

# BOARD BOOK OF MARCH 31, 2016



J. Paul Ozer, Chair  
Juan Muñoz, Vice-Chair  
Leslie Bingham Escareño, Member  
T. Tolbert Chisum, Member  
Tