc.
512-756-6809 ext. 207 phone
512-756-9885 fax
nboyles@hamiltonvalley.com



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

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GOVERNOR

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May 23, 2014

Writer's direct phone # 512.475.3296
Email: tim.irvine@tdhca.state.tx.us

Claire G. Palmer
2224 Clearspring Drive South
Irving, TX 75063

RE: 14006 OAK GROVE VILLAGE: SCORING NOTICE APPEAL

Dear Ms. Palmer:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your scoring notice appeal, dated May 9, 2014, for the above referenced Application. During the Application review process, staff determined that the Application did not qualify for points under §11.9(d)(2) of the 2014 Qualified Allocation Plan ("QAP") related to Commitment of Development Funding by Local Political Subdivision because the government instrumentality providing the funding is a Related Party to the Applicant. Therefore, no points were awarded under this scoring item. Additionally, five (5) points were deducted from the application's score pursuant to §10.201(7)(A) of the Uniform Multifamily Rules ("Rules") due to a late deficiency response.

The initial Application included a \$60,000 loan commitment from Marble Falls Economic Development Corporation ("EDC") as well as an \$81,000 Right-of-Way ("ROW") donation from the City of Marble Falls and requested 14 total points under §11.9(d)(2) of the QAP. Staff issued an administrative deficiency on March 19, 2014, requesting, among other items, information related to the structure of the EDC's governing board, as well as justification for the \$81,000 valuation of the ROW donation. The deficiency response was received timely on March 26, 2014, in which the Applicant conceded that the ROW donation did not qualify for points. Therefore, the donation was not considered in staff's assessment of points under §11.9(d)(2).

Based on a further review of the Marble Falls EDC governing board and the information provided in the deficiency response, staff determined that the \$60,000 loan commitment was ineligible for points because Mark Mayfield is a member of both the ownership structure of Oak Grove Village and the governing board of Marble Falls EDC. The Applicant, in their original submission, noted Mr. Mayfield's role in both the ownership structure and the EDC and assumed that his recusal from the EDC decision with respect to the loan would deem the EDC an eligible source. Because this issue was already clearly addressed in the Application, staff did not issue further deficiency notices on the subject.

The scoring notice appeal argues that because Texas Local Government Code §171.004 states that "a local public official [who] has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further



May 23, 2014

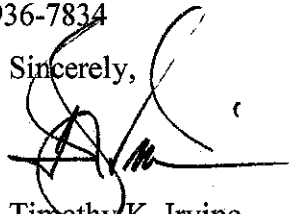
Page 2

participation in the matter”, and that because Mr. Mayfield filed such an affidavit and recused himself from the matter of the loan, the points should be reinstated. However, the recusal and affidavit are irrelevant to the award of points under §11.9(d)(2) of the QAP which specifically states that “the government instrumentality providing the Development funding under this scoring item may not be a Related Party to the Applicant.” The rule does not provide for a cure by affidavit and recusal.

As to the matter of the deduction of 5 points, a second deficiency notice was issued April 4, 2014, and requested clarification, correction and non-material missing information related to nine different exhibits in the Application. A complete response was not received by the deadline of 5pm on April 11, 2014. Previous Participation forms for John Hoover and Dixie Farmer were received at 3:57pm on April 12, 2014. Certification of Principal forms for Dixie Farmer, Debra Ligon, Vivian Hoover and John W. Hoover were also received at 3:57pm on April 12, 2014. Credit Limit Part II forms for Texas Housing Foundation and THF Housing Opportunity Corporation were received at 4:08pm on April 14, 2014. A corrected Credit Limit Part I form was received at 4:38pm on April 14, 2014. Because a request for these forms was included in the original deficiency notice, and these items were received by the Department after the deadline to respond, staff deducted 5 points from the application’s score.

Based on the foregoing, your appeal is hereby denied. If you are not satisfied with this decision, you may appeal to the Department’s Governing Board. If you wish to appeal to the Board, your appeal must be submitted in writing and must be received by Department staff no more than seven (7) days after the date of this letter. Please review §10.902 of the Uniform Multifamily Rules for full instructions on the appeals process. The deadline to appeal this decision to the Board is May 30, 2014. Should you have any questions, please contact Kathryn Saar, Competitive Tax Credit Program Administrator, at kathryn.saar@tdhca.state.tx.us or by phone at 512-936-7834

Sincerely,



Timothy K. Irvine
Executive Director

[KS]

cc: Donna Rickenbacker
Barry Palmer
Tamea A. Dula

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under of the Department's Program or Underwriting Rules

RECOMMENDED ACTION

WHEREAS, a 2014 competitive housing tax credit scoring notice was provided to the Applicant for Royal Gardens (#14029);

WHEREAS, staff identified three points that the Applicant elected but that the Application did not qualify to receive under §11.9(c)(5) of the 2014 Qualified Allocation Plan ("QAP") related to Educational Excellence;

WHEREAS, staff identified two points that the Applicant elected but that the Application did not qualify to receive under §11.9(d)(2) of the 2014 QAP related to Commitment of Development Funding by Local Political Subdivision;

WHEREAS, staff identified six points that the Applicant elected but that the Application did not qualify to receive under §11.9(e)(3) of the 2014 QAP related to Pre-Application Participation;

WHEREAS, the Applicant appealed the scoring notice and requests that the Board award a total of 11 points under §11.9(c)(5), §11.9(d)(2), and §11.9(e)(3) of the QAP.

NOW, therefore, it is hereby,

RESOLVED, the Applicant's appeal of the scoring notice for Royal Gardens (#14029) is hereby denied.

BACKGROUND

An application was submitted for Royal Gardens, located in Wichita Falls, urban region 2, for which a scoring notice was issued May 2, 2014. The Applicant filed an appeal timely contesting three different scoring items.

Pursuant to §11.9(c)(5) of the QAP, related to Educational Excellence, the Applicant requested three points. In order to be eligible for points under this scoring item, the development site must be "located within the attendance zones of public schools that have achieved a 77 or greater on index 1 of the performance index, related to student achievement, by the Texas Educational Agency, provided that the schools also have a Met Standard rating." Applications that propose a development site within the

attendance zone of a highly rated elementary, middle, and high school can achieve three points, and those that propose a development site within the attendance zone of an elementary school and either a middle school or high school can achieve one point. The rule goes on to clarify that for schools with no defined attendance zones an Applicant may use “the lowest rating of all elementary, middle, or high schools, respectively, which may possibly be attended by the tenants.” Wichita Falls ISD does not have defined attendance zones for middle and high schools. Because both the lowest rated middle school and the lowest rated high school in the district do not meet the required standards, staff did not award any points for Educational Excellence.

The applicant, in its appeal, contends that Wichita Falls ISD (“the District”) is a “Choice” school district and that under this program a child would be assigned to the school located nearest his or her home, unless a request is made to attend another school. Because the middle school and high school located nearest to the development site both meet the standards required by the QAP, the Applicant argues that the three points should be awarded. Staff disagrees with this interpretation. In researching the Choice Program, staff read documentation published on the District’s website and spoke with personnel at the District’s Administrative office. While proximity to a given school is a factor in determining which school a child will attend, there is no guarantee that a resident of this proposed development would attend the higher rated school. In fact the materials reviewed specifically disclaimed any such guarantee. Staff therefore recommends denial of the appeal with respect to the three points under §11.9(c)(5) of the QAP.

Pursuant to §11.9(d)(2) of the QAP related to a Commitment of Development Funding by Local Political Subdivision, the Applicant requested a total of 14 points. Points are awarded under this paragraph in a two step process. First, points are awarded under clauses (i)-(v) of subparagraph (B), which is based on the level of development funding being provided. Secondly, subparagraphs (C) and (D) allow for up to three additional points to be added to those elected under subparagraph (B); there is no provision in the QAP that would allow an Applicant to qualify for points under subparagraphs (C) and/or (D) without first having qualified for points under subparagraph (B). In this case, the Applicant elected and was awarded the maximum 11 points under subparagraph (B)(i) for a commitment of \$660,000 in development funding from the City of Wichita Falls. The additional two points under subparagraph (C) are contingent upon the Applicant providing a firm commitment for funds in the form of a resolution reflecting “terms that are consistent with the requirements of this paragraph.” Staff did not award the additional two points because the resolution was for funding in the amount of only \$87,121. Because the Applicant elected points under clause (i) of subparagraph (B), it would follow that in order to qualify for the additional two points in subparagraph (C), the resolution would need to be for the same funding level and terms that enabled the application to achieve those points in clause (i) of subparagraph (B). In addition, staff addressed this issue in the Frequently Asked Questions (“FAQs”) published on the Department’s website. These FAQs were first published on December 16, 2013, and the following was added on January 2, 2014:

Question: Can a resolution which is serving as a commitment of funds for purposes of the additional points under §11.9(d)(2)(C) include a number of options for the type of source being committed? For example, can it read that the LPS is prepared to commit X dollars in the form of either a fee waiver, tax abatement, or grant?

Answer: Yes. The resolution can include flexibility with respect to the type of funding being committed. However, an amount of funding should still be specified in order to

assess points. In addition, if an Applicant is also seeking a point under §11.9(d)(2)(D) for a permanent source, then all of the options listed in the resolution should be permanent sources meeting the requirements for the additional point. When submitting a resolution for the additional two points, Applicants should ensure that the submitted resolution supports ALL of the elected points under this scoring item.

Emails were sent out via listserv messages to alert potential applicants that the FAQs had been published, and these FAQs were then presented and accepted by the Board at the January 23, 2014 meeting. This was well before the application submission deadline, giving the Applicant ample opportunity to review the information and even follow up with staff before submitting the application. Staff recommends denial of the appeal with respect to the two points under §11.9(d)(2)(C).

The final scoring item the Applicant is appealing relates to pre-application participation. The appeal letter identifies a typographical error in §11.9(e)(3) of the QAP, of which staff is aware. The language reads an “Application may qualify to receive up to *six (6)* points provided a pre-application was submitted during the Pre-Application Acceptance Period. Applications that meet the requirements described in subparagraphs (A)-(G) will qualify for *four (4)* points.” Both instances should read ‘six (6) points,’ and staff has consistently applied it as such throughout the cycle, awarding or denying six points to every application when evaluating that application’s eligibility for points under this scoring item. In addition, the self score form in the application only allows applicants to elect six points, which this Applicant so did. One of the requirements of the scoring item is that the pre-application and full application participate in the same set-asides. Both the pre-application and full application for Royal Gardens indicated participation in the non-profit set-aside. However, during the review process it was determined that the Application did not qualify under the non-profit set-aside. This not only affected eligibility for points under pre-application participation but also under §11.9(b)(2), related to Sponsor Characteristics. The Applicant concedes this matter in the appeal letter and is not seeking points under §11.9(b)(2). However, the Applicant presents two different arguments to attempt to reinstate the pre-application points. First, the Applicant states that the mere fact that a good faith effort was made to submit both the pre-application and the full application in the same set-aside should be enough to warrant an award of six points for pre-application participation, even though the full application does not qualify under the non-profit set-aside. Alternatively, the Applicant argues that because the language in the QAP has two different point values stated, the self score should be reduced by the lesser amount even though the Applicant requested the greater. Neither of the arguments holds true to the intent behind this scoring item. Staff recommends denial of the appeal with respect to the six points under §11.9(e)(3).



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Noorallah Jooma

Date: May 07, 2014

Phone #:

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

Email: noorjooma@gmail.com

Second Email: wilsontaxes@sbcglobal.net

RE: 2014 Competitive Housing Tax Credit (HTC) Application for Royal Gardens, TDHCA Number: 14029

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2014 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that three scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the three scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, and §11.9(d)(6) Input from Community Organizations.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(2) "Cost of Development per Square Foot" and §11.9(e)(4) "Leveraging of Private, State, and Federal Resources" may be adjusted should the underwriting review result in changes to the Application that would affect these scores. Likewise, if an Application was awarded points under §11.9(d)(2) "Commitment of Development Funding by Local Political Subdivision" and should that Application receive an award of tax credits, the Applicant must provide a firm commitment of funds as a condition of the Commitment Notice. Applicants may substitute qualifying sources only if no points were elected under §11.9(d)(2)(C). If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 14029, Royal Gardens

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	132
Score Awarded by Department staff (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	120
Difference between Requested and Awarded:	12

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
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Section 4:

Final Score Awarded to Application by Department staff:	153
--	------------

Section 5:

Explanation for Difference between Points Requested and Points Awarded by the Department as well as penalties assessed:

- §11.9(b)(2) Sponsor Characteristics. The application is not eligible to compete in the Non-profit set-aside because the non-profit organization in the ownership structure did not meet the necessary qualifications. (Requested 1, Awarded 0)
- §11.9(c)(5) Educational Excellence. Under the school district's Choice Program, residents of the proposed Development may attend middle and/or high schools that are not highly rated. (Requested 3, Awarded 0)
- §11.9(d)(2) Commitment of Development Funding by Local Political Subdivision. The application does not include a firm commitment in the form of a resolution for the entire amount of funding. (Requested 14, Awarded 12)
- §11.9(e)(3) Pre-Application Participation. The pre-application and full application were not participating in the same set-asides. The full application is not eligible to participate in the Non-Profit set-aside which was indicated at pre-application. (Requested 6, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. (CST), Thursday, May 15, 2014. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Kathryn Saar at (512) 936-7834 or by email at <mailto:kathryn.saar@tdhca.state.tx.us>.

Sincerely,

Jean Latsha

Jean Latsha
Director of Multifamily Finance



THE LAW OFFICES OF
CLAIRE G. PALMER, PLLC

2224 Clearspring Drive South
Irving, Texas 75063

972-948-3166
Fax: 972-432-8825

clairepalmerpllc@sbcglobal.net

May 6, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Royal Gardens- Wichita Falls, Texas
TDHCA #14029

Dear Mr. Irvine:

This is a formal appeal of the scoring notice received on the above mentioned application. This appeal addresses three scoring items that we believe this application is eligible for based on the 2014 QAP. Aside from the three, we are not appealing the loss of one(1) point for Sponsor Characteristics. In particular, one of the three item is based on some very confusing language in the QAP.

1. Educational Excellence- Section 11.9(c)(5)(3 points)

The Applicant scored three (3) points under 11.9(c)(5) because the project site is actually in closest proximity to an elementary, middle and high school that score greater than 77 on the Met score, as required by the QAP. The Wichita Falls ISD is a Choice school district (the only one in the state). Under their program, a child will be assigned to the elementary school in closest proximity to their address. For middle school and high school the child will be assigned to the school in closest proximity UNLESS the parent or child requests to attend another school. In this particular case, the children will automatically be assigned to the schools in closest proximity which would all meet the educational excellence requirement. Only if the child opts to attend another middle or high school would they be in a school that might not meet that standard and it is not automatic nor guaranteed that the request to attend a different school would be granted. The QAP states that in districts with district wide enrollment, you have to use the lowest score of the schools. Wichita Falls ISD is NOT a district wide enrollment school district, it is a Choice district, unlike any other district. In this case, since the child will automatically be enrolled in the school in closest proximity and those schools meet the MET standard, the points should have been awarded. Please see attached *Exhibit A* explaining the Choice system from the school district.

2. Commitment of development Funding by Local Political Subdivision- Section 11.9(d)(2) (14 points requested- 12 points awarded)

The Applicant provided a resolution from the City of Wichita Falls providing a firm commitment of funding for \$87,121.00 of the \$660,000.00 required for the maximum points. In addition, the City provided a letter from the Mayor stating that he remainder of the \$660,000.00 would be provided in the form of project based vouchers. The QAP reads as follows with respect to the two points:

(C) Two (2) points may be added to the points in subparagraph (B)(i) -(v) of this paragraph and subparagraph (D) of this paragraph if the Applicant provides a firm commitment for funds in the form of a resolution from the Local Political Subdivision and provides a commitment for the same

source(s) at Commitment. The resolution must reflect terms that are consistent with the requirements of this paragraph.

The Applicant did provide a firm commitment for funds from the Local Political Subdivision and at Commitment will be able to provide the full amount from the same source. No where in the QAP does it say that the firm commitment in the form of a resolution has to be for the full amount. The only requirement is that there be a firm commitment and the full amount be from the same source at Commitment. The Applicant has met that requirement and should be awarded the two (2) points. Attached as Exhibit B are the relevant documents.

3. *Pre-Application Participation- Section 11.9(e)(3) (either 6 or 4 points)*

This is perhaps the most confusing points category. In the QAP in the same paragraph an Applicant can either get 6 or 4 points for submitting a pre-application. See the language as follows:

(3) Pre-application Participation. (§2306.6704) An Application may qualify to receive up to **six (6) points** provided a pre-application was submitted during the Pre-Application Acceptance Period. Applications that meet the requirements described in subparagraphs (A) -(G) of this paragraph will qualify for **four(4) points**:

The question then becomes, does an applicant lose 6 points or 4 points if they fail to meet one of the requirements listed in A-G? In this case, the Applicant submitted a pre-application in the non-profit set aside. It then submitted an application in that same set aside. Through the deficiency process it was determined that the non-profit did not meet all of the required qualifications. In fact the application and pre-application were in good faith submitted in the same set aside as required by 11.9(e)(3). It was only later determined that it did not qualify. It could be argued that the Applicant should not lose any points because the pre-application and application were indeed filed in the same set aside. In the alternative, the question is which amount of points does the Applicant lose for losing out in the deficiency of the non-profit set aside Since the QAP references both 4 and 6 points in the same paragraph, I believe that the lesser should apply and the Applicant should only lose 4 points.

We respectfully request a favorable ruling on each of the three issues on appeal. These issues do not raise policy issues and therefore, we believe that they are more appropriately handled at your level. That being said, should you decide that you cannot rule in our favor at this juncture, we reserve the right to appeal at the next board meeting.

We thank you for your consideration and concern for this unique project. Should you require further information, please contact me directly.

Sincerely,



Claire G. Palmer

cc: Noorallah Jooma
Cameron Dorsey
Jean Latsha

3/14/2014

Print
Exhibit A

Subject: Choice Plan
From: Linda Muehlberger (LMuehlberger@wfisd.net)
To: wilsontaxes@sbcglobal.net;
Date: Friday, March 14, 2014 3:17 PM

Mr. Wilson,

In answer to your question about the WFISD Choice Plan and assignment of students, the policy states that in the absence of an alternate election of school and other extenuating circumstances, closest proximity from residence to school is a priority. As stated in the prior email, The junior high school, McNiel Jr. High and high school, Rider High School are the WFISD schools in closest proximity to 4610 Johnson Road and would be the preferred assignment when applying the priority of close proximity to the home.

Thank you,

Linda

Linda Muehlberger, Ed.D.

Wichita Falls ISD

Student Assignment/Parent Relations

1104 Broad Street, Room 300

P.O. Box 97533

Wichita Falls, Texas 76307-7533

(940) 235-1029 (16002)

(940) 720-3104 (FAX)

Attention: This message is intended only for the individual to whom it is addressed and may contain information that is confidential or privileged. If you are not the intended recipient, or the employee or person responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use is strictly prohibited. If you have received this communication in error, please notify the sender and destroy or delete this communication immediately.

Subject: WFISD Secondary Schools
From: Linda Muehlberger (LMuehlberger@wfid.net)
To: wilsontaxes@sbcglobal.net;
Date: Wednesday, February 5, 2014 11:37 AM

Mr. Wilson,

Your January 30, 2014 email as stated is correct. The junior high school, McNiel Jr. High and high school, Rider High School are the WFISD schools in closest proximity to 4610 Johnson Road. Please do not hesitate to call or email if I may be of further assistance.

Thank you,

Linda Muehlberger

Linda Muehlberger, Ed.D

Wichita Falls ISD

Student Assignment/Parent Relations
1104 Broad Street
Wichita Falls, Texas 76301-7533
(940) 235-1029 (16002)
(940) 720-3104 (FAX)

TEXAS EDUCATION AGENCY
2013 Accountability Summary
 JEFFERSON EL (243905118) - WICHITA FALLS ISD

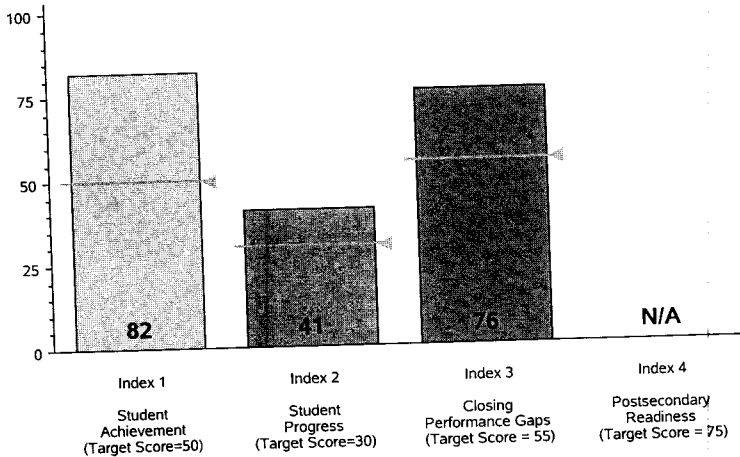
Accountability Rating
Met Standard

Met Standards on	Did Not Meet Standards on
- Student Achievement - Student Progress - Closing Performance Gaps	- NONE

Distinction Designation

Academic Achievement in Reading/ELA Percent of Eligible Measures in Top Quartile 4 out of 4 = 100% DISTINCTION EARNED
Academic Achievement in Mathematics Percent of Eligible Measures in Top Quartile 1 out of 3 = 33% NO DISTINCTION EARNED
Top 25 Percent Student Progress NO DISTINCTION EARNED

Performance Index Report



Campus Demographics

Campus Type	Elementary
Campus Size	492 Students
Grade Span	PK - 06
Percent Economically Disadvantaged	50.0%
Percent English Language Learners	2.8%
Mobility Rate	13.6%

Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	479	583	82
2 - Student Progress	487	1,200	41
3 - Closing Performance Gaps	454	600	76
4 - Postsecondary Readiness	N/A	N/A	N/A

System Safeguards

Number and Percent of Indicators Met	
Performance Rates	13 out of 14 = 93%
Participation Rates	10 out of 10 = 100%
Graduation Rates	N/A
Total	23 out of 24 = 96%

For further information about this report, please see the Performance Reporting Division web site at <http://ritter.tea.state.tx.us/perfreport/account/2013/index.html>

TEXAS EDUCATION AGENCY
2013 Accountability Summary
 ZUNDELOWITZ MIDDLE (243905045) - WICHITA FALLS ISD

Accountability Rating

Met Standard

Met Standards on	Did Not Meet Standards on
- Student Achievement - Student Progress - Closing Performance Gaps	- NONE

Distinction Designation

Academic Achievement in Reading/ELA

Percent of Eligible Measures in Top Quartile
0 out of 4 = 0%

NO DISTINCTION EARNED

Academic Achievement in Mathematics

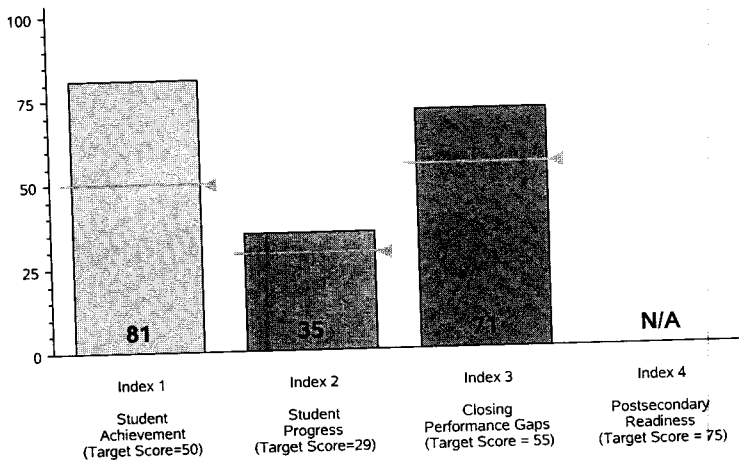
Percent of Eligible Measures in Top Quartile
0 out of 4 = 0%

NO DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Performance Index Report



Campus Demographics

Campus Type	Middle School
Campus Size	663 Students
Grade Span	06 - 08
Percent Economically Disadvantaged	43.9%
Percent English Language Learners	4.2%
Mobility Rate	13.8%

Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	1,620	1,997	81
2 - Student Progress	632	1,800	35
3 - Closing Performance Gaps	850	1,200	71
4 - Postsecondary Readiness	N/A	N/A	N/A

System Safeguards

Number and Percent of Indicators Met	
Performance Rates	22 out of 26 = 85%
Participation Rates	14 out of 14 = 100%
Graduation Rates	N/A
Total	36 out of 40 = 90%

For further information about this report, please see the Performance Reporting Division web site at <http://ritter.tea.state.tx.us/perfreport/account/2013/index.html>

TEXAS EDUCATION AGENCY
2013 Accountability Summary
 MCNIEL J H (243905047) - WICHITA FALLS ISD

Accountability Rating

Met Standard

Met Standards on	Did Not Meet Standards on
- Student Achievement	- NONE
- Student Progress	
- Closing Performance Gaps	

Distinction Designation

Academic Achievement in Reading/ELA

Percent of Eligible Measures in Top Quartile
0 out of 4 = 0%

NO DISTINCTION EARNED

Academic Achievement in Mathematics

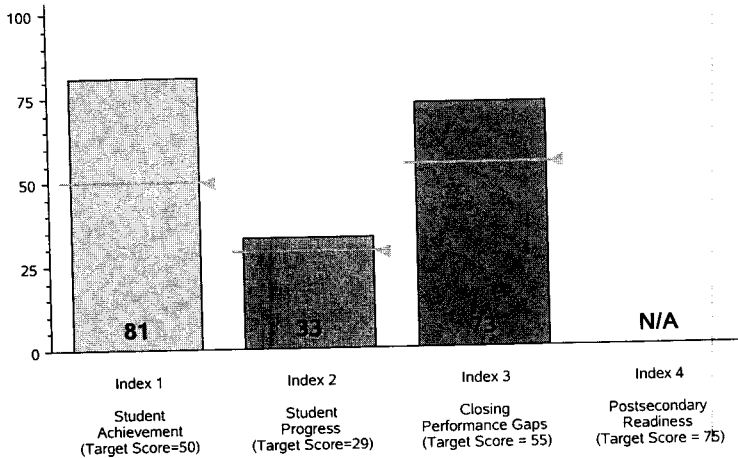
Percent of Eligible Measures in Top Quartile
0 out of 4 = 0%

NO DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Performance Index Report



Campus Demographics

Campus Type	Middle School
Campus Size	618 Students
Grade Span	07 - 08
Percent Economically Disadvantaged	37.5%
Percent English Language Learners	0.3%
Mobility Rate	12.3%

Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	1,693	2,081	81
2 - Student Progress	669	2,000	33
3 - Closing Performance Gaps	948	1,300	73
4 - Postsecondary Readiness	N/A	N/A	N/A

System Safeguards

Number and Percent of Indicators Met

Performance Rates	26 out of 28 = 93%
Participation Rates	12 out of 12 = 100%
Graduation Rates	N/A
Total	38 out of 40 = 95%

For further information about this report, please see the Performance Reporting Division web site at <http://ritter.tea.state.tx.us/perfreport/account/2013/index.html>

TEXAS EDUCATION AGENCY
2013 Accountability Summary
 RIDER H S (243905002) - WICHITA FALLS ISD

Accountability Rating

Met Standard

Met Standards on	Did Not Meet Standards on
- Student Achievement	- NONE
- Student Progress	
- Closing Performance Gaps	
- Postsecondary Readiness	

Distinction Designation

Academic Achievement in Reading/ELA

Percent of Eligible Measures in Top Quartile
 2 out of 7 = 29%

NO DISTINCTION EARNED

Academic Achievement in Mathematics

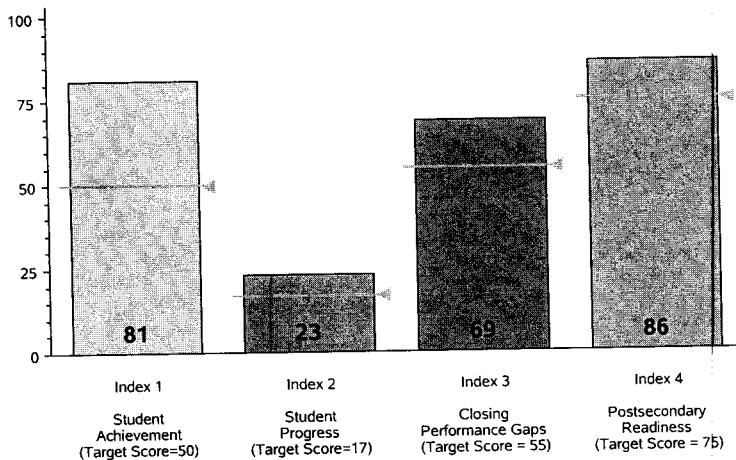
Percent of Eligible Measures in Top Quartile
 2 out of 7 = 29%

NO DISTINCTION EARNED

Top 25 Percent Student Progress

NO DISTINCTION EARNED

Performance Index Report



Campus Demographics

Campus Type	High School
Campus Size	1,703 Students
Grade Span	09 - 12
Percent Economically Disadvantaged	31.2%
Percent English Language Learners	0.8%
Mobility Rate	14.8%

Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	4,864	6,008	81
2 - Student Progress	751	3,200	23
3 - Closing Performance Gaps	1,035	1,500	69
4 - Postsecondary Readiness	772.3	900	86

System Safeguards

Number and Percent of Indicators Met

Performance Rates	32 out of 38 = 84%
Participation Rates	15 out of 16 = 94%
Graduation Rates	6 out of 6 = 100%
Total	53 out of 60 = 88%

For further information about this report, please see the Performance Reporting Division web site at <http://ritter.tea.state.tx.us/perfreport/account/2013/index.html>



Exhibit B

OFFICE OF THE MAYOR

February 27, 2014

Mr. Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
P.O. Box 13941
Austin, TX 78711-3941

Re: Wichita Falls Royal Gardens, LLC
Royal Gardens Apartment Development
Approximate 4610 Johnson Road
Wichita Falls, Wichita County, Texas
Housing Tax Credit (HTC) Application #14029

Dear Mr. Irvine:

The City of Wichita Falls supports the effort to develop affordable housing for its residents and welcomes the opportunity to leverage investment in our community by partnering with developers proposing the development of high quality residential communities through the use of the Housing Tax Credit (HTC) program with the Texas Department of Housing and Community Affairs (TDHCA). This letter serves to acknowledge the request by Wichita Falls Royal Gardens, LLC to the City of Wichita Falls for a proposed commitment of development funding in the form of project based housing vouchers equal to the economic contribution commitment of \$572,879.00. Matched with the previously approved grant of \$87,121.00 by the Wichita Falls City Council on February 18, 2014 will provide a total economic contribution of \$660,000.00.

The City of Wichita Falls understands this request is intended for the purpose of meeting the requirements of Section 11.9. (d) (2) of the 2014 Texas Department of Housing and Community Affairs (TDHCA) Qualified Allocation Plan (QAP). Please accept this correspondence as evidence that the request by Wichita Falls Royal Gardens, LLC has been formally registered with the City of Wichita Falls. A final decision to award vouchers, if available, must be considered through a public process involving submittal of a Request for Proposal and will be considered by City of Wichita Falls in accordance with the U.S. Department of Housing and Urban Development regulations no later than September 1, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Barham", written over a horizontal line.

Glenn Barham
Mayor
City of Wichita Falls

CITY OF WICHITA FALLS

1300 7th Street P.O. Box 1431 Wichita Falls, Texas 76307 t: (940) 691-2968 f: (940) 761-8833
www.wichitafallstx.gov

CITY COUNCIL AGENDA
February 18, 2014

ITEM/SUBJECT: Ordinance providing for the closure, abandonment, and conveyance of unpaved and undeveloped rights-of-way in parts of Rider Avenue and Columbia Road for a potential tax credit housing project

INITIATING DEPT: Community Development/Property Management

COMMENTARY: A request was received from Winterberry Development, LLC, Carrollton, Texas to close and abandon portions of Rider Avenue and Columbia Road, both undeveloped paper streets consisting of approximately 69,696.6 square feet or 1.6 acres as depicted in the attached **Location Map** and **Exhibit "A"**.

Winterberry Development, LLC has made application for 2014 Housing Tax Credits and HOME Investment Partnership Program with TDHCA (Texas Department of Housing and Community Affairs) to build Royal Gardens, a multi-family, 49 unit apartment complex with 90% (44) of the units for low income and 10% (5 units) at market rate, located at 4610 Johnson Road. The developer has requested the City close and abandon the platted roads in order to incorporate the land into its planned development.

In accordance with Texas Local Government Code 272.001(g) for the sale, exchange, or conveyance of land; and the City policy on street, easement, and alley closures, the Property Administrator **has obtained a fair market appraisal** determining the property value to be \$87,121.00 which equates to \$1.25 per square foot for approximately 69,696.6 square feet or 1.6 acres. Winterberry has requested that in lieu of payment, the City allow the \$87,121 be considered as an in-kind, local contribution to the project which will improve their overall application scoring to be more competitive.

This project is part of a competitive process for limited state funding and as of the pre-application submission log at THDCA on January 21, 2014 there were 4 proposed projects within Region #2. Wichita Falls is in the Region #2 urban category and there is only \$500,000 for projects this year, but the 4 applications have an estimated value of \$1.96 million. As of February 4, 2014, TDHCA released a revised preliminary project list which indicates the second Wichita Falls project has withdrawn. This information was confirmed on February 7, 2014 with the local Wichita Falls developer, thus changing the total applicants in Region #2 to 3, with the Winterberry Development LLC in Wichita Falls and 2 others in Abilene.

The Planning and Zoning Commission will also consider this case at their regular meeting on Wednesday, February 12, 2014 and will make a recommendation for denial or approval to City Council.

All utility companies, adjacent property owners, and affected City departments have approved or conditionally approved this request based on the following conditions:

- AT&T has a buried cable from Fairway on the North side of the drainage ditch and south of the alley to be closed as shown on Exhibit "B", the attached AT&T Map. They also have a utility easement with buried cable located in the alley north of the property to be re-platted running all the way from Fairway to Concord Street. Easement #2 is not affected by the closure. Easement #1 crosses the Rider Avenue right-of-way.
- City-owned sanitary sewer lies within the Rider Avenue right-of-way.
- Utility easements will be established for these existing utilities in these rights-of-way.

Staff recommends approval of this ordinance, which will authorize the City Manager to execute a quitclaim deed to convey the property contingent on the following:

- In exchange for the in-kind contribution, Winterberry must be granted approval of their application by TDHCA (Texas Department of Housing and Community Development); and
- They must purchase the 4 adjacent land parcels to Rider Street and Columbia Road, and
- They must begin the re-platting process of the entire property within one year from being granted approval from TDHCA.
- If the property (69,696.6 square feet) is not developed, the property will automatically revert back to the City.

Pending approval of this ordinance, a check in the amount of \$375.00 has been deposited with the Property Management Division to cover the cost of the appraisal.

Assistant City Manager

ASSOCIATED INFORMATION: Ordinance, Location Map, Exhibit "A", Exhibit "B" AT&T Locations, Aerial Site Plan

Budget Office Review:

City Attorney Review:

City Manager Approval

CERTIFICATION TO COPY OF PUBLIC RECORD

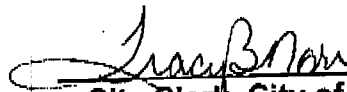
STATE OF TEXAS §

CITY OF WICHITA FALLS §

COUNTY OF WICHITA §

I, Tracy B. Norr, City Clerk of Wichita Falls, Texas, hereby certify that the attached instrument is a true and correct copy of Resolution No. 34-2014 dated March 18, 2014, as the same appears of record in my office and that said document is an official record from the public office of the City Clerk, City of Wichita Falls, Wichita County, State of Texas, and is kept in said office.

In witness whereof I have hereunto set my hand and affixed the official seal of the City of Wichita Falls, Texas, this 18th day of March, 2014.



City Clerk, City of Wichita Falls

RESOLUTION NO. 34-2014**Resolution of support for a proposed affordable housing tax credit project, Wichita Falls Royal Gardens, LLC., at the approximate address of 4610 Johnson Road**

WHEREAS, Wichita Falls Royal Gardens, LLC. has proposed a development for affordable rental housing at the approximate address of 4610 Johnson Road, named Royal Gardens in the City of Wichita Falls, Wichita County, Texas;

WHEREAS, Wichita Falls Royal Gardens, LLC. has advised the City of Wichita Falls that it intends to submit an application to the Texas Department of Housing and Community Affairs (TDHCA) for 2014 Competitive 9% Housing Tax Credits for Royal Gardens;

WHEREAS, Wichita Falls Royal Gardens, LLC. has requested and was approved by the City of Wichita Falls City Council on February 18, 2014 (Ordinance 06-2014) to receive an in-kind contribution in the form of land (portions of paper streets – Rider and Columbia) consisting of 1.6 acres that were formally closed and abandoned by the City of Wichita Falls, subject to the conditions and retention of easements specified in said ordinance; and

WHEREAS, Texas Local Government Code § 272.001(g) authorizes political subdivisions to sell, exchange, or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing, and may convey said property for a public purpose at less than its fair market value.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

1. The governing body of the City of Wichita Falls supports new opportunities to support the development of quality, affordable housing for its' residents.

2. The City of Wichita Falls acting through its governing body, hereby confirms its support for the proposed Royal Gardens development to be located at the approximate address of 4610 Johnson Road (TDHCA Application #14029), and this formal action has been taken to put on record the opinion expressed by the City of Wichita Falls.

3. This resolution supports and is intended to allow Wichita Falls Royal Gardens, LLC. to receive funding from Texas Department of Housing and Community Affairs (TDHCA) Competitive 9% Housing Tax Credits for the Royal Gardens development located in Wichita Falls.

4. This resolution of support is intended to allow Wichita Falls Royal Gardens, LLC. to receive the maximum number of scoring points in relation to its Housing Tax Credit (HTC) application for its Royal Gardens development to be located in Wichita Falls.

5. The governing body of the City of Wichita Falls is hereby authorized, empowered, and directed to certify this Resolution to the Texas Department of Housing and Community Affairs (TDHCA).

6. This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this the 18th day of March, 2014.



MAYOR

ATTEST:



City Clerk

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers of the Department's Program Rules and Requests for Exemption from Undesirable Site Features

RECOMMENDED ACTION

WHEREAS, a Competitive Housing Tax Credit Application (the "Application") was submitted for Cleme Manor (#14108) on February 28, 2014;

WHEREAS, the Development Site is located within 300 feet of a railway, industrial uses, and an apparent junkyard which, pursuant to §10.101(a)(3) of the Uniform Multifamily Rules ("Rule") related to Undesirable Site Features, could cause the site to be deemed ineligible unless a requested exemption is granted;

WHEREAS, the Application proposes Rehabilitation of a Development that has ongoing and existing federal assistance from HUD in the form of a current Housing Assistance Payments ("HAP") contract;

WHEREAS, the Rule allows for the Board to grant an exemption in cases where the Application proposes Rehabilitation of a Development with ongoing and existing federal assistance from HUD or USDA;

WHEREAS, the Applicant has timely requested such an exemption from the Board;

WHEREAS, the Development Site is located within 1,000 feet of blighted structures and criminal activity that rise to the level of frequent police reports, which, pursuant to §10.101(a)(4) of the Uniform Multifamily Rules ("Rule") related to Undesirable Area Features, could cause the site to be deemed ineligible;

WHEREAS, the Application was terminated on April 30, 2014; and,

WHEREAS, the Applicant has timely appealed the termination

NOW, therefore, it is hereby,

RESOLVED, the Applicant's request for an exemption under §10.101(a)(3) of the Uniform Multifamily Rules related to Undesirable Site Feature for Cleme Manor (#14108) is hereby granted; and,

FURTHER RESOLVED, the Applicant's request to reinstate the application of Cleme Manor (#14108) is hereby granted.

BACKGROUND

An Application for Cleme Manor, located in Houston (urban region 6), was submitted on February 28, 2014. The application proposes rehabilitation of a development that has ongoing federal assistance from HUD in the form of a HAP contract, and the site is located adjacent to an active railway. In addition, within 300 feet of the site are several facilities with uses that could be considered industrial, including fabrication of on and off shore drilling equipment and metal fabricating and machining. The site is also located within 300 feet of a facility that holds used valves in inventory for sale but that has the appearance of a junkyard. Pursuant to §10.101(a)(3) of the Uniform Multifamily Rules (“the Rule”), Development Sites located within 300 feet of any number of undesirable site features (including active railroad tracks, heavy industrial uses and junkyards) will be considered ineligible unless the board grants an exemption for Rehabilitation Developments that have ongoing and existing federal assistance from HUD or USDA. Such an exemption was requested. Staff has reviewed the relevant documentation and has determined that the exemption request meets the requirements of the rule. In addition, while there is no disputing the presence of the active railway, staff is willing to concede that the other facilities may not constitute heavy industrial uses or a junkyard. Therefore, staff recommends granting the exemption.

The Board heard and granted similar requests for exemptions at the March Board meeting, and, at that meeting, also made it clear that such exemptions were granted without prejudice with respect to §10.101(a)(4) of the Rule, related to Undesirable Area Features. This section of the Rule states that a Development Site will be found ineligible if it is located within 1,000 feet of a confluence of a number of listed undesirable area features that are not typical of a high opportunity neighborhood. Staff evaluated the area immediately surrounding the site during two separate site visits conducted in January and April and reviewed documentation submitted by the applicant as well. As noted in the documentation surrounding the exemption request, the site is located adjacent to an active railway. As evidenced by the attached photographs taken during staff’s site visit as well as some printed from the google maps website, there is some evidence of blight within 1,000 feet of the site, and the industrial uses and railway are visible from the site. Staff also found that there was a relatively high level of crime in the area, and, for these reasons, staff terminated the application on April 30, 2014.

The applicant timely filed an appeal of the termination to the Executive Director on May 7, 2014, and staff, along with the Executive Director, met with the applicant on May 20, 2014, to discuss the proposed development. The applicant, both in the written appeal and during the meeting, in general presented either explanations or mitigating efforts for each of the features that raised concern for staff. With respect to the railroad, the applicant points out that the Rule allows for an exemption for the railroad when the Development has ongoing assistance from HUD and that a noise study conducted in accordance with HUD standards indicates that the railroad does not have a significant impact on the Development. The applicant explains that the railroad separates the Development Site from industrial uses surrounding the site and points to the fact that the City of Houston has no zoning as explanation for this type of land use being in proximity to residential uses. Further, the applicant researched some of the surrounding facilities and claims that their uses would not necessarily be considered heavy industrial since they are not manufacturing plants or refinery blast zones or anything of that nature. Instead, the applicant points out that the facilities provide employment opportunities for the residents. The applicant similarly researched the site that appears to be a scrap metal yard and found that it is part of the Houston Valve and Testing Company and that used valves are kept in inventory for sale. Finally, the applicant addressed the crime issue with an explanation that the crime was actually generated at the property and

not an issue of the surrounding neighborhood. The criminal activity at the property itself is being addressed in a comprehensive security plan to be implemented by the new owner and property management.

In the meeting with the applicant, representatives from the City of Houston also presented information regarding the community revitalization efforts that are happening in the area. While §10.101(a)(3) and (4) of the Rule do not specifically contemplate community revitalization as a factor in determining eligibility at the staff level, §10.207(b) of the Rule does call for applicants, in requesting pre-clearance of a site, to submit documentation related to mitigation of any undesirable area features. The Executive Director and staff determined, after all of this information was presented, that the City of Houston has a number of unique attributes, some of which have significant bearing on this development. First there is Houston's unique pattern of urban development which has occurred without zoning. Second, there are the historic facts associated with the development of "wards" in proximity to downtown. Third, there is the sheer geographic enormity and the urban growth challenges it presents. Fourth, there is the extreme diversity of Houston as a whole. It is against the backdrop of these unique attributes that the City of Houston has undertaken a significant revitalization in the Fifth Ward area. The efforts include the following:

- 1) The targeted revitalization area is proximate to downtown Houston, increasing the probability that revitalization efforts will lead to more diversity and economic opportunity and the other trends which so often occur in areas located so close to major urban centers, despite the fact that for many years such areas were often areas of neglect as large cities in Texas expanded geographically rather than pursuing infill.
- 2) The area sustained damage as a result of Hurricane Ike, and a significant block grant of federal disaster recovery funds has made possible the systematic addressing of significant infrastructure as well as housing recovery in this area. The development of planned uses of these funds has been accomplished with significant and meaningful public input.
- 3) These federal funds, administered by the Texas General Land Office and the City of Houston, have entailed significant oversight by the U. S. Department of Housing and Urban Development ("HUD") Office of Fair Housing and Equal Opportunity, ensuring that the planned uses of these funds are consistent with HUD's requirement that the State of Texas utilize its HUD funding to further fair housing in an affirmative manner. (Affirmatively furthering fair housing is referred to as "AFFH.")
- 4) The revitalization efforts are already underway and are summarized in materials the City of Houston has provided. They include not only federal block grant funds but also city funds and planned and coordinated private sector investment. In the aggregate they total approximately \$352 million in public and private capital of which approximately \$119 million has already been expended.
- 5) The industrial feature does not present hazardous emissions or similar concerns and in fact presents job opportunities not atypical of Houston's unzoned character. The City of Houston staff have represented that the adjacent railway does not entail heavy or disruptive usage or present risks associated with hazardous materials.
- 6) The blight on the north side of the property is minimal and is in fact right next to a street parallel to the property's western boundary which is filled with new high quality single family homes, evidence of the revitalization which is beginning to occur.
- 7) Demographic data on the revitalization areas indicates the beginnings of demographic diversification consistent with the objective of AFFH.

- 8) The criminal activity in the areas is largely centered upon Cleme Manor itself. The applicant has worked with the Houston Police Department (“HPD”) to develop a crime prevention plan which will be made possible by the rehabilitation of this property, and this plan has been approved by HPD. This in effect means that the proposed rehabilitation of Cleme Manor is a critical component of the larger revitalization effort.

The determination to recommend the granting of this appeal takes into consideration several matters of interpretation of the current QAP and Rule. First, although not expressly articulated, it is staff’s view that undesirable site and areas features may be considered in the context of appropriate mitigation, taking into account such things as current and ongoing revitalization efforts resulting in undesirable features that may be viewed as in transition. This is wholly consistent with the statutory purposes conferring preferences on revitalization (*cf.* Internal Revenue Code §42(m)(1)(B)ii(III)) and TEX. GOV’T CODE, §2306.001(3). In addition, staff believes this recommendation clearly aligns with policy purposes articulated in our primary governing statute, TEX. GOV’T CODE, Chapter 2306 and that the findings of HUD, the General Land Office, the City of Houston, and others that this development would affirmatively further fair housing must be taken into account.

Staff recommends granting the exemption and the appeal of the termination, ultimately deeming the site eligible for Housing Tax Credits under the 2014 QAP and Rule.



DANGER
HIGH VOLTAGE AND
SAFETY GLASSES REQUIRED
IN THIS AREA

NO
PASS







Address **587 Schweikhardt St**

Address is approximate





Address **4612 Edmund St**

Address is approximate







600 Congress Avenue, Suite 2200
Austin, Texas 78701-2748
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

April 1, 2014

Via Electronic Mail

Ms. Jean Latsha
Director of Multifamily Housing
Texas Department of Housing and Community Affairs
221 East 11th Street
P.O. Box 13941
Austin, TX 78711-3941

Re: Cleme Manor in Houston, Texas
TDHCA No. 14108

Dear Jean:

The NHP Foundation, our client (the "**Applicant**"), proposes to acquire and rehabilitate the Cleme Manor Apartments in Houston (the "**Development**"). By letter to Tim Irvine dated February 27, 2014, the Applicant requested the following in accordance with Section 10.101(a) of the Qualified Allocation Plan (the "**QAP**"): (1) Exemption of Undesirable Site Features in accordance with Section 10.101(a)(3) and (2) Pre-clearance of an Undesirable Area Features in accordance with Section 10.101(a)(4).

Based on recent conversations and TDHCA Board action in March, we understand that the exemption for Undesirable Site Features and the clearance for Undesirable Area Features will be treated separately. In support of the exemption for Undesirable Site Features, the Development involves a Rehabilitation that is supported by a HAP Contract with HUD. This should make the exemption for Undesirable Site Features relatively simple and consistent with TDHCA Board action on similar Applications.

With regard to the Undesirable Area Features determination, I advised that we would send additional information in support of the request. This letter is intended to fulfill that promise.

Items identified in our February 27, 2014 letter as possible Undesirable Area Features included a railroad track and nearby uses that could be considered industrial. In addition, based upon your inspection of the site, you have asked us to address criminal activity in the area.

As to the **railroad track**, we believe this was adequately addressed in our February 27, 2014 letter. The sound study showed that the site met HUD standards for acceptability and that not a single train passed by the property during the three days of measurement.

As to the **industrial uses**, we previously showed in the February 27, 2014 letter that the nearby industrial uses do not create a noise burden or an environmental hazard. Further, with the absence of zoning in Houston, mixed uses of this sort in the inner city are commonplace. Finally, the businesses nearby actually present opportunities for employment of the residents of the Development, and the Applicant intends to pursue those opportunities if it takes ownership of the property.

As to **criminal activity**, the Applicant acknowledges that the Development has been identified as having undesirable criminal activity. This is exactly why the City of Houston and others hope the NHP Foundation will acquire the Development – because the Applicant will proactively work to reduce crime on the property and in the surrounding area. The Applicant has already devised a Security Plan for the Development, attached hereto as Exhibit A. This plan was devised in close consultation with the Houston Police Department and Harris County Sheriff's Department. While the Applicant cannot do anything about the crime currently in the area, it can be proactive about improving the crime record if Tax Credits are awarded and the Rehabilitation proceeds. Thus, granting the Applicant clearance so that the Development may pursue a Tax Credit award is actually a step toward improving the crime problem in the neighborhood.

Most of all, the Rehabilitation of Cleme Manor has tremendous support from the City of Houston and housing advocates. To that end, please find attached the following:

Letter from Neal Rackleff, Director of the City of Houston's Housing and Community Development Department. This letter requests that TDHCA grant clearance of the undesirable site features and undesirable area features. It notes that Cleme Manor is in Houston's Greater Fifth Ward, designated as a community revitalization area after extensive community planning and input from housing advocates. Further, Cleme Manor has been selected for Disaster Recovery funds – only five applicants have been so selected. (See Exhibit B.)

Letter from Jerry Davis, Vice Mayor of the City of Houston and the Council Member for the Greater Fifth Ward. This letter requests that TDHCA grant clearance of the undesirable site and area features and allow the Tax Credit Application to proceed. It emphasizes the positive influence that the Rehabilitation of Cleme Manor will have on the Greater Fifth Ward and the elimination of negative area features. The City's commitment of funding and its commitment to fair housing are noted. (See Exhibit C.)

Letter from Kathy Flanagan Payton, President and CEO of Fifth Ward Community Redevelopment Corporation. This letter requests that TDHCA grant clearance of the undesirable site and area features. It notes that the Greater Fifth Ward is a Tier I priority area for community revitalization in the City of Houston. The letter summarizes recent area improvements, including park renovation, a new school, a new community center, and a Boys and Girls Club. The organization also administers TIRZ 18 and acknowledges working to implement tax increment financing for the Development. (See Exhibit D.)

Letter from the Texas Organizing Project. TOP is a grassroots advocacy organization that includes housing advocacy in its mission. As noted in the letters from the City of Houston, TOP was fundamentally involved in the creation of the City's plan for distribution of Disaster Recovery funds and the designation of the community revitalization areas, including the Greater Fifth Ward. The letter requests that TDHCA grant clearance of the undesirable site and area features. (See Exhibit E.)

Letter from Texas Low Income Housing Information Service and Texas Appleseed. This letter is included with permission from these two organizations. In accordance with Section 11.9(d)(1) of the QAP, TLIHIS and Appleseed commend the City to carefully consider the fair housing implications of support for Tax Credit Applications. It refers to the City's identification of the Fifth Ward as a Community Revitalization Area for the purposes of Disaster Recovery funds and notes that investment in the Community Revitalization Areas "could reasonably be expected to affirmatively further fair housing and lead to real and meaningful community revitalization." (See Exhibit F.)

City of Houston Outreach Plan for HCDD CDBG DR-2. This is the plan by which the Greater Fifth Ward was designated as a Community Revitalization Area, in cooperation with TLIHIS, Appleseed, and TOP, among others. It was through this process that Cleme Manor was selected by the City of Houston to receive Disaster Recovery funding. (See Exhibit G.)

City of Houston, Housing and Community Development Disaster Recovery Program Rental Program Guidelines for Hurricane Ike Round 2, Phase 2. As noted above, 40 applications for funding were received, and 5 were selected for possible award. Among the 5 is Cleme Manor. This shows the City's priority for the Rehabilitation of this Development. The City avers that investment in the Community Revitalization Areas, including the Greater Fifth Ward, "will act as a catalyst to produce vibrant, economically and racially integrated communities where people of different income and ethnic backgrounds will choose to live and do business." (See Exhibit H.)

In short, the Rehabilitation of Cleme Manor is seen as a positive for the Greater Fifth Ward and the City of Houston. The City, the Fifth Ward Community Redevelopment Corporation, and others are all working to improve this area. Without the Rehabilitation of Cleme Manor, the progress in the Fifth Ward will be stilted, because this large apartment complex has a significant impact on the surrounding neighborhood. Denying clearance for the Application to proceed does not make Cleme Manor and all of its problems go away. The property will continue to exist and impact the neighborhood. An award of Tax Credits to facilitate the implementation of new ownership, Rehabilitation, and enhanced supportive services can make a positive impact on the Greater Fifth Ward. The NHP Foundation is committed to this result.

Ms. Jean Latsha
April 1, 2014
Page 4

We can think of no more compelling support for TDHCA to allow this Application to proceed. Nonetheless, if TDHCA requires additional information to make a determination on this matter, please feel free to contact me. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

CLB/bsh

Ms. Jean Latsha

April 1, 2014

Page 5

Exhibit A – Security Plan

Exhibit B – Letter from City of Houston Housing and Community Development Department

Exhibit C – Letter from Houston City Council Member

Exhibit D – Letter from Fifth Ward Community Redevelopment Corporation

Exhibit E – Letter from Texas Organizing Project

Exhibit F – Letter from Texas Low Income Housing Information Service and Texas Appleseed

Exhibit G – City of Houston Outreach Plan for Disaster Recovery Funds

Exhibit H – City of Houston Rental Program Guidelines for Disaster Recovery Funds

Cleme Manor – Security Plan

Introduction

We have drafted this plan after consultation with the Houston Police Department, Houston City Attorney- FAST Coordinator, and Harris County Commissioner's Office. All believe that the problems at Clem are solvable by a minimum of physical investment and a strong management presence. All have indicated a desire to work closely with us, especially since the current owner has been steadfast in their refusal to work with public safety officials. The Houston City Attorney's Office is calling a meeting of the relevant City of Houston and Harris County officials to work with us on a coordinated public safety plan for Cleme.

Project Description

Cleme Manor Apartments (the "Property"), located at 5300 Coke Street in Houston, Harris County Texas, consists of twenty three (23) two-story apartment buildings, one (1) single story community building, and one (1) single story leasing office building. The Property contains two hundred eighty four (284) dwelling units. According to tax records, the buildings were constructed in 1970, are situated on approximately 12.79 acres, and have approximately 251,224 square feet of gross building area.

Currently, the Property is 100% occupied. The Property receives HUD Housing Assistance Payment (HAP) subsidy funding for all of the 284 units on property. The HAP funding provides financial assistance to the tenants who are low income to extremely low income households. The following is summary of the demographic profile of the tenant population:

- 100% of the residents are some degree of low income earners
- 47 households are wage earners
- 90 households receive a pension, retirement payments, or public assistance
- 250 households are headed by women
- 34 tenants are elderly
- 59 tenants are disabled
- 439 residents are under the age of 18, which represents 54.7% of the population
- 168 residents are between the age of 18-29, which represents approximately 20% of the population

Background

In May 2011, the City of Houston executed a nuisance abatement plan with the current owner, which outlines the following major activities:

- Hiring two (2) certified peace officers.
- Installation of security cameras on property.
- Installation of exterior lighting on property.
- Enforcement and control of access into the property through parking tags and operable gates and fences.
- Maintenance of the landscaping in order to increase visibility on property.
- Evaluation of prospective residents and maintaining an active enforcement of the lease standards and house rules, as well as implementing criminal background checks

However, the current owner has not fully complied with the nuisance abatement plan and has performed only limited implementation of the following measures:

- Cameras: only six cameras were installed. They are not monitored in real time so have provided limited benefit.
- Lighting: Insufficient lighting was installed and the lights that were installed were improperly placed at the center of the buildings.
- Criminal background checks: only the most minimal checks are done.
- Rule Enforcement: only limited unit inspections have been done and tenants are rarely evicted for bad behavior or apartment unit condition violations.
- Cooperation with Police: Houston Police Department reports that existing management does not actively cooperate with them to address property issues.
- Fencing: All entrances are not secured with entry limited to tenants and their registered guests.
- Security Officers: Off the record conversations with HPD undercover officers indicate that the existing Off Duty Police Officers are not performing up to standards either due to lack of supervision, support, and/or work ethic.

The lackluster and deficient implementation of the nuisance plan has prevented it from having any effect on crime at the property.

Based on our experience and conversations with HPD, we believe a relatively small number of tenants are responsible for a large number of violations. We believe 28 or 10% of the residents are responsible for 90% of the crime on the property. The Harris County Sherriff's Department has told us they know who are the bad tenants, down to their unit numbers.

Crime Prevention Plan

NHPF/UA LLC (“New Owners”) have researched the security concerns on the property and proposed the following three step strategy for combatting the criminal activity on the Property:

- Strategic Upfront Capital Improvements
- Intensive Security Monitoring and Enforcement
- Collaborative Planning and Security Initiatives with Local Police and Sherrif’s Departments

The Crime Prevention Plan has three phases:

1) Shock and Awe (or There Is A New Sherriff In Town)

- a. The goal of this phase is to immediately put the residents on notice that the security environment has changed as well as to identify and evict the 28 units causing most of the crime.
- b. During this phase, we will immediately implement:
 - i. Strategic physical improvements to fencing, lights, and cameras;
 - ii. Additional off duty police officers and increase the number of hours of security personnel working on the property to a total of 85 hours/week;
 1. In consultation with HPD and HCS we will determine if the existing Off Duty Police Officers can be effective with adequate supervision or need to be replaced.
 - iii. 24-hour real time security monitoring system with synchronized cameras;
 - iv. Seamless coordination with HPD and Harris County Sherriff’s Office, which will include drug stings, bait cars, and property sweeps coordinated by the off duty police officers with the assistance of a security camera monitoring service.
 - v. Rigid enforcement of all Rules and frequent unit inspections.
 - vi. Full criminal background checks for new and existing tenants.
- c. This phase is expected to last no more than six months.

2) High Intensity Monitoring and Follow Up

- a. It is expected that this will last the next six months (until the end of the interim hold period).
- b. All evictions related to criminal actions and targeted police activity are anticipated to be completed by this time.
- c. The focus will be on continued implementation of rules and regulations
- d. On site police offices will be reduced from 2 to 1.5 officers (65-85 hours/week)
- e. Live camera monitoring service will be reduced to 16 hours a day.

3) Maintenance

- a. This will be the permanent level of security services once we are assured that the problems on the property have been remedied and a new security and behavior norm established.
- b. On site Security will be reduced to 45 hours and live camera monitoring will be kept at 18 hours a day.

Details

Proposed Capital Improvements / Rehabilitation Plans

The New Owners will complete the following items immediately upon acquiring the property:

- **Video Surveillance Equipment**
 - Install video surveillance cameras which will cover the entire property and will supplement the existing cameras on site.
 - Install audio equipment which can communicate with the onsite security personnel, property management, and local law enforcement dispatch

- **Controlled Access Equipment**
 - Repair front gateentry to require key fob, or being buzzed in by management or a resident.
 - Front gate equipment will record persons entering and exiting the property.
 - Repair and control access to the pedestrian gates on site
 - During the work day, Management will control all access to the property remotely using the newly installed cameras and entry control.

- **Exterior Lighting**
 - Repair all exterior unit lighting on property to ensure visibility to the building numbers for first responders
 - Install HID exterior common area lighting throughout the property to eliminate dark or blind spots on the property

- **Other Common Area Improvements**
 - Trimming landscaping to allow for better visibility in the common areas
 - Strategically post “No Trespassing”, “Towing” and other signage in highly visible locations to warn potential criminals of the property enforcement

Security Monitoring and Enforcement

The New Owners will change management companies to Lynd Management group immediately upon property acquisition. Lynd has a great deal of experience taking over and successfully addressing problems of this nature. In fact they were complemented by the HPD for their skill. The following comprehensive operational plan will be implemented to eradicate the existing criminal activity:

- **Security Personnel**
 - New Owners and Lynd will retain 2 certified peace officers for the first year to provide an aggressive response to the criminal activity
 - Security personnel will work 85 hours a week consisting of 7 days a week
 - Security personnel will have an affiliation with local law enforcement and will maintain an active log of criminal activity which will be used by management and local law enforcement to coordinate strategic deterrent exercises
 - New Owners plan to maintain 1.5 certified peace officers at 65 hours a week for 7 days in the second year and throughout the ownership period

- **Surveillance Monitoring**
 - New Owners will procure a security company to provide 24 hour monitoring on the property for the six (6) months
 - The Security Company have extensive experience dealing with high criminal activities in apartment properties
 - The Security Company has an extensive monitoring operation to provide coordinated information with local law enforcement, the onsite security personnel and management in real-time communication.
 - The Security Company will perform real-time reviews of security footage and seamless delivery of critical information to local law enforcement for expedited prosecution.

- **Property Management**
 - New Owners and Lynd will implement new TAA-approved lease addendum and house rules to allow for immediate eviction for criminal activity and association with people that conduct criminal activities
 - Lynd will perform rigorous screening and tenant selection processes, which will include criminal background checks, identification of persons on the lease and residing in the unit, as well as ongoing checks during lease renewals
 - Lynd will perform periodic unit inspections for criminal activities. Lynd and security personnel will communicate their findings to the local law enforcement to coordinate the appropriate responses.

Collaborative Planning and Strategic Enforcement Implementation

The New Owners will commence a strategic approach to address the criminal activities at the Property through the establishment of ongoing relationships with the following parties:

- **City Attorney Office and FAST Unit Representative** – The New Owners will meet with the City Attorney Office and the FAST Unit Representative and solicit “Best-Practices” and coordinate strategic deterrent activities on property.

- **Positive Interaction Program (PIP)** – Lynd will participate in the monthly PIP meetings and organize PIP events with the City of Houston and Harris County

- **Blue Star Multi-housing Program** – Lynd will participate in the City’s Blue Star Multi-housing program and apartment registration, which will include completing the “no trespassing affidavit and implementing curfew policies to ensure that residents under 18 years of age are participating in school and age appropriate activities
- **Mayor’s Anti-Gang Office** – Lynd will participate with local law enforcement and the Mayor’s anti-gang office and crime reduction unit to implement the latest initiatives to curtail any gang activity on the Property
- **Social Organizations and Finnegan Park Community Center** – The New Owners and Lynd will establish outreach efforts to prominent social organizations, such as the “100 Black Men”, “100 Black Women”, “La Raza” as well as African American fraternity and sorority organizations to implement effective social programming and mentorship activities to deter persons from committing crimes.

The aforementioned organizations will be working in coordination in order to deter the criminal activities at the Property and the surrounding area. Based on observations and research of the criminal activities at the Property and the current owner’s responses over the past two (2) years, it appears that piecemeal and isolated responses were implemented, and were not taken seriously by the residents. However, the New Owners intend to implement a comprehensive and coordinate response, in which each entity and measure identified will work together to deter criminal activity in at an aggressive pace and expedited enforcement.

Our plan to eradicate crime at Cleme Manor has been enthusiastically received by the various city agencies, HUD and the police. All have offered their full support. It is an opportunity to provide safe, clean affordable housing to the 246 residents not involved in criminal activity on the property and create a safe environment in a neighborhood that has received millions of dollars of improvements, with more to come.

Budget

The budget to implement the security plan is as follows:

Proposed Capital Improvements / Rehabilitation Plans for the Hold Period

Cameras - surveillance	\$50,000
Front Gate	\$27,400
Exterior Lighting	\$25,100
Signage / Landscaping	\$1,000
SUBTOTAL	\$103,500

Security Monitoring and Enforcement

Year 1 - First Six Months

Item	Quantity (Hours / Months)	unit Cost	Total Cost
2 Security Officers (85 hours, 7 days)	2,214 Hours	\$ 35	\$ 77,490
Video Surveillance (24 hours, 7 days)	6 months	\$ 3,000	\$ 18,000
SUBTOTAL			\$ 95,490

Year 1 - Second Six Months

Item	Quantity (Hours / Months)	unit Cost	Total Cost
1.5 Security Officers (65 hours, 7 days)	1,690 Hours	\$ 35	\$ 59,150
Video Surveillance (18 hours, 7 days)	6 months	\$ 2,000	\$ 12,000
SUBTOTAL			\$ 71,150

TOTAL YEAR 1 AMOUNT: \$166,640

Year 2

Item	Quantity (Hours / Months)	unit Cost	Total Cost
1 Security Officers (45 hours, 7 days)	2,340 Hours	\$ 35	\$ 81,900
Video Surveillance (24 hours, 7 days)	12 months	\$ 2,000	\$ 24,000
TOTAL Year 2 through Perm.			\$105,900

Effect of Security Costs during the Hold Period

1. With all capital and operating costs accounted for the deal is still projecting a 15% ROI for the Fund.

2. The \$103,500 is included in the hold period capital budget of \$290,250. If need be this expense can be reimbursed by the LIHTC deal on closing since it is within the look back period for capital expenses.
3. Evictions will not cause a significant negative effect on ROI and rent collected
 - a. Section 8 properties are allowed to collect 80% of the rent from HUD for brief periods of vacancy prior to re-leasing. The current owner has not taken advantage of this rule.
 - b. As the project is completely full and there is a waiting list, we anticipate that units will actually be vacant for no more than 2 weeks while we turn units.
 - i. However, if we assume that 10% of the units will be evicted and empty for 1 month, the vacancy loss is (\$21,230) but this amount will be offset by 80% rent payments from HUD of \$16,984, with a net decrease of (\$4,246) or \$150/unit/month
 1. While it is possible that the tenants may stop paying their portion of the rent during the eviction proceeding, this will be minimal, since the average income is well under \$10,000 / year which equals a tenant payment of \$250/month (x 28 units would equal another \$7,000 loss). It is likely that the troublemakers have little or no reported (legal) income, hence, 30% of nothing, is 0.
 - c. We will be doing minimal turns during the hold period, estimated at \$350/ unit but we have included \$700/ unit for eviction units.
 - d. Total Vacancy includes the 3% historic vacancy, eviction vacancy of 1 month for 28 units and “rehab” vacancy for units we intentionally leave vacant in preparation for construction.
 - i. Historically five leases a month aren’t renewed. Not filling those units for the last three months prior to construction will give us sufficient units to work on to maintain an 18 month construction schedule. There is no 80% income set off for rehab unit vacancy.
4. Security Expenses will not push the Fund return below 15%.
 - a. Hold period security expenses are \$166,640.
 - b. Previously we were budgeting approximately \$70,000 for security, however this \$96,640 increase has been partially offset by \$72,068 in HUD reimbursements for vacant units (80% rate) which we did not include in our prior numbers.
 - c. The difference was made up by the Bridge Financing Reimbursement at LIHTC closing (While this may be includable in acquisition price for basis purposes, to be conservative, we have broken it out separately in the LIHTC S&U and assumed no basis for it).

Timing

The timing for implementing the security plan will be immediately upon completing the property acquisition. The overall schedule is as follows:

- **Capital improvements**
 - Commencement within one (1) week after closing
 - Completion will be no later than two weeks after closing

- **Security Enforcement**
 - Security Company / Officers will be procured prior to closing
 - Engagement and onsite security will commence at closing
 - Monthly security activity status reports will be provide one month from closing
 - Harris County and HPD crime sweeps will be planned prior to closing and implemented starting immediately after closing.

- **Video Surveillance**
 - Security Company will be procured prior to closing
 - Engagement and onsite security will commence on installation of cameras

EXHIBIT 1

Sources and Uses

Purchase Unit Assumptions 2013

Unit Type	# of Units	SF/Unit	Gross Rents			LIHTC Rents	Small Area FMR	FMR	Net Rent/SF	Utility Allowance	Net Rent	Annual Rent
1 BED	24	584	\$592			\$753	\$530	\$772	\$0.92	\$56	\$536	\$ 154,368
2 BED	112	740	\$732			\$904	\$660	\$937	\$0.89	\$77	\$655	\$ 880,320
3 BED	120	920	\$899			\$1,044	\$900	\$1,249	\$0.87	\$95	\$804	\$ 1,157,760
4 BED	24	1,050	\$1,033			\$1,165	\$1,110	\$1,570	\$0.86	\$127	\$906	\$ 260,928
5 BED	4	1,180	\$1,143			\$1,285	TBD	TBD	\$0.83	\$159	\$984	\$ 47,232
Total	284	237,216	\$ 2,801,232							\$514	\$208,384	2,500,608
Average		835	\$822			\$978	\$779		\$0.88		\$ 734	

Redevelopment Unit Assumptions 2014

Unit Type	# of Units	SF/Unit	Exit Rents (Gross)	Home Rent Low 2013	Hone Rent High 2013	LIHTC Rents	Small Area FMR	FMR	Net Rent/SF	Utility Allowance	Exit Rent (Net)	Annual Rent
1 BED	24	584	\$603.84	\$628	\$714	\$768	\$541	\$787	\$0.94	\$58	\$546	\$ 157,294
2 BED	112	740	\$746.64	\$753	\$882	\$922	\$673	\$956	\$0.90	\$79	\$667	\$ 896,892
3 BED	120	920	\$916.98	\$870	\$1,097	\$1,065	\$918	\$1,274	\$0.89	\$98	\$819	\$ 1,179,547
4 BED	24	1,050	\$1,053.66	\$971	\$1,205	\$1,188	\$1,132	\$1,601	\$0.88	\$131	\$923	\$ 265,781
5 BED	4	1,180	\$1,165.86	\$1,071	\$1,311	\$1,311	#VALUE!	#VALUE!	\$0.85	\$164	\$1,002	\$ 48,100
Total	284	237,216	\$2,857,257							\$529.42	\$212,301	2,547,614
Average		835	\$838			\$997	#VALUE!		\$0.89	\$91	\$ 748	

	Total	Per Unit	
Fund Debt	6,500,000	22,887	51.3%
Mezzanine Debt - HUD / City	3,000,000	10,563	23.7%
Fund Equity (TDC-debt)	3,177,745	11,189	25.1%
			Uses Check
GAP	-	-	
Total Sources	12,677,745	44,640	12,677,745

Cash from Ops		
Asset management fee	(47,745)	
Cash flow before DS	706,864	
Hold Period Interest	(260,000)	4% of debt
	399,119	
Cash from Sale		
final sales price	12,000,000	Exit acq price
Cost of Carry Reimbursement	575,000	
City Debt Note	(3,000,000)	
ST Loan Payoff	(6,500,000)	
	\$ 3,075,000	
Reimbursements		
Pre Development	\$ 180,000	
CASH	\$ 3,654,119	
ROI	15.0%	

Uses -- Acquisition	TOTAL BUDGET	Per Res. Unit
Acquisition (minus deposit)	11,750,000	41,373
Deposit	250,000	880
Sub-total Uses - Acquisition	12,000,000	42,254
1.2		
Uses -- Construction Costs	TOTAL BUDGET	Per Res. Unit
Security Hard Costs	103,500	
Hard Costs	186,750	658
Total Construction Costs	290,250	658
Uses -- Development Costs	##### TOTAL BUDGET	0
Engineering Reports	30,000	106
Appraisal	15,000	53
Accounting / Cost Certifications		-
Legal	40,000	141
Other Pre-development costs	150,000	528
Recording, Transfer, & Title	200,000	704
Loan Assumption		
Financing/Soft Cost Contingency	195,000	687
Fund Acq. Fee (of equity)	\$ 47,745	168
Sub-total Soft Costs	677,745	2,386
Total Uses - Development Costs	12,677,745	44,640



Source	Loan Type	Total	Per Unit	
Debt	(d)4	12,712,650	44,763	
Deferred Developer Fee		1,116,143	3,930	30.0%
LIHTC		8,253,019	29,060	
Interim Income		353,432	1,244	
City (IKE) Funds		3,000,000	10,563	
HUD Flex Subsidy Loan (\$3.6 M max potential)		-	-	
TIRZ Capitalization Loan		3,235,735	11,393	
		-	-	
		-	-	
		-	-	
		-	-	
GAP / (Surplus)	GAP	0	0	
Total Sources		28,670,979	100,954	28,670,979

Tax Credit Calculation			
Acq. Basis	4%	9,000,000	75% of acq
Applicable Percentage-Acq.		0.03	January
Annual Credits-Acq.		284,400	
Rehab Basis	4%	12,724,109	
Census Tract		130%	
Applicable Percentage-Rehab		3.27%	January
Annual Credits-Rehab		540,902	
Number of Years		10	
Total Tax Credits		8,253,019	
Credit Price		\$0.85	Estimate
Tax Credit Equity Raised		7,015,066	

ISSUANCE FEES			
Financing Fees - Permanent Loan			
HFA Application Fee	\$	1,500	
HFA Financing Fee	\$	128,565.37	1%
HFA Tax Credit Allocation Fee	\$	82,530	1%
Bond Counsel	\$	80,000	
Issuer's Counsel	\$	40,000	
Underwriter/Investment Banker Fee	\$	558,193	3.5% (d)4
Underwriter's Counsel	\$	47,000	
Bond Investor's Counsel/Tax Credit	\$	-	
Total	\$	937,789	
Credit Enhancement Fees			
Application/Origination/Underwriting Fee			2.5%
Forward commitment Fee (refundable)	\$	-	0%
Agency Stand by fee	\$	-	0%
Conversion Underwriting Fee			0%
Credit Enhancer's Legal Counsel	\$	47,000	0%
Bank Legal			0%
Total	\$	47,000	
Construction Lender			
Letter of Credit	\$	-	0%
Annual fee	\$	-	0%
Total	\$	-	
Bond Costs of Issuance - Other			
Rating Agency Fee	\$	5,000	
Other	\$	5,000	
Trustee Set-Up and Legal	\$	10,000	
Total	\$	20,000	
Financing Contingency	\$	-	0%
Total Financing Costs	\$	1,004,789	

Uses -- Acquisition	TOTAL BUDGET	Per Res. Unit	Basis
Acquisition	12,000,000	-	9,000,000
Bridge financing costs: closing, fees and interest	575,000	2,025	
Sub-total Uses - Acquisition	12,575,000	2,025	9,000,000
Uses -- Construction Costs	TOTAL BUDGET	Per Res. Unit	Basis
Construction Costs:	26,500	7,526,000.00	7,526,000
Construction Hard Costs*		26,500	
Builder's Fee		-	-
Contingency	10%	752,600	752,600
		-	-
		-	-
Total Construction Costs	29,150.00	8,278,600	29,150
Uses -- Development Costs	TOTAL BUDGET	Per Res. Unit	Basis
Development Soft Costs			
Architecture & Engineering	2.17%	180,000	634
Engineering / Environmental Reports		10,000	35
Appraisal / Market Study		10,000	35
Accounting / Cost Certifications		25,000	88
Building Permits		20,000	70
Insurance		45,000	158
Taxes During Construction		-	-
Legal		100,000	352
Recording, Transfer, & Title	0.8%	100,000	352
Construction Review		-	-
Constr. Mngmt		100,000	352
		-	-
Sub-Total Development Soft Costs	590,000	2,077	490,000
Financing Costs			
Bond Costs	8.2%	1,042,156	3,670
Construction Period Interest (debt int. rate + 1%)	(d)4	878,756	3,094
Financing/Soft Cost Contingency	1%	150,000	528
		-	-
Sub-Total Financing Costs	2,070,912	7,292	230,509
Reserves			
Bond Operating Reserve (6 months OPEX)	(d)4	701,641	2,471
Bond Debt Service Reserve (6 month DS)		429,826	1,513
Replacement Reserve		300,000	-
Sub-Total Financing Costs	1,431,467	3,984	-
Development Fee			
Development Fee -	14.9%	3,725,000	13,116
Total Development Costs	7,817,379	26,470	4,445,509
Total Uses	28,670,979	100,954	21,724,109

Quick Cash Flow to New Owners		50% Test	
cashflow (NOI)	988,600	Aggregate Basis	24,724,109
MIP		52%	12,856,537
New Debt Service	(d)4 \$ (859,653)		
Cash Flow After Bond Debt Service	\$ 128,948		
DSCR	(d)4 1.15		
Soft Debt Service			
Cash Flow After Total Debt Service	128,948		
Total Debt DSCR			
Max NOI Loan	Max LTV Loan		
Cash Flow	\$ 988,600	NOI	988,600
DS Payment	859,653	LTV	90%
DCSR	1.15	CAP Rate	
Rate	6.10%	Value	19,817,379
Amortization	40	LTV Max Loan	\$ 17,835,641
Max NOI Loan	\$ 12,773,260	Actual Loan	\$ 12,773,260

Notes

	Unadjusted Audit		Adjusted Audit		YR. 0		YR. 1 Rent		Fund	
	2012	\$/unit	2012	\$/unit	NHPF UW	\$/unit		\$/unit	REDEV	\$/unit
REVENUE										
Rent Revenue	244,640	868	244,640	868	2,500,608	8,867	2,547,614	9,034	2,547,614	9,034
Tenant Assistance	2,225,344	7,891	2,225,344	7,891		0	-	-	-	-
Vacancy	(40,850)	2%	(66,850)	3%	(66,850)	3%	(68,856)	3%	(127,381)	5%
Rehab Vacancy							(69,521)	6%		
Crime Eviction Vacancy							(21,230)	10%		
Utility Reimbursement					-	-	-	-	-	-
Bad Debts	-	-	-	-	-	-	-	-	-	-
Other Income : HUD Vacancy Reimbursement	-	-	-	-	-	-	72,068.49	-	-	-
Other Income	312,918	1,110	26,000	92	26,000	92	26,520	93	71,048	250
TOTAL REVENUE	2,742,052	9,655	2,429,134	8,553	2,459,758	8,661	2,486,596	8,756	2,491,282	9,284
OPERATING EXPENSES		6%		6%		4%		4%		4%
Management Fee	140,551	495	140,551	495	100,024	352	99,464	350	99,651	351
Real Estate Taxes	-	-	-	-	230,568	812	230,568	812	282,500	995
Other Taxes and Ins	17,262	61	17,262	61	1,325	5	1,325	5	1,000	4
Utilities Reimbursement Expense	-	-	-	-	-	-	-	-	-	-
Property Insurance	235,347	829	235,347	829	275,000	670	275,000	968	\$ 157,779	556
Repairs & Maintenance	89,906	317	89,906	317	115,440	860	115,440	406	60,000	211
Contract Services	822,501	2,896	509,583	1,794	104,664	690	104,664	369	65,000	229
SECURITY							166,640		105,900	
Utilities	326,045	1,148	326,045	1,148	391,920	1,380	391,920	1,380	307,000	1,081
Marketing	-	-	-	-	-	-	-	-	5,680	20
General & Admin & Other	79,942	281	79,942	281	35,000	123	35,000	123	54,260	191
Resident services (non-payroll)							10,000			
Payroll	348,112	1,226	348,112	1,226	228,811	806	228,811	806	228,811	806
Turnover	-	-	-	-	35,700	126	35,700	126	35,700	126
TOTAL EXPENSES	2,059,666	7,252	1,746,748	6,151	1,518,452	5,823	1,694,532	5,345	1,403,281	4,568
EXPENSE%		-								
NET OPERATING INCOME	682,386	2,403	682,386		941,306	3,314	792,064	2,789	1,088,000	3,831
Replacement Reserves	(194,004)	(349)	(194,004)		(99,400)	(350)			(99,400)	(350)
Capital Expenditures		-	0				(85,200)	(300)		
CASH FLOW B/F DEBT SVC	488,382	1,720	488,382		841,906	2,964	706,864	2,489	988,600	3,481

HUD (d) (4)			
Max Debt Service Loan			
Asking Price	\$	12,000,000	
Development Costs	\$	7,817,379	
Transaction Costs	\$	19,817,379	
Loan to Cost	\$	17,835,641	
			Inputs
			Loan to Cost 90%
			Term 40
			DSC 1.15
			Rate 6.10%
NOI-supported Debt			
NOI (redevelopment)	\$	1,088,000	
Replacement Reserves	\$	(99,400)	
Cash Available for Debt Service	\$	988,600	
Debt Service @	\$	(859,653)	
NOI Supported Loan	\$	12,773,260	
			0
MAX LOAN	\$	12,773,260	
Debt Service	\$	(859,653)	
			Cash Flow \$ 228,348
			Actual DSC

Calculate HUD Sizing Constant D4	
Interest Rate	5.65%
Amortization (Months) <i>Select 420 for (f) or 480 for (d)(4).</i>	480
Loan Constant	6.31%
Plus: MIP <i>Select 0.45% for affordable and 0.60% for mkt</i>	0.45%
HUD Sizing Constant	6.7622%

Calculate Loan Amount	
NOI	\$988,600
Divided by: DSCR	1.1500
NOI free for Debt Service	\$859,653
Divided by: HUD Sizing Constant	6.76%
HUD Loan Amount by DSCR	\$12,712,650



CITY OF HOUSTON

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www.houstonhousing.org

March 28, 2014

Ms. Jean Latsha
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Cleme Manor in Houston
TDHCA No. 14108

Dear Ms. Latsha:

The purpose of this letter is to request that TDHCA grant Cleme Manor clearance from the undesirable site and area features under Sections 10.101(a)(3) and (4), respectively, of the Qualified Allocation Plan. The City of Houston believes it is appropriate for the Cleme Manor tax credit application to proceed, for all of the reasons described below.

Pursuant to the City of Houston Hurricane Ike Disaster Recovery Round 2 Request for Proposals, Cleme Manor has been selected to receive (subject to approval by the Houston City Council and compliance with all applicable federal law including but not limited to compliance with all of HUD's environmental regulations) \$3 million under the Hurricane Ike/Dolly Round II Community Development Block Grant Disaster Recovery Program (the "DR Funds"). It is important to understand the background of how the DR Funds selections were made. Before such selections were made, the City of Houston worked with GLO, HUD, advocacy groups such as the Texas Low Income Housing Information Service, Texas Appleseed, and the Texas Organizing Project, and local neighborhood organizations to perform a needs assessment, with a careful consideration of the City's commitment to ensuring Housing Choice. Based upon this comprehensive work, the City identified certain Community Revitalization Areas (CRAs) in which the multifamily and other DR Funds would be awarded. This plan to award DR Funds in CRAs was formalized in writing with GLO and made in cooperation with the Fair Housing Advocates and the wider community.

The Greater Fifth Ward is one of the CRAs in which the City of Houston elected to award its DR Funds, and Cleme Manor is one of these recipients.. It is important to note that of forty applications for DR Funding, only five were selected for presentation to City Council and two of those are in the Greater Fifth Ward. The Cleme Manor selection was made not just on its own merits but on its contribution toward the revitalization of the entire Fifth Ward. While the Rehabilitation of Cleme Manor is addressing the Fifth Ward's most pressing multi-family problem, other DR funding is focused on rehabilitating

Council Members: Brenda Stardig Jerry Davis Ellen R. Cohen Dwight A. Boykins Dave Martin Richard Nguyen Oliver Pennington Edward Gonzalez
Robert Gallegos Mike Laster Larry V. Green Stephen C. Costello David W. Robinson Michael Kubosh C.O. "Brad" Bradford Jack Christie
Controller: Ronald C. Green

nearby single family housing and neighborhood infrastructure. Each piece of this tripod - multifamily, single family, and infrastructure - is necessary to eliminate negative neighborhood features and improve this entire area. This potential funding of DR Funds shows the City's priority for this Community Revitalization Area.

For years now, public and private entities have been working to revitalize and improve the Greater Fifth Ward in general and the area around Finnegan Park in particular. In recent years the County has shown its commitment to this area by renovating Finnegan Park, which serves as the community "common square", and the facilities around it which include a new community center and a Boys and Girls Club. Despite these efforts and investments to date, we believe the Fifth Ward needs additional investment to accelerate revitalization of the area., The proposed Cleme Manor project is seen as worthy of this additional investment.

Cleme Manor is one of the largest multifamily housing complexes in the Fifth Ward. As a large multifamily complex amid a primarily single family area, it has significant influence on the surrounding community. The proposed project will turn Cleme Manor into a fully renovated and professionally managed apartment community, and we will be eliminating a major hurdle to redevelopment in the Greater Fifth Ward.

The Department has met regularly with housing advocates and community representatives to develop a revitalization plan and to collect community input for the identification of the prospective projects. The significance of their support for Cleme Manor should not be underestimated, as it plays a vital role in the City's overall revitalization strategy.

We recognize TDHCA's concern with supporting a project so near to commercial uses. However, in Houston, which does not have the restrictions of zoning, this type of land use is inevitable. That said, we are mindful of potential negative impacts of some of the adjacent commercial uses, but the environmental and sound reports have indicated that the site is acceptable per HUD standards. Additionally, some of these commercial uses provide employment opportunities for the resident of Cleme Manor.

It is important for the entire neighborhood that this property be renovated and that new ownership and management implement more stringent compliance requirements and a body of supportive services for the residents to curtail crime and encourage employment and education. It is important that the project based Section 8 subsidy associated with this property be preserved for affordability because it cannot be replaced if it is lost.

It must also be remembered that this not a choice between doing a new development here or doing it somewhere else. This is an existing HUD subsidized project. The question is whether we are going to allow the residents of Cleme Manor to continue living under their current conditions or are we going to step up and do something better for them and the community in which they live.

We understand TDHCA's rules regarding undesirable site features and undesirable area features are an outgrowth of fair housing considerations. Be assured that, in conducting its outreach program and consulting with the housing advocates, the City of Houston duly considered housing choice and believes the redevelopment of Cleme Manor is consistent with the City's obligation to affirmatively further fair housing.

If you need additional information about Cleme Manor and the City's commitment for DR Funding, I encourage you to contact me.

Thank you for your consideration.

A handwritten signature in black ink, reading "Neal Rackleff". The signature is written in a cursive style with a large, prominent "N" and "R".

Neal Rackleff
Director



JERRY DAVIS
City Council Member
District B

March 28, 2014

Ms. Jean Latsha
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street
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Re: Cleme Manor in Houston
TDHCA No. 14108

Dear Ms. Latsha:

The purpose of this letter is to request that TDHCA grant Cleme Manor clearance from the undesirable site and area features under Sections 10.101(a)(3) and (4), respectively, of the Qualified Allocation Plan. As Vice Mayor of City of Houston and the Council Member for the Fifth Ward I strongly believe that it is appropriate for the Cleme Manor tax credit application to proceed, for all of the reasons described below.

The City of Houston has awarded Cleme Manor \$3 million under the Hurricane Ike/Dolly Round II Community Development Block Grant Disaster Recovery Program (the "DR Funds"). It is important to understand the background of how the DR Funds were awarded. Before awarding any DR Funds, the City of Houston worked with GLO, HUD, advocacy groups such as the Texas Low Income housing Information Service, Texas Appleseed, and the Texas Organizing Project, and local neighborhood organizations to perform a needs assessment, with a careful consideration of the City's commitment to ensuring Housing Choice. Based upon this comprehensive work, the City identified certain Community Revitalization Areas (CRAs) in which the multifamily and other DR Funds would be awarded. This plan to award DR Funds in CRAs was formalized in writing with GLO and made in cooperation with the Fair Housing Advocates and the wider community.

The Greater Fifth Ward is one of the CRAs in which the City of Houston elected to award its DR Funds, and Cleme Manor is one of these recipients. The Greater Fifth Ward is in fact the Tier I priority area. It is important to note that of forty applications for DR Funding, only four were awarded and two of those in the Greater Fifth Ward. The Cleme Manor award was made not just on its own merits but on its contribution toward the revitalization of the entire Fifth Ward. While the Rehabilitation of Cleme Manor is addressing the Fifth Ward's most pressing multi-family problem, the other awards are focused on rehabilitating nearby single family housing and neighborhood infrastructure. Each piece of this tripod; multifamily, single family, and infrastructure is necessary to eliminate negative neighborhood features and improve this entire area. This award of DR Funds shows the City's priority for this Community Revitalization Area.

For years now, the City of Houston and private sources have been working to revitalize and improve the Greater Fifth Ward in general and the area around Finnegan Park in particular. Progress is being made but more needs to be made. In recent years the City and County have shown their prioritization of this area by renovating Finnegan Park which serves as the community "common square" and the facilities around it, providing a new school, and building both a new community center and Boys and Girls Clubs. Private sector redevelopment has been sweeping through the inner ring of Houston's downtown neighborhoods. The Greater Fifth Ward, and Finnegan Park, its eastern half should show greater benefit from this revitalization than it has. The public investments to date has set the stage for that but we believe the Fifth Ward needs one more focused push that address the impediments to progress. One of those impediments is the current condition and ownership of Cleme Manor.

Cleme Manor is one of the largest multifamily housing complexes in the Fifth Ward. As a large multifamily complex amid a primarily single family area, it has an oversize influence on the surrounding community. It occupies the entire southern border of Finnegan Park. Why would any private individual invest their hard earned dollars in renovating a single family home, when a deteriorated and mismanaged property across the park dominates the neighborhood? They wouldn't and they haven't. By turning Cleme Manor into a fully renovated and professionally managed apartment community, we will be eliminating the major impediment to redevelopment in the Greater Fifth Ward and Finnegan Park. Together with our single family development and infrastructure improvement projects, we will have the momentum to "catch the wave" of redevelopment coursing through Houston and improve the

lives of all Fifth Ward residents. But to do this requires all three elements of this redevelopment tripod, which is why we are so strongly supporting the two Cleme Manor waivers.

The City of Houston's representatives have meet regularly with the Fair Housing Advocates and community representatives, not only in devising the Revitalization and Funding Plan but in getting concurrence of the selection of the awardees. The significance of their support for Cleme Manor should not be underestimated. The City was pushed very hard to only support projects which directly built mixed income projects. All three of the other DR fund recipients are doing exactly that. Cleme stands out because it is 100% affordable, primarily for Very Low Income households. Yet it has garnered strong support among the groups we developed the Revitalization Plan with. That is because they believe, as we do, that by making Cleme a positive influence instead of a negative influence, we will jump start the single family development in the neighborhood surrounding it, and it is those new, higher income homeowners, taken together with the residents of Cleme that will great a vital mixed income community. The redevelopment of Cleme will directly result in the elimination of many negative site or neighborhood issues such as crime, vacant lots, and deteriorated single family housing. This will bring more housing and more people into the Fifth Ward. It is said that retail follows "roofs". By spurring the development of more housing, we will provide the necessary numbers for the private sector to bring more retail opportunities to the Fifth Ward.

We recognize TDHCA's concern with supporting a project so near to commercial uses. However, in Houston, which does not have the restrictions of zoning, this type of land use is inevitable. We cannot and will not abandon our neighborhoods because of positive economic activity. Instead we must link the residents of Cleme Manor to the opportunity of the jobs these activities afford. Since the average income at Cleme is \$10,000 we know that this is not happening today. By selecting a national non-profit developer that has a strong record in providing resident services, we are setting the stage for building these linkages and turning what some may perceive as neighborhood negatives into positives. That said, I am not unmindful of potential negative impacts on residents and the City's Housing Department required detailed environmental and sound reports before the City leant our support to this project.

It is important for the entire neighborhood that this property be renovated and that new ownership and management bring stricter compliance requirements and a body of supportive services for the residents to curtail crime and encourage employment and education. It is important for the project based Section 8 subsidy associated with this property to be preserved for affordability because it cannot be replaced if it is lost.


It must also be remembered that this not a choice between doing a new development here or doing it somewhere else. This is an existing HUD subsidized project. The question is whether we are going to allow the residents of Cleme Manor to continue living under their current conditions or are we going to step up and do something better for them and the community in which they live. I and the City Council, have supported this project's application for both the 9% and 4% credit and are doing what is necessary to make this project happen regardless of the outcome of the competitive round.

We understand TDHCA's rules regarding undesirable site features and undesirable area features are an outgrowth of fair housing considerations. Be assured that, in conducting its outreach program and consulting with the housing advocates, the City of Houston duly considered housing choice and believes the redevelopment of Cleme Manor is consistent with the City's obligation to affirmatively further fair housing.

If you need additional information about Cleme Manor and the City's commitment for DR Funding, I encourage you to contact me.

Thank you for your consideration.

Sincerely,



Jerry V. Davis
Vice Mayor Pro-Tem
Houston City Council, District B



March 27, 2014

Ms. Jean Latsha
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Cleme Manor in Houston, TDHCA No. 14108

Dear Ms. Latsha:

The purpose of this letter is to request that TDHCA grant Cleme Manor clearance from the undesirable site and area features under Sections 10.101(a)(3) and (4), respectively, of the Qualified Allocation Plan. As President and CEO of Fifth Ward CRC and Vice Chair of TIRZ 18, we believe that it is appropriate for the Cleme Manor tax credit application to proceed, for all of the reasons described below.

Fifth Ward CRC is a catalytic organization dedicated to the collaborative fostering of holistic community development. Our core purpose is creating a community of choice. Our vision is to make the Fifth Ward a beautiful and better place to live, work, and play. The Fifth Ward CRC, a 501(c)(3) nonprofit Texas Corporation, was organized in April of 1989 by Fifth Ward residents, business owners, ministers, educators and civic leaders. Fifth Ward CRC's mission was established by the people of the Fifth Ward in a series of community town hall meetings. Fifth Ward CRC's greatest strengths flow from its roots in the Fifth Ward - conceived, organized and governed by a broad cross-section of community leadership. The group founded by Rev. Harvey Clemons, Jr., is currently governed by a diverse 15 member board of trustees composed of community residents and elected representatives.

The City of Houston has awarded Cleme Manor \$3 million under the Hurricane Ike/Dolly Round II Community Development Block Grant Disaster Recovery Program (the "DR Funds"). It is important to understand the background of how the DR Funds were awarded. Before awarding any DR Funds, the City of Houston worked with the Fifth Ward CRC, GLO, HUD, advocacy groups such as the Texas Low Income housing Information Service, Texas Applesed, and the Texas Organizing Project, and local neighborhood organizations to perform a needs assessment, with a careful consideration of the City's commitment to ensuring Housing Choice. Based upon this comprehensive work, the City identified certain Community Revitalization Areas (CRAs) in which the multifamily and other DR Funds would be awarded.

**FIFTH WARD
COMMUNITY
REDEVELOPMENT
CORPORATION**

4300 Lyons Ave., Suite 300
P.O. Box 21502
Houston, TX
77226-1502

Main 713-674-0175

Fax: 713-674-0176

<http://www.fifthwardcrc.org>

Mission Statement

A catalytic organization
dedicated to the
collaborative fostering
of holistic community
development.

Chairman

Michael Emerson

Trustees

Gayila Bolden
Charlotte Booker
Jo Carcedo
Harvey Clemons
Bridgette Dorian
Bob Eury
Wiley Henry
Ian Rosenberg
Carl Shields
Bridgette Steele
Charles Turner
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Andrew Wright

President/CEO

Kathy Flanagan-Payton



Equal Housing Opportunity



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For years now, the Fifth Ward CRC, the City of Houston and private sources have been working to revitalize and improve the Greater Fifth Ward in general and the area around Finnegan Park in particular. Progress is being made but more needs to be made. In recent years the City and County have shown their prioritization of this area by renovating Finnegan Park which serves as the community "common square" and the facilities around it, providing a new school, and building both a new community center and Boys and Girls Clubs. Private sector redevelopment has been sweeping through the inner ring of Houston's downtown neighborhoods. The Greater Fifth Ward, and Finnegan Park, its eastern half should show greater benefit from this revitalization than it has. The public investments to date has set the stage for that but we believe the Fifth Ward needs one more focused push that address the impediments to progress. One of those impediments is the current condition and ownership of Cleme Manor.

Cleme Manor is one of the largest multifamily housing complexes in the Fifth Ward. As a large multifamily complex amid a primarily single family area, it has an oversize influence on the surrounding community. It occupies the entire southern border of Finnegan Park. Why would any private individual invest their hard earned dollars in renovating a single family home, when a deteriorated and mismanaged property across the park dominates the neighborhood? They wouldn't and they haven't. By turning Cleme Manor into a fully renovated and professionally managed apartment community, we will be eliminating the major impediment to redevelopment in the Greater Fifth Ward and Finnegan Park. Together with our single family development and infrastructure improvement projects, we will have the momentum to "catch the wave" of redevelopment coursing through Houston and improve the lives of all Fifth Ward residents. But to do this requires all three elements of this



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redevelopment tripod, which is why we are so strongly supporting the two Cleme Manor waivers.

The City of Houston's representatives have met regularly with the Fair Housing Advocates and community representatives such as the Fifth Ward CRC, in devising the Revitalization Plan. The significance of their support for Cleme Manor should not be underestimated. The City was pushed very hard to only support projects which directly built mixed income projects. All three of the other DR fund recipients are doing exactly that. Cleme stands out because it is 100% affordable, primarily for Very Low Income households. Yet it has garnered strong support among the groups that developed the Revitalization Plan. That is because they believe, as we do, that by making Cleme a positive influence instead of a negative influence, we will jump start the single family development in the neighborhood surrounding it, and it is those new, higher income homeowners, taken together with the residents of Cleme that will great a vital mixed income community. The redevelopment of Cleme will directly result in the elimination of many negative site or neighborhood issues such as crime, vacant lots, and deteriorated single family housing. This will bring more housing and more people into the Fifth Ward. It is said that retail follows "roofs". By spurring the development of more housing, we will provide the necessary numbers for the private sector to bring more retail opportunities to the Fifth Ward.

We recognize TDHCA's concern with supporting a project so near to commercial uses. However, in Houston, which does not have the restrictions of zoning, this type of land use is inevitable. We cannot and will not abandon our neighborhoods because of positive economic activity. Instead we must link the residents of Cleme Manor to the opportunity of the jobs these activities afford. Since the average income at Cleme is \$10,000 we know that this is not happening today. By selecting a national non-profit developer that has a strong record in providing resident services, we are setting the stage for building these linkages and turning what some may perceive as neighborhood negatives into positives. That said, I am not unmindful of potential negative impacts on residents and the City's Housing Department required detailed environmental and sound reports before the City leant our support to this project.

It is important for the entire neighborhood that this property be renovated and that new ownership and management bring stricter compliance requirements and a body of supportive services for the residents to curtail crime and encourage employment and education. It is important for the project based Section 8 subsidy associated with this property to be preserved for affordability because it cannot be replaced if it is lost.



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We understand TDHCA's rules regarding undesirable site features and undesirable area features are an outgrowth of fair housing considerations. We believe, the City of Houston duly considered housing choice and that the redevelopment of Cleme Manor is consistent with the TDHCA and the City's obligation to affirmatively further fair housing.

If you need additional information about Cleme Manor and the our support for it, I encourage you to contact me.

Thank you for your consideration.

Best,

Kathy Flanagan Payton
President and CEO



Equal Housing Opportunity



March 26, 2014

Ms. Jean Latsha
Director of Multifamily Finance
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: Cleme Manor in Houston
TDHCA No. 14108

Dear Ms. Latsha:

The purpose of this letter is to request that TDHCA grant Cleme Manor clearance from the undesirable site and area features under Sections 10.101(a)(3) and (4), respectively, of the Qualified Allocation Plan. The Texas Organizing Project (“TOP”) believes it is appropriate for the Cleme Manor tax credit application to proceed, for all of the reasons described below.

The Texas Organizing Project (TOP) works to improve the lives of low-income and working class Texas families through community organizing, and civic and electoral engagement. TOP is a membership-based organization that conducts direct action organizing, grassroots lobbying and electoral organizing led by working families in Texas.

The City of Houston has awarded Cleme Manor \$3 million under the Hurricane Ike/Dolly Round II Community Development Block Grant Disaster Recovery Program (the "DR Funds"). We worked with the City to ensure Fair Housing concerns were reflected in the plans for the use of funds and in the allocation of funds to projects. Based upon this comprehensive work, the City identified certain Community Revitalization Areas (CRAs) in which the multifamily and other DR Funds would be awarded.

The Greater Fifth Ward is one of the CRAs in which the City of Houston agreed to award its DR Funds, and Cleme Manor is one of these recipients. The Cleme Manor award was made not just on its own merits but on its contribution toward the revitalization of the entire Fifth Ward. While the Rehabilitation of Cleme Manor is addressing the Fifth Ward’s most pressing multi-family problem, the other awards are focused on rehabilitating nearby single family housing and neighborhood infrastructure. Each piece of this tripod; multifamily, single family, and infrastructure is necessary to eliminate negative neighborhood features and improve this entire area.

Private sector redevelopment has been sweeping through the inner ring of Houston's downtown neighborhoods. The Greater Fifth Ward, and Finnegan Park, its eastern half should show greater benefit from this revitalization than it has. The public investments to date has set the stage for that but we believe the Fifth Ward needs one more focused push that address the impediments to progress. One of those impediments is the current condition and ownership of Cleme Manor.

Cleme Manor is one of the largest multifamily housing complexes in the Fifth Ward. As a large multifamily complex amid a primarily single family area, it has an oversize influence on the surrounding community. It occupies the entire southern border of Finnegan Park. Why would any private individual invest their hard earned dollars in renovating a single family home, when a deteriorated and mismanaged property across the park dominates the neighborhood? They wouldn't and they haven't. By turning Cleme Manor into a fully renovated and professionally managed apartment community, we will be eliminating the major impediment to redevelopment in the Greater Fifth Ward and Finnegan Park. We have pushed the City very hard to only support projects which directly build mixed income projects. All three of the other DR fund recipients are doing exactly that. Cleme stands out because it is 100% affordable, primarily for Very Low Income households. The redevelopment of Cleme will directly result in the elimination of many negative effects in the area.

We recognize TDHCA's concern with supporting a project so near to commercial uses. However, we cannot and will not abandon our neighborhoods because of positive economic activity. Instead we must link the residents of Cleme Manor to the opportunity of the jobs these activities afford. Since the average income at Cleme is \$10,000 we know that this is not happening today.

It is important for the entire neighborhood that this property be renovated and that new ownership and management bring stricter compliance requirements and a body of supportive services for the residents to curtail crime and encourage employment and education. It is important for the project based Section 8 subsidy associated with this property to be preserved for affordability because it cannot be replaced if it is lost.

It must also be remembered that this is not a choice between doing a new development here and doing it somewhere else. This is an existing HUD subsidized project. The question is whether we are going to allow the residents of Cleme Manor to continue living under their current conditions or are we going to step up and do something better for them and the community in which they live. We are supporting this project's application for both the 9% and alternatively the 4% credit

We understand TDHCA's rules regarding undesirable site features and undesirable area features are an outgrowth of fair housing considerations that we have long championed. Be assured that we believe the redevelopment of Cleme Manor is consistent with the City's and TDHCA's obligation to affirmatively further fair housing.

If you need additional information about our commitment to this project, I encourage you to contact me.

Thank you for your consideration.

Housing Committee
Texas Organizing Project



March 11, 2014

The Honorable Annise Parker, Mayor
Council Member Brenda Stardig
Council Member Jerry Davis
Council Member Ellen Cohen
Council Member Dwight Boykins
Council Member Dave Martin
Council Member Richard Nguyen
Council Member Oliver Pennington
Council Member Ed Gonzalez
Council Member Robert Gallegos
Council Member Mike Laster
Council Member Larry Green
Council Member Stephen C. Costello
Council Member David W. Robinson
Council Member Michael Kubosh
Council Member C.O. Bradford
Council Member Jack Christie
900 Bagby, City Hall Annex First Floor
Houston, Texas 77002

RE: Comments on the City of Houston's Priorities for Recommendations of Support or No Objection for 9% Low Income Housing Tax Credits

Dear Mayor Parker and Council Members:

Changes in the state statute governing the competitive scoring of LIHTC applications in the most recent Legislative session vests local governments with the principal power to award points in the competitive evaluation process for LIHTC developments.¹ For municipalities, this power extends to their Extraterritorial Jurisdictions (ETJs). We urge you to carefully consider whether the projects you choose to support affirmatively further fair housing and provide Houston families with housing choices in high opportunity areas.

¹ 83 Session Texas Legislature, H.B. 3361.

The State of Texas Qualified Allocation Plan for Low Income Housing Tax Credits provides:

(1) Local Government Support. An Application may qualify for up to seventeen (17) points for a resolution or resolutions voted on and adopted by the bodies reflected in subparagraphs (A) - (C) of this paragraph, as applicable. The resolution(s) must be dated prior to April 1, 2014 and must be submitted to the Department no later than the Final Input from Elected Officials Delivery Date as identified in §11.2 of this chapter. Such resolution(s) must specifically identify the Development whether by legal description, address, Development name, Application number or other verifiable method. In providing a resolution a municipality or county should consult its own staff and legal counsel as to whether such resolution will be consistent with Fair Housing laws as they may apply, including, as applicable, consistency with any FFAST form on file, any current Analysis of Impediments to Fair Housing Choice, or any current plans such as one year action plans or five year consolidated plans for HUD block grant funds, such as HOME or CDBG funds. For an Application with a proposed Development Site that, as of the time of the official filing of the Application is:

(A) Within a municipality, the Application will receive:

- (i) seventeen (17) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or
- (ii) fourteen (14) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development.

(B) Within the extraterritorial jurisdiction of a municipality, the Application may receive points under clauses (i) or (ii) of this subparagraph and under clauses (iii) or (iv) of this subparagraph:

- (i) eight and one-half (8.5) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality supports the Application or Development; or
- (ii) seven (7) points for a resolution from the Governing Body of that municipality expressly setting forth that the municipality has no objection to the Application or Development; and
- (iii) eight and one-half (8.5) points for a resolution from the Governing Body of that county expressly setting forth that the county supports the Application or Development; or
- (iv) seven (7) points for a resolution from the Governing Body of that county expressly setting forth that the county has no objection to the Application or Development.²

As a federal Community Development Block Grant (CDBG) entitlement jurisdiction and recipient of federal disaster funds through the State of Texas, the City of Houston must certify to the Secretary of Housing and Urban Development that it is in compliance with its obligation to affirmatively further fair housing as a condition of eligibility to receive those federal housing and community development funds. Under Title VI of the Civil Rights Act of 1964, the City is also prohibited from discriminating on the basis of race, color, or national origin in programs

² Texas Department of Housing and Community Affairs, 2014 Qualified Allocation Plan, pages 19-20, Retrieved February 20, 2014.

and activities receiving federal financial assistance.

On May 8, 2012, Mayor Annise D. Parker, on behalf of the City agreed with Texas Appleseed, TxLIHIS, and TOP on principles to guide the City of Houston's Disaster Recovery Round 2 Application (DR2), consistent with a larger initiative to target disaster recovery funds announced the previous fall with the HUD's Assistant Secretary for Community Planning and Development. The agreement committed the City to encouraging the creation of integrated, mixed income communities while preventing the involuntary displacement of the historic minority and lower-income residents of those communities. The agreement concludes, "additionally, in order to achieve comprehensive community development and stable, integrated neighborhoods, it is the intent and purpose of the Mayor of the City of Houston to consider these neighborhoods a priority for public investment in the identified target areas in order to contribute significant resources in addition to those provided through the DR2 program."

The City then undertook an extensive public consultation process and market study through which it identified three Community Revitalization Areas (CRAs) where stable economically, ethnically, and racially integrated neighborhoods could be achieved through leveraging private market forces with a long-term strategic investment of public funds. The CRAs identified were located in the Near Northside, the Fifth Ward, and the OST/South Union neighborhoods. Each of these areas is undergoing substantial private market investment due in part to their proximity to the CBD, the university campuses and the introduction of new light rail service. Each face the prospect of gentrification and displacement of the traditional lower-income and historic minority populations unless significant public investment is made in affordable housing.

Based on this careful market evaluation, thirteen housing guideline waiver requests submitted by the City and approved by the State of Texas, and the City's long-term commitment to achieving diverse and integrated communities we determined that the targeted investment of DR2 multifamily funds in these three CRAs could reasonably be expected to affirmatively further fair housing and lead to real and meaningful community revitalization.

The same assumption, however, cannot be made for the five CRA Outreach areas, which the City's study specifically found could not be expected to become high opportunity racially and ethnically integrated neighborhoods within a reasonable period of time. Further, the City will not be investing additional and ongoing non-housing funds in these areas, and, therefore, further concentration of affordable housing in high poverty racially concentrated census tracts would not affirmatively further fair housing, and to the extent it had a disparate impact on members of protected classes under the Fair Housing Act, may constitute discrimination under the Fair Housing Act and Title VI.

The City of Houston has a deficit of affordable housing in outside high poverty and racially concentrated census tracts. In addition to carefully considering whether to support LIHTC

Applications that are located in these areas (and outside of the three CRAs), the City's denial of support to a LIHTC Application with a proposed Development Site in a high opportunity area in its ETJ could also be a failure to affirmatively further fair housing.

The City of Houston has historically over concentrated assisted housing in high poverty racially and ethnically concentrated and underserved neighborhoods. The Housing Tax Credits available in the region offer the City a clear opportunity to take action to overcome this discriminatory pattern and provide families with housing choices in higher opportunity areas. The City is obligated by the Fair Housing Act to do so.

We want to recognize and commend the City of Houston for the commitment to fair housing demonstrated by the Community Revitalization Area initiative. We urge the City to carefully consider whether its decisions to support Applications for 9% LIHTCs outside these areas will reduce segregation, deconcentrate poverty, and provide more equitable access to opportunity for low-income Houston families.

Sincerely,

John Henneberger, co director
Texas Low Income Housing Information Service

Madison Sloan, staff attorney
Texas Appleseed

OUTREACH PLAN

FOR

HCDD CDBG DR-2



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Executive Summary

This Outreach Plan (the Plan) provides a roadmap of how, where, and on whose behalf the City of Houston (the City) will spend Community Development Block Grant Disaster Recovery Round Two program (the Program) funds. The Plan was developed with careful consideration of the City's commitments to ensuring Housing Choice, encouraging the creation of economically feasible, mixed income developments, and communities with diverse populations to the greatest extent possible pursuant to the best practices cited in the Planning Study (as described below) and the Program's guidelines, as amended, and working closely with state and local community advocacy groups.

The City is committed to ensuring Housing Choice in the implementation of the Program. To that end, the City conducted a comprehensive Needs Assessment to help direct the expenditure of Program funds. The Needs Assessment is attached to this document as Appendix A. The City will ensure access to the Homeowner Opportunity Program (HOP) for all applicants eligible for HOP as part of its commitment to providing Housing Choice.

The City is also committed to leveraging Program funds together with City incentives and other funding streams to encourage the creation of economically feasible, mixed income developments, and communities with diverse populations to the greatest extent possible pursuant to the best practices cited in the Planning Study (as described below) and the Program's guidelines, as amended. For Program purposes, these communities are referred to as Community Revitalization Areas (CRAs). To ensure Program funds are directed in conformity with this commitment, the City participated in an extensive planning process commissioned by GLO on the City's behalf. The purpose of the planning process was to synthesize national best practices and extensive economic and demographic analysis; careful consideration of existing City commitments and opportunities; and the results of the Needs Assessment to drive selection of CRAs and CRA Outreach Areas. The result of the planning process is the Planning Study. The Planning Study is attached to this document as Appendix B. CRA Outreach Areas are neighborhoods that, while not CRAs, are in need of single family homeowner assistance related to Hurricane Ike damage. CRAs and CRA Outreach Areas are described in Appendix C.

The City's commitment to working with state and local community advocacy groups and neighborhood organizations is a natural extension of the City's commitments related to ensuring Housing Choice and sparking comprehensive revitalization in CRAs and pursuing activity in CRA Outreach Areas. The City has diligently sought community input through both of these groups, and through direct community engagement in the development of both the Needs Assessment and the planning process.

The Plan provides a roadmap of how, where, and on whose behalf Program funds will be spent. The Plan was developed with careful consideration of the City's commitments to ensuring Housing Choice, encouraging the creation of economically feasible, mixed income developments, and communities with diverse populations to the greatest extent possible pursuant to the best practices cited in the Planning Study and the Program's guidelines, as amended, and being responsive to the needs of the community through activity in CRA Outreach Areas.

Income Levels Affected

Program guidelines require that funding subrecipients perform a Needs Assessment. One purpose of the Needs Assessment is to determine how program funding will be allocated to the intended service populations of very low (VLI), low (LI) and moderate (Mod) income residents. The overall distribution of program funding as determined by the Houston Needs Assessment is:

Percentage of Population by Income		
Income Levels	Total Population	Percentage
VLI (30% AMFI and below)	164,168	37%
LI (31% to 50% AMFI)	129,175	29%
Mod (51% to 80% AMFI)	148,463	34%

Based on the Houston Needs Assessment, the amount of funding anticipated to be allocated to each population income level for Round 2 is:

Population Bracket	Round 2 Bracket Anticipated
VLI (30% AMFI and below)	\$ 61,659,267
LI (31% to 50% AMFI)	\$ 37,566,328
Mod (51% to 80% AMFI)	\$ 52,989,970

In order to focus Houston’s program resources into creating revitalization areas that encourage the creation of economically feasible, mixed income developments, and communities with diverse populations to the greatest extent possible pursuant to the best practices cited in the Planning Study and the Program’s guidelines, as amended, GLO allowed Houston to engage in a Planning Study. The goal of the Planning Study was to provide best practices, market analysis, and community development strategies for encouraging the creation of economically feasible, mixed income developments, and communities with diverse populations to the greatest extent possible pursuant to the best practices cited in the Planning Study and the Program’s guidelines, as amended.

The Planning Study, through citing national best practices, recommends an alternative program funding income distribution that focuses a greater majority of funding into very low and low income households while encouraging Houston to provide additional incentives to attract market rate income residents to the revitalization areas. The alternative distribution is:

Program	VLI (30% AMFI and below)	LI (31% to 50% AMFI)	Mod (51% to 80% AMFI)
Rental Funding	15%	45%	40%
HHA Funding ¹	100%	0%	0%
HAP Funding ²	25%	60%	15%
Total Funding	36%	42%	22%

¹ HHA – Subsidized rental funding through Houston Housing Authority

² HAP – Homeowner Assistance Program (includes Single Family home repair and Homeowner Opportunity Program)

The Planning Study includes further breakdowns by program for each Income Target group that relies on the needs of the entities running the program and the need for long term viability. The Planning Study also suggests that the Income Target groups should remain flexible and be reviewed regularly to determine whether the chosen income mix is meeting the goals of the programs.

In accordance with the terms and conditions of (i) the Conciliation Agreement dated May 21, 2010, by and among the Texas Low Income Housing Information Service, Texas Appleseed, and the State of Texas by and through the Texas Department of Housing and Urban Affairs and the Texas Department of Rural Affairs and (ii) the Round 2 Housing Guidelines, the City of Houston altered some of the levels of funding provided for each Income Target Group by allocating an amount of funds to serve people earning more than 80% of AMFI after consultation with community advocates. The table bellows show the proposed level of funding provided for each Income Target Group.

	VLI (30% AMFI and below)	LI (31% to 50% AMFI)	Mod (51% to 80% AMFI)	Market Rate
Rental Funding	15%	25%	40%	20%
HHA Funding	100%	0%	0%	0%
HAP Funding	25%	50%	25%	0%
Total Funding	36%	30%	26%	8%

The City of Houston still accepts the Planning Study’s recommendation that the Income Target Groups should remain flexible and undergo regular review for compliance purposes.

In accordance with the Planning Study commissioned by GLO, Houston will target 25% of single family homeowner (HAP) funding towards very low income applicants; 50% of single family homeowner funding towards low income applicants; and 25% of single family homeowner funds towards moderate income applicants.

Needs Assessment Target Areas

The City’s Needs Assessment identified nine target areas (collectively, the Target Areas) by overlaying data related to concentrations of racial and ethnic minorities of 65% or greater, concentrations of poverty of 35% or greater, and FEMA High Risk areas augmented with demonstrated flood areas. The FEMA High Risk areas augmented with demonstrated flood areas are areas that experienced more than two calls for flooding to 3-1-1 services over the past five years and were visibly demonstrated to have experienced flooding by inspection teams less than two months after Hurricane Ike’s landfall. The Target Areas identified in the Needs Assessment include:

- ❖ Acres Home
- ❖ Denver Harbor/Port Houston
- ❖ Greater Fifth Ward
- ❖ Independence Heights
- ❖ Magnolia Park
- ❖ Northside Village

- ❖ Old Spanish Trail/South Union
- ❖ South Park
- ❖ Sunnyside

The Planning Process

The City’s Planning Study team consisted of:

- ❖ HORNE, LLP
- ❖ SWA Group
- ❖ Enterprise Community Partners
- ❖ Perry Rose
- ❖ Community Development Strategies
- ❖ Roberta F. Burroughs & Associates

The planning team built on the City’s prior efforts, such as the Needs Assessment. They reviewed national best practices relative to the revitalization of inner-city neighborhoods, interviewed stakeholders, analyzed economic and demographic data from Needs Assessment target areas, and reviewed housing development proposals submitted to the City.

CRA’s and CRA Outreach Areas

At the conclusion of the planning process, the planning team produced the Planning Study (Appendix B), which outlines how the City can focus its Program funds within CRA’s and CRA Outreach Areas identified below. CRA’s were chosen by the City in consultation with state and local community advocacy groups such as the Texas Low Income Housing Information Service, Texas Appleseed, and the Texas Organizing Project. These are the areas in which the City will conduct the majority of its outreach program.

- ❖ Fifth Ward
- ❖ Northside Village
- ❖ Old Spanish Trail/Griggs/MLK

Furthermore, the City has identified CRA Outreach Areas, neighborhoods that, while not CRA’s, are in need of single family homeowner assistance related to Hurricane Ike damage. These neighborhoods were identified in the public outreach process as outlined in the City’s Needs Assessment (Appendix A).

- ❖ Acres Homes
- ❖ Independence Heights
- ❖ Sunnyside
- ❖ Fifth Ward
- ❖ Northside Village
- ❖ Old Spanish Trail/Griggs/MLK

Funds Retained for Expenditure in Target Areas Not Designated CRAs

The City will retain 30% of HAP funds for use in Target Areas identified in the Needs Assessment that were not designated CRAs in the Planning process. This source of funds will be used to address outstanding storm damage needs within Houston that may not fall within the boundaries of the CRAs. Priority may be given to those CRA Outreach Area(s) that receive either no funding or insubstantial funding from the CDBG DR-2 Rental Program.

Outreach Coordinator and Team

The Outreach program (including but not limited to door to door outreach activities, outreach data management, reporting, community meetings, targeted mailings, telephone contacts, etc.) will be coordinated by HORNE, LLP in conjunction with City personnel. The specific responsibilities are provided in Appendix D.

Community Outreach Methodology

The Outreach program will be community based, capitalizing on the City's passion for community engagement; the results of the Planning process; and near-exhaustive damage data collected shortly after Hurricane Ike.

Community Outreach Meetings

The City will work with community organizations to publicize, organize, and then host Community Outreach Meetings in each of the CRAs and CRA Outreach Areas. The purpose of the meetings will be to share with homeowners in the CRAs and CRA Outreach Areas the opportunities afforded by the Program. To initiate this community engagement process, the City will send an informational mailer (see Appendix E) to the residents of each CRA and CRA outreach area identified on the master list of disaster-affected homes in each target area created with the immediate post-storm damage data collected by LJA Engineering (the "Storm Damage Master List"). Invitational mailers will be limited to 200 per meeting in order to keep the meetings as informative as possible for the participants and to avoid any capacity issues during intake processing. The purpose of the mailer will be to inform the recipient of the time and location of the community meeting to be held in their area, as well as to describe the purpose of the meeting and the function of the program in broad terms.

At each meeting, Program personnel will explain the Program and the eligibility requirements of the Program. Each meeting attendee will then have the opportunity to work with Program personnel to fill out an online outreach form at the time of the meeting. Meetings will last as long as it takes for each attendee who wants to, to fill out an outreach form.

At the conclusion of each Community Outreach Meeting, outreach forms will be evaluated for basic program eligibility based on (1) whether or not the potential applicant is the owner of the property at issue; (2) the applicant's income as stated on the outreach form; and (3) whether or not the property at issue is the potential applicant's primary residence. This determination will be based solely on what is self-reported by each potential applicant on the outreach form. Outreach forms will then be compared to the Storm Damage Master List. Outreach forms from properties that are in one of the CRAs or CRA Outreach Areas will be directed to a Program Counselor who will call the applicant to schedule a Personal Consultation. Outreach forms from properties that are not in one of the CRAs or CRA Outreach Areas will be placed on hold pending the results of the targeted outreach activities in the primary, secondary and tertiary outreach areas, and a letter explaining the status of the application will be sent to the applicant. Outreach forms that do not meet basic program criteria will also be

placed on hold pending results of the targeted outreach activities, and a letter explaining the status of the application will be sent to the applicant. Outreach forms will only reach inactive status after the number of applications for the program has reached saturation. The Schedule of Community Outreach Meetings, which includes data regarding the number of completed outreach forms from each meeting, is at Appendix F.

Properties for which damage was verified according to the Storm Damage Master List, but for which an outreach form was not obtained at a community outreach meeting, will be sent a follow up mail out (Appendix G). The mail out provides a contact phone number for the City's DR2 call center. The call center will work with potential applicants to complete an outreach form over the phone. Once an applicant has completed an outreach form over the phone, the outreach form will be processed via the same means and priority criteria as those that are obtained from community outreach meetings.

Door-to-Door Outreach as Needed

Determination of Need

At the conclusion of all Community Outreach Meetings, Program personnel will examine the data from the meetings to determine whether the meetings have yielded sufficient potential applicants to meet the Program's goals. The City estimates that approximately 400 homeowners will be assisted with the available funds. From observation of dropout rates in other, similar programs, the City has determined that to reach 400 eligible applicants, it will need to perform personal consultations with approximately 800 potential applicants. If the outreach meetings have not yielded sufficient potential applicants to be able to perform 800 personal consultations, the City will determine whether door-to-door outreach would be helpful in reaching more potential applicants.

Door-to-Door Outreach Methodology

Creating a list of potential homeowners to visit is a filtering process. As the CRAs define project areas, they also create a grouping opportunity for door-to-door outreach addresses. GIS allows the selection of all homeowners within a defined area to be identified for potential door-to-door outreach. The incorporation of GIS into the Outreach program allows residents to be identified as their homes are located inside the defined CRAs and Target Areas. As Hurricane Ike passed through the Houston area in September of 2008, a 2008 parcel data set was acquired from Harris County Appraisal District (HCAD). This parcel dataset contains the addresses and property owners at time of the event. This information is critical in guiding the Outreach efforts, and has been incorporated into the City's Needs Assessment and Planning Study in addition to the Outreach effort.

Outreach Form

An outreach form (Appendix H) will be used to collect information from all potential applicants to initiate the intake process. The purpose of the community outreach meeting method of outreach is to gather data to assure that sufficient outreach has been conducted to satisfy the requirements of the project guidelines. Outreach is not used to determine eligibility. The questions asked during outreach meet the program requirements as follows:

- Ownership and occupancy questions are present to ensure that the City is in conversation with potential applicants who are authorized to participate in relation to a given property. Without these questions, the fall-out rate would likely increase.
- Estimated income and household size questions are present to ensure that the City can initiate intake for the percentages of very low, low, and moderate income households as required by the income allocations included in this document.
- Questions related to elderly and disabled information are present to ensure that the City is appropriately prioritizing its contact list to serve elderly and disabled participants first as required by program guidelines.

It is important to note that the Outreach team is simply gathering this information and submitting to the City regardless of the responses. Eligibility determination will be made once the applicant has attended a face-to-face consultation with a City eligibility counselor, completed an application, and submitted required documentation for the City to process.

Round 1 Applications

In Round 1, the City processed applications on a first come, first serve basis. The City received more applications for its Community Development Block Grant Disaster Recovery Round One program (Round 1) than it was able to serve. Applicants who were not served were put on a waiting list in the hopes of being contacted when the CDBG-DR Round 2 Program started. The City was able to serve 242 applicants with Round 1 funds and have an estimated 1,500 persons on the waiting list for Round 2.

Through GIS mapping, the City will review the balance of the Round 1 waiting list to determine whether any applicants not yet served are located in the Target Areas. Round 1 waiting list members located within Target Areas may be transferred to the Program, and evaluated with applications gathered through the community outreach meeting campaign. Other Round 1 waiting list members may be served through alternative City programs.

Abandoned Properties

The City's Outreach program will include a reasonable effort to address empty lots and abandoned structures. The Program will keep a log noting the targeted properties from which informational mailers are returned as undeliverable. That log will provide the City with a list of potentially abandoned properties. The City will attempt to identify the owners of empty lots and abandoned structures and determine whether the lots are empty or structures were abandoned due to damage to structures from Hurricane Ike. Program intake and eligibility staff will contact the owners of such properties to determine whether they are eligible for the Program. If such owners seem to be eligible for the Program, their applications will be processed with applications gathered through the Community Outreach Meeting campaign.

Recordkeeping on Income and Targets

LJA will provide the City a summary of outreach activities on a daily basis throughout the Outreach program. The City will analyze that data and provide guidance to LJA on conducting the balance of the Outreach program.

The City will track the income of all Program applicants to ensure that the Program meets the goals of the Conciliation Agreement and the Needs Assessment to provide services only to those applicants with incomes under 80% of Area Median Family Income (AMFI).

Outreach Training

On behalf of HCDD, Horne will provide outreach training to Community Outreach teams. The training will include:

1. Purpose and objectives of Round 2
2. Program options
3. Eligibility Criteria for the Program
4. Targeted outreach
5. How targeted areas were identified
6. Timeline for targeted outreach

Outreach training will include the methodology for determining the targeted areas and the approximate number of outreach forms sought from each area.

Horne, on behalf of HCDD, will also provide scripts, role play scenarios and demonstrate a hands-on approach for using all outreach materials and equipment. The outreach teams will be provided samples of correctly completed forms.

Appendix I provides samples of the outreach training material.

Marketing Materials

HCDD has developed marketing materials to be used in conducting Community Outreach Meetings. The materials explain the Program, including the HOP program; the program's focus on CRAs; and provide information about how the Program will impact the neighborhood. Appendix J provides samples of marketing material.

Intake

HCDD will review information from the outreach forms collected from the outreach team for completeness. HCDD will contact and schedule a face-to-face consultation with potential applicants to reach the goal of 400 completed, eligible applications.

INTRODUCTION

- A. The Texas General Land Office (GLO) partnered with the Texas Department of Rural Affairs (TDRA) in the administration of a Community Development Block Grant (CDBG) Disaster Recovery Program (Program) funded by the U.S. Department of Housing and Urban Development (HUD) under Public Law 110-329. The City of Houston's Housing and Community Development Department (HCDD) and The Houston Housing Authority (HHA) have both been tasked with meeting the multiple needs of the very low, low, and moderate income individuals in multifamily communities. The agencies will openly collaborate in order to limit duplication of efforts, closely compare applications submitted to each other's organizations, and may consider cooperatively financing each other's projects by means available under their standard operating activities to provide as much quality affordable housing stock as possible with the funds available.
- B. Housing Guidelines have been developed to serve as the basis for housing programs related to Round 2 of the Program. This document is expected to serve as direction for the Rental Program activities funded under Round 2. These Guidelines apply only to Round 2 of the program—they do not apply to or replace the Guidelines already developed and in use under Round 1. Additionally, these guidelines supplement the General Guidelines which provide direction for issues that affect all of the programs and cover all areas of administration not expressly covered in this document. Rental activities may include single family or multifamily rental activities or both.
 - a. Appendix A addresses requirements specific to projects which will be renovated or constructed with the Public Housing Set-Aside portion of the funds made available to the City of Houston to the extent such requirements may vary from requirements and procedures identified in this part.
 - b. Appendix B (to be submitted at a later date) will address requirements specific to the single-family rental portion of the program.
- C. Subrecipient has received Hurricanes Ike and Dolly Round 2 Disaster Recovery Community Development Block Grant (CDBG) funding for a Rental Program administered by the GLO.
- D. Benefit to Low to Moderate Income (LMI) persons is the only National Objective that is approved for the Rental Program under Round 2. Eligible activities, which are defined in the General Guidelines, are as follows: rehabilitation, reconstruction, replacement, or new construction, demolition and acquisition. Subrecipient may also provide assistance for Individual Mitigation Measures (energy efficiency and storm mitigation activities).
- E. The City of Houston (City) committed, as part of the Program, to a robust public participation and planning process to determine, among other things, the mix of Income Target groups for the Community Revitalization Areas (CRAs). CRAs are areas where

the City desires to invest funds from the Program, where the City has committed to affirmatively further fair housing by encouraging the creation of economically feasible, mixed income developments and communities with diverse populations to the greatest extent possible pursuant to best practices cited in the Planning Study by SWA and other partners and the Round 2 Guidelines, as amended. The planning process identified national best practices and included extensive market and demographic analysis to assist in this determination.

I. PROGRAM OBJECTIVES

- A. The primary objective of the Program is to provide decent, safe, and sanitary housing in a manner that affirmatively furthers fair housing where very low, low, and low to moderate income individuals will have access to housing choice where they may benefit from a sustained level of public and private investments which produce neighborhood "services" (groceries, medical care, shopping, employment, schools) and amenities (parks, green space), and improved infrastructure. Over time, it is anticipated that the investments in these neighborhoods will act as a catalyst to produce vibrant, economically and racially integrated communities where people of different income and ethnic backgrounds will choose to live and do business.
- B. A second objective is to ensure that the housing needs of very low, low and moderate-income households are assisted with housing based upon the percentages of the population within each of those income categories whose housing was impacted by the storm. Using (a) the Needs Assessment, (b) a new, more detailed damage data set from LJA, (c) HUD/FEMA information from the State and (d) population figures from the U.S. Census Bureau and American Community Survey data, an updated summary identified a breakout of damage by income group. Using (a) the updated Needs Assessment with this new, more detailed damage data set from LJA and, (b) National Best Practices and other resources identified in the Planning Study, the planning team made a recommendation about the funding levels by income group. The Planning Study includes further breakdowns by program for each Income Target group that relies on the needs of the entities running the program and the need for long term viability. The Planning Study also suggests that the Income Target groups should remain flexible and be reviewed regularly to determine whether the chosen income mix is meeting the goals of the programs.

II. PROGRAM PURPOSE

- A. The Hurricane Ike Disaster Recovery (DR) Affordable Rental Program has been designed to provide funds for rehabilitation, reconstruction, and/or new construction of affordable multi-family (including single family homes of 8 or more units owned by a single individual or entity) and single family rental housing projects in areas impacted by Hurricane Ike or Dolly. Funding is available through the Community Development Block

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Grant (CDBG) Disaster Recovery Program, initially administered by the Texas Department of Housing and Community Affairs (TDHCA) and now administered by the General Land Office (GLO).

- B. The purpose of the Affordable Rental Program is to facilitate the rehabilitation, reconstruction, and/or new construction of affordable rental housing needs within the City limits. Units qualifying for rehabilitation assistance must have sustained damage from Hurricanes Ike or Dolly.
- C. A minimum of 51% of the units must be restricted for ten or more years to low to moderate income (LMI) individuals earning 80% or less of the Area Median Family Income (AMFI) at affordable rents. The rents must comply with High HOME Investment Partnership (HOME) Rents HOME rent limits are defined by HUD and must equal the lesser of fair market rents or 30% of the adjusted income for people earning 65% of the AMFI and can be found on HUD's website at (<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/rent/>)

PART A – MULTIFAMILY RENTAL PROGRAM

I. TYPES AND AMOUNTS OF ASSISTANCE

- A. The maximum award cap under the Affordable Multifamily Rental Program is \$25,000,000 per development. Exact award will be determined through the City's underwriting process which will base its decision upon the cost to construct a project in accordance with the applicable City of Houston Building Codes, Minimum Property Standards, Section 504/UFAS, and any other procedures required by applicable procurement rules or regulations and review by a third-party for cost reasonableness. Eligible costs include hard costs for construction and soft costs associated with repair or construction of rental units plus other costs permissible under 24 CFR 570.
- B. To prevent duplication of benefits for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including delayed or future payments anticipated under insurance policies, the City will perform a duplication of benefits analysis and adjust awarding of funds accordingly. However, in the event that a project did receive some form of assistance from any or all of the sources identified above which was used to repair and or replace a building system(s), replacement of said building system(s) as part of a renovation or rehabilitation, will not necessarily result in a reduction of eligible cost, if replacement is supported by the duplication of benefit analysis.
- C. The CDBG Affordable Rental Program funds will be in the form of a 0% performance-based loan and will be forgiven when all contractual obligations have been met, including satisfactory completion of construction and compliance with a minimum ten-year

affordability period (Loan Terms). Once the City's form of Loan Agreement (COH Loan) has been approved by the State, the City may modify terms of the COH Loan on a project by project basis, as necessary to address particular nuances for each, so long as the general Loan Terms remain the same.

- D. Project construction must be completed within 18 months of the effective date of the closing of the COH Loan (Approved Construction Period), unless otherwise extended at the sole discretion of the City. In no case shall an Approved Construction Period extend beyond the end date of the Contract between the GLO and the City of Houston.

II. PROJECT ELIGIBILITY

- A. All projects must be located within the city limits of the City of Houston.
- B. All projects must have sustained damage from Hurricane Ike or Dolly or will replace those which were materially damaged or destroyed. However, projects which will replace those destroyed may be located on a different site in a different part of the City in accordance with the Program Objectives.
- C. The City of Houston issued a Request for Proposals (RFP), which meets the purpose of the Notice of Funds Availability and has followed the selection procedures outlined therein to identify potential projects for award of funds. No City Council approval of projects will be sought until the Guidelines are approved by the State and no award of funds to a particular project will be final until approved by the City of Houston's City Council.
- D. Hurricane damaged or destroyed projects awarded assistance will typically be in the 10-30 year old range. The repair/replacement assistance will extend the useful life of the development at least ten years.
- E. Proposed new construction located in the 100 year flood plain as identified on the most current TSARP Map must comply with the TDHCA flood policy found in 10 TAC Part 1 Section 50.6.
- F. City priorities for multifamily housing shall include new construction, substantial rehabilitation, reconstruction, and Transit Oriented Development to serve the needs of the residents and act as a catalyst to revitalization as described in the Planning Study. All developments (with the possible exception of those as part of the Public Housing Set-Aside) will be mixed-income including a market-rate component. Mixed-use developments are also encouraged.
- G. One, two, or three bedroom floorplans will be typical, but the City may consider smaller or larger floor plans on a project by project basis.

III. PARTICIPANT ELIGIBILITY REQUIREMENTS

- A.** For-profit Developers/Borrowers, public housing authorities, units of local governments and not-for-profit Developers/Borrowers, acting individually or as participants in a Single or Special Purpose Entity (SPE) are eligible to participate. Developments are required to list properties on PHA landlord list and provide notification to DHAP providers.
- B.** The City of Houston will designate the selected Applicant(s) as Developer(s) as the term is defined under the Community Development Block Grant (CDBG) regulations. Applicants and Applicants' team members must be in good standing with HCDD on all previous grants, loans, or loan commitments.
- C.** The Applicant or Developer should be in good standing with any outstanding loans and loan commitments. There may be no defaults or negative collections actions on current or previous government loans.
- D.** In accordance with 24 CFR 570.609, no Applicant, Developer, or construction contractor included on federal or state debarment lists may participate in the program.
- E.** Applicant, Developer/Owner, Principal, or Developer/Borrower must provide a complete listing with addresses of multifamily properties currently owned or managed.

IV. SELECTION CRITERIA

- A.** The City of Houston issued a RFP and has followed the selection procedures outlined therein to identify potential projects for award of funds. Selection priority is given to proposed developments which appear to provide the greatest likelihood of meeting the Program Objectives.
- B.** The RFP issued by the City of Houston encouraged potential developer applicants to increase the number of affordable units by exceeding the requirement to lease 51% of the units to low/moderate income households.
- C.** As the negotiation and underwriting process progresses, developer applicants whose projects have been given priority will be encouraged to:
 - a.** Provide broader access to persons with disabilities through single story structures or those served by an elevator.
 - b.** Meet low-maintenance and energy efficiencies by installing energy efficient products and low maintenance items.
 - i.** Install water-conserving fixtures in all units with the following specifications for toilets and shower heads, and follow requirements for

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other fixtures wherever and whenever they are replaced: toilets – 1.6 gallons per flush; showerheads – 2.0 gallons per minute; kitchen faucets – 2.0 GPM; bathroom faucets – 2.0 GPM. ii. Install Energy Star or equivalent refrigerators in all units.

- ii. Install Energy Star or equivalent lighting fixtures in all interior units and use. Energy Star or high-efficiency commercial grade fixtures in all common areas.
- iii. Use tankless hot water heaters or install conventional hot water heaters in rooms with drains or catch pans piped to the exterior of the dwelling and with non-water sensitive floor coverings (for all units).
- iv. Install Energy Star or equivalent power vented fans or range hoods that exhaust to the exterior (in all units).
- v. Install Energy Star or equivalent bathroom fans in all units that exhaust to the outdoors which has a humidistat sensor or timer, or operates continuously in all units.
- vi. Install correctly sized HVAC units (according to Manual J) of at least 14 SEER or better in all units.
- vii. Perform an energy analysis of existing building condition, estimate costs of improvements, and make those improvements resulting in a 10 year or shorter payback.

V. PROGRAM REQUIREMENTS

- A. Projects awarded disaster recovery funds must satisfy the eligibility requirements as defined herein.
- B. City provided form of Land Use Restriction Agreement (LURA) will be placed on developments receiving disaster funds This restriction will be in the primary lien position except in the event that another source of funding, e.g. Tax Credits, require their own form of LURA, in which case the two LURAs will run concurrently and both will be superior to any other liens on the property. The LURA sets forth the number of restricted units and the income and rent restrictions applicable to these specific units. These documents will be filed with the local county clerk's office in the land records. The LURA must be approved by the State and must require the Project to accept section 8 housing choice rental vouchers during the affordability period. The LURA imposes the requirements on the property for the full ten (10) years affordability period.
- C. Each Project will also be reviewed in terms of financial feasibility with the objective to repair existing hurricane damage and bring the property up to standard to extend the

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useful life or replace the severely damaged units. Financials, pro formas, and loan information as well as the sources and uses of funds must be submitted identifying the proposed financing sources and expenses of the project.

- D. Prior to award of funding the property will go through environmental review.
- E. A Property Condition Assessment conducted by a qualified third party inspector must be conducted for rehabilitation. In addition to repair costs identified in the PCA, other costs will be considered if they extend the useful life of the project for a minimum of 15 years. The project costs must be reasonable and typical in the current marketplace for projects of similar scope. The PCA must conform to American Society for Testing and Materials (ASTM - <http://www.astm.org/>) “2018 Standard Guidelines for Property Condition Assessments.” The Developer / Borrower are also directed to the TDHCA Section 1.36 of the 2009 REA Rules for PCA guidance (<http://www.tdhca.state.tx.us/readocs/10-REARules.pdf>).
- F. Applicant will perform all multifamily construction activities in accordance with HCDD’s Minimum Property Standards for Multifamily Facilities. These standards are posted on the HCDD website at: <http://www.houstontx.gov/housing/pdf/multifamilyminimumstandards.pdf>
- G. Applicants must comply with all pertinent city, state, and federal regulations as described herein and provided in the Loan Agreement. These regulations include, but are not limited to:
- Community Development Block Grant Regulations (24 CFR Part 570)
 - Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) (24 CFR Parts 8-9); Texas Administrative Code, Title 10, Chapter 60, Subchapter (B)
 - Davis-Bacon and Related Acts and Copeland Anti-Kickback Act
 - Fair Labor Standards Act (29 CFR Part 5)
 - Fair Housing (24 CFR Parts 100-115)
 - Conflict of Interest Requirements (24 CFR 92.356(f))
 - Economic Opportunities for Low and Very Low Income Persons - Section 3 (24 CFR Part 135) as defined by the City of HCDD’s Policy and Procedures
 - Environmental Requirements (24 CFR Part 58)
 - Lead Safe Housing Rule (24 CFR Part 35)
 - Uniform Relocation Act (49 CFR Part 24)
 - HCDD's Minimum Property Standards for Multifamily Facilities

VI. UNDERWRITING

- A. HCDD will underwrite the proposed multifamily projects reviewing the ownership structure, property operations, the sources and uses of funds, and the financial statements of the owner and guarantor (if applicable).
- B. The underlying debt and operating expenses of the property will be reviewed to determine if the project is feasible during the affordability period and demonstrates income adequate to cover operating expenses and applicable debt service.
- C. Sources and uses will be reviewed to determine the adequacy of the funding to complete the project. The scope of work including the repair of any hurricane damage will be assessed.
- D. Following underwriting, a contract will be executed between the developer and the subrecipient. This contract will specify the terms under which the funding is provided to the project; the number of units to be renovated / developed; the affordability period; and other conditions of the agreement.

VIII. ENVIRONMENTAL REVIEW

- A. Prior to award of funds, the property will go through environmental review. Once an Application has been received by HCDD, internal staff must review for compliance with all federal environmental regulations as explained in 24 CFR Part 58, and approval from HUD must be granted to receive funding. During this review period, neither an Applicant nor any participant in the development process, including public or private nonprofit or for-profit entities or any of their contractors, may commit or expend any funds, including non-HUD funds, or commence substantial construction activities on the site. Rehabilitation of any buildings built before 1978, must comply with federal lead-based paint requirements including lead screening in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. The environmental assessment reviews will include wetlands, coastal zones, flood zones and runway clear zones.
- B. Rental Program funds cannot be used to assist rental units (multi and single family) that have been determined to be in the Coastal Barrier Resource Zones or airport runway clear zones. Once the Environmental Review is complete, the review will be forwarded to GLO for environmental clearance.
- C. The Developer / Borrower must comply with all applicable laws with respect to lead based paint in conjunction with Section 302 of the Lead Based Paint Poisoning Prevent Action (42 USC Section 4831(b)), as well as the presence of asbestos containing materials within the project.

- D. All properties must be free of contaminants/hazardous substances at levels that pose dangers to users of the property or conflict with the intended purpose of the property as explained in 24 CFR 58.5(i)(2)(i). This includes, but is not limited to, toxic mold and asbestos. If there might be a concern that a property contains toxic mold or asbestos, the Borrower will be responsible for the testing and either the implementation of an O&M plan (operations and maintenance plan) or the abatement process (for which contractor must be a certified asbestos contractor).

IX. CONSTRUCTION

- A. Housing that is constructed or rehabilitated with CDBG funds must be designed and constructed to meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time the project receives permits for construction from the City of Houston's Permitting Department. When CDBG funds are used for a rehabilitation development, the entire unit must be brought up to the applicable property standards and meet the City's Minimum Property Standards. All newly constructed including reconstructed housing units must meet the current edition of the Model Energy Code (MEC) (<http://www.energycodes.gov/>) published by the Council of American Building Officials. City field inspectors will inspect for compliance with applicable building codes, Architect will be reviewing construction for adherence to Plans and Specifications and actual completion of work subject to draw request. Third-party inspection firm will review draw request and make site inspection to verify that work is in place prior to draw funding. Any deficiencies identified in that inspection must be corrected before final retainage is released. Any deficiencies identified in an inspection related to draw funding must be corrected before funding or draw request will be amended accordingly. GLO will conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection.
- B. Housing developments must meet all accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794). Multifamily housing developments must meet the design and construction requirements at the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B) 10 TAC § 60.201-211). Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C.3601-4619).
- C. The project costs must be "reasonable and customary" as determined by an acceptable, independent third party report or considered reasonable as documented by a bidding process.
- D. Scattered site projects owned by a sole owner with 8 or more units must comply with the Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70).
- E. All contracts will be payment and performance bonded.

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- F. Prior to commencement of construction, the Developer / Borrower must have a notice to proceed.
- G. The report and AIA forms 702 and 703 signed by the Developer/Borrower, general contractor, and architect will be required prior to funding each draw request.
- H. Ten percent (10%) of each draw will be held as retainage until satisfactory completion of the project.
- I. The Developer / Borrower will guarantee completion of construction until a certificate of occupancy has been issued and retainage has been released.

X. LABOR STANDARDS

- A. All applicable developments must comply with applicable labor standards, including, but not limited to Davis-Bacon wages. Under the federal Davis-Bacon Wage Act (40 USC 276a-276-a5, 24 CFR Part 70, 24 CFR §570.603), prevailing wages must be paid on all construction and related work on projects that have eight (8) or more units.
- B. The Housing and Community Development Department has adopted Section 3, Minority / Business Enterprise, and Small Business Enterprise policies and has internal capacity to administer to the requirements of the regulations above. The following information will be provided on all projects to the TDHCA Labor Standards Specialist:
 - a. Notice to Proceed executed by the designated person at the Housing and Community Development Department will be countersigned by the State at a later date which may be after commencement of construction.
- C. The Housing and Community Development Department will keep the following information on file and provide for any or all projects to the State Labor Standards Specialist upon request:
 - a. Notes of bid and preconstruction conferences as well as attendance rosters with attendees signatures.
 - b. All Department of Labor (DOL) General Wage Determination reports showing prevailing wages applicable to each project throughout the construction phase.
 - c. Final Wage Compliance Report
 - i. Davis-Bacon communications, including:
 - i. Department of Labor communications

- ii. Letters to Contractor(s) requesting payments of restitution owed to workers and liquidated damages, including copies of letters confirming Contractor(s) compliance and / or resolution of labor-related issues. Department of Labor (DOL) Semi-Annual Report with all required reporting data associated with the CDBG-DR Hurricane Ike award.
- iii. Additional documentation as required by GLO.

XI. PROJECT COMPLETION AND RELEASE OF RETAINAGE PROCEDURES

- A. When a project is finished, the procedures listed below will be followed to document completion and allow for retainage (the last 10% of project costs) to be paid. List of items necessary for payment of retainage include:
 - a. Developer / Borrower submits Final Draw for Retainage. This draw is identical in form to the others and includes the final inspection report from the third party inspector indicating that the project is complete.
 - b. Final Wage Compliance Report.
 - c. Developer / Borrower submits Certificate of Occupancy or other documentation provided by City of Houston acknowledging that project is suitable for occupancy.
 - d. Developer / Borrower submits letter certification from Architect that project meets requirements of the Americans with Disabilities Act.
 - e. Developer / Borrower submits Certificate of Substantial Completion, and AIA form that is signed by the Owner, General Contractor, and Architect.
 - f. Developer / Borrower submits Lien Release from General Contractor to show that all subcontractors have been paid.

XII. PROJECT LEASE UP PROCEDURES

- A. Multifamily developments assisted with CDBG funds are required to have a project tenant selection policy (TSP), Affirmative Marketing Plan, and schedule of leases & rents to ensure compliance with CDBG requirements. The TSP must be:
 - a. Written and displayed at the project leasing in a common area.
 - b. Consistent with the purpose of providing housing for families making 80% or less of AMFI.

- c. Reasonably related to program eligibility and Lessee's ability to perform under the lease.
- d. Chronological, so that tenants taken from a written waiting list are assisted in order.
- e. Designed to give prompt written notice of the grounds for rejection to any Lessee rejected based on income.

XIII. ANNUAL MONITORING PROCEDURES

- A. Completed projects require annual monitoring. Monitoring will be conducted by the subrecipient throughout affordability period. The results and reviews of monitoring activities ensure the provision of safe, decent, affordable rental housing in compliance with all applicable regulations. Income targets and rents must comply with Affordable Rental Program LURA requirements and other compliance requirements. Monitoring includes:
 - a. On-site inspection of rehabilitated properties to ensure compliance with Minimum Property Standards.
 - b. Compliance Standards Review (CSR) to ensure compliance with the CDBG regulations, but not limited to, the following:
 - i. Affordable Rental Housing
 - ii. Subsequent Rents during the Affordability Period
 - iii. Initial and Annual Recertification of Tenant Income
 - iv. Periods of Affordability
 - v. Tenant and Participant Protection (lease term, prohibited lease terms, tenant selection policy)
 - vi. Civil Rights Act of 1964 and Amendments
 - vii. Section 504 of the Rehabilitation Act of 1973
 - viii. Architectural Barriers Act and the Americans with Disabilities Act
 - ix. Design and construction requirements
 - x. For Rehab projects, entire structure must meet Minimum Property Standards.

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- xi. Benefit all income targets including the CDBG LMI requirement to lease 51% of the total number of units to LMI households
 - xii. Affirmative Marketing
 - xiii. National Flood Insurance Program
 - xiv. Displacement, relocation, acquisition, and replacement Lead-Based Paint compliance
 - xv. Fair Housing and Equal Opportunity
 - xvi. Section 3 (24 CFR Part 135) goals and reporting requirements
 - xvii. Applicant data reporting as required by the Conciliation Requirement
- c. Notification in writing of the results of the monitoring activity will be provided to the borrower, with a stated corrective action plan, if one is needed.

XI. RELOCATION

- A. The Developer/Borrower is responsible for the relocation activities related to the project. The Developer / Borrower shall comply with program regulations at 24 CFR §570.606, the Uniform Relocation Assistance and Real Property Policies Act of 1970 (“URA”), as amended, at 49 CFR §24, and §104(d) of the Housing and Community Development Act of 1974, as amended, at 24 CFR §42.
- B. If applicable, Developer / Borrower shall submit to the subrecipient copies of all documentation relating to URA, including but not limited to, a Relocation Plan with
- C. Assurance Letter, Notice to Real Property, Tenant Status Reports, and all Notices with Tenant Acknowledgments as required by the LURA.

XII. FILES AND REPORTS

- A. The subrecipient will maintain accurate Rental Program files and records for general administration activities for each development and tenant for a period of ten years as required by State. Such files will be open to inspection by State or any of its duly authorized representatives, or funding source representatives.

XIII. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The subrecipient has the right to change, modify, waive, amend, or revoke all or any part of these guidelines, with prior written approval of State, which approval will not be unreasonably withheld.

APPENDIX A

RENTAL PROGRAM SUPPLEMENT FOR PROJECTS WITH FUNDS DEDICATED TO THE PUBLIC HOUSING SET-ASIDE

Public Housing Development Requirements

This appendix is intended to identify the particular areas where the requirements for developing public housing units differ from the requirements associated with developing non-public housing units utilizing CDBG-DR funds and thereby differ from certain parts of the Guidelines which are solely governed by CDBG-DR.

Mixed Finance Development

These guidelines strongly encourage development of public housing through the mixed finance and mixed income approach to promote lower concentrations of public housing units.

Applicability

This Supplement applies to development that include units which receive the benefit of Operating Fund assistance under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437, et. seq.) (the "Act") for the Project and/or the Project Units. The Project Units qualify as "replacement units," as provided by HUD under 24 CFR § 941.102(c)(1). The Applicable Public Housing Requirements are binding upon the Owner Entity and any partner of the Authority.

Proposal Approval

Development Proposal

In order to release funds for construction activities, the Applicant must provide a mixed finance proposal approved by HUD which meets the requirements of 24 CFR § 941.606, which includes the following: (a) an identification of the participating parties and a description of the activities to be undertaken by each of the participating parties and the Authority; (b) a description of the proposed Development, including the number and type of Project Units (with bedroom count) and, if applicable, the number and type of non-Project Units (with bedroom count); (c) the proposed methodology for providing operating subsidies on behalf of the Project Units; (d) a summary of the proposed management and occupancy policies to be implemented at the Project, including any use of local preferences, restricting admissions to the elderly or physically disabled, use of a site-based waiting list, etc.; (e) if the Project is to be newly constructed, evidence of compliance with section 6(h) of the Act; (f) the Authority certifications required by 24 CFR 941.606(n)(1); and (g) relocation information, as required by 24 CFR 941.606(i).

Applicable Public Housing Requirements

Development Requirements

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The Project must be developed in accordance with all requirements applicable to the development of public housing, including:

- The United States Housing Act of 1937,
- the Annual Contribution Contract Amendment,
- the regulations at 24 CFR 941,
- the declaration of restrictive covenants to be recorded against the Development.

Admissions and Occupancy Requirements

The Project must ensure that the requirements for admission to, continued occupancy of, management, and modernization of the Project Units are in accordance with all requirements applicable to public housing, including:

- The United States Housing Act of 1937

The Annual Contributions Contract

The Authority's standard public housing admissions and occupancy policies adopted in accordance with Federal law and described in the Authority's approved Public Housing Agency Annual Plan, or any approved amendment to the Plan (the "Plan"); provided, however, that the Authority may adopt modifications of its standard public housing admissions and occupancy policies for purposes of its mixed finance projects generally, or specifically for the Project, to the extent these modifications conform with the requirements of Federal law, including but not limited to 24 CFR parts 903, 960, and 966 (and expressly including tenants' advance notice and comment rights afforded by 24 CFR § 966.3 and § 966.52 relating to modifications of standard public housing lease and grievance procedures, respectively), and such modified admissions and occupancy policies are described in the Plan and made applicable to the Project, and all other pertinent Federal statutory, executive order, and regulatory requirements, as those requirements may be amended from time to time.

Land Use Restriction (Declaration of Restrictive Covenants)

The Owner Entity must execute and file for record against the Development, a Declaration in form and substance as approved by HUD. The Declaration shall affirm and evidence that the Project Units must be developed, operated and maintained in compliance with the Applicable Public Housing Requirements for the period required by law. Such requirements include, without limitation, the restrictions against demolition or disposition of the Project Units, and of the interests in the Owner Entity. The Declaration shall provide further that it may not be modified, amended or released without the prior written approval of HUD.

CHANGES, WAIVERS, AND/OR CONFLICTS FOR THIS SUPPLEMENT

The subrecipient has the right to change, modify, waive, amend, or revoke all or any part of these guidelines, with prior written approval of State, which approval will not be unreasonably withheld.

APPENDIX B

Single-family rental program



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

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Tom H. Gann
J. Mark McWatters
Robert D. Thomas

April 30, 2014

Writer's direct phone # 512.475.1676
Email: jean.lalsha@tdhca.state.tx.us

Thomas G. Vaccaro
Jamestown Affordable Housing, Inc.
1090 Vermont Avenue NW #400
Washington, DC 20005

RE: TERMINATION OF CLEME MANOR, HTC APPLICATION #14108

Dear Mr. Vaccaro:

The Texas Department of Housing and Community Affairs (the "Department") has reviewed your request for pre-clearance of the site for the above referenced application in accordance with §10.101(a)(4) of the 2014 Uniform Multifamily Rules ("Rules"). The documentation submitted on behalf of the applicant as well as research by Department staff indicates that there are a number of blighted structures within 1,000 feet of the proposed site. Also in the vicinity are heavy industrial uses, some of which are even within 300 feet of the site. While the request includes an explanation of the site's proximity to an industrial area, being that it is a consequence of the lack of zoning in Houston, this explanation does not mitigate the fact that the undesirable feature is present. In addition, the site is adjacent to an active railway and within 300 feet of a metal scrap yard. These three features, the railway, heavy industrial use, and junkyard, considered individually, could deem the site ineligible pursuant to §10.101(a)(3) of the Rules related to Undesirable Site Features. Although the applicant did request an exemption from this rule with respect to the railway and heavy industrial use, no such exemption was requested with respect to the junkyard.

Staff also has concerns with the level of criminal activity in the area. While the applicant did not disclose specific crime statistics, the security plan submitted in the pre-clearance request alludes to criminal activity at the property. In addition, staff research indicates that there have been several incidents of criminal activity at the subject development and within 1,000 feet of the site. While the request also includes information about the efforts of the City of Houston to revitalize this area, the Rules do not call for consideration of such effort when determining eligibility of the site. Therefore, staff has determined that pursuant to both §10.101(a)(3) and §10.101(a)(4) of the Rules, the application for Cleme Manor is hereby terminated.



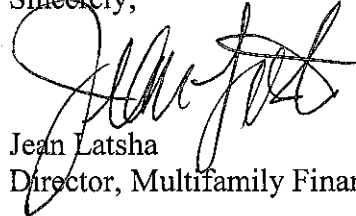
April 30, 2014

Page 2

An appeals process exists for the Housing Tax Credit Program. The restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the 2014 Uniform Multifamily Rules. Should you choose to appeal this decision to the Executive Director, you must file your appeal, in writing, with the Department not later than seven (7) calendar days after the date of this letter. If you are not satisfied with the decision of the Executive Director or the Executive Director does not respond, you may file a further appeal with the Board of Directors of the Texas Department of Housing and Community Affairs. Please review §10.902 of the 2014 Uniform Multifamily Rules for full instructions on the appeals process. In addition, the aforementioned exemption request requires Board approval. Should an appeal of this termination be granted by either the Executive Director or the Board, that exemption request will be considered separately.

If you have any questions or concerns, please contact me at 512-475-1676 or by email at jean.latsha@tdhca.state.tx.us.

Sincerely,



Jean Latsha
Director, Multifamily Finance

JML

cc: Neal Drobenare

Locke Lord

Attorneys & Counselors

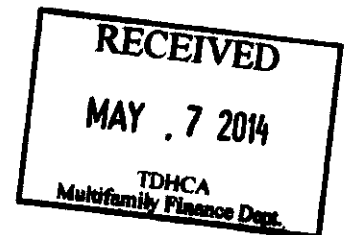
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May 7, 2014

Via Hand Delivery

Mr. Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78711-3941



Re: Cleme Manor in Houston, Texas
TDHCA No. 14108

Dear Tim:

On behalf of our client, The NHP Foundation (the "**Applicant**"), we submit this appeal of the termination of a Tax Credit Application¹ for the rehabilitation of the Cleme Manor Apartments in Houston (the "**Development**"). On February 27, 2014, the Applicant submitted requests for: (1) Exemption of Undesirable Site Features in accordance with Section 10.101(a)(3) of the Multifamily Housing Rules (the "**Rules**") and (2) Pre-clearance of an Undesirable Area Feature in accordance with Section 10.101(a)(4) (the "**Request Letter**"). A copy of the Request Letter and subsequent correspondence with the Department are attached at Tab A. Before the Board could consider the requests for exemption and pre-clearance, the Application was terminated. This letter urges the Department to grant the appeal so that the Application may proceed and to grant the exemption and pre-clearance requests previously submitted.

The rehabilitation of the Cleme Manor Apartments is a critical community revitalization goal for the City of Houston. Therefore, in reviewing this appeal, along with the exemption and pre-clearance requests, we believe it is important for TDHCA staff and its Board to look beyond what actually exists around the site today and consider the greater implications for improvements that can and will occur only if this Development is able to achieve Tax Credit funding. In our previous correspondence, we have provided detailed information about the conditions surrounding the Development Site and the overwhelming reasons why the rehabilitation of this Development should proceed. We do not intend to repeat them all here and ask that you carefully review the materials behind Tab A. In addition, we want TDHCA to know that, if the Applicant is unsuccessful in its effort to pursue a 9% Tax Credit Application, its only

¹ Capitalized terms used but not defined in this letter shall have the meanings given them in the Rules or the Qualified Allocation Plan (the "**QAP**"), as applicable.

other source of funding will be to pursue Tax-Exempt Bonds with 4% Tax Credits. In fact, the Houston City Council has already approved a "no objection" resolution for the Applicant to submit an Application for 4% Tax Credits in conjunction with Tax-Exempt Bonds.

BACKGROUND INFORMATION

Cleme Manor

Built in 1970 in Houston's Fifth Ward neighborhood, the Development contains 284 units, all supported by a HAP Contract with HUD for rental subsidy. The average annual household income among residents of the Development is \$10,000. Seventy (70), or 24%, of the units are currently occupied by residents who are disabled, and twenty-four (24), or 8.5%, of the units are currently occupied by the elderly. The Applicant intends to set aside twenty-four (24) units for permanently supportive housing for the homeless or formerly homeless, under the preferences of the City of Houston. As a national non-profit organization, the Applicant will establish and maintain a strong component of supportive services for these most vulnerable citizens. The Applicant intends to use this Development to show that Section 8 rental assistance combined with vigorous resident service with quantifiable objectives cannot only meaningfully improve the life of tenants but reduce the need for governmental subsidies by increasing the income of residents.

The Fifth Ward

The Fifth Ward is an important and historic neighborhood near downtown Houston. Settled by freemen after the Civil War, the area was once a prosperous economic and cultural center, spurred by the Southern Pacific Railroad. In the 1970s and 80s, the neighborhood fell into disrepair as residents left for other opportunities and neglect set in. To combat the neighborhood decline, the Fifth Ward Community Redevelopment Corporation (the "CRC") was organized in 1989. Since its founding, the CRC has implemented numerous economic and social programs to revitalize the Fifth Ward. New homes and multifamily complexes have been built, residents have received homeownership and foreclosure prevention assistance, new businesses have been recruited, and public art has been installed. The CRC has been recognized with national awards for its efforts and progress. Without a doubt, improvement is evident. A recent article in the *Houston Business Journal* identified the Fifth Ward as a "prime spot for gentrification" and stated:

Once known as the "Bloody Nickel" because of the violent crime in the area, the Fifth Ward seems to be making a comeback. Last year, no murders were recorded in the area, and crime has quickly been dropping. ("Houston's Fifth Ward Redevelopment Efforts Continue with Plans for Single-Family Homes," *Houston Business Journal*, February 27, 2014)

With a proximity to downtown, a rich legacy, and a recent track record of improvement, it is no wonder that the City of Houston has prioritized the Fifth Ward for revitalization efforts.

Support of the City of Houston

After the devastation of Hurricane Ike, the City of Houston had to decide how to deploy Disaster Recovery funds in the most effective and appropriate manner. Some of the areas sustaining significant damage were neighborhoods with low-incomes and high minority concentrations. Seeing an opportunity to revitalize these areas, the City undertook an extensive planning and communication process. It worked with HUD, the Texas Low-Income Housing Information Service, Texas Appleseed, other advocacy groups, and the community at large to identify certain areas of the city that would be prioritized for Disaster Recovery funding. It was mindful of Fair Housing laws, the need to provide opportunity, and the avoidance of further segregation. After this exhaustive process, the City published a plan for the use of Disaster Recovery funds that received broad support from the participants. Under this plan, certain "community revitalization areas" were identified and prioritized, including the Fifth Ward. Once funding applications were received and reviewed, the City chose to fund two developments in the Fifth Ward – one new construction development located on one end of the Fifth Ward, and the redevelopment of Cleme Manor located on another end of the Fifth Ward. The City viewed these two developments as bookends that would contribute meaningfully to the overall revitalization of the Fifth Ward while keenly adhering to Fair Housing requirements. The award of \$3,000,000 of Disaster Recovery funding to Cleme Manor by the City of Houston, with the approval of the Texas General Land Office, shows that other governmental bodies are in support of the Development's rehabilitation plan and should be compelling to TDHCA in its decision-making process.

LEGAL AND PROCEDURAL MATTERS

Undesirable Feature Rules and Community Revitalization

The pre-clearance of undesirable area features found in Section 10.101(a)(4) of the Rules has an origin in the Remedial Plan proposed by TDHCA to the United States District Court in the *Inclusive Communities Project* case. In the Remedial Plan, TDHCA proposed to adopt rules that would provide a more robust consideration and pre-clearance process for undesirable area features. The Remedial Plan said:

An Applicant providing disclosure will be encouraged to provide any plans for mitigation of the present undesirable feature(s), which may include a concerted community revitalization plan

At the same time, TDHCA proposed the inclusion of a Revitalization Index in the QAP, providing points for proposed developments in qualified census tracts that contribute to a concerted community revitalization plan. TDHCA felt this addition was necessary for compliance with Section 42(m)(1)(B)(ii) of the Internal Revenue Code (the "**Code**"), which requires TDHCA to allocate tax credits pursuant to a qualified allocation plan that "gives preference" to projects that are located in qualified census tracts, "the development of which contributes to a concerted community revitalization plan." While the District Court did not expressly order TDHCA to include the Revitalization Index in the QAP, it did not preclude the agency from including the concept.

Thus, we have Section 10.101(a)(4) in the Rules for TDHCA to consider and potentially pre-clear a Development Site containing certain undesirable site features, and we have Section 11.9(d)(7) of the QAP, awarding points for a Development Site in an area with a targeted community revitalization plan. Interestingly, the surrounding conditions that TDHCA must consider under the two sections are similar – including blight, crime, railroads, industrial development, environmental hazards, and flooding. An Application can be disqualified under Section 10.101(a)(4) if undesirable area features are present, yet the Application can receive points under Section 11.9(d)(7) if the same kinds of undesirable area features are present and the area is targeted for revitalization. If every Application with undesirable area features were disqualified under Section 10.101(a)(4), an Application would never be able to achieve points under Section 11.9(d)(7). Certainly, TDHCA intended these two rules to be able to co-exist. For these rules to work together effectively, **a Development Site surrounded by undesirable area features should be able to proceed if the Development will actually contribute to improving those conditions pursuant to a defined community revitalization plan.**

Such is the case with Cleme Manor. As noted above, the City of Houston has designated the Fifth Ward as a priority community revitalization area. It has a published plan for that area, and the plan specifically includes the rehabilitation of Cleme Manor as an essential element to improving the conditions of the Fifth Ward. To terminate the Cleme Manor Application would frustrate TDHCA's goals for establishing Section 11.9(d)(7) of the QAP with regard to revitalization areas and be inconsistent with the mandates of Section 42(m)(1)(B)(ii) of the Code.

Moreover, with the District Court's order in the *Inclusive Communities Project* reversed and remanded, the entire basis for the undesirable area features in the Rules is called into question. But the application of Section 42(m) of the Code, TDHCA's governing statute in Chapter 2306 of the Texas Government Code, and the Fair Housing laws remain the foundation by which TDHCA should make its determinations for any interpretive matter. Approval of the Cleme Manor appeal and exemption and pre-clearance requests is consistent with all of those bedrock laws.

Mitigation and Alternatives

Section 10.207(b) of the Rules expressly provides that, when TDHCA is considering undesirable area features, "the Applicant is encouraged to submit with the requested pre-clearance any plans for mitigation or alternative solutions." We believe the Applicant has supplied sufficient reasons and mitigation for the Application to proceed. Some of those considerations include:

1. **HUD and Preservation.** The rehabilitation of Cleme Manor is consistent with the stated purpose of TDHCA to:

"contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income" *Texas Government Code § 2306.001(3)*

With an existing HAP Contract for rental subsidy, the Cleme Manor Apartments are not going away. Project-based Section 8 contracts are extremely valuable in the real estate market right now; purchasers are buying them for their strong cash flow potential but are not required to perform any meaningful renovation in an ordinary market transaction. Without Tax Credit funding for a substantial rehabilitation, Cleme Manor will continue to provide handsome cash returns for its owners but no meaningful benefit for the residents or surrounding neighborhood. These conditions make the Development ideal for TDHCA support under the purpose clause of its authorizing statute. In fact, the Rules and the QAP that TDHCA creates should be interpreted in light of the agency's governing statute, including this stated purpose.

2. **Site Specific Issues.**

(a) **Surrounding Neighborhood.** As shown on the aerial photograph attached at Tab B, the property is surrounded by residential uses, a park, and undeveloped grassland to the west, north, and east. All of this is typical of a long-standing neighborhood. The railroad to the south of the Development separates it from industrial uses that can provide employment opportunities for residents of Cleme Manor and the neighborhood. As shown on the excerpts from the environmental report attached at Tab C, these industrial uses have been present for decades and, in fact, contributed to the economic prosperity of the Fifth Ward during its better times. With a lack of zoning in the City of Houston, the proximity of these facilities to the residential uses is not surprising. Fortunately, the environmental report determined that the current and past uses have not had a detrimental environmental impact on the Development. Further, despite the presence of these features, HUD has repeatedly renewed the HAP Contract and provided additional financial assistance to this property in 1989, 1991, and 2002.

Nothing in the Rules says that the presence of a certain number of undesirable area features will be determinative of whether a Development Site is acceptable. Whether there are one, three, or six conditions present is irrelevant. What matters is the whole of the situation, and particularly the mitigation for the presence of those features by other overriding priorities or by the proactive effort of the Applicant.

(b) **Crime.** The Applicant has acknowledged that there is a history of crime that is associated with this particular property. Rather than area issues affecting the property, this is more of an issue of the property affecting the area. That is one of the reasons why the City supports the Applicant's effort to acquire the Development and rehabilitate it. The crime problem will improve only if there is new ownership and management on site. As noted in prior correspondence, the Applicant has assembled a plan to address crime at the property, a plan developed in conjunction with the area law enforcement officials. In its termination letter, TDHCA states ". . . the Rules do not call for consideration of such effort when determining eligibility of the site." We vehemently disagree. The Rules specifically state that mitigation can be considered, and the Applicant believes its crime management plan will have a positive impact on the crime at the Development and in the surrounding area. This is supported by a letter from the Houston Police Department, a copy of which can be found behind Tab D.

(c) **Railroad.** As noted in prior correspondence, the Applicant provided a sound study, prepared in accordance with HUD standards, to indicate that noise from the railroad does not have a significant impact on the Development. In fact, during three days of observation, not a single train passed over the tracks. The Applicant believes that the

conclusions of a study prepared in accordance with HUD standards that are used when HUD provides financing for a property should provide adequate mitigation for TDHCA regarding the presence of this factor. Moreover, Section 10.101(a)(3) of the Rules allows an exemption for railroads when the Development is supported by HUD funding.

(d) **Industrial Uses.** Our exemption and pre-clearance request to TDHCA identified various industrial uses near the Development. The Applicant believes the disclosure was thorough and accurate. In its termination letter, TDHCA identifies a "metal scrap yard" or "junk yard" and indicates that no exemption was requested for the junkyard. That is incorrect. Our Request Letter did identify a scrap metal yard. At the time, we had limited information about the facility. We have since learned that what appears as a scrap metal yard is actually part of the Houston Valve and Testing Company, which was disclosed in our exemption and pre-clearance Request Letter. What was seen as scrap metal is actually used valves that are being held in inventory for sale. While nothing can change the nearby industrial uses in the short term, these facilities can be used proactively as opportunities for employment for the residents of Cleme Manor, as noted above. As part of its supportive services plan, the Applicant intends to include outreach to the owners of these facilities to match residents with potential employment opportunities.

CONCLUSION

Over the years, TDHCA has examined numerous community revitalization plans in this competitive Tax Credit process, trying to determine whether each community revitalization plan will legitimately lead to revitalization and improvement for a neighborhood and its residents in a manner consistent with TDHCA's mission and purpose. The Applicant believes that the City of Houston's plan for community revitalization areas, including the Fifth Ward, may be the most vigorous and inclusive effort that has ever been submitted for consideration. With careful consideration of Fair Housing requirements, a lengthy public input process, and support from various governmental bodies, advocacy and non-profit groups, and the impacted residents, there can be no better example of a community revitalization plan that complies with Section 11.9(d)(7) of the QAP and promotes the mandates of Section 42(m)(1)(B)(ii) of the Code. The City of Houston is spending nearly \$50 million under this community revitalization plan, far exceeding the baseline commitment required by TDHCA for the consideration of a community revitalization plan.

This Application for Cleme Manor goes beyond the typical Tax Credit competition. Years of planning went into the selection of Cleme Manor for Houston's Disaster Recovery funding. Years of anticipation for the residents have come closer to reality as the Tax Credit Application was filed. The Applicant is not simply a developer that is trying to receive a Tax Credit award. The Applicant is a national non-profit organization that has worked consistently with the City of Houston for approximately 18 months to fulfill the City's desire for this property.

While TDHCA's staff may have limited discretion in the interpretation of the Rules and the QAP, we believe you, as Executive Director, and the Board have the discretion to allow a Development Site with perceived undesirable area features to proceed when the whole of the factors indicate it is appropriate. There can be no better example of an appropriate use of discretion than Cleme Manor.

Mr. Timothy K. Irvine
May 7, 2014
Page 7

Sincerely,

A handwritten signature in cursive script that reads "Cynthia L. Bast".

Cynthia L. Bast

CLB/bsh

cc: Jean Latsha
Kathryn Saar
via email

These items were included as attachments but already appear as attachments to previous correspondence so were not duplicated in the board book:

April 1 Correspondence

Security Plan

Letter from City of Houston Housing and Community Development Department

Letter from Houston City Council Member

Letter from Fifth Ward Community Redevelopment Corporation

Letter from Texas Organizing Project

City of Houston Outreach Plan for Disaster Recovery Funds

Letter from Texas Low Income Housing Information Service and Texas Appleseed

February 27, 2014

Request Letter

Locke Lord

Attorneys & Counselors

600 Congress Avenue, Suite 2200
Austin, Texas 78701-2748
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

February 27, 2014

Via Electronic Mail

Mr. Timothy K. Irvine
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
P.O. Box 13941
Austin, TX 78711-3941

Re: Cleme Manor in Houston, Texas
TDHCA No. 14108

Dear Tim:

The NHP Foundation, our client (the "**Applicant**"), proposes to acquire and rehabilitate the Cleme Manor Apartments in Houston (the "**Development**") and has submitted a pre-application for Housing Tax Credits to finance the acquisition and rehabilitation.

The Development is a 284-unit apartment complex for families in the Greater Fifth Ward of Houston. It was constructed in 1970 and is currently supported with HUD financing. All of the units are supported by a HAP Contract with HUD; the Applicant expects that the HAP Contract will be transferred with the Development and continue to benefit the residents, if the Housing Tax Credits are awarded and the rehabilitation proceeds.

In accordance with Section 10.101(a)(3) of the Qualified Allocation Plan (the "**QAP**"), the Applicant hereby requests: (1) Exemption of Undesirable Site Features in accordance with Section 10.101(a)(3) and (2) Pre-clearance of an Undesirable Area Feature in accordance with Section 10.101(a)(4). Specifically:

The Development is located within 300 feet of railroad tracks, which is considered a Undesirable Site Feature. The Applicant engaged acoustical consultants to perform a sound study with regard to the railroad tracks and surrounding uses (including the industrial facilities described below). A copy of the sound study is enclosed for your information as Exhibit A. This study was conducted in accordance with HUD standards for site acceptability. The study measured sound at the Development for three days. During the entire measurement period, not a single train passed by the property and other noise levels were acceptable. Therefore, the

site was found to be acceptable for HUD purposes. With this information, the Applicant believes the site should be exempt from the Undesirable Site Features provision of the QAP.

The Development is located near several uses that could be considered industrial, as shown on the attached map at Exhibit B. The uses include the following:

Ranger Conveying and Supplying Company, Inc., 4701 Clinton Drive. This business designs and supplies a line of conveying and materials handling systems and other industrial supplies.

CANPOL Industries, USA, LLC, 4721 Clinton Drive. This business specializes in custom fabrication of various on and off shore drilling equipment.

Houston Valve & Testing Company, Inc., 4807 Clinton Drive. This company is a supplier and distributor of valves. In addition to its valve inventory, it is capable of repairing and modifying valves to customer specifications.

Hahn & Clay, 5100 Clinton Drive. This business performs metal fabricating, machining and machine engineering.

Metals Supply Co., Ltd., 5311 Clinton Drive. This company distributes structural steel but does not appear to manufacture. The steel beams are stored in its warehouse near the Development.

Vacant Warehouses. Several vacant warehouses exist on Clinton Drive.

Scrap metal yard. A scrap metal yard is located in the same area as the other businesses described above.

The Applicant queries whether the above described uses are considered to be "heavy industrial." Definitions of heavy industry vary, but they typically refer to industry that is capital-intensive and requires large facilities. Additionally, heavy industry can be associated with industries that can be environmentally problematic with pollution or hazardous chemicals involved. Some of the businesses above are distributors and not manufacturers. Those that are manufacturing are providing customized services. Further, the Applicant performed an environmental study, in accordance with HUD standards. Relevant pages from the environmental study are attached as Exhibit C. The study searched local, state, and federal records and found no detrimental conditions affecting the Development.

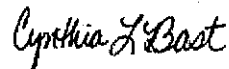
It is important to note that this Development constitutes a rehabilitation of an existing HUD-supported property. As such, an exemption for the Undesirable Site Feature is permitted under the QAP. Further, these industrial uses are also within the same distance of single family homes. They are also within 1000 feet of a City park (Finnigan Park) and an elementary school and its playground (Henderson Elementary School). Clinton Drive, which forms the south boundary of the Development, is essentially a dividing line. Property north of Clinton Drive has a residential use – multifamily housing, single family housing, school, park. Property south of Clinton Drive has industrial uses.

Mr. Timothy K. Irvine
February 27, 2014
Page 3

This Development is in Houston's Greater Fifth Ward. With the lack of zoning in Houston, certain land uses have developed over time that may not be how we would propose them today. But they exist, and tremendous effort has been expended to revitalize and improve the Greater Fifth Ward. This proposed rehabilitation would support that revitalization. The Cleme Manor Apartments are in need of repair for the preservation of 284 units of affordable housing and the benefit of the residents who are currently living there with Section 8 assistance. Further, conversations between the Applicant and HUD indicate that HUD supports this rehabilitation, as well. Finally, and most importantly, **the City of Houston has approved \$3,000,000 of Disaster Recovery Funds for this rehabilitation.** Certainly, the City understands the Development's proximity to the features described above but has nonetheless approved the Development for funding to support the revitalization and preservation needs. These unique circumstances support the approval of exemptions and waivers from the Undesirable Site Feature and Undesirable Area Feature provisions of the QAP.

We are happy to present any additional information required for TDHCA to make a determination on this matter. Thank you.

Sincerely,



Cynthia L. Bast

CLB/bsh

Exhibit A – Sound Study
Exhibit B – Aerial Map
Exhibit C – Phase I Environmental Study

cc: Cameron Dorsey
Jean Latsha
via email

EXHIBIT A

Sound Study



ACOUSTICAL CONSULTANTS INC.

December 17, 2013

To: Jaymar Joseph jjoseph@nhpfoundation.org
The NHP Foundation 202-789-5300 (main)
1090 Vermont Avenue, N.W. 571-421-9336 (mobile)
Suite 400 202-789-1990 (fax)
Washington, DC 20005

From: Ashton Taylor
HFP Acoustical Consultants Inc.

Re: Sound Monitoring Survey
Cleme Manor Apartments, 5300 Coke Street, Houston, Texas
HFP File No. 8282-1

SOUND LEVEL MONITORING REPORT

This report presents the results of a sound level monitoring study conducted November 18 – 21, 2013 at the Cleme Manor Apartments located at 5300 Coke Street in Houston, Texas. This work was undertaken at the request of the NHP Foundation to determine the environmental noise levels relative to the criteria set forth by the Department of Housing and Urban Development (HUD) for site acceptability.

Site Description

There are 24 existing two-story apartment buildings at the Cleme Manor Apartments site. Most of the apartments are currently occupied. The site is approximately 725 feet wide (east to west). The length of the east property line is approximately 800 feet and the west property line is approximately 650 feet. The property boundaries and adjacencies are as follows:

- North Side: Coke Street with public park opposite
- South Side: Railroad tracks behind industrial buildings along Clinton Drive to south
- East Side: Vacant lot
- West Side: Residential properties (houses)

The nearest roads to the site are as follows:

- Coke Street which abuts the property on the north side
- Clinton Drive approximately 500 feet south of the south property line
- Lockwood Drive approximately 1050 feet east of the east property line
- Finnegan Park Pl. Ct. approx. 125 feet west of the west property line (not a through street)
- Schwekhart Street approximately 700 feet west of the west property line

6001 Savoy Drive, Suite 215
Phone: 713.789.9400

Houston, Texas 77036
Fax: 713.789.5493

#1140, 10201 Southport Road S.W.
Phone: 403.259.6600

Calgary, Alberta, Canada T2W 4X9
Fax: 403.259.6611

Railroad tracks abut the property on the south side and the noise from trains on these tracks was considered a primary concern. These tracks run generally east-west and cross Lockwood Drive to the east of the site and Schwekhart Street to the west. Since these crossings are at grade, a train traveling along these tracks would sound their horn in the vicinity of the Cleme Manor Apartments to warn motorists on these streets.

Monitor Locations

For this study, sound level monitors were placed on second-floor balconies at five positions as follows:

- Position 1 – Balcony of Apartment No. 284 near southeast corner of site
- Position 2 – Balcony of Apartment No. 114 slightly northeast of site center
- Position 3 – Balcony of Apartment No. 64 near northeast corner of site
- Position 4 – Balcony of Apartment No. 124 near west property line
- Position 5 – Balcony of Apartment No. 152 slightly southwest of site center

Weather during Sound Monitoring

The sound monitor survey was conducted from the afternoon of Monday 11/18/2013 until late morning of Thursday 11/21/2013. The weather for each of the four days is summarized in the following table:

Date	Temperature (°F)			Rel. Humidity (%)			Wind (mph)			Sky
	High	Avg	Low	High	Avg	Low	Avg	Gusts	From	
11/18	79	71	62	100	68	35	5	16	N/NE	Overcast, 0 precipitation
11/19	70	60	50	77	55	35	11	17	E	Ptly cloudy, 0 precipitation
11/20	73	61	48	93	78	63	8	19	E	Ptly cloudy, trace precip.
11/21	80	74	67	100	87	74	8	17	E/SE	Overcast, 0.06" precipitation

Instrumentation

All of the instruments used for the sound level survey are Type 1 precision grade sound level monitors with calibration certified to national standards. The following instruments were used for the survey, identified by position:

Position 1

Sound level meter/monitor: Larson Davis model 824, serial number A0412
Microphone preamplifier: Larson Davis model PRM902, serial number 0757
Microphone: Gras model 40AE, serial number 102790
Audio Recording: Marantz Pro model PMD620

Position 2

Sound level meter/monitor: Larson Davis model 824, serial number A0301
Microphone preamplifier: Larson Davis model PRM902, serial number 0621
Microphone: B&K model 4176, serial number 1331480
Audio Recording: Marantz Pro model PMD620

Position 3

Sound level meter/monitor: Larson Davis model 824, serial number A0606
Microphone preamplifier: Larson Davis model PRM902, serial number 0979
Microphone: Gras model 40AE, serial number 16611
Audio Recording: Marantz Pro model PMD620

Position 4

Sound level meter/monitor: Larson Davis model 824, serial number A0298
Microphone preamplifier: Larson Davis model PRM902, serial number 0615
Microphone: Gras model 40AE, serial number 16622
Audio Recording: Marantz Pro model PMD620

Position 5

Sound level meter/monitor: Larson Davis model 824, serial number A0970
Microphone preamplifier: Larson Davis model PRM902, serial number 1490
Microphone: Gras model 40AE, serial number 21872
Audio Recording: Marantz Pro model PMD620

HUD Site Acceptability Standards

HUD specifies that the environmental sound levels be quantified using the Day Night Average Sound Level, abbreviated L_{dn} . The L_{dn} is the sound energy average for a minimum period of one full day except that 10 decibels is added to the actual sound levels during the hours of 10 P.M. until 7:00 A.M. The results are A-weighted decibels [dB(A)]. The A weighting filter is used in all sound level meters so that these instruments can “hears” more like average listeners. The following are the HUD site acceptability standards:

<u>Sound Level, dB(A) L_{dn}</u>	<u>Acceptability</u>
Not exceeding 65	Acceptable
Above 65, but not exceeding 70	Normally unacceptable unless 5 dB additional attenuation incorporated into buildings
Above 70, but not exceeding 75	Normally unacceptable unless 10 dB additional attenuation incorporated into buildings
Above 75	Not acceptable except on a case-by-case review

Sound Level Monitoring Results

The measured A-weighted L_{dn} sound level results are presented in the following table. The daily L_{dn} values are shown at each position. Note that on November 18 and November 21, the entire



day was not monitored. Therefore, the results for those days are projected based upon the measured data at hand.

Position	dB(A) L_{dn} 11/18/2013	dB(A) L_{dn} 11/19/2013	dB(A) L_{dn} 11/20/2013	dB(A) L_{dn} 11/21/2013
1	64.3 *	61.9	61.7	58.5 *
2	67.9 *	64.0	66.0	63.8 *
3	61.7 *	59.4	61.0	59.3 *
4	66.0 *	69.9	68.2	65.3 *
5	60.0 *	65.8	64.6	68.9 *

* Projected L_{dn} based upon data measured during portion of day

Attached to this report are tables presenting hour-by-hour octave-band and A-weighted sound levels for each position along with the daily L_{dn} levels. Additionally, graphs showing the minute-by minute sound levels at each position are attached. Where the graphs indicate high sound levels, the monitoring system digital audio was checked so we could identify what was causing the high sound level. Based upon these recordings, the sound levels at the site were due to the activity of the residents. **There were no trains during the entire measuring period of almost three days.** This is easy to see by comparing the sound-level-by-time graphs. Notice that the high sound level “spikes” occur at different times. These are due to local sources such as children playing or people talking near the sound level monitors. If a train had been present, the readings at all positions would show an elevated sound level at the same time.

Because the sound levels were influenced by resident activity and not environmental causes, statistical means can be used to estimate the environmental sound levels without activity noise. One way to do this is by use of the L_{90} , the sound level that is exceeded 90% of the measurement period time. We believe this is a more accurate estimate of the site environmental sound levels than the environment-plus-activity readings obtained with the energy average. The following table presents the estimated L_{dn} levels by position and by date using the L_{90} metric.

Position	dB(A) L_{dn} 11/18/2013	dB(A) L_{dn} 11/19/2013	dB(A) L_{dn} 11/20/2013	dB(A) L_{dn} 11/21/2013
1	57.3 *	55.4	54.4	53.2 *
2	61.1 *	58.5	57.3	55.6 *
3	54.0 *	54.7	55.9	54.9 *
4	57.8 *	58.2	57.8	59.7 *
5	51.9 *	55.0	56.6	55.7 *

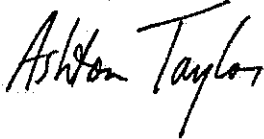
* Projected L_{dn} based upon data measured during portion of day

Notice that when the L_{90} is used to statistically remove the sound of people activity, the environmental sound levels are well below the HUD acceptable standard level of 65 dB(A) L_{dn} .

Conclusion

Prior to the sound level measurements being conducted, there were some expectations for high sound levels at Cleme Manor Apartments because of the train track along the south side of the property. However, no trains passed the property on this track during the measurement period. One resident told our consultant on site that she had never heard a train on this track. In fact, the track appears to be only a spur servicing the businesses on Clinton Drive. When one of these businesses occasionally ships something via rail, a train may travel along this track.

Sincerely,
HFP Acoustical Consultants Inc.

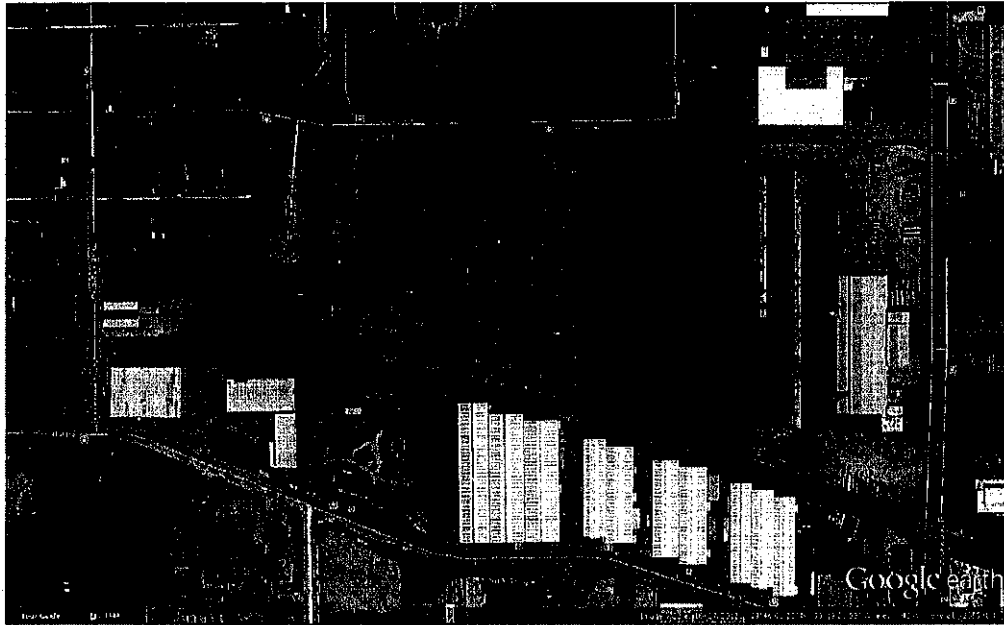


Ashton Taylor
Senior Project Consultant

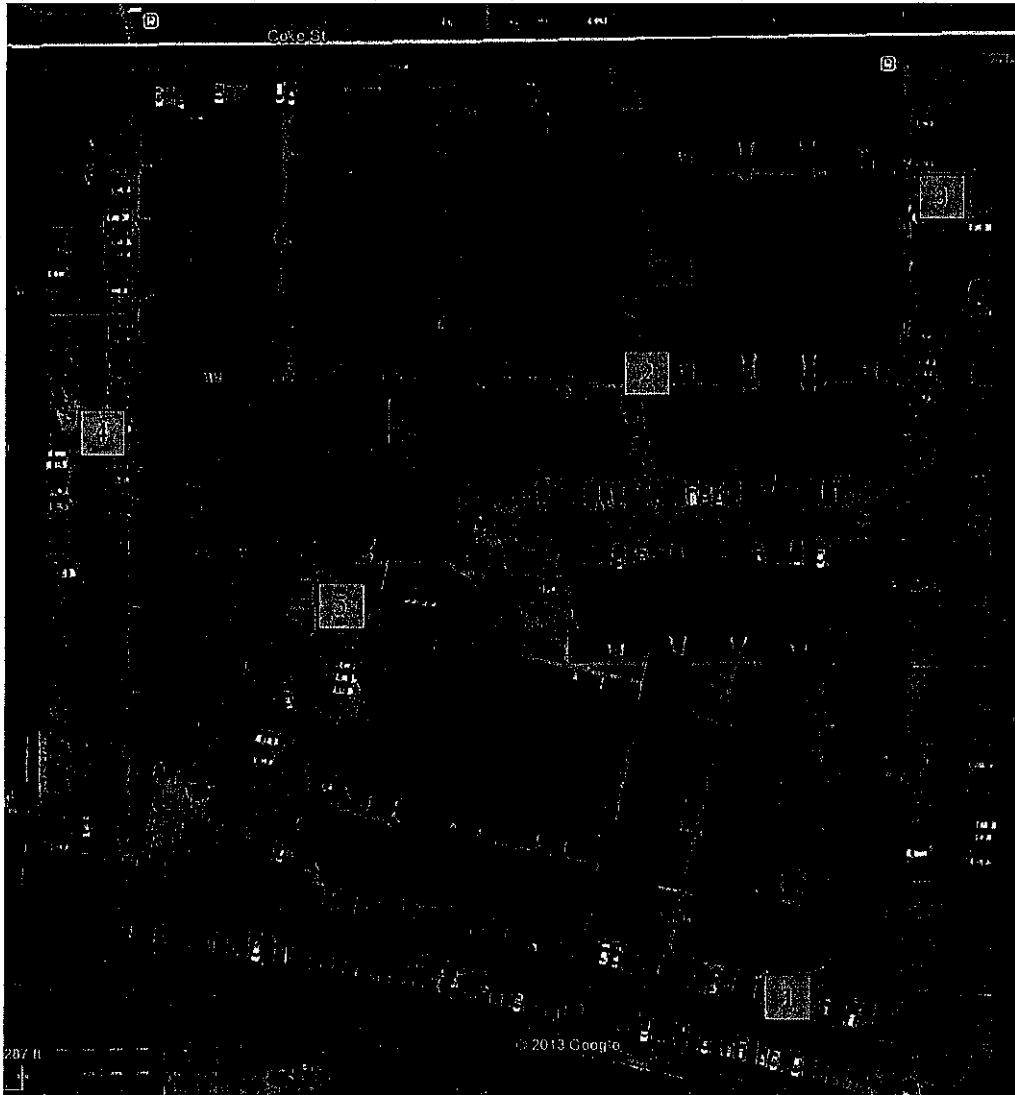
Attachments:

- Satellite photograph of area
- Satellite photograph of site showing positions
- Tables and graphs of sound levels at each position

HFP 8282-1 - Report - 5300 Coke St - 20213-12-13.docx



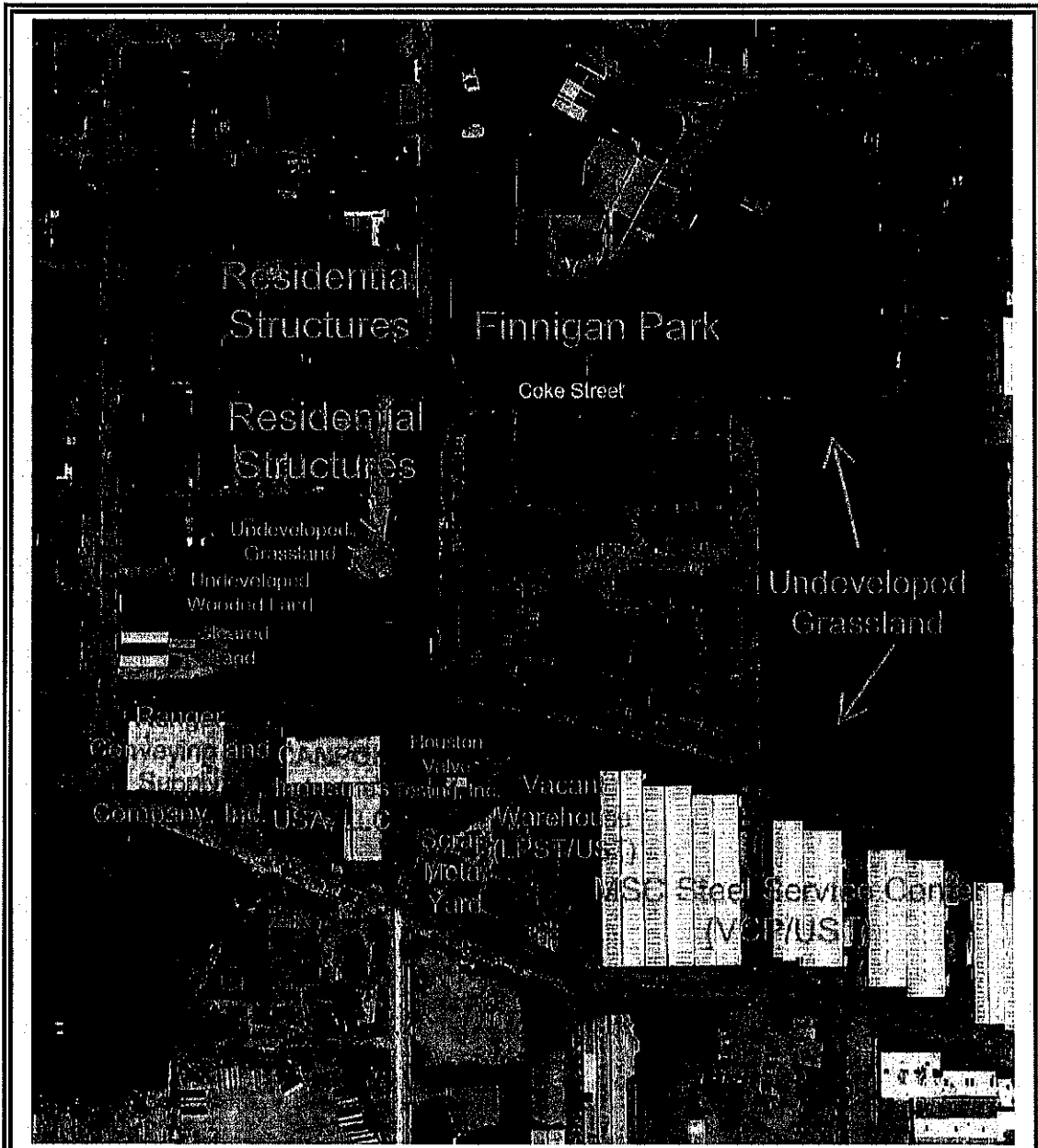
General Area of Cleme Manor Apartments Site



Cleme Manor Apartments Site showing Measurement Positions

EXHIBIT B

Aerial Map



Appendix B
Site Plan



**DOMINION
DUE DILIGENCE
GROUP**

EXHIBIT C

Phase I Environmental Study



**PHASE I
ENVIRONMENTAL SITE ASSESSMENT
CLEME MANOR APARTMENTS
5300 COKE STREET
HOUSTON, TEXAS**

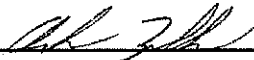
**D3G PROJECT NUMBER:
2013-1792**

**FINAL REPORT ISSUE DATE:
DECEMBER 27, 2013**

**INSPECTION DATE:
NOVEMBER 7, 2013**

**PREPARED FOR:
THE NHP FOUNDATION
122 EAST 42ND STREET, SUITE 3500
NEW YORK, NEW YORK 10168**

Drue Zehler, BPI-MFBA
Site Assessor



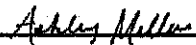
Signature

Carroll H. Ellis, III
Project Manager



Signature

Ashley J. Miller
Environmental Professional



Signature

CORPORATE HEADQUARTERS ♦ 4121 COX ROAD, SUITE 200 ♦ GLEN ALLEN, VIRGINIA 23060-3316
804.358.2020 ♦ FAX 804.358.3003 ♦ WWW.D3G.BIZ
Providing nationwide service to protect your investments

11.0 CONCLUSIONS

Dominion Due Dillgence Group has performed a Phase I Environmental Site Assessment (ESA) in conformance with the scope and limitations of ASTM Practice E 1527-13 of the Cleme Manor Apartments located at 5300 Coke Street in Houston, Harris County, Texas (subject property). Any exceptions to, or deletions from, this practice are described in Section 2.4 of this report. ~~This assessment has revealed no evidence of recognized environmental conditions (RECs) in connection with the subject property.~~

D3G has performed a Phase I ESA at the subject property. Based on the identified environmental concerns discussed in Section 10.0, D3G recommends the following:

- Asbestos-Containing Materials (ACMs)

If suspect ACMs are encountered during renovation activities which have not been previously sampled, they should be sampled by an appropriately licensed asbestos inspector prior to impactation and treated accordingly or treated as ACMs. Identified ACMs which are to be impacted by renovation activities should be removed by a licensed asbestos abatement contractor in accordance with applicable regulations. Any remaining ACMs and NOB materials should be managed under a site-specific Operations and Maintenance (O&M) Program.

- Lead-Based Paint (LBP)

According to the current scope of rehabilitation for the property, the identified LBP components (metal stair stringers, tread noses, and tread pans) are included for replacement within the proposed substantial rehabilitation of the property. All generated debris containing lead-based paint is to be appropriately disposed of in accordance with applicable EPA RCRA requirements. If LBP is to remain on-site following renovation activities, the remaining identified lead-based paint coated surfaces should be managed under a site-specific Operations and Maintenance (O&M) Program. Components identified as containing lead in *any concentration* are required be handled in accordance with 29 CFR 1926.62, the OSHA "Lead Exposure in Construction" Standard (OSHA does not define LBP). In addition, all renovation and maintenance workers are required to have a one day EPA renovator class when working in residential facilities constructed prior to 1978 that contain LBP and any impacts to LBP must be conducted in accordance with applicable EPA and state regulations.

12.0 DEVIATIONS

There are no deviations from the ASTM standard Phase I ESA except for those outlined in Section 2.4 of this report.

Phase I Environmental Site Assessment
Cleme Manor Apartments
Houston, Texas
D3G Project Number: 2013-1792
Page 49

3.4 Description of Structures, Roads, and Other Improvements

The following section describes general conditions and features as noted during D3G's inspection:

GENERAL SUBJECT PROPERTY DESCRIPTION AND IMPROVEMENTS	
SUBJECT PROPERTY ACREAGE	Approximately 12.79 acres
BUILDING(S) DESCRIPTION	Twenty-three (23) two-story apartment structures, a church building and leasing office building
ADJOINING ROADS	Coke Street
CONSTRUCTION DATE(S)	1970
EXTERIOR IMPROVEMENTS	A playground, a basketball court, security building, landscaped regions and asphalt parking areas
UNIMPROVED AREAS	The westernmost portion of the subject property consists of undeveloped wooded land.

3.4.1 Subject Property Utilities

SUBJECT PROPERTY UTILITIES	
ELECTRICITY	Reliant Energy
NATURAL GAS	Reliant Energy
WATER	City of Houston
SANITARY SEWER	City of Houston
INDUSTRIAL WASTEWATER	NA
SOLID WASTE	City of Houston/Republic

HEATING SOURCE	AGE
Natural gas	1970 - current

COOLING SOURCE	AGE
Electricity	1970 - current

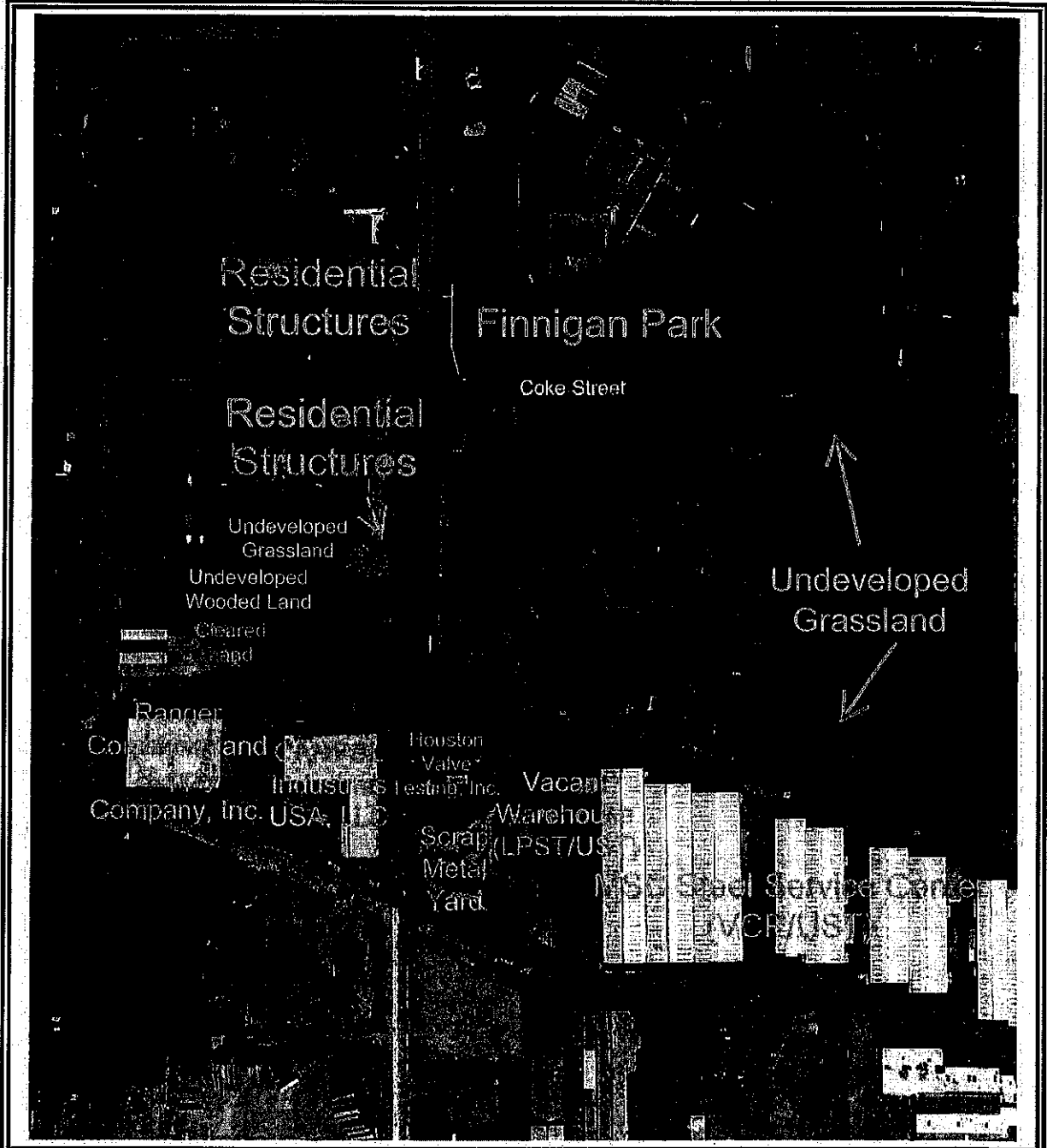
Natural gas is also utilized to fuel the hot water heaters, kitchen stoves, and the dryers.

3.5 Current Uses of Adjoining Properties

DIRECTION	LAND USAGE
NORTH	Coke Street, Finnigan Park, and residential structures
SOUTH	A railroad, Ranger Conveying and Supply Company Inc., Houston Valve Testing, Inc., CANPOL Industries USA, LLC, a scrap metal yard, a vacant warehouse, and MSC Steel Service Center (warehouses)
EAST	Undeveloped grassland
WEST	Residential structures, undeveloped wooded land, and undeveloped grassland

Phase I Environmental Site Assessment
 Cleme Manor Apartments
 Houston, Texas
 D3G Project Number: 2013-1792
 Page 7

TAB B



Appendix B
Site Plan



**DOMINION
DUE DILIGENCE
GROUP**

TAB C

5.5 Historical Use Information on Adjoining Properties

5.5.1 Review of Aerial Photographs

YEAR	NORTH	SOUTH	EAST	WEST
1943	Undeveloped wooded land and grassland	Railroad tracks and a spur, undeveloped grassland, commercial structures, and undeveloped wooded land	Undeveloped grassland	Undeveloped wooded land, grassland, and cleared land
1952	A park	Railroad tracks and a spur, commercial structures and cleared land	Scrap metal yard with railroad spurs	Cleared land and undeveloped wooded land
1962	Same as 1952	Railroad tracks and a spur, commercial structures and undeveloped grassland	Same as 1952	Undeveloped grassland, undeveloped wooded land, and cleared land
1977	Same as 1952	Railroad tracks and a spur, commercial structures, and undeveloped wooded land	Same as 1952	Undeveloped grassland, undeveloped wooded land, and cleared land with temporary structures (trailers)
1995	Same as 1952	Railroad tracks and a spur and commercial structures	Cleared land	Same as 1977
2002	Same as 1952	Same as 1995	Undeveloped grassland	Residential structures, undeveloped grassland, undeveloped wooded land, and cleared land with temporary structures (trailers)
2006	Same as 1952	Same as 1995	Same as 1995	Residential structures, undeveloped wooded land, and cleared land
2009	Same as 1952	Same as 1995	Same as 1995	Same as 2006
2012	Same as 1952	Same as 1995	Same as 1995	Same as 2006
SOURCE - Google Earth and USGS EarthExplorer				

A copy of the aerial photography is included in Appendix D of this report.



5.5.2 Fire Insurance Maps

YEAR	NORTH	SOUTH	EAST	WEST
1950	Not depicted	Railroad tracks and spurs, Earle M. Jorgensen Company (steel warehouses and carbide generator house), Cleco Division of Reed Roller Bit Company (rag and junk house, machine shop, and gate house), a reclaiming plant (paint spraying, cooker, and office) , Mier Rig and Construction Company (equipment shop and storage, welding, planning mill, boiler and oil and steam engines, shavings bin, and dock), and vacant land	City Junk and Supply Company (scrap metal yard, metal storage building, concrete pit, and railroad spurs) and not depicted	Cline Avenue, a portion of a stream, and vacant land
1970	Vacant land and John T. Finnegan Memorial Park (swimming pool and bath house, water treatment plant, storage house, ball field, bleachers, and an unnamed road), and Solo Street	Railroad tracks and spurs, Earle M. Jorgensen Company (steel warehouses), vacant enclosed iron structure, a gate house, a drum yard, Barrel and Drum Reclaiming (paint spraying, parking and drum yard) a garage, lumber piles and storage yard, junk valves storage, gasoline tank , iron shaving bins, and vacant land	Proler Steel Corporation - Salvage Division (railroad spurs/elevated crane tracks, parking, scrap metal yard, metal storage building, concrete pit, clock house, junk building, and bath house)	Cline Avenue, a portion of Japhet Gully, and vacant land

SOURCE - Environmental Data Resources, Inc.

Copies of the Sanborn Fire Insurance Maps are included in Appendix D.



D3G reviewed Sanborn Fire Insurance Maps from 1950 and 1970. The Earle M. Jorgensen Company is depicted in the Sanborn Maps as steel warehouses. In addition, the facility is identified in the EDR Report as a VCP site. The facility is discussed further in Sections 5.1.1 and 5.6.

D3G reviewed Sanborn Fire Insurance Maps from 1950 and 1970. Various potentially detrimental activities have been previously located on the adjacent properties including the following: railroad lines and spurs from 1950 to at least 1970, Cleco Division of Reed Roller Bit Company (rag and junk house, machine shop) in 1950, a reclaiming plant (paint spraying) from 1950 to at least 1970, Mier Rig and Construction Company (equipment shop and storage, welding, planning mill, boiler and oil and steam engines, shavings bin, and dock) in 1950, Barrel and Drum Reclaiming (drum yard) in 1970, junk valves storage in 1970, and a gasoline tank in 1970 to the south; and City Junk and Supply Company (scrap metal yard, railroad spurs) in 1950, later known as Proler Steel Corporation - Salvage Division in 1970, to the east. According to the reviewed aerial imagery, the southern adjacent properties have been redeveloped with different commercial structures since at least 1995. In addition, the eastern adjacent property has consisted of cleared land since at least 1995. The facilities are located topographically cross-gradient and down-gradient from the subject property. In addition, the facilities are not identified in the EDR Report as a state or federally-regulated facility. Therefore, based on the topographic relationships, lack of inclusion in the regulatory database and lapse of time since the former activities, the previous vicinity detrimental activities are not suspected to have negatively impacted the environmental integrity of the subject property.

5.5.3 Other Historical Sources

No additional historical sources were reasonably ascertainable.

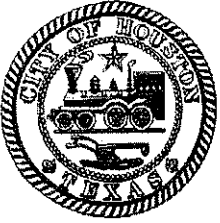
5.6 Tier 1 Vapor Encroachment Screening

D3G performed a Tier 1 Vapor Encroachment Screening in compliance with ASTM E 2600-10 "ASTM Standard Guide for Vapor Encroachment Screening on Property Involved in Real Estate Transactions" as amended. The purpose of the Tier 1 Vapor Encroachment Screening is to conduct an initial screen to determine if a Vapor Encroachment Condition (VEC) exists in connection with the subject property. A VEC is defined as the presence or likely presence of chemical of concern (COC) vapors in the subsurface of the subject property caused by the release of vapors from contaminated soil or groundwater either on or near the subject property.

D3G reviewed standard environmental record sources to identify if there are known or suspected sources of contamination within the area of concern (AOC). According to ASTM E 2600-10, the area of concern is defined by the approximate minimum search distance which is based upon the chemical of concern (i.e. petroleum hydrocarbons vs. non-petroleum hydrocarbons) and the location of a known or suspected source of contamination with respect to the subject property.



TAB D



CITY OF HOUSTON

Houston Police Department

Annise D. Parker, Mayor

1200 Travis Houston, Texas 77002-6000 713/308-1600

CITY COUNCIL MEMBERS: Brenda Stardig Jerry Davis Ellen Cohen Dwight A. Boykins Dave Martin Richard Nguyen Oliver Pennington Edward Gonzalez Robert Gallegos
Mike Laster Larry V. Green Stephen C. Costello David Robinson Michael Kubosh C. O. "Brad" Bradford Jack Christie CITY CONTROLLER: Ronald C. Green

April 23, 2014

Charles A. McClelland, Jr.
Chief of Police



Dear Ms. Jean Latsha:

The Houston Police Department has received a request from NHP Foundation to write a letter of support for a waiver of the "Undesirable Site" and "Undesirable Neighborhood Feature" requirements of the Texas Department of Housing and Community Development for the financing of rehabilitation of the Cleme Manor located at 5300 Coke St, Houston, TX 77020. We are familiar with the area and are in support of NHP's plans to address crime in the area.

The mission of the Houston Police Department is to enhance the quality of life in the city of Houston by working cooperatively with the public to prevent crime, enforce the law, preserve the peace, and provide a safe environment. We are confident that we can work with NHP to effectively address the crime in Cleme Manor and ultimately provide a safer environment for the citizens of Houston.

Sincerely,

Jay Chase
Lieutenant of Police



LOCKE LORD LLP
ATTORNEYS & COUNSELORS

600 CONGRESS AVENUE, SUITE 2200
AUSTIN, TEXAS 78701-4042

Mr. Timothy K. Irvine
Executive Director
Texas Department of Housing and Community
Affairs
221 East 11th Street
Austin, TX 78711-3941

RECEIVED
MAY 07 2014
Texas Department of Housing
and Community Affairs

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Timely Filed Appeals and Waivers under of the Department's Program or Underwriting Rules

RECOMMENDED ACTION

WHEREAS, a Pre-Application was submitted for Liberty Square and Liberty Village on January 15, 2014, indicating participation in the USDA set-aside;

WHEREAS, a Competitive Housing Tax Credit Application (the "Application") was submitted for Liberty Square and Liberty Village (#14175) on February 28, 2014, also indicating participation in the USDA set-aside;

WHEREAS, the Application is receiving no financial assistance through the Texas Rural Development Office of the USDA and is therefore not eligible to participate in the USDA set-aside;

WHEREAS, a scoring notice was issued May 7, 2014, in which pre-application points were not awarded because the pre-application and full application were not participating in the same set-asides; and,

WHEREAS, the Applicant has timely requested an appeal of the scoring notice.

NOW, therefore, it is hereby,

RESOLVED, the Applicant's appeal of the scoring notice for Liberty Hill and Liberty Village (#14031) is hereby denied.

BACKGROUND

A pre-application was submitted for Liberty Square and Liberty Village that indicated participation in the USDA set-aside. Subsequently, a full Application was submitted which also indicated that the application was participating in the USDA set-aside. However, upon review, staff found no evidence of USDA financing in the Application.

Pursuant to §10.201(7) of the Uniform Multifamily Rules, staff issued an administrative deficiency on March 24, 2014, requesting, in addition to information related to other point items, evidence that the development qualified under the USDA set-aside as defined in §11.5(2) of the QAP and Texas Government Code §2306.111(d-2). The deficiency response was received timely on March 31, 2014, but failed to address the issue adequately. The documentation provided merely showed that the

development site is located in an area that could qualify for USDA financing; however, neither the originally submitted application nor the deficiency response provided any indication that USDA financing would be utilized for any aspect of the acquisition and rehabilitation of the property. Moreover, the existing development is not currently receiving financial assistance through the Texas Rural Development Office of the USDA. Therefore, staff determined that the application would not qualify under the USDA set-aside and, the pre-application points were not awarded.

Subsequent to the issuance of the scoring notice reflecting the loss of points, an appeal of the notice was submitted which included an updated financing letter from AmegyBank, showing intent to apply for a \$100,000 Working Capital loan from the USDA Business and Industry Loan Program. In researching this particular program, staff reached out to the USDA-RD office in Temple and learned that because this application is “eligible for the Rural Rental Housing and Rural Cooperative Housing loans under sections 515, 521, and 538 of the Housing Act of 1949, as amended” it would constitute an ineligible purpose under the Business and Industry Loan Program pursuant to of 7 CFR §4279.114(o).

Because this development is not receiving financing through USDA and is ineligible to receive the USDA financing proposed in the appeal, the application is not eligible to compete in the USDA set-aside. Staff recommends denial of the appeal.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Art Schuldt, Jr.

Date: May 07, 2014

Phone #:

**THIS NOTICE WILL ONLY BE
TRANSMITTED VIA EMAIL**

Email: art@sgba.com

Second Email: mstrange@callhsa.com

**RE: 2014 Competitive Housing Tax Credit (HTC) Application for Liberty Square and Liberty Village,
TDHCA Number: 14175**

The Texas Department of Housing and Community Affairs has completed its program review of the Application referenced above as further described in the 2014 Qualified Allocation Plan ("QAP"). This scoring notice provides a summary of staff's assessment of the application's score. The notice is divided into several sections.

Section 1 of the scoring notice provides a summary of the score requested by the Applicant followed by the score staff has assessed based on the Application submitted. You should note that three scoring items are not reflected in this scoring comparison but are addressed separately.

Section 2 of the scoring notice includes each of the three scoring criteria for which points could not be requested by the Applicant in the application self-score form and include: §11.9(d)(1) Local Government Support, §11.9(d)(4) Quantifiable Community Participation, §11.9(d)(5) Community Support from State Representative, and §11.9(d)(6) Input from Community Organizations.

Section 3 provides information related to any point deductions assessed under §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules.

Section 4 provides the final cumulative score in bold.

Section 5 includes an explanation of any differences between the requested and awarded score as well as any penalty points assessed.

The scores provided herein are merely informational at this point in the process and may be subject to change. For example, points awarded under §11.9(e)(2) "Cost of Development per Square Foot" and §11.9(e)(4) "Leveraging of Private, State, and Federal Resources" may be adjusted should the underwriting review result in changes to the Application that would affect these scores. Likewise, if an Application was awarded points under §11.9(d)(2) "Commitment of Development Funding by Local Political Subdivision" and should that Application receive an award of tax credits, the Applicant must provide a firm commitment of funds as a condition of the Commitment Notice. Applicants may substitute qualifying sources only if no points were elected under §11.9(d)(2)(C). If a scoring adjustment is necessary, staff will provide the Applicant a revised scoring notice.

Be further advised that if the Applicant failed to properly disclose information in the Application that could have a material impact on the scoring information provided herein, the score included in this notice may require adjustment and/or the Applicant may be subject to other penalties as provided for in the Department's rules.

This preliminary scoring notice is provided by staff at this time to ensure that an Applicant has sufficient notice to exercise any appeal process provided under §10.902 of the Uniform Multifamily Rules. All information in this scoring notice is further subject to modification, acceptance, and/or approval by the Department's Governing Board.



MULTIFAMILY FINANCE PRODUCTION DIVISION
Housing Tax Credit Program - 2014 Application Round
Scoring Notice - Competitive Housing Tax Credit Application

Page 2 of Final Scoring Notice: 14175, Liberty Square and Liberty Village

Section 1:

Score Requested by Applicant (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	128
Score Awarded by Department staff (Does not include points for §11.9(d)(1)(4), (5), or (6) of the 2014 QAP):	121
Difference between Requested and Awarded:	7

Section 2:

Points Awarded for §11.9(d)(1) Local Government Support:	17
Points Awarded for §11.9(d)(4) Quantifiable Community Participation:	4
Points Awarded for §11.9(d)(5) Community Support from State Representative:	8
Points Awarded for §11.9(d)(6) Input from Community Organizations:	4

Section 3:

Points Deducted for §11.9(f) of the QAP or §10.201(7)(A) of the Uniform Multifamily Rules:	0
--	---

Section 4:

Final Score Awarded to Application by Department staff:	154
--	------------

Section 5:

Explanation for Difference between Points Requested and Points Awarded by the Department as well as penalties assessed:

§11.9(e)(2) Cost of Development per Square Foot. The Hard Costs and acquisition costs in Eligible Basis are less than \$130 but more that \$100 per square foot. (Requested 12, Awarded 11)

§11.9(e)(3) Pre-Application Participation. The pre-application and full application were not participating in the same set-asides. The full application is not eligible to participate in the USDA set-aside which was indicated at pre-application. (Requested 6, Awarded 0)

Restrictions and requirements relating to the filing of an appeal can be found in §10.902 of the Uniform Multifamily Rules. If you wish to appeal this scoring notice, you must file your appeal with the Department no later than 5:00 p.m. (CST), Thursday, May 15, 2014. If an appeal is denied by the Executive Director, an Applicant may appeal to the Department's Board.

In an effort to increase the likelihood that Board appeals related to scoring are heard at the Board meeting, the Department has provided an Appeal Election Form for all appeals submitted to the Executive Director. In the event an appeal is denied by the Executive Director, the Applicant is able to request that the appeal automatically be added to the Board agenda.

If you have any concerns regarding potential miscalculations or errors made by the Department, please contact Kathryn Saar at (512) 936-7834 or by email at <mailto:kathryn.saar@tdhca.state.tx.us>.

Sincerely,

Jean Latscha

Jean Latscha
 Director of Multifamily Finance

Groesbeck Housing Development, LP

1935 Airline Drive, #200
Bossier City, LA 71112
(318) 226-1411 – Telephone No.
(318) 213-1090 – Facsimile No.

May 15, 2014

Mr. Tim Irvine, Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

RE: #14175 Liberty Square and Liberty Village, Groesbeck, Texas;
Appeal of denial of 6 points for Pre-Application Participation under §11.9(e)(3).

Dear Mr. Irvine:

This letter appeals the determination that Liberty Square and Liberty Village (collectively, the “Project”) did not qualify for six (6) Pre-Application Participation points because the Pre-Application and the Application were not filed in the same set-asides. The Pre-Application was filed in the At-Risk Set-Aside and the USDA Set-Aside, as shown in the Set-Aside Election from the Pre-Application, a copy of which is attached as **Exhibit 1**. The Applicant additionally checked the block to evidence their understanding that in order for the full Application to qualify for Pre-Application Participation points, the set-asides cannot be dropped or added between pre-application and full application submission. Please note that this form contained an “Optional” opportunity to provide documentation evidencing eligibility to compete in any set-aside in the Pre-Application, but no review of the documentation was guaranteed and the applicant did not choose to provide any documentation at Pre-Application.

The Application qualifies for the At-Risk Set-Aside on the basis of the Project being a rehabilitation of housing units that are owned by a Public Housing Authority and received assistance under Section 9 and also on the basis of HUD Rental Assistance Demonstration Program funding (currently waiting on the Attorney General Opinion). Documentation to this effect was provided under Tab 20 of the Application and, to the best of our knowledge, the Project’s qualification for the At-Risk Set-Aside has not been questioned. The Project also qualifies for the USDA Set-Aside on the basis of a part of the construction and permanent financing from Amegy Bank being funding of \$100,000 in working capital under the USDA’s Business and Industry Loan Program. Amegy Bank is an USDA approved Business and Industry Loan Program lender. The fact that this USDA element was included within the bank’s term sheet is further discussed below.

We think that both Set-Asides selected in the Pre-Application are selected and qualified for in the Application. The basis of this conclusion is the following:

1. The Application was filed in the same set-asides. Please review **Exhibit 2**, which is a copy of page 114 of the Application. The selection of both the At-Risk Set-Aside and the USDA Set-Aside is highlighted, along with the statement confirming that the applicant is applying for those set-asides and to the best of the applicant's knowledge and belief, the Applicant entity has met the requirements that make this Application eligible for these Set-Asides and Allocations and will adhere to all requirements and eligibility standards for the selected set-asides.

2. TDHCA Application requirements do not require evidence of meeting the USDA Set-Aside requirements. After receiving the Scoring Notice for the Project, when we went looking for where the USDA evidence should have been in the Application, we found that there is no spot in the Application that calls for evidence of USDA financing in order to meet set-aside requirements:

- A. The selection of the USDA Set-Aside must be made in Tab 17 (see **Exhibit 1**). No support documentation is required.
- B. The USDA Set-Aside is only referenced in three other places in the Application form:
 - (1) Tab 31 where the type of Debt or Equity Financing is identified via pull-down menu (discussed further in Paragraph 8 below);
 - (2) Tab 32, where a statement is made that the Tab, which relates to HOME allocations (not applicable here), does not apply if there is also USDA-515 financing; and
 - (3) Tab 47, where it states that a project with USDA financing is not required to provide an Environmental Site Assessment.
- C. The Application Templates do not reference USDA at all.

3. The QAP only mentions USDA in 10 places. A global computer search for the word "USDA" as used in the 2014 QAP only shows 10 places where the term is used, and none of them indicate what evidence of qualification for the USDA Set-Aside is to be provided.

4. The Rules only mention USDA in 13 places. A global computer search for the word "USDA" as used in the 2014 Uniform Multifamily Rules only shows 13 places where the term is used, and none of them indicate what evidence of qualification for the USDA Set-Aside is to be provided. Most of the references in the Rules are to exclude applications with USDA financing from various requirements (relating to Rehabilitation in 100-year flood plains; undesirable site features; dishwashers; Environmental Site Assessments; Market Analysis; Property Condition Assessment; age of appraisal; extension fees). Nowhere is there a description of anything that should be included in the application to evidence qualification for the Set-Aside.

5. The Procedures Manual mentions USDA in 8 places. A global computer search for the word “USDA” as used in the 2014 Multifamily Programs Procedures Manual shows only 8 references, and again they all deal with Tabs 31, 32 and 47, as discussed in #2 above.
6. The 2014 FAQs do not mention USDA at all. A global computer search shows that “USDA” is not mentioned in the Frequently Asked Questions published by the TDHCA for 2014.
7. At-Risk Set-Aside and Nonprofit Set-Aside documentary requirements are specified in Application; USDA Set-Aside is not. The At-Risk Set-Aside documentation is required in Tab 20, and the Applicant provided that information. Nonprofit Set-Aside documentation is required in Tab 40, but none was provided in the Application because the Application was not filed under the Nonprofit Set-Aside. The requirement that qualification for the USDA Set-Aside be documented is not included anywhere.
8. Tab 31 - Sources and Uses funding description. In the Application form, Tab 31 provides a pull-down menu from which the types of Debt and Equity financing are to be selected. The selections for each include the following options:
 - A. Conventional Loan;
 - B. Conventional/FHA;
 - C. Conventional/Letter of Credit;
 - D. Tax Exempt Bonds-Other Issuer;
 - E. Housing Trust Fund;
 - F. CDBG;
 - G. USDA/TXRD Loan(s);
 - H. Federal Loan;
 - I. State Loan;
 - J. Local Government Loan; and
 - K. Private Loan.

In our Application the USDA financing is shown as being provided by Amegy Bank as part of its \$5,600,000 construction financing. As shown on Exhibit 3, Amegy Bank is an authorized USDA Texas Business and Industry (B&I) Lender. The proposed USDA financing is to be part of the total construction financing package provided by Amegy Bank. The construction and permanent financing term sheet from Amegy Bank that was included in the Application at Tab 35 did not specifically call out the source of the \$100,000 USDA B&I funding, since this was not stated to be a requirement. When the source was referenced in the Sources and Uses form, the Applicant identified the financing as a “Conventional Loan” because the vast majority of the funds were conventional, and there was no “Other” selection which could indicate a mixed funding source. At our request, Amegy Bank has revised its term sheet to specifically reference that the \$5,600,000 total funding consists of a \$5,500,000 component which will

be straight construction financing, and a \$100,000 component which will be for working capital under the USDA's B&I Program. Please see Exhibit 4.

9. Applicant met requirements of Section 2306.111(d-2) of the Texas Government Code. Section 11.5(2) of the QAP states that Applications in the USDA Set-Aside must meet the requirements of Section 2306.111(d-2) of the Texas Government Code. This section excludes from the USDA Set-Aside any application that is funded wholly or in part under Section 538 of the Housing Act of 1949 (42 U.S.C. Section 1490p-2), unless it is a development that received and will continue to receive as part of the financing federal financial assistance provided under Section 515 of the Housing Act of 1949 (42 U.S.C. Section 1485). The Project does not include financing under Section 538, and therefore is in compliance with this statutory requirement for the USDA Set-Aside.

10. Applicant provided maps showing that the Project site qualifies for USDA assistance. As part of the Administrative Deficiency process, the Applicant was asked to "Provide evidence that the development qualifies for the USDA set-aside or revise section 5 of the Development Narrative to change the set-aside. (6 points)". The map attached as Exhibit 5 was provided showing that Groesbeck is an eligible area for USDA funding, and therefore the Project qualifies for the USDA set-aside. In a subsequent discussion with Jean Latsha, it was suggested that since the Application did not show financing by the USDA, it was going to be treated as not complying with the set-aside. The Applicant's representative requested the time to locate persons who were out of town in order to provide evidence of the USDA financing, but was told that the Administrative Deficiency had already been forwarded for supervisory review, and that if set-aside deficiencies were noted in that review, then there would be an opportunity to provide such evidence of financing source. On supervisory review, however, there were no issues raised about the USDA Set-Aside, and we believed that the maps had resolved the matter. The next indication that the issue remained open was the Scoring Notice evidencing that the Pre-Application Participation points had been denied because qualification for the USDA Set-Aside had not been proven.

In summary, the Application contains a representation that the Applicant was applying under the USDA Set-Aside (Tab 17). The construction and permanent financing term sheet from Amegy Bank contains a component of USDA financing, since Amegy Bank is an approved USDA lender. The initial term sheet did not separately indicate the source of any of the proposed funding, but at our request, Amegy Bank has provided a revised term sheet that evidences \$100,000 of the total \$5,600,000 in financing is to be from the USDA's Business & Industry Loan Program. In Tab 31, where the source of debt financing is to be shown, the Amegy Bank debt was characterized as "Conventional Loan" because the great majority of the loan was to be made with conventional private funds, and it would have been inappropriate to characterize it as a "USDA/TXRD Loan," given that there was no opportunity to characterize a loan as "Other" or show a mixture of types of funds. In the resolution of the Administrative Deficiency relating to the USDA Set-Aside, the Applicant offered to provide evidence that USDA funds were one source of the construction financing, but was told to wait until the supervisory review process produced another

Tim Irvine
Executive Director
Texas Department of Housing and Community Affairs
May 15, 2015
Page -5-

deficiency regarding the source of financing. The deficiencies from the supervisory review, however, did not relate to the USDA Set-Aside, so that opportunity was not made available to the Applicant.

In view of the fact that the Application provided all evidence of Set-Asides that was requested in the Application, and that had supporting documentation been requested for the USDA Set-Aside, the Applicant could have provided it, we request that you reinstate the six points for Pre-Application Participation that have been denied.

Thank you for your attention to this appeal. If the appeal is not granted on the Executive Director level, then we do wish to carry this appeal to the TDHCA Board.

Sincerely,

Groesbeck Housing Development, LP
Groesbeck Housing GP, LLC, general partner

By: Housing Solutions Alliance, LLC

By: Micah Strange
Name: Micah Strange
Title: Member

Enclosures

cc: Donna Rickenbacker
Barry Palmer
Tamea A. Dula

EXHIBIT 1

Pre-Application Set-Aside Election

7. Set-Aside Election

By checking this box I (we) confirm that this application is being submitted under the Non-Profit Set-Aside .

By checking this box I (we) confirm that this application is being submitted under the At-Risk Set-Aside .

By checking this box I (we) confirm that this application is being submitted under the USDA Set-Aside .

I (we) understand that, in order for any full Application to qualify for pre-application participation points, that set-asides cannot be dropped or added between pre-application and full application submission

OPTIONAL: Documentation evidencing that the application is eligible to compete in any set-asides elected above is included behind this tab. I understand that submission of documentation does not guarantee staff review before full application submission and that this documentation will still be required at full application.

EXHIBIT 2

Application Set-Aside Election

5. Funding Request:

Complete the table below to describe this Application's funding request.

Department Funds applying for with this Application	Requested Amount	If funds will be in the form of a Direct Loan by the Department or for Private Activity Bonds, the terms will be:		
		Interest Rate (%)	Amortization (Years)	Term (Years)
TDHCA HOME				
CHDO Operating Expense				
Housing Tax Credits	\$ 720,536			
Private Activity Mortgage Revenue				
Neighborhood Stabilization Program				

6. Set-Aside (For Competitive HTC & HOME Applications Only)

Identify any and all set-asides the application will be applying under.

Set-Asides can not be added or dropped from pre-application to full Application for Competitive HTC Applications.

Competitive HTC Only				HOME Only			
At-Risk	Nonprofit		USDA	CHDO		Persons w/Disabilities	
X			X				

By selecting the set-aside above, I, individually or as the general partner(s) or officers of the Applicant entity, confirm that I (we) are applying for the above-stated Set-Aside(s) and Allocations. To the best of my (our) knowledge and belief, the Applicant entity has met the requirements that make this Application eligible for this (these) Set-Aside(s) and Allocations and will adhere to all requirements and eligibility standards for the selected Set-Aside(s) and Allocations.

7. Previously Awarded State and Federal Funding

Has this site/activity previously received or applied for TDHCA funds? No

If "Yes" Enter Project Number: _____ and TDHCA funding source: _____

Has this site/activity previously received non-TDHCA federal funding? No

Will this site/activity receive non-TDHCA federal funding for costs described in this Application? Yes

8. Qualified Low Income Housing Development Election (HTC Applications only)

Pursuant to §42(g)(1)(A) & (B), the term "qualified low income housing development" means any project or residential rental property, if the Development meets one of the requirements below, whichever is elected by the taxpayer." Once an election is made, it is irrevocable. Select only one:

- At least 20% or more of the residential units in such development are both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income, adjusted for family size.
- At least 40% or more of the residential units in such development are both rent restricted and occupied by individuals whose income is 60% or less of the median gross income, adjusted for family size.

EXHIBIT 3

Listing of Authorized USDA Texas Business and Industry (B&I) Lenders

(Includes Amegy Bank)



Texas Business & Industry (B&I) Lenders

LENDER	CONTACT	PHONE	ADDRESS	CITY	STATE	ZIP CODE	E-MAIL ADDRESS
Ameqy Bank	Gary Justice	(713) 232-3310	2277 Plaza Dr., Suite 100	Sugarland	TX	77479	gary.justice@ameqybank.com
Sage Capital Bank	J. M. Rankin, III	(830) 672-8585	1606 N. Sarah DeWitt Drive	Gonzales	TX	78629	trankin@americannationalbank.net
American State Bank	Gary Galbraith	(325) 794-1000	402 Cypress Street	Abilene	TX	79604	garyg@asbonline.com
Ameristate Bank	Joe Geisler	(903) 813-4700	2410 N Loy Lake Road	Sherman	TX	75090	
Brady National Bank	Terry Keltz, President	(325) 597-2104	P. O. Box 111	Brady	TX	76825	btk@bradynationalbank.com
Bridgeview Capital Solutions	John J. Seimetz	(404) 267-1177	5881 Glenridge Drive, Suite 130	Atlanta	GA	30328	john.seimetz@bridgeviewbank.com
Wells Fargo Bank	Joe Nichols	(903) 838-5505	2900 St. Michael Drive	Texarkana	TX	75503	jnichols@centurybank.com
CoBank	Clint Cryer	(806) 785-2577	P.O. Box 6770	Lubbock	TX	79414	ccryer@cobank.com
Comanche National Bank	Jeff Stewart	(325) 356-2577	P.O. Box 91	Comanche	TX	76442	
Commercial State Bank	Joe R. Grist, Jr.	(432) 523-3440	200 S. Main Street	Andrews	TX	79714	joe@csbandrews.com
Community South Bank	Jana Rouble	(214) 732-9952	9330 LBJ, Suite 75243	Dallas	TX	75243	jrouble@communitysouthlending.com
Enterprise Bank	James Hudson	(254) 583-4606	P. O. Box 559	Rosebud	TX	76570	ljpinkin@mybank-enterprise.com
Triumph Savings Bank, SSB	Joel Shaddox	(214) 231-4618	5220 Spring Valley Road - Suite 415	Dallas	TX	75254	RHolmes@theequitybank.com
Excel National Bank	Debbie Polo	(951) 252-8389	43385 Business Park Drive, Ste 200	Temecula	CA	92590	dpolo@bankexcel.com
Falcon International Bank	Woody Hyslop	(830) 773-0295	476 S Bibb Ave.	Eagle Pass	TX	78852	
First Bank & Trust of Memphis	Bernie Tapp	(806) 331-3142	6900 I-40 W., Ste. 125	Amarillo	TX	79106	
First Community Bank, N.A.	Darla Newby	(972) 407-5418	17120 N. Dallas Parkway, Suite 101	Dallas	TX	75248	darla.newby@firstcommunitybank.net
First Financial Bank	Steve Simms	(940) 627-1222	1415 S. FM 51	Decatur	TX	76234	dreeves@firstfinbank.com
First Heritage Capital	Steve Apodaca	(305) 773-2145		Las Cruces	NM	88001	sapodaca@firstheritagecapital.com
American First National Bank	Bruce Chang, President	(713) 596-2831	1912 Avenue K	Plano	TX	75074	
First National Bank of Conroe	Terry Doak	(936) 525-2219	P.O. Box 1280	Conroe	TX	77305	
First Nat'l Bank of Eagle Lake	Sam Kana	(979) 234-5591	100 Commerce Street	Eagle Lake	TX	77434	skana@fnbeaglelake.com
First State Bank	Melissa Etheredge	(830) 608-0233	401 Main Plaza	New Braunfels	TX	78130-5137	
Great Plains National Bank	Terry Shelby	(580) 688-3323	P.O. Box 473	Hollis	OK	73550	tselby@qpnbank.net
Heritage Land Bank	Robert Echols	(903) 534-4975	4608 Kinsey Dr., Ste 100	Tyler	TX	75703	
International Bank of Commerce	Ramón Salinas Jr.	(830) 773-2313	2395 Main Street	Eagle Pass	TX	78852	RSALINAS2@ibc.com
My Lubbock Bank	Mike Hensley	(806) 798-9700	5701 82nd St.	Lubbock	TX	79424	
Omni Bank	Curtis Wren	512-231-5000	3901-A Spicewood Springs	Austin	TX	78759	
One World Bank	Don Johnson	(972) 243-7775	2449 Walnut Lane	Dallas	TX	75229	don.johnson@oneworldbank.com
Plains State Bank	Kevin Coffman	(713) 559-6800	9688 FM 1960 Bypass West	Humble	TX	77338	kcoffman@psbplains.com
Prosper Bank	Larry Miller	(469) 952-5519	P.O. Box 10	Prosper	TX	75078	LMiller@bankprosper.com
Ridgestone Bank	Eric Manke	(262) 860-2090	13925 W North Ave	Brookfield	WIS	53005	ermanke@ridgestone.com
Southwest Securities, FSB	Mary Worthington	(817) 375-4696	310 Center Street	Arlington	TX	76010	maw@swst.com
State Bank	Beverly A. Lane	(936) 825-7030	1862 Rock Prairie	College Station	TX	77845	blayne.sbalender@hughes.net
Stearns Bank	Tom Ethan	(800) 320-7262	4191 2nd Street, South	St. Cloud	MN	56301	sued@stearns-bank.com
Stillwater National Bank	Hal Fudge	(405) 742-1886	Sixth & Main Street	Stillwater	OK	74076	
Synergy Bank	J. Douglas Sanders	(972) 529-3316	8951 Synergy Drive	McKinney	TX	75070	Dsanders@SynergyBank.com
Texas Bank	Greg Dodds	(325) 649-9204	P. O. Box 1429	Brownwood	TX	76804	greg.dodds@texbank.com
Texas Community Bank & Trust	Wayne Spencer	(214) 363-5444	8235 Douglas Avenue	Dallas	TX	75225	wayne@txcommunity.com
BBVA Compass Bank	Sharon McGhee, EVP	(956) 926-7566	P. O. Box 4797	McAllen	TX	78502	Sharon.McGhee@BBVACompass.com
First National Bank of Beeville	Dudley Thomas	(361) 358-1530	1400 E Houston	Beeville	TX	78104	dthomas@fnbotx.com
The Huntington National Bank	Melissa Jenkins	(614) 331-7217	7 Easton Oval, (EA5W29)	Columbus	OH	43219	Melissa.Jenkins@huntington.com
United Central Bank	Syed Wagar Ahmed	(972) 485-7258	4555 W Walnut	Garland	TX	75042	
United Community Bank	Mary Frosto	(972) 317-9935	2100 FM 407	Highland Village	TX	75077	
First Citizens Bank	Wanda Smith	(720) 956-6500	700 17th Street, Ste 1000	Denver	CO	80201	
UPS Capital	Michael Signorelli	(214) 763-5069	11620 Goodnight Lane, Suite 100	Dallas	TX	75229	mxsignorelli@ups.com
Valliance Bank	Robby Harrison	214-544-2409	2251 W Eldorado Parkway	McKinney	TX	75070	robbyh@TexasVBank.com
Western Commerce Bank	Mike Hoyl	(575) 397-3281	P.O. Box 700	Hobbs	NM	88240	mhoyl@wcb.net

This is not an all inclusive list of Guaranteed Business and Industry Lenders in Texas. This list includes the most active lenders for this program in Texas.

EXHIBIT 4

Amegy Bank Term Sheet Showing USDA Component



Sara J. Hutchinson
 Vice President
 4576 Research Forest Drive
 The Woodlands, TX 77381

Via: E-Mail

February 26, 2014
Revised May 12, 2014

Groesbeck Housing Development, LP
 c/o Art Schuldt, Jr.
 Housing Solutions Alliance, LLC
 1935 Airline Drive, #200
 Bossier City, LA 71112

RE: Liberty Square and Liberty Village, Groesbeck, TX

Dear Mr. Schuldt,

Amegy Bank National Association ("Lender") is interested in providing financing for the Property, as described below. Based on our discussions and the information you have presented to us, I am pleased to present the following "Term Sheet" as a preliminary outline of financing for your consideration. This Term Sheet is not an offer or commitment to lend but is a working outline intended to facilitate our further discussions and, therefore, remains subject to modification. In this regard, I present the following proposed loan terms for your consideration:

General Information

- Borrower:** Groesbeck Housing Development, LP, a to be formed single asset entity (the "Borrower"). Groesbeck Housing GP, LLC will be general partner of the Borrower.
- Property:** An 80 unit scattered site multifamily rental housing development project to be acquired and rehabilitated in Groesbeck, Limestone County, Texas (the "Property").
- Purpose:** To provide a "Mortgage Loan" for construction and permanent financing of a scattered site multifamily rental housing development and related facilities and improvements.
- Security:** A valid, first lien encumbering the Property along with an assignment of the plans, specs, equity contributions, leases, rents, architect/engineering contracts, construction contracts, licenses, permits, and other agreements.
- Recourse:** Full recourse to the Borrower. Groesbeck Housing GP, LLC and Housing Solutions Alliance, LLC, (the "Guarantors" and referred to individually as a "Guarantor") must sign a full unconditional joint and several guaranty at closing. Upon satisfying the requirements for Amortization Commencement, as outlined in this Term Sheet, the Mortgage Loan will convert to a non-recourse loan and the guaranty

shall become limited to certain circumstances occurring, such as fraud, misrepresentation, environmental issues, bankruptcy, etc.

Loan Terms

- Construction Loan Amount:** The Mortgage Loan will be in an amount equal to the lesser of (a) \$5,500,000, (b) 80% of the Property's appraised value, as completed (including the value of the tax credits), based upon Lender's review of an approved third party appraisal, or (c) 80% of the total project cost. The Mortgage Loan amount is based upon a total project cost of \$8,831,580. The Loan Agreement will require Lender's approval of, among other things, the project budget as a condition to Lender's obligations thereunder.
- Permanent Loan Term Amount:** The "Permanent Loan Term Amount" is estimated to be \$1,358,885. The Permanent Loan Term Amount may not exceed 80% of the Property's appraised value "as stabilized" assuming restricted rents based upon Lender's review of a third party appraisal, with a minimum underwritten debt service coverage ratio of 1.20 to 1 at project completion and stabilization based upon an underwritten interest rate of 7.0% with a 30 year amortization.
- Equity Investment:** \$6,304,059 or such other amount acceptable by Lender, by tax credit investors acceptable to Lender. If at any time during the Loan Term Lender determines that the portion of the Loan Amount not yet advanced is insufficient to complete the remaining construction work due to an increase in the total project cost, Borrower will be required to contribute additional equity equal to the shortage prior to Lender advancing additional loan proceeds.
- Equity installments will be used to fund development costs and/or pay down the Mortgage Loan to the Permanent Loan Term Amount.
- Secondary Financing:** As a USDA approved Business and Industry Loan Program lender, Lender will provide a \$100,000 Working Capital loan to Borrower under the B & I Loan program. (the "Secondary Loan"). It is anticipated the rate on this loan will be 7% fixed, interest only, with a two year term. This loan is subject to normal USDA underwriting guidelines under this program. Proceeds of the Secondary Loan will be disbursed to Borrower to pay for construction cost included in the approved project budget.
- Interest Rate:** The Interest Rate during the construction period will be based upon 275 basis points above the 30-day LIBOR with a floor of 4%.
- The Interest Rate during the permanent loan term shall be fixed at a rate equal to the rate on the FHLB CIP 10 year Term/30 Year Amortization Rate plus 2.90%, which shall be set at closing. Currently underwritten at a rate of 7.0%.
- Loan Term:** The term for the Mortgage Loan will be 20 years. (24 months for the construction period and 18 years for the permanent period)

Loan closing shall occur on or before November 30, 2014 or this Term Sheet will become null and void.

- Loan Payments:** Monthly payments for the Mortgage Loan will be interest only for the first 24 months, thereafter converting to principal and interest payments based upon a 30 year amortization period.
- Amortization Commencement:** "Amortization Commencement" is the date that the Mortgage Loan begins amortization which occurs after (1) completion of the Project, (2) principal balance of the Mortgage Loan reduced to the Permanent Loan Term Amount, (3) Project occupancy of 90% for 90 days, (4) operating performance at a debt coverage ratio of no less than a 1.20 to 1 for 90 days and (5) satisfaction of the limited partnership requirements. Amortization Commencement is not to occur later than 24 months from loan closing. The debt coverage ratio calculation will include principal, interest, operating expenses, any and all taxes payable, insurance and replacement reserves, and use the actual rate locked at closing and a 30 year amortization.
- Construction Completion:** Project construction must be completed within 14 months of loan closing.
- Construction Contract:** Borrower must provide one or more, fixed cost construction contract(s) for an aggregate cost consistent with the budget approved by Lender. Lender must approve the financial condition of the Contractor(s) to determine if any bonding will be required. Any lien rights of the Contractor(s) shall be subordinate to liens of the Lender.
- Advances:** Project costs will first be funded from the equity deposited with Lender (as it is funded), second from the proceeds of the Groesbeck Housing Authority and third from the proceeds of the Mortgage Loan. None of the proceeds of the Mortgage Loan will be made available to Borrower unless and until the entire amount of the first equity payment has been deposited with Lender and disbursed to Borrower in accordance with the terms of the Loan Agreement, with the exception of \$1,000 advanced at loan closing to prime the Lender's lien. Construction draws can be submitted for consideration by Lender on monthly basis. All advances are subject to the terms of the Loan Agreement and other loan documents which use percentage of completion with a 10% retainage (except for materials) for determining each advance.
- Developer Fees & Overhead:** Developer fees and overhead may not be funded until satisfying the following conditions: (a) completion of construction of the Property, (b) 90% occupancy for 90 days, (c) reduction of the Mortgage Loan to the Permanent Loan Term Amount, and (d) operating performance at a debt coverage ratio of no less than a 1.20 to 1.
- Notwithstanding the foregoing, \$37,733 of the developer fee may be paid over the course of the 24 month construction term. The remaining developer fee is deferred until Amortization Commencement.
- Inspections:** An independent inspection firm will verify draw requests involving hard construction costs. The cost of the inspections will be paid for by the Borrower. Any testing reports that the Borrower receives during

construction should be forwarded to Lender so these reports can be provided to Lender's inspecting engineer.

Prepayment:

The Mortgage Loan may be prepaid at any time subject to a "Prepayment Penalty", which shall be based on the following options:

- (a) 1st Year of Mortgage Loan – 5%
 2nd Year of Mortgage Loan – 4%
 3rd Year of Mortgage Loan – 3%
 4th Year of Mortgage Loan – 2%
 5th Year of Mortgage Loan – 1%
 6th Year of Mortgage Loan and thereafter– 0%, or
- (b) If at closing the Borrower pays an additional 0.25% origination fee or if an additional 10 basis points is added to the Interest Rate, the prepayment penalty will be:
 1st Year of Mortgage Loan – 3%
 2nd Year of Mortgage Loan – 2%
 3rd Year of Mortgage Loan – 1%
 4th Year of Mortgage Loan and thereafter – 0%, or
- (c) If at closing the Borrower pays an additional 0.50% origination fee or if an additional 15 basis points is added to the Interest Rate, there will not be any prepayment penalty during the term of the Mortgage Loan.

Notwithstanding the foregoing, the Mortgage Loan balance may be reduced by up to 10%, without penalty, if at Amortization Commencement a principal reduction is required to meet debt service requirements.

15 Year Feasibility:

Lender has received and reviewed the 15 year pro forma for the Liberty Square and Liberty Village developments located in Groesbeck, Texas. The attached pro forma, which has been prepared and executed by an authorized representative of Amegy Bank projects total operating expenses, net operating income, and debt service for the first year of stabilized operations based on preliminary information provided by the Borrower.

The attached pro forma indicates that the development would maintain no less than a 1.15 debt coverage ratio throughout the initial fifteen years. These projections, which indicate that the development is expected to be feasible for 15 years, are made based upon the preliminary information provided by the Borrower to this point, and are subject to Amegy Bank's due diligence review.

Credit Worthiness of Principals:

Amegy Bank has performed a preliminary review of the credit worthiness of Groesbeck Housing Development, LP, Groesbeck Housing GP, LLC and Housing Solutions Alliance, LLC. At this time Amegy Bank has no reservations with any of the Principals of the Borrower.

Funds and Accounts

- Tax and Insurance Escrow:** An escrow account will be required for real estate taxes, assessments and insurance premiums commencing on the 25th month of the Loan Term.
- Capital Improvement Reserve:** The Lender will establish a designated escrow account for the Capital Improvements Reserve. Borrower shall make monthly deposits to said account in the amount of \$2,000 per month for replacement items. Monthly deposits will commence on the same date as the commencement of monthly deposits for the Tax and Insurance Escrow.
- Reserves:** An Operating Reserve must be included in the development budget equal to \$175,150 for future operating deficits after Amortization Commencement.

Deposits and Fees

- Expense Deposit:** An Expense Deposit estimated at \$7,500 will be required by Lender prior to ordering any of the required third party reports. This amount is estimated by Lender to be sufficient to obtain the appraisal and engineering reports required by Lender. In the event the costs for obtaining the reports are in excess of the initially collected Expense Deposit, Borrower agrees to pay such excess amount. Lender will pay for such expenses from this deposit and return to Borrower one week after closing any balance remaining after payment of all expenses.
- Origination Fee:** Borrower agrees to pay to Lender a non-refundable "Origination Fee" in an amount equal to 1% of the Mortgage Loan amount at closing.
- Legal Fees:** Borrower agrees to pay Lender's legal fees incurred in connection with the preparation and negotiation of the loan documents.
- Broker Fees:** It is Lender's understanding that no mortgage broker is involved in this transaction. No broker's fees will be paid by Lender or from any fees due Lender.

This letter is provided as an outline of terms only and is not to be considered a commitment by Lender to lend at a contract rate of interest. Any commitment by Lender is subject to further due diligence, including but not limited, to the following:

- the receipt, review and acceptance of an appraisal to be commissioned by Lender,
- the receipt, review and acceptance of an environmental report,
- the receipt, review and acceptance of the plans, specifications, and the project budget,
- a review of the apartment market in Groesbeck, Limestone County, Texas,
- verification of the source of the Equity Investment,
- evidence of permissive zoning, adequacy of parking, evidence of utility availability, flood zone determination, and copies of any necessary construction permits,
- acceptability of the financial condition, credit worthiness and references of the Borrower, each Guarantor, and each contractor with no material change in the information prior to closing, and
- the review and final approval by the loan committee of Lender.

By executing this letter, you agree (a) to indemnify and hold harmless Lender and its affiliates and their respective officers, directors, employees, advisors, and agents from and against any and all losses, claims, damages and liabilities to which any such indemnified person may become subject arising out of or in connection with its issuance of this letter, and to reimburse each indemnified person upon demand for any legal or other expenses incurred in connection with investigating or defending any of the foregoing.

I am pleased to offer the above terms for your consideration. I will need a payment for the Expense Deposit discussed above to begin the review process for this loan. Please call me if you have any questions or need further assistance. Again, thank you for this opportunity to serve your financing needs.

Sincerely,



Sara Hutchinson

The above described terms are agreeable and accepted by:

Groesbeck Housing Development, LP
Groesbeck Housing GP, LLC, general partner
By: Housing Solutions Alliance, LLC



Name: Art Schuldt, Jr.

Title: MEMBER

EXHIBIT 5

Maps Showing Areas Qualified to Receive USDA Financing

(Groesbeck is an Eligible Area)

US Department of Agriculture, Rural Development Initial Eligibility Determination

Matched Address

Groesbeck, TX

This address located in an eligible area.

* Keep in mind that this is only an initial determination on the eligibility of your address. There are other eligibility factors for this program which cannot be confirmed through this tool.

User Entered Point:



User Located

Latitude
31.52420997619629
Longitude
-96.53434753417969

This address located in an eligible area for properties in the US

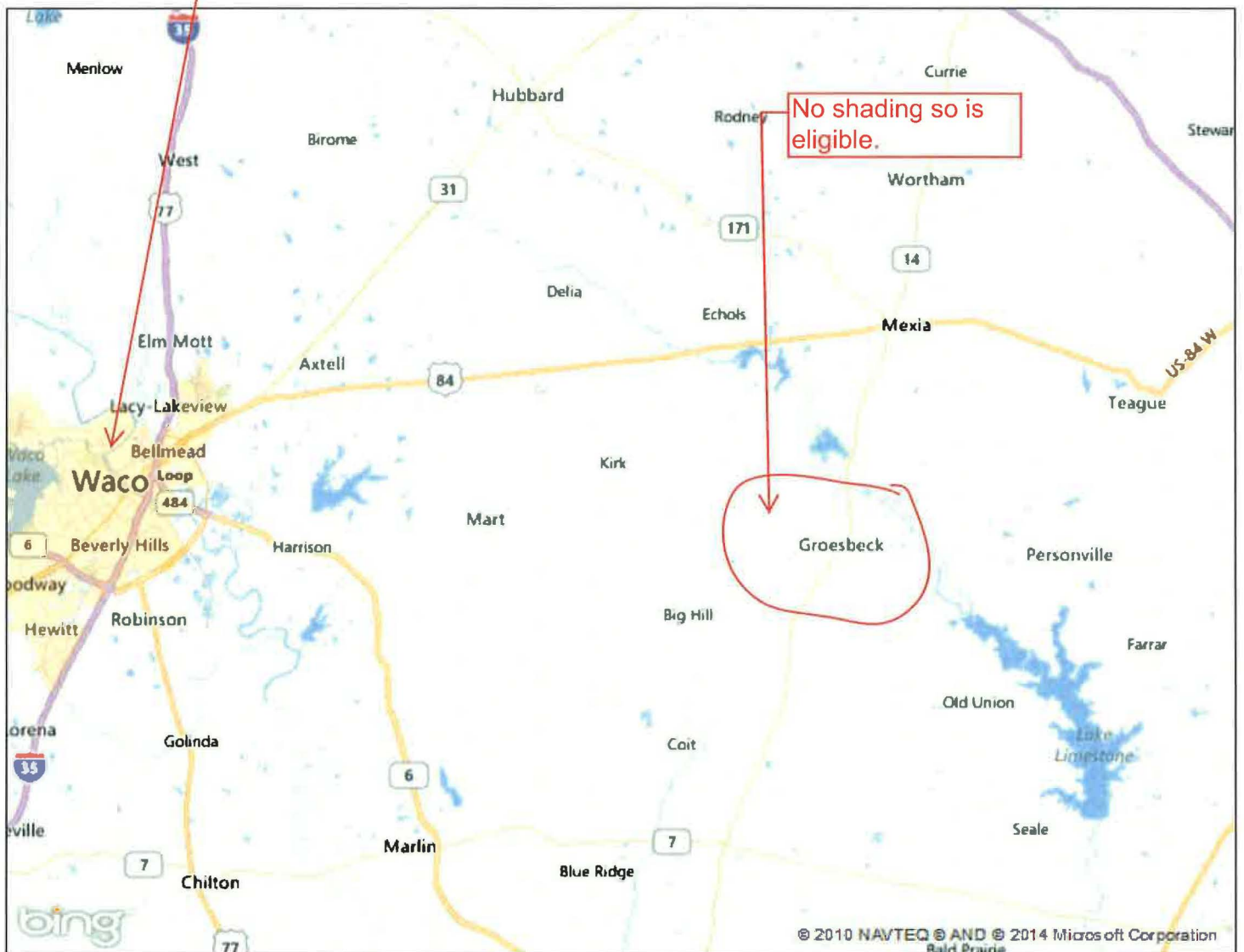
Legend



Ineligible Area

Ineligible area.

No shading so is eligible.





US Department of Agriculture, Rural Development Initial Eligibility Determination

Committed to the future of rural communities.



Matched Address

Groesbeck, TX

This address located in an eligible area.

* Keep in mind that this is only an initial determination on the eligibility of your address. There are other eligibility factors for this program which cannot be confirmed through this tool.

User Entered Point:



User Located

Latitude

31.52420997619629

Longitude

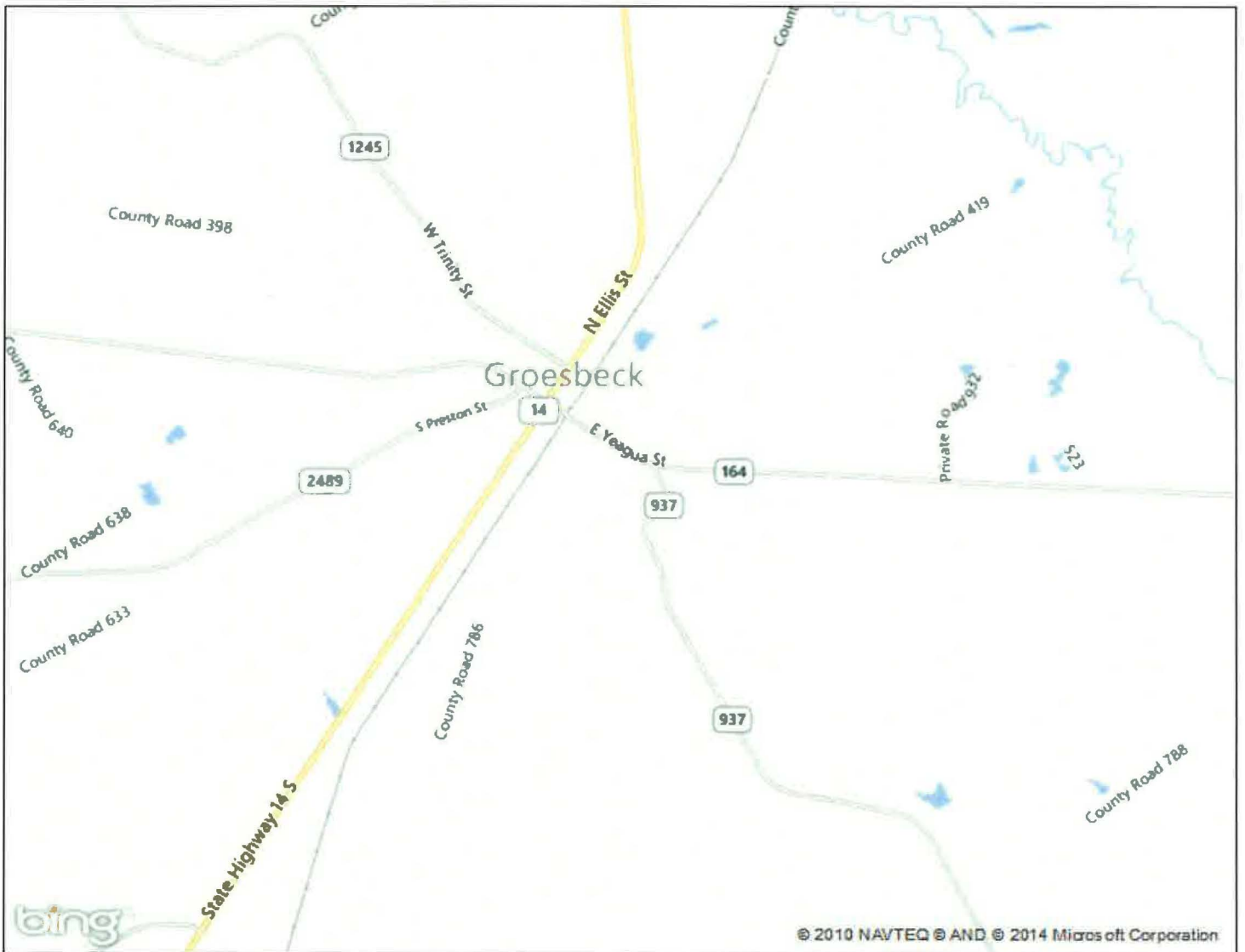
-96.53434753417969

This address located in an eligible area for properties in the US

Legend



Ineligible Area





TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Rick Perry
GOVERNOR

BOARD MEMBERS
J. Paul Oxer, *Chair*
Juan S. Muñoz, PhD, *Vice Chair*
Leslie Bingham-Escareño
Tom H. Gann
J. Mark McWatters
Robert D. Thomas

May 22, 2014

Writer's direct phone # 512.475.3296
Email: tim.irvine@tdhca.state.tx.us

Micah Strange
Groesbeck Housing Development, LP
1935 Airline Drive, #200
Bossier City, LA 71112

RE: 14175 LIBERTY SQUARE AND LIBERTY VILLAGE: SCORING NOTICE APPEAL

Dear Mr. Strange:

The Texas Department of Housing and Community Affairs (the "Department") is in receipt of your scoring notice appeal, dated May 15, 2014, for the above referenced Application. A pre-application was submitted for this development that indicated participation in the USDA set-aside. Subsequently, a full Application was submitted which also indicated that the application was participating in the USDA set-aside. However, upon review, staff determined that the Application was not eligible to participate in the USDA set-aside. Therefore, pursuant to §11.9(e)(3)(D) of the 2014 Qualified Allocation Plan ("QAP"), because the pre-application and full application are not participating in the same set-asides, staff did not award points for pre-application participation.

Pursuant to §10.201(7) of the Uniform Multifamily Rules, staff issued an administrative deficiency on March 24, 2014, requesting, in addition to information related to other point items, evidence that the development qualified under the USDA set-aside as defined in §11.5(2) of the QAP and Texas Government Code §2306.111(d-2). The deficiency response was received timely on March 31, 2014, but failed to address the issue adequately. The documentation provided merely showed that the development site is located in an area that could qualify for USDA financing; however, neither the originally submitted application nor the deficiency response provided any indication that USDA financing would be utilized for any aspect of the acquisition and rehabilitation of the property. Moreover, the existing development is not currently receiving financial assistance through the Texas Rural Development Office of the USDA. Therefore, staff determined that the application should not qualify under the USDA set-aside and, therefore, the pre-application points were not awarded.

Subsequent to the issuance of the scoring notice reflecting the loss of points, an appeal of the notice was submitted which included an updated financing letter from AmegyBank, showing intent to apply for a \$100,000 Working Capital loan from the USDA Business and Industry Loan Program. In researching this particular program, staff reached out to the USDA-RD office in Temple and learned that because this application is "eligible for the Rural Rental Housing and Rural Cooperative Housing loans under sections 515, 521, and 538 of the Housing Act of 1949, as amended" it would constitute an ineligible purpose under the Business and Industry Loan Program pursuant to §4279.114(o) of 7 CFR.



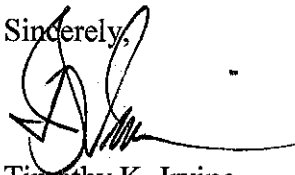
May 22, 2014

Page 2

Because this development is not receiving financing through USDA and appears to be ineligible to receive the USDA financing proposed in your appeal, the application would not be eligible to compete in the USDA set-aside. Therefore, the appeal is hereby denied. If you have information and/or confirmation from the USDA, showing that the development is indeed eligible to receive the USDA financing, I would be willing to consider that information and revisit this appeal. Otherwise, this matter may be appealed to the Board, as described below.

If you are not satisfied with this decision, you may appeal to the Department's Governing Board. If you wish to appeal to the Board, your appeal must be submitted in writing and must be received by Department staff no more than seven days after the date of this letter. Please review §10.902 of the Uniform Multifamily Rules for full instructions on the appeals process. The deadline to appeal this decision to the Board is May 29, 2014. Should you have any questions, please contact Kathryn Saar, Competitive Tax Credit Program Administrator, at kathryn.saar@tdhca.state.tx.us or by phone at 512-936-7834

Sincerely,



Timothy K. Irvine
Executive Director

[KS]

cc: Donna Rickenbacker
Barry Palmer
Tamea A. Dula

4

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
JUNE 5, 2014

Presentation, Discussion, and Possible Action on Release of the Draft FFY 2015 Low Income Home Energy Assistance Program (“LIHEAP”) State Plan for Public Comment

RECOMMENDED ACTION

WHEREAS, the Department develops and submits a State Plan to the US Department of Health and Human Services (“USHHS”) each year to administer the LIHEAP; and,

WHEREAS, the Department has not yet received final grant guidance from USHHS for preparation of the Draft FFY 2015 LIHEAP State Plan but has prepared the plan for public comment based on the proposed 2015 guidance;

NOW, therefore, it is hereby

RESOLVED, that the Draft FFY 2015 LIHEAP State Plan, in the form presented to this meeting, is hereby approved to be released for public comment and public hearing; and,

FURTHER RESOLVED, that if no substantive public comment is received, and any final guidance by USHHS does not require substantive changes, the plan will be submitted, without further Board approval, to the USHHS.

BACKGROUND

The Department develops and submits a LIHEAP Plan each year on or before September 1 to the USHHS. USHHS provides a model plan to guide the format and content. The draft, upon approval by the Board, will be released for public comment and a public hearing will be held. The public hearing provides the opportunity for comment from the public and the Subrecipient network. Upon completion of the public hearing and public comment period, staff will modify the Plan, if appropriate, based on public comment. Staff will present the revised Plan to the Board for review and final approval on July 31, 2014; however, staff recommends that if the Department does not receive substantive public comment, the Board direct the Executive Director to submit the State Plan to USHHS as drafted without further authorization by the Board.

LIHEAP funds, as reflected in the Plan, are utilized in the following three ways:

- The Department allocates 65% of the LIHEAP funds to the Comprehensive Energy Assistance Program (“CEAP”) which provides utility assistance to eligible households, including crisis assistance and “Assurance 16” services to reduce home energy needs.

- The Department allocates 25% of the LIHEAP funds to the Weatherization Assistance Program (“WAP”). It should be noted that there is greater flexibility with LIHEAP weatherization funds than US Department of Energy (“DOE”) weatherization funds, so continuing to allocate some portion of these funds for this activity allows households to receive more comprehensive assistance than were they served solely by DOE WAP. Also, these funds allow ongoing weatherization in the state in spite of historically low DOE WAP funding.
- 10% of LIHEAP funds are used for Department and Subrecipient administration.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

MODEL PLAN

PUBLIC LAW 97-35, AS AMENDED

FEDERAL FISCAL YEAR 2015

GRANTEE: Texas Department of Housing and Community Affairs

EIN: 17426105429

ADDRESS: P.O. Box 13941

Austin, Texas 78711-3941

LIHEAP COORDINATOR: Michael DeYoung

EMAIL: michael.deyoung@tdhca.state.tx.us

TELEPHONE: (512) 475-2125 FAX: (512) 475-3935

CHECK ONE: TRIBE / TRIBAL ORGANIZATION _____ STATE INSULAR AREA _____

**Department of Health and Human Services
Administration for Children and Families
Office of Community Services
Washington, DC 20447**

August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01

OMB Approval No. 0970-0075

Expiration Date: 04/30/2014

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Assurances

The Texas Department of Housing and Community Affairs agrees to:

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a Federal fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the Federal fiscal year preceding the Federal fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to --

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that,

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a Federal fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) beginning in Federal fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: _____

Title: Executive Director, Texas Department of Housing and Community Affairs

Date: August , 2014

The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.

The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

October 18, 2006

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Leavitt:

In accordance with the Texas Government Code, Sections 2306.092 and 2306.097, and the Low-Income Home Energy Assistance Program (42 U.S.C., Ch. 94, Section 8621 et seq.), I hereby designate the Texas Department of Housing and Community Affairs as the lead agency for administration of the Low-Income Home Energy Assistance Program (LIHEAP) in the state of Texas. The executive director of said department is authorized to make assurances of certification which may be required as part of the annual LIHEAP application process.

This delegation of authority shall remain in full force and effect until modified or rescinded by federal or state statute, or by the chief elected official of this state.

Sincerely,

A large, handwritten signature in black ink that reads "Rick Perry".

Rick Perry
Governor

Rp:aap

Section 1¹

Program Components, 2605(a), 2605(b)(1) – Assurance 1, 2605(c)(1)(C)

1.1 Check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Dates of Operation

<input checked="" type="checkbox"/>	Heating assistance	Start date: 12/01/2014	End date: 02/28/2015
<input checked="" type="checkbox"/>	Cooling assistance	Start date: 03/01/2015	End date: 11/30/2015
<input checked="" type="checkbox"/>	Crisis assistance	Start date: 01/01/2015	End date: 12/31/2015
<input checked="" type="checkbox"/>	Weatherization assistance	Start date: 01/01/2015	End date: 12/31/2015

Estimated Funding Allocation, 2604(c), 2605(k)(1), 2605(b)(9), 2605(b)(16) – Assurances 9 and 16

1.2 Estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%.**

10% heating assistance

40% cooling assistance

20% crisis assistance

Up to 15% weatherization assistance²

0% carryover to the following Federal fiscal year

10% administrative and planning costs

5% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

Alternate Use of Crisis Assistance Funds, 2605(c)(1)(C)

¹ Capitalized terms are defined in Title 10, Chapter 1 or Chapter 5 (as applicable) of the Texas Administrative Code or by federal law.

² If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

1.3 The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

- Heating assistance
- Weatherization assistance
- Cooling assistance
- Other (specify): year-round crisis

Categorical Eligibility, 2605(b)(2)(A) – Assurance 2, 2605(c)(1)(A), 2605(b)(8A) – Assurance 8

1.4 Do you consider households categorically eligible if one household member receives one of the following categories of benefits in the left column below? Yes No

SNAP Nominal Payments

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP clients?
 Yes No

Amount of Minimal Assistance: \$ __ NA _____

Frequency of Assistance:

- Once per year
- Once every five years
- Other (describe): _____ NA _____

Determination of Eligibility – Countable Income

1. In determining a household's income eligibility for LIHEAP, do you use gross income or net income?

- Gross Income
- Net Income

2. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP.

- Wages (except as prohibited by the Workforce Investment Act of 1998)
- Self-employment income
- Contract income
- Payments from mortgage or sales contracts
- Unemployment Insurance
- Strike pay
- Social Security Administration (SSA) benefits
 - Including MediCare deduction
 - Excluding MediCare deduction
- Supplemental Security Income (SSI)
- Retirement / pension benefits
- General Assistance benefits (except as excluded by federal law)
- Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)
- Supplemental Nutrition Assistance Program (SNAP) benefits
- Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits
- Loans that need to be repaid
- Cash gifts
- Savings account balance
- One-time lump-sum payments, such as rebates/credits, refund deposits, etc.

- Jury duty compensation
- Rental income
- Income from employment through Workforce Investment Act (WIA)
- Income from work study programs
- Alimony
- Child support
- Interest, dividends, or royalties
- Commissions
- Legal settlements
- Insurance payments made directly to the insured
- Insurance payments made specifically for the repayment of a bill, debt, or estimate
- Veterans Administration (VA) benefits (Some types are included, some types are excluded)
- Earned income of a child under the age of 18
- Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.
- Income tax refunds
- Stipends from senior companion programs, such as VISTA
- Funds received by household for the care of a foster child
- AmeriCorps Program payments for living allowances, earnings, and in-kind aid.
- Reimbursements (for mileage, gas, lodging, meals, etc.)
- Other

Worker's compensation, military family allotments (except where excluded by other federal law), net gambling or lottery winnings;

Section 2 - HEATING ASSISTANCE

Eligibility, 2605(b)(2) – Assurance 2

2.1 Designate The income eligibility threshold used for the heating component:

2014 HHS poverty income level:

OR

FY 2015 state's median income 60%³

2.2 Do you have additional eligibility requirements for **HEATING ASSISTANCE**?

Yes⁴ No

2.3 Check the appropriate boxes below and describe the policies for each.

- | | <u>Yes</u> | <u>No</u> |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: | | |
| ● Renters? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? ⁵ | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Do you give priority in eligibility to: | | |
| ● Elderly? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Disabled? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Young children? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Households with high energy burdens? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Other? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Households with high energy consumption | | |

Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

³ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI.

⁴ Currently, §5.407(e) of 10 Texas Administrative states: "A Household unit cannot be served if the meter is utilized by another Household." The Department is considering a change to this rule to allow for assistance in certain circumstances.

⁵ If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients use a household rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Households with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income*. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children.

*The maximum benefit amount is determined per-program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

2.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need:
 - Fuel type
 - Climate/region
 - Individual bill
 - Dwelling type
 - Energy burden (% of income spent on home energy)
 - Energy need
 - Other (Describe)

Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.6 Describe benefit levels:

\$0 Minimum benefit \$1200 Maximum benefit

2.7 Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?

Yes No -- If yes, describe.

Under energy crisis, a Household may receive repair of existing heating and cooling units not to exceed \$2,500. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed \$2,500.

Section 3: COOLING ASSISTANCE

Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2

3.1 Designate the income eligibility threshold used for the cooling component:

2014 HHS poverty income level 125%

OR

FY 2015 median income 60%⁶

3.2 Do you have additional eligibility requirements for **COOLING ASSISTANCE**

Yes⁷ No

3.3 Check the appropriate boxes below and describe the policies for each.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
● Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters with utilities included in the rent?	<input checked="" type="checkbox"/> ⁸	<input type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Other?	<input checked="" type="checkbox"/> _	<input type="checkbox"/>
Households with high energy consumption		

⁶ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI.

⁷ Currently, §5.407(e) of 10 Texas Administrative Code states: "A Household unit cannot be served if the meter is utilized by another Household." The Department is considering a change to this rule to allow for assistance in certain circumstances.

⁸ If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients use a household rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income*. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children.

*The maximum benefit amount is determined per-program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

3.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need
 - Fuel type
 - Climate/region
 - Individual bill
 - Dwelling type
 - Energy burden (% of income spent on home energy)
 - Energy need
 - Other (describe)

Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

3.6 Describe benefit levels:

\$0 Minimum benefit \$1200 Maximum benefit

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

Yes No -- If yes, describe.

Under energy crisis, a Household may receive repair of existing heating and cooling units not to exceed \$2,500. Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed \$2,500

Section 4: CRISIS ASSISTANCE,

Eligibility - 2604(c), 2605(c)(1)(A)

4.1 Designate the income eligibility threshold used for the crisis component:

2014 HHS poverty income level 125%

OR

FY 2015 state median income 60%

4.2 Provide your LIHEAP program's definition for determining a crisis.

A bona fide Household crisis exists when extraordinary events or situations resulting from extreme weather conditions and/or fuel supply shortages or a terrorist attack have depleted or will deplete Household financial resources and/or have created problems in meeting basic Household expenses, particularly bills for energy so as to constitute a threat to the well-being of the Household, particularly the Elderly, Persons with Disabilities, or children age 5 and younger. A utility disconnection notice may constitute a Household energy crisis.

4.3 What constitutes a life-threatening crisis?

To be determined through dialogue with affected program partners. Definition will be included with proposed final plan.

Crisis Requirements, 2604(c)

4.4 Within how many hours do you provide crisis assistance that will resolve the energy crisis for eligible households? 48 Hours

4.5 Within how many hours do you provide crisis assistance that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours⁹

Crisis Eligibility, 2605(c)(1)(A)

4.6 Do you have additional eligibility requirements for **CRISIS ASSISTANCE?**

Yes No

4.7 Check the appropriate boxes below and describe the policies for each.

Yes No

● Do you require an assets test?

● Do you give priority in eligibility to:

⁹ Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides "some form of assistance that will resolve the energy crisis" not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

- Elderly?
- Disabled?
- Young children?
- Households with high energy burdens?
- Other?
- Households with high energy consumption

● In order to receive crisis assistance:

- Must the household have received a shut-off notice or have a near empty tank?
- Must the household have been shut off or have an empty tank?
- Must the household have exhausted their regular heating benefit?
- Must renters with heating costs included in their rent have received an eviction notice?
- Must heating/cooling be medically necessary?
- Must the household have non-working heating or cooling equipment?
- Other?

● Do you have additional/differing eligibility policies for:

- Renters?
- Renters living in subsidized housing?
- Renters with utilities included in the rent? ¹⁰

Determination of Benefits

4.8 How do you handle crisis situations?

- Separate component
- Fast Track
- Other

4.9 If you have a separate component, how do you determine crisis assistance benefits?

- Amount to resolve crisis, up to a maximum of \$1200

¹⁰ If the renter's situation is one where the utilities are not a distinct charge from the rent, we do not provide assistance as there is no individual bill and neither energy cost nor energy burden can be determined.

Other

Heating and cooling equipment repair or replace up to \$2,500

Crisis Requirements, 2604(c)

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

Yes No

According to state program rules: "Subrecipients shall accept applications at sites that are geographically and physically accessible to all Households requesting assistance. If Subrecipient's office is not accessible, Subrecipient shall make reasonable accommodations to ensure that all Households can apply for assistance."

4.11 Do you provide individuals who have physical disabilities the means to:

■ Submit applications for crisis benefits without leaving their homes?

Yes No If yes, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant's home to take the application.

■ Travel to the sites at which applications for crisis assistance are accepted?

Yes No If yes, explain.

Benefit Levels, 2605(c)(1)(B)

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis \$_____ maximum benefit

Summer Crisis \$_____ maximum benefit

Year-round Crisis \$1200 maximum benefit

4.13 Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits? Yes No If yes, describe.

purchase of portable heating/cooling units, temporary shelter, blankets, fans, generators

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

	Winter Crisis	Summer Crisis	Year- round Crisis
--	------------------	------------------	--------------------------

Heating system repair			X
Heating system replacement			
Cooling system repair			X
Cooling system replacement			
Wood stove purchase			X
Pellet stove purchase			X
Solar panel(s)			
Windmill(s)			
Utility poles / Gas line hook-ups			
Other (Specify): _____			

4.17 Do any of the utility vendors you work with enforce a winter moratorium on shut offs?

Yes No _____

4.18 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Public Utilities Commission rules, states:

“An electric utility cannot disconnect a customer anywhere in its service territory on a day when:

- (1) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports; or
- (2) the NWS issues a heat advisory for any county in the electric utility’s service territory, or when such advisory has been issued on any one of the preceding two calendar days.”

Section 5: WEATHERIZATION ASSISTANCE

Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2

5.1 Designate the income eligibility threshold used for the weatherization component:

2014 HHS poverty income level 125%

OR

FY 2015 state median income 60%¹¹

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component**? Yes No

5.3 Name the agency. _NA_____

5.4 Is there a separate monitoring protocol for weatherization? Yes No

WEATHERIZATION - Types of Rules

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

Entirely under LIHEAP (not DOE) rules

Entirely under DOE WAP (not LIHEAP) rules

Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

Income Threshold

Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.

Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities) is permitted.

Other (describe)

Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

¹¹ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 125% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI.

- Income Threshold.
- Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.
- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)
Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization.

Eligibility, 2605(b)(5) – Assurance 5

	<u>Yes</u>	<u>No</u>
5.6 Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.7 Do you have additional/differing eligibility policies for:		
• Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.8 Do you give priority in eligibility to:		
• Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Other? Households with high energy consumption	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Benefit Levels

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?
 Yes No

5.10 What is the maximum amount? \$5000, unless additional expenditure is authorized in writing by the Department.

Types of Assistance, 2605(c)(1), (B) & (D)

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Weatherization needs assessments/audits | <input checked="" type="checkbox"/> heating system repairs |
| <input checked="" type="checkbox"/> Caulking and insulation | <input type="checkbox"/> Heating system replacement |
| <input type="checkbox"/> Install storm windows | <input checked="" type="checkbox"/> Cooling system repairs |

- | | |
|---|---|
| <input type="checkbox"/> Cooling system replacement | <input type="checkbox"/> Install doors (interior/exterior) |
| <input checked="" type="checkbox"/> Energy related roof repair | <input checked="" type="checkbox"/> Install water heater |
| <input checked="" type="checkbox"/> Major appliance repairs | <input checked="" type="checkbox"/> Water conservation measures |
| <input checked="" type="checkbox"/> Major appliance replacement | <input checked="" type="checkbox"/> Compact fluorescent light bulbs |
| <input type="checkbox"/> Install windows/sliding glass doors | <input checked="" type="checkbox"/> Other (describe)
Solar screens or window film |

Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

- Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- Publish articles in local newspapers or broadcast media announcements.
- Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.
- Mass mailing(s) to prior-year LIHEAP recipients.
- Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.
- Execute interagency agreements with other low-income program offices to perform outreach to target groups.
- Other (specify):

Section 7: Coordination, 2605(b)(4) – Assurance 4

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

- Joint application for multiple programs
- Intake referrals to/from other programs
- One-stop intake centers
- Other – describe:

Section 8: Agency Designation, 2605(b)(6) – Assurance 6

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency
- Welfare Agency
- Other – describe:

Alternate Outreach and Intake, 2605(b)(15) – Assurance 15

8.2 How do you provide alternate outreach and intake for **HEATING ASSISTANCE**?

Annual program article in propane vendor newsletter, report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

8.3 How do you provide alternate outreach and intake for **COOLING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

8.4 How do you provide alternate outreach and intake for **CRISIS ASSISTANCE**?

In instances of natural disaster, Subrecipient coordinates with other assistance organizations (shelters, Red Cross, etc.) Annual program article in propane vendor newsletter, report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by or at the direction or request of elected officials and other service providers. Subrecipients use vehicle wraps advertising their programs and travel to different towns in their service areas to conduct outreach and intake.

	<u>Heating</u>	<u>Cooling</u>	<u>Crisis</u>	<u>Weatherization</u>
Who determines client eligibility?	Local govern	Local govern	Local govern	Local governments,

	ments, CAAs and Other Non- profits	ments, CAAs and Other Non- profits	ments, CAAs and Other Non- profits	CAAs and Other Non-profits
Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Non-profits	Local governments, CAAs and Other Non-profits	Local governments, CAAs and Other Non-profits	N/A
Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Non-profits	Local governments, CAAs and Other Non-profits	Local governments, CAAs and Other Non-profits	N/A
Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Non-profits

8.5 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving Federal funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

The Department administers the program through the existing Subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If Subrecipients are successfully administering the program, the Department may offer to renew the contract.

When the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if Subrecipient fails to administer the program correctly, the Department reassigns the service area or a portion to another existing Subrecipient

or conducts solicitation or selection of a new Subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected Subrecipient may request a hearing in accordance with the Texas Government Code, §2105.204.

8.6 How many local administering agencies do you use?

44

8.7 Have you changed any local administering agencies from last year?

Yes No

8.8 Why?

- Agency was in noncompliance with grantee requirements for LIHEAP
- Agency is under criminal investigation
- Added agency
- Agency closed
- Other - describe

Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7

9.1 Do you make payments directly to home energy suppliers?

Heating Yes No

Cooling Yes No

Crisis Yes No

Are there exceptions? Yes No

9.2 How do you notify the client of the amount of assistance paid?

The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. A sample copy is attached with the Program Integrity Assessment Report.

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor agreements are used in all components. A sample copy is attached with the Program Integrity Assessment Report.

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households? Yes No. If so, how?

Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10

- 10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?
1. Review annual audits
 2. Monitor fiscal records
 3. Review current and prior year monthly expenditure and performance reports

Audit Process

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133?

Yes

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding	Type	Brief Summary	Resolved?	Action Taken
1 The Department was unable to fully document information entered in the LIHEAP household report.	A-133 audit	The Department was unable to replicate the formula used to determine report data.	Yes	The Department created a replicable formula to use when determining report data.
2 The Department did not provide a definition for “life-threatening crisis” for use by Subrecipients during benefit determination.	Internal Audit	While no instances of an ineligible household receiving service were found, Subrecipients were not documenting what the “life threatening crisis” consisted of.	Yes	The Department is working with Subrecipients to develop a definition for “life threatening crisis” which will be included in the state rules.

10.4. Audits of Local Administering Agencies

- What types of annual audit requirements do you have in place for local administering agencies/district offices?

- Local agencies/district offices are required to have an annual audit in compliance with the Single Audit Act and OMB Circular A-133.
- Local agencies/district offices are required to have an annual audit (other than A-133).
- Local agencies/district offices' A-133 or other independent audits are reviewed by Grantee as part of compliance process.
- Grantee conducts fiscal and program monitoring of local agencies/district offices.

Compliance Monitoring

- 10.5. Describe the Grantee's strategies for monitoring compliance with the Grantee's and Federal LIHEAP policies and procedures by:

Grantee employees:

- Internal program review
- Departmental oversight
- Secondary review of invoices and payments
- Other program review mechanisms are in place. Describe: Cross Division peer review of documents

Local Administering Agencies/District Offices:

- On-site evaluation
- Annual program review
- Monitoring through Central Database
- Desk reviews
- Client File Testing/Sampling
- Other program review mechanisms are in place. Describe: Desk review of A-133; A review of the Subrecipient's resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

- 10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.
See attached monitoring schedule and monitoring instruments.

- 10.7. Describe how you select local agencies for monitoring reviews? The Compliance Division performs a Risk Assessment to determine Subrecipients with the highest risk, based on award amount, the number of Department programs awarded to the Subrecipient, prior monitoring concerns and/or unresolved issues and prior Single Audit issues. Subsequent to this, we determine the last date of monitoring for the Subrecipient. If the Subrecipient was monitored more than 12 months prior, then the Subrecipient will be monitored. If the Subrecipient was monitored 12 months or less prior to the Risk Assessment, then the division considers monitoring for on-going concerns of the Subrecipient and/or for cost effectiveness when monitoring another Department program.

Site Visits: After the description above, site visits will be performed on those with the highest risk.

Desk Reviews: After the description above, desk reviews will be performed on those with lower risk score.

- 10.8. How often is each local agency monitored? At least once, every two years.
- 10.9. What is the combined error rate for eligibility determinations? (Optional question)
Optional
- 10.10. What is the combined error rate for benefit determinations? (Optional question)
Optional
- 10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) 0
- 10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) 0

Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)

11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other, describe: Comments are solicited via on-line forums.

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

Will be completed after the public participation process is complete.

Public Hearings, 2605(a)(2)

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
June 12, 2014	To be completed

11.4 How many parties commented on your plan at the hearing(s)?

11.5 Summarize the comments you received at the hearing(s).

11.6 What changes did you make to your LIHEAP plan as a result of the public hearing(s)?

Section 12: Fair Hearings, 2605(b)(13) – Assurance 13

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?

None

12.2 How many of those fair hearings resulted in the initial decision being reversed?

N/A

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings?

N/A

12.4 Describe your fair hearing procedures for **households whose applications are denied**.

Subgrantee contracts include the following section:

SECTION 39. APPEALS PROCESS

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner. Subrecipient must establish a denial of service complaint procedure in accordance with §5.405 the State Rules. The rule states:

(a) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/clients. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. This notification shall include written notice of the right of a hearing and specific reasons for the denial by component. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) Subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(3) Subrecipients shall hold the appeal hearing within ten (10) business days after the Subrecipient received the appeal request from the applicant.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the business day following the decision (1 day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.

(b) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(c) Applicants/clients who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient.

(e) If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.

12.5 When and how are applicants informed of these rights?

Within ten days of the determination the Subrecipient must provide written notification; can be made in person or by mail.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

Applicants are required to submit an application each program year. During the intake process, applicants are assigned a priority rating based on indicators such as poverty level, energy burden and use, and the presence of vulnerable household members. The applicant is informed of their rating at that time and informed whether their application will be acted on immediately or if higher priority applicants will be served first. If due to a low priority rating an applicant does not receive services during a program year, the applicant must re-apply the following year. This is a program requirement and is not subject to applicant appeal.

If an applicant is concerned that their application has been mishandled, the applicant may file a complaint with the Department. TDHCA has an online complaint system, and staff phone numbers are posted online. In general, applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient. Applicants who call are encouraged to use the online system but rarely do. Staff records the complaint and proceeds as if the complaint were a denial of services appeal, as described in Section 12.4 above.

12.7 When and how are applicants informed of these rights?

Applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient.

Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?

1. Identify household needs.
2. Provide literature and energy conservation education.
3. Refer client to other appropriate programs.
4. Encourage responsible vendor and consumer behavior.
5. Subrecipients provide applications, forms, and energy education materials in Spanish, English, or other language when appropriate.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities? Assurance 16 activities are a separate budget category at both the state and Subrecipient levels. Both the accounting and the reporting systems do not allow expenditures over the 5% cap.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

These activities have no impact on the number of Households served. While some Households may benefit from these activities to the extent where they no longer require assistance, there are always more Households that request the assistance.

13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

The Department does not administer Assurance 16 as a stand-alone program or component. All clients benefit from these activities as part of intake and outreach. Benefit levels are the same as previously described.

13.5 How many households applied for these services?

The Department does not administer Assurance 16 as a stand-alone program or component. Households are not required to apply for these services.

13.6 How many households received these services?

Since the Department does not administer Assurance 16 as a stand-alone program or component and there is no application requirement, this information is not applicable.

Section 14: Leveraging Incentive Program, 2607A

14.1 Do you plan to submit an application for the leveraging incentive program?

Yes¹² No

14.2 Describe instructions to the third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records.

Pursuant to the Memorandum of Understanding between the Department and the Texas Public Utility Commission, the Commission will make available to the Department information on LITE-UP electric discount program electric activities sufficient for the Department to report activities to USHHS for the previous federal fiscal year.

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with the LIHEAP program?
Electric utility discount	Texas Public Utility Commission	The Department will refer eligible LIHEAP households to LITE-UP (Rate discount for Elderly households), and the Commission will refer eligible LITE-UP households to the Department.

¹² Should funding be available.

Section 15: Training

15.1. Describe the training you provide for each of the following groups:

a. Grantee Staff:

Formal training on grantee policies and procedures

How often?

Annually

Biannually

As needed

Other – Describe:

Employees are provided with policy manual

Other – Describe:

b. Local Agencies:

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe: The annual conference is held by the Texas Association of

Community Action Agencies, and the Department provides training at this annual conference.

On-site training

How often?

Annually

Biannually

As needed

Other – As needed as determined either by the Department or by request of the agency.

Employees are provided with policy manual

Other – Describe:

c. Vendors

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe:

Policies communicated through vendor agreements

Policies are outlined in a vendor manual

Other – Describe:

15.2. Does your training program address fraud reporting and prevention?

Yes

No

Section 16: Performance Goals and Measures, 2605(b)

16.1 Describe performance goals and measures that will be tracked for the upcoming Federal fiscal year.

Optional

16.2 Summarize results of performance goals and measures for the prior Federal fiscal year.

Section 17: Program Integrity, 2605(b)(10)

17.1. Fraud Reporting Mechanisms

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

b. Describe strategies in place for advertising the above-referenced resources.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

17.2. Identification Documentation Requirements

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

REQUIRED Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>

Government-issued identification card (i.e.,: driver's license, state ID, Tribal ID, passport, etc.)	Required <input checked="" type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Other: _____	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>

*Households may include members who are not seeking assistance and may not be included in the household count.

b. Describe any exceptions to the above policies.

17.3. Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members.

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff
- Match SSN/Tribal ID number with tribal database [
- Other – describe:
At this time, the Department only verifies the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (“SAVE”) system.

17.4. Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients' submission of Social Security cards is accepted as proof of legal residency
- Noncitizens/non-nationals must provide documentation of immigration status
- Citizens/Nationals must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens/non-nationals are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe:

17.5. Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members

- Pay stubs
- Social Security award letters
- Bank statements
- Tax statements
- Zero-income statements
- Unemployment Insurance letters
- Other – describe: Court Documents or government benefit statements as applicable.

Computer data matches:

- Income information matched against state computer system (e.g., SNAP, TANF)
- Proof of unemployment benefits verified with state Department of Labor
- Social Security income verified with SSA
- Utilize state directory of new hires

Other – describe:

17.6. Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
 - Grantee employees
 - local agencies/district offices
- Employees must sign confidentiality agreement
 - Grantee employees
 - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe:

Grantee contracts include the following section:

SECTION 9. RECORD KEEPING REQUIREMENTS

Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

Texas Administrative Code, Title 10 Chapter 5, Subchapter A §5.22 requires that:

Client Records. The Department requires Subrecipient organizations that administer Community Affairs Programs and serve clients to document client services. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters,

in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

17.7. Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

17.8. Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients?

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
 - Account ownership
 - Consumption
 - Balances
 - Payment history
 - Account is properly credited with benefit
 - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.9. Benefits Policy – Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors?

- Vendors are checked against an approved vendors list
- Centralized computer system/database is used to track payments to all vendors
- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor
- Direct payment to households are made in limited cases only
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism

Other – describe:

17.10. Investigations and Prosecutions

Describe the Grantee’s procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient may be referred to the Administrative Penalties Committee or proposed for debarment.

Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its

certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

. By checking this box, the prospective primary participant is providing the certification set out above.

Section 19: Certification Regarding Drug-Free Workforce Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled

Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
(1) Abide by the terms of the statement; and
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

221 East 11th Street

Austin, Travis County, Texas, 78701

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

REQUIRED ATTACHMENTS

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix.
- Cooling component benefit matrix.
- Local Agency Monitoring Schedule

Attachment 3: Benefit Matrix

Pursuant to 10 Texas Administrative Code, Chapter 5 §5.422(d), all benefits are determined based on a sliding scale:

(d) Sliding scale benefit for all CEAP components:

(1) Benefit determinations are based on the Household's income, the Household size, the energy cost and/or the need of the Household, and the availability of funds;

(2) Energy assistance benefit determinations will use the sliding scale described in subparagraphs (A) - (C) of this paragraph:

(A) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$1,200;

(B) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$1,100; and

(C) Households with Incomes of 76% to at or below 125% of Federal Poverty Guidelines may receive an amount needed to address their energy payment shortfall not to exceed \$1,000; and

(3) A Household may receive repair of existing heating and cooling units not to exceed \$2,500.

Households that include at least one member that is elderly, disabled, or a child age 5 or younger, may receive either repair of existing heating and cooling units or crisis-related purchase of portable heating and cooling units not to exceed \$2,500.

2014 LIHEAP Monitoring Schedule

June

On-Site Subrecipient	Program	PY
EAC Gulf Coast	LI-WAP	2013-14
CSA South Tx	LIHEAP - CEAP	2014
NCI	LIHEAP - CEAP	2014
AACOG	LI-WAP	

July

On-Site Subrecipient	Program	PY
Panhandle CS	LIHEAP - CEAP	2014
Nueces County	LI-WAP	2014
Rolling Plains	LIHEAP - CEAP	2014

August

On-Site Subrecipient	Program	PY
Cameron Willacy	LIHEAP - CEAP	2014
City of Fort Worth	LIHEAP - CEAP	2014
El Paso CAP	LIHEAP - CEAP	2014
Community Services Inc.	LIHEAP - CEAP	2014
Dallas County	LI-WAP	2014
City of Fort Worth	LI-WAP	2014

Texas Department of Housing and Community Affairs

MONITORING INSTRUMENT

SUBRECIPIENT INFORMATION

Subrecipient: _____

Address: _____

City: _____ Zip Code: _____

Executive Director: _____

Program Director: _____

Fiscal Officer: _____

Other Personnel: _____

Board Chairperson: _____

Chairperson email: _____

Chairperson Mailing Address: _____

City: _____ Zip Code: _____

DEPARTMENT INFORMATION

Monitor: _____ Monitor: _____

Notification of Monitoring Review: _____

Date of Monitoring Review: _____

Subrecipient Staff Notified: _____

Notification By: Letter: _____ Telephone: _____ Other: _____

Monitoring Report Due: _____

Comprehensive Energy Assistance Program Community Services Block Grant

MONITORING INSTRUMENT

Contents:

1. Table of Contents

2. Joint Instrument

Section I.	Program Overview
Section II.	Financial Review
Section III.	Procurement
Section IV.	Inventory
Section V.	Audit
Section VI.	Monitoring
Section VII.	Personnel Policies and Practices
Section VIII.	Timesheets and Travel/Mileage Records
Section IX.	General

3. Attachment A **CEAP Specific**
 ___ **Applicable** ___ **Not Applicable**

4. Attachment B **CSBG Specific**
 ___ **Applicable** ___ **Not Applicable**

5. Attachment C **WAP**
 ___ **Applicable** ___ **Not Applicable**

6. Attachment D **Expenditure Review**

SECTION I. PROGRAM OVERVIEW

PY 2012 CONTRACT INFORMATION (if applicable)

CEAP Contract #: 5812000 _____ Contract Amount \$ _____, _____, _____ .00

CSBG Contract #: 6112000 _____ Contract Amount \$ _____, _____, _____ .00

CSBG Discretionary
Contract #: 6112000 _____ Contract Amount \$ _____, _____, _____ .00

DOE Contract #: 5612000 _____ Contract Amount \$ _____, _____, _____ .00

LI-WAP Contract #: 8112000 _____ Contract Amount \$ _____, _____, _____ .00

Contract Dates

CEAP - 1/1/2012 – 12/31/2012 CSBG - 1/1/2012 – ___ / ___ / _____

DOE - 4/1/2012 – 3/31/2013 LI-WAP - 4/1/2012 – 3/31/2013

CSBG Disc- ___ / ___ / _____ – ___ / ___ / _____

PY 2013 CONTRACT INFORMATION

CEAP Contract #: 5813000 _____ Contract Amount \$ _____, _____, _____ .00

CSBG Contract #: 6113000 _____ Contract Amount \$ _____, _____, _____ .00

CSBG Discretionary
Contract #: 6112000 _____ Contract Amount \$ _____, _____, _____ .00

DOE Contract #: 5613000 _____ Contract Amount \$ _____, _____, _____ .00

LI-WAP Contract #: 8113000 _____ Contract Amount \$ _____, _____, _____ .00

DOE-ARRA Contract #: 5609000 _____ Contract Amount \$ _____, _____, _____ .00

Contract Dates

CEAP - 1/1/2013 – 12/31/2013 CSBG - 1/1/2013 – ___ / ___ / _____

DOE - 4/1/2013 – 3/31/2014 LI-WAP - 4/1/2013 – 3/31/2014

DOE-ARRA - 4/1/2013 - ___ / ___ / _____ CSBG Disc- ___ / ___ / _____ – ___ / ___ / _____

1. What is the Subrecipient’s Fiscal Year? _____ / _____ / _____ - _____ / _____ / _____
2. What software and/or system does the Subrecipient use to perform the agency’s accounting functions? _____
3. Is the system manual, automated, or a combination? _____

4. How many bank accounts and/or open checking accounts does the Subrecipient have? _____

5. (a). How many signatures are required on a check? _____

(b). Who signs checks?

(c). Do names on bank signature cards match signatures on checks? Yes No

6. Does the Subrecipient utilize check plates or a signature stamp? If yes, then complete (a-b): Yes No

(a) Are the check plates and/or stamp located in a secure location? Yes No N/A

(b) Is access only limited to authorized staff? Yes No N/A

(c). Is there a policy and/or procedure on the proper use of the check plates and/or signature stamp? Yes No N/A

7. Date of last full procurement for the following:
Single Audit _____
Other Procurement _____

8. Is the fidelity bond current and is the policy in effect? Yes No

9. Is the inventory current and submitted timely? Yes No N/A

10. Date of last Personnel Policies and Procedures Revision? _____

11. Date of last Board By-Law Revision? _____

12. (a) Note program expenditure percentage and percentage of contract period expired. Program _____
_____ % of expenditures
_____ % of contract period expired

Program _____
_____ % of expenditures
_____ % of contract period expired

(b) Is the % of expenditures acceptable? Yes No

13. Is there a Cost Allocation Plan (CAP) or Indirect Cost Rate (ICR) to allocate shared costs? CAP IDR

14. How many board members do Bylaws specify? _____

15. How often are board meetings held? _____

16. Does the Subrecipient administer the Head Start Program within their CSBG service area? Yes No

17. Has the Subrecipient made progress towards clients reaching self sufficiency and Transitioning Persons Out of Poverty? If no, explain why. Yes No

18. List the number of clients enrolled in the case management program as reported on Part XI of the MPR: _____

19. How many clients have been reported as transitioning out of poverty as reported on Part XII of the MPR? _____

20. Number of Clients that have TOP: _____

A 12. Were cooperative agreements made to other social service organizations? (5.432)

SECTION II. FINANCIAL REVIEW

CEAP
 CSBG
 WAP

Review Question	Yes	No	N/A	Notes
1. Are MERs derived from monthly financial statements?				Months reviewed:
2. Are MER financial figures reconciled to the General Ledger and accounting work papers before they are submitted to TDHCA?				
3. Are Monthly Expenditure Reports and Monthly Performance Reports submitted to TDHCA by the required deadline? (15 th of the Month)				
4. Can MER expenditures be traced to the original book of entry?				Months reviewed:
a. Are the expenditures allowable?				
b. Does the support documentation justify sampled expenses?				
5. Were sampled expenditures obligated by the end of the contract period?				
6. Does Subrecipient follow its own financial Policies and Procedures for purchases?				
7. Are bank accounts reconciled at least monthly to the General Ledger?				Months reviewed:
a. Does the reconciled cash agree with the General Ledger? If no, see Question #6b. If so, skip to Question #7.				
b. Are the differences resolved and approved by a designated person monthly?				Name and Title:

Review Question	Yes	No	N/A	Notes
c. Are the reconciling items that make up the total difference between the two balances adequately described and dated (as of their origination date)?				
d. Are reconciling items resolved in a timely manner (preferably within 30 days)?				
e. Are the reconciliations reviewed by a supervisor or manager that is <u>not</u> the reconciler?				
f. Are the reconciliations prepared timely (within 30 days of the cut-off date)?				
8. Besides bank/cash accounts does the Subrecipient have an Indirect Cost Pool?				
a. If yes, it is reconciled periodically (preferably at least monthly)?				
9. Does the Subrecipient follow their policies and procedures for outstanding checks?				
10. Is there a separation of duties to ensure effective control over preparation, authorization, and distribution of checks or electronic payments?				
11. Has Subrecipient requested more than a thirty-day supply of funds, unless otherwise justified?				
12. If TDHCA funds are in an interest-bearing account, is interest earned allocated back to the program (for amounts over \$250 that were earned in one year)?				
13. Has Subrecipient used the Department funds to pay late fees to IRS or other penalties?				

Review Question	Yes	No	N/A	Notes
14. Is the methodology for the Subrecipient's allocation method justified?				
15. Review the Subrecipient's most recently submitted IRS form 990. (if applicable) Are there any notable concerns, conditions, and/or issues?				
16. Has Subrecipient paid and are they current for:				
a. TWC Taxes (state unemployment)				
b. State Workers' Comp.				
c. Payroll Taxes				
17. During the last three years has the IRS or any other organization placed any liens on the agency for delinquent payments?				
a. If so, has the subrecipient made any agreements or payment plans with the IRS?				
18. Does the subrecipient follow their policies and procedures regarding Journal Entries, Adjusting Entries, and/or Reversing Entries?				
19. Do they have proper support documentation, explanation, and justification for each Journal Entry and/or Reversing Entry?				
20. Does the Subrecipient utilize company credit cards and/or credit lines/accounts? If yes, answer the following:				
21. Is there a process to ensure internal controls over the use of the credit cards/credit accounts?				
22. Does the prior year Indirect Cost Rate match the approved rate?				

SECTION III. PROCUREMENT

CEAP CSBG WAP

Procurement Methods:

- | | |
|------------------------------|----------------------------------|
| A. Small purchase; | D. Non-competitive negotiations; |
| B. Sealed bid; | E. Alternative procedures |
| C. Competitive negotiations; | |

23. Which method is used for a. Labor	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
b. Services	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
c. Materials	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
d. Vehicles	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
e. Equipment	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
f. Office supplies	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
g. Other:	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP
	Method: _____ Program(s): CEAP CSBG WAP

Questions	Yes	No	NA	NOTES
24. Has subrecipient obtained advanced written approval from TDHCA for any purchase of with a unit acquisition cost of more than \$5,000?				
25. Did the Subrecipient establish a clear, accurate description of the specifications for the technical requirements of the material, equipment, or services to be procured?				
26. Did the Subrecipient obtain price quotes from at least 3 different vendors?				
a. Did the Subrecipient select the vendor whose price was the lowest?				
b. Are the prices paid in line with the prices quoted?				
i. If No, was there justification for not selecting the vendor whose price was the lowest?				
27. Was the procedure well documented?				
28. Did the subrecipient enter into a written contract?				

B.

(Answer this section only if Competitive Sealed bid, Competitive Negotiations, Non-competitive negotiations, or if an Alternative procedure this method was used.)

Questions	Yes	No	NA	NOTES
29. Were the advertising requirements met?				
30. Was the correct time allotted to respond?				
31. Did the Subrecipient use established selection criteria? <i>for example:</i> <ul style="list-style-type: none"> • Integrity • Financial resources • Record of past performance • Technical resources • Price 				

Questions	Yes	No	NA	NOTES
a. Were points attached to each criterion?				
b. Was price given the greatest number of points? If no, state why?				
32. Did the subrecipient follow its own established selection criteria?				
33. Was the responsible bidder whose price was lowest awarded the bid? If no, why?				
34. Were the bids publicly opened?				
35. Did the bid package allow for free & open competition?				
36. Was all necessary information provided to bidders?				
37. Was the procedure well documented?				
38. Based upon the analysis of the procurement effort, did the subrecipient select the correct vendor(s)?				

C.

(Answer this section only if the State CO-OP method was used.)

Questions	Yes	No	NA	NOTES
39. Did the subrecipient use the State Co-Op as a method of Procurement?				
40. Was Membership current at time of purchase for?				
a. Subrecipient				
b. Vendor				
41. Did the Subrecipient pay the State Co-Op listed price?				
42. Does the documentation support the purchase?				

D. Procurement Overview

Questions	Yes	No	NA	NOTES
43. Did the Subrecipient verify that all of their current Contractors do not appear on any Federal Debarment list?				
44. Does the contract contain the following provisions?				
a. Administrative, contractual or legal remedies for breach of contract				
b. Early termination				
c. For contracts in excess of \$10,000, compliance with E. O. 11375 Amending E. O. 11246 Equal Employment Opportunity				
d. Copeland “anti-kickback” Act”				
e. Reporting and patent rights under any contract involving research, developmental, experimental, or demonstration work, with respect to any discovery or invention which arises or is developed in the course of, or under such contract.				
f. Hold harmless				
g. Conflict of interest & nepotism				
h. Prohibit political activity				
i. Prevent Fraud and abuse				
j. Amend contract				
k. Legal authority to sign contract				
l. Access to records				
m. Three year record retention				
n. For contracts in excess of \$100,000, compliance with Clean Air and Clean Water Acts				
o. Non-discrimination provision				

SECTION IV. INVENTORY

CEAP **CSBG** **WAP**

Questions	Yes	No	NA	NOTES
45. Has Subrecipient reported cumulative inventory for prior year funding?				
46. Have recent inventory purchases been verified on-site?				
47. Is there a separation of duties over the custody, record keeping, authorization, and reconciliation of inventory?				
a. If not, are there compensating controls?				
48. Does the Subrecipient have an inventory control system that makes it possible to track materials used on an individual home back to the point of purchase?				

SECTION V. AUDIT

Questions	Yes	No	NA	NOTES
49. Has the audit certification letter, if required, been submitted to Compliance Division?				
a. If not, is the Audit Certification Letter delinquent?				
50. Has the Subrecipient submitted the most current Single Audit report to the Department?				
a. If no, is the audit delinquent?				
51. Are there any unresolved audit findings?				
52. Have the audit findings been discussed with the Board?				
a. If yes, how were the findings cleared?				

Questions	Yes	No	NA	NOTES
53. Has the Subrecipient submitted all pertinent documents to the Federal Audit Clearinghouse i.e. Data collection form and copy of reporting package.				
54. Has the Subrecipient used a competitive solicitation process in the last four (4) years to procure audit services?				

SECTION VI. MONITORING

Questions	Yes	No	NA	Notes
55. Has the Subrecipient received monitoring and/or performance reviews from their other Federal funding agencies?				List other Federal Agencies and outstanding issues:
a. If yes, were there any outstanding issues?				
56. Have all CSBG/ CEAP/ WAP findings requiring corrective actions from the previous monitoring reports been satisfactorily addressed?				
57. Has the Subrecipient had any of its program/program funds terminated since the last monitoring visit? (if yes, note the program and the reason(s))				

SECTION VII. PERSONNEL POLICIES and PRACTICES

Questions	Yes	No	NA	Notes
58. Is there a provision in the personnel policies to prohibit conflict of interest?				
59. Is there a provision in the personnel policies to prohibit nepotism?				
60. Do personnel policies correctly address sectarian activities?				
61. Is there a provision to provide equal opportunity and prohibit discrimination on the basis of:				
a. Race				
b. Color				

Questions	Yes	No	NA	Notes
c. Religion				
d. Sex				
e. National origin				
f. Age				
g. Disability				
h. political affiliation/belief				
62. Is information regarding equal opportunity and non-discrimination provided to program participants, employees, subcontractors and/or interested parties?				
63. Is there a provision to prohibit political activity and lobbying?				
64. Has Subrecipient included a section in personnel policies insuring that any person reporting a violation by the Subrecipient shall not be discriminated against?				
65. Has the subrecipient implemented provision to establish, maintain, and utilize internal controls & procedures sufficient to prevent, detect, and correct incidents of fraud, waste, & abuse?				

SECTION VIII. TIME SHEETS and TRAVEL/MILEAGE RECORDS

CEAP **CSBG** **WAP**

Questions	Yes	No	NA	NOTES
66. Does Subrecipient follow a Board approved travel policy or the Department travel policy?				
67. Does Subrecipient maintain documentation on mileage reimbursement?				
68. Are travel reconciliations (including advances) submitted in accordance with Subrecipient policy?				
69. Are the expenditures allowable?				
70. Are travel expenses charged to the correct category?				
71. Are personnel activity reports completed correctly?				

Questions	Yes	No	NA	NOTES
a. Does the Subrecipient use an after the fact actual activity for employees?				
b. Does it account for the total activity for which the employee was compensated?				
c. Is it signed by the employee and/or designated supervisory official?				
d. Is it prepared at least monthly & does it coincide with one or more pay periods?				
72. Do timesheets substantiate payroll expenditures?				
a. Are charges on timesheets correctly allocated to reflect activity report?				
73. Were merit payments and/or bonuses provided based on established policy and procedure?				
a. Were they charged equitably to the program?				

Section IX. GENERAL

74. Has Subrecipient developed a written policy/procedure on the use of the Declaration of Income Statement (DIS) form?				
75. Has Subrecipient implemented the use of the DIS form according to the established policy/procedure?				
76. Did Subrecipient document income for all household member 18 years or older?				
77. Is the income documentation for the client files dated less than 12 months from the unit start date?				
78. Are client files and other applicable program documents retained for a minimum of 3 years?				

SUBRECIPIENT TRAINING NEEDS

As a result of the monitoring, should the subrecipient receive training? If Yes, please list and comment on the type of training(s) the subrecipient requires.

YES NO

Type of Training and Comments

- A.) _____ Required Recommended
- B.) _____ Required Recommended
- C.) _____ Required Recommended
- D.) _____ Required Recommended
- E.) _____ Required Recommended

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**Monitoring Instrument
CEAP Attachment**

Questions	Yes	No	NA	Notes
Vendor Agreements				
A1. Are there current (2 years or less) signed vendor agreements on file?				
a. Do the vendor agreements contain the required provisions?				
A2. Are all of the counties in the service area served equitably?				
A3. Have all represented racial and ethnic groups been equitably served? (If no, state reason(s))				
A4. Has the Subrecipient prioritized all clients?				
A5. Do expended funds on MER match to MPR funds reported?				
A6. Did Subrecipient document income for all household members 18 years and older that received direct TDHCA services?				
A7. Are the client applications for the current program year?				
A8. Were the correct benefit determinations made for all CEAP components?				
A9. Did the Subrecipient document referrals to the local Weatherization provider?				
A10. Were the following Assurance 16 activities thoroughly documented in the client files:				
a. encourage and enable households to reduce home energy needs				
b. needs assessment and counseling				
c. assistance with energy vendors				

Questions Yes No NA Notes

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A11. Did Subrecipient provide energy conservation education to the clients?				
b. Was an energy needs assessment performed				
c. Did the subrecipient perform a budget counseling on the client?				
d. Were referrals made.				
A12. Did subrecipient perform outreach activities to target clients?				
A13. In the client file review, was a client's water, wastewater or other non-gas/electric utilities paid with CEAP funds?				
a. If A13 is yes, Is there documentation reflecting the inability to separate non-gas/electric utilities from the bill, requiring other items to be charged.				
Utility Assistance Component				
A13. Did the subrecipient select the correct number of months for households that met the:				
a. Elderly, Disabled or Child 5 and younger				
b. Non- Elderly, Disabled or Child 5 and younger.				
A14. Did the Subrecipient select the highest remaining months for payment?				
A15. Does the Subrecipient evaluate energy bills and billing histories prior to providing assistance?				
A16. Did the subrecipient provide Utility Assistance Component benefits over the maximum allowable?				
Household Crisis Component				
A17. Is the crisis related to weather, fuel supply shortage, or disconnect notice?				

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A18. Did the Subrecipient follow their established weather criteria for determining if an energy crisis exists?				
A19. Is documentation to support a local household crisis determination available?				
A20. Did the Subrecipient address or resolve the crisis within 18/48 hours?				
A21. Was the resolution of the household crisis documented?				
A22. Did the Subrecipient provide equipment with Energy Star rated and International Residential Code (IRC) compliant appliances?				
A23. Was the installation of portable heating or cooling units:				
a. limited to the vulnerable population?				
b. approved by the Department when more than two (2) units were installed or for purchasing an A/C over 110V?				
A24. a. Were HC funds expended for work performed on a Central HVAC system?				
b. Was work performed on Central HVAC systems limited to service and repair and not the replacement of a Central HVAC system?				
A25. Were emergency propane deliveries limited to 250 gallons per crisis?				
A26. Were utility bill disconnect payments limited to two (2) per client?				
A27. Did a natural disaster occur, resulting in energy supply, for the purchase or expenditures of:				
a. temporary shelter				
b. Cost for transportation				
c. Utility reconnection				

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Other	

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**Monitoring Instrument
WAP Attachment**

Questions	Yes	No	NA	Notes
C1. Does the Subrecipient have General Liability Insurance coverage?				
C2. Does the policy cover bodily injury & property damage?				
C3. Does the liability policy provide coverage for lead based paint or related work?				
C4. Does the Subrecipient have Pollution Occurrence Insurance coverage?				
C5. If the policy(ies) includes coverage for programs in addition to WAP, is the cost allocated to WAP fair and reasonable? If no, explain:				
C6. Has the Subrecipient exceeded the insurance Budget Line Item? If yes, did the Subrecipient charge the additional cost to Administration?				Cost of policy: \$ _____ Cost to WAP: \$ _____
C7. Have all WAP findings requiring corrective actions from the previous monitoring reports been satisfactorily addressed?				
C8. Are all of the counties in the service area served?				
C9. Have all represented racial and ethnic groups been equitably served? (If no, state reason(s)).				
C10. Of the Units Inspected, were Energy Audits or the Priority List conducted on each unit?				
C11. Were the Energy Audits completed prior to the home receiving WAP services?				
C12. Are all units' final CFM readings above the Building Tightness Limit? If no, unit must be brought above the BTL?				
C13. Does the agency have a written procedure for client education?				

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C14. Does the agency provide the client any educational material? If yes, what type(s)? a. oral b. written c. visual				
C15. Did the Agency provide clients who live in homes built before 1978 “ <i>Renovate Right – Important Lead Hazard Information for Families, Child Care Providers and Schools</i> ”?				
C16. Do the Subrecipients verify LSW practices?				
C17. Does Subrecipient verify that all Subcontractor-required records are kept on-site during the renovation work?				
C18. Does the Subrecipient verify that all required records are maintained to document the renovation?				
C19. Does the Subrecipient verify that all required records are retained upon completion of the renovation work, including a signed statement from the Certified Renovator that includes the following areas?				
C20. Does the Subrecipient verify that all non-certified workers received training applicable to all lead-safe work practices involved in the renovation process?				
C21. Has the Subrecipient verified that a copy of the records demonstrating compliance with the EPA RRP Rule have been distributed to the owner and/or the occupant of the renovated unit (if applicable)?				
C22. Have Subrecipients verified that subcontractors have completed the required LSW training?				
C23. Has the Subrecipient followed the Texas Historical Commission requirement for homes to be weatherized that meet the historical evaluation criteria?				
Client Files				
C24. Has the Subrecipient prioritized all clients according to program requirements?				
C25. Does the Subrecipient have documented procedures for handling WAP applications?				
C26. Does the agency maintain compliance with 10 CFR 440.18 regarding units weatherized after September 30, 1994?				
C27. Are referrals received from the local LIHEAP program? List attempts to obtain referrals.				

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C28. Does the agency coordinate/leverage the WAP with other available resources? If yes, list the programs/agencies.				
C29. Do material amounts listed on the BWR equal the amounts listed on material invoices and/or the inventory removal sheets?				
C30. Did the agency request and receive a waiver to exceed the cost per unit for any individual weatherized unit?				
C31. Do all efficiency measures installed contain the required SIR of one (1) or greater?				
C32. Are health/safety and efficiency repair measures listed in the correct order on the audit?				
C33. Do the WAP files contain:				
<i>a. Complete and signed/dated assessment</i>				
<i>b. Complete/Signed BWR</i>				
<i>c. Complete/Signed Material/Labor Invoices</i>				
<i>d. Complete Blower Door Data Sheet</i>				
<i>e. Complete Attic Inspection Form</i>				
<i>f. Complete Wall Inspection Form</i>				
<i>g. 12 month Billing History</i>				
<i>h. Copy of Audit</i>				
<i>i. Rental Agreement (if applicable)</i>				
<i>j. Signed Lead Form</i>				
<i>k. Historic Commission Review</i>				
<i>l. Mold Form</i>				
C33. Of the multifamily projects selected in the On-site Unit Inspection sample, determine if any of the multifamily buildings have twenty-five (25) or more units.				
C32. Was written approval obtained from TDHCA for all WAP multifamily projects containing buildings of twenty five units or more, units with shared heating and/or cooling plants prior to commencing the project?				
C33. Have all shared costs for each WAP multifamily project been appropriately allocated to all affected dwelling units per building in each project?				

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C34. Do all multifamily master files contain the following: a. Permission to Perform an Assessment for Multifamily Project form				
b. Landlord Financial Participation form				
c. Landlord Agreement form				
d. Completed Attachment B and C per building				

**Texas Department of Housing and Community Affairs
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WAP DENIED FILES

Contractor:				Monitor:	
Date:				Monitor:	
Client	Application	Income Doc	Denial Notice	Appeal?	Results of Appeal / Comments

Reasons for denial	Number of files
Over Income	
Client did not provide the required information	
WX beyond scope of work	
Applicant no longer resides at address	
Other	

CMCA Utility Assistance Monitoring Checklist (10-10-13)

Subrecipient		Date:		Monitors:															
Poverty Guidelines (1-24-13)										Income Percentages		Household Type							
Income Guidelines	1	2	3	4	5	6	7	8	8+	0-50%	\$1,200	Elderly; Disabled; Child 5 and under	8 maximum payments						
100%	\$ 11,490.00	\$ 15,510.00	\$ 19,530.00	\$ 23,550.00	\$ 27,570.00	\$ 31,590.00	\$ 35,610.00	\$ 39,630.00	\$ 4,020.00	51-75%	\$1,100								
125%	\$ 14,363.00	\$ 19,388.00	\$ 24,413.00	\$ 29,438.00	\$ 34,463.00	\$ 39,488.00	\$ 44,513.00	\$ 49,538.00	\$ 5,025.00	76-125%	\$1,000	Non Eld/Dis/5 & under	6 maximum payments						
\$ -	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	-----									
Monthly Income #1:		Monthly Income #2:		Monthly Income #3:		@ 12 months:	\$ -												
Client ID	Application	Y - N	Elderly Disabled 5 & Under	# Document Subrecipient Income % Calculation	Y - N	Income Calculated Correctly	Priority Rating Form	Billing Hist	A16 activities	Subrecipient Max payments	Y - N	# of payments within maximum	Y - N	Correct Months Selected	Payment Doc	Y - N	Maximum UA amount	Y - N	UA within maximum allowed
Notes:										6							\$1,200		
Notes:										6							\$1,200		
Notes:										6							\$1,200		
Notes:										6							\$1,200		
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Notes:										6							\$1,200		

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WAP Unit Inspections Checklist - Priority List

Client File #:

PY:

Unit Type:

PY 13

PY 14

SF

MF

MB

SH

Date of Inspection:

Program Monitor:

	Yes	No	Comment:
Return Required			

1.

Health and Safety Measures Performed:	Yes	No	N/A
Space Heater			
Furnace			
Water Heater			
Gas Stove			
CO Detector			
Smoke Detector			
LSW			
Other H/S Measures			
ASHRAE			
All Measures addressed?			
H/S Finding?			
Questioned Cost?			
Disallowed Cost?			
Total Expenditure:	\$		

Comments:

2.

Infiltration Measures Performed:	Yes	No	N/A	Qty.
Caulk				
Weatherstripping				
Door Sweep				
Related Repairs				
Door Installed	*			
Window Installed	*			
Items charged, Installed				
Final Above BTL				
Prof. Workmanship				
Total Exp below \$750				
All Measures addressed?				
Infl Meas Finding?				
Questioned Cost?				
Disallowed Cost?				
Total Expenditure:	\$			

Comments:

CFM Reading			
Post		@	
On-site		@	
BTL		@	

3	Duct Sealing Measures Performed:	Yes	No	N/A
	Duct Blower Performed			
	Supply Ducts in Uncond.			
	Return Ducts			
	Duct Replacement			
	Other			
	Items charged, Installed			
	Related Repairs			
	MISM Compliance			
	Reduction in total loss			
	Prof. Workmanship			
	Total Exp below \$750			
	All Measures addressed?			
	Duct Seal Finding?			
	Questioned Cost?			
	Disallowed Cost?			
	Total Expenditure:	\$		

Comments:

Duct Diagnostics		
	Total	Outside
Pre		
Post		
Onsite		

4.	Attic Insulation Measures Performed:	Yes	No	N/A
	Blown-in			
	Batt			
	Other repairs			
	Ventilation			
	Items charged, Installed			
	Knob and Tube			
	Related Repairs			
	MISM Compliance			
	Heat Sources Blocked			
	Attic Hatch Blocked			
	Depth Markers (Rulers)			
	Attic Tag			
	Prof. Workmanship			
	All Measures addressed?			
	Attic Insul Finding?			
	Questioned Cost?			
	Disallowed Cost?			

Comments:

Attic Insulation R-Values	
Pre R-Value	
Post R-Value	
Local R-Value Req.	

5. **CFL/Water Savers/Pipe and Water Heater Insulation Measures Performed:**

	Yes	No	N/A	Qty
CFLs				
Water Savers				
Pipe Insulation				
Water Heater Insulation				
Items charged, Installed				
Prof. Workmanship				
10 or less CFLs inst				
All Measures addressed?				
CFL/WS/Insul Finding?				
Questioned Cost?				
Disallowed Cost?				

Comments:

6. **Sidewall Insulation Measures Performed:**

	Yes	No	N/A
Knob and Tube			
Above Window			
Below Window			
Above Door			
Dense Packed			
Items charged, Installed			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Wall Insul Finding?			
Questioned Cost?			
Disallowed Cost?			

Comments:

Attic Insulation R-Values

Installed R-Value	
Local R-Value Req.	

7. **Smart Thermostat Measure Performed:**

	Yes	No	N/A
Smart Thermostat			
Client consulted/trained			
Items charged, Installed			
Prof. Workmanship			
All Measures addressed?			
Smart Therm Finding?			
Questioned Cost?			
Disallowed Cost?			

Comments:

8. **Refrigerator Replacement Measure Performed:**

	Yes	No	N/A
Refrigerator Replaced			
Items charged, Installed			
Prof. Workmanship			
Metered 30 Minutes			
Pre-1993			
All Measures addressed?			
Rfrigr Rplcmt Finding?			
Questioned Cost?			
Disallowed Cost?			

Comments:

9.

Solar Screen/Window Film Measure Performed:	Yes	No	
			N/A
Solar Screen			
Window Film			
Items charged, Installed			
Prof. Workmanship			
Inst w/less 18" eave			
Inst w/no Natural Shade			
Inst w/no Perm Shade			
All Measures addressed?			
Screen / Film Finding?			
Questioned Cost?			
Disallowed Cost?			
Comments:			

11.

Repair Measures Performed:	Yes	No	
			N/A
Door Replacement	*		
Window Replacement	*		
Related to WX measure			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Repair Measures Finding?			
Total Exp Below \$500 Max			
Questioned Cost?			
Disallowed Cost?			
Total Expenditure:	\$		
Comments:			

10.

Floor Insulation Measures Performed:	Yes	No	
			N/A
Blown-in			
Batt			
Items charged, Installed			
Prof. Workmanship			
Related Repairs			
MISM Compliance			
All Measures addressed?			
Floor Insul Finding?			
Questioned Cost?			
Disallowed Cost?			
Comments:			
Attic Insulation R-Values			
Pre R-Value			
Post R-Value			
Local R-Value Req.			

12.

HVAC / EVAP Measures Performed:	Yes	No	
			N/A
Furnace Replacement			
A/C Comp Replacement			
Manual J / S Completed			
Clean / HVAC Tune Up			
Air Filters			
Replaced Window Unit			
3 or less Wndw units repl			
Meets Current EER/SEER			
MISM Compliance			
All Measures addressed?			
HVAC/EVAC Finding?			
Questioned Cost?			
Disallowed Cost?			
Comments:			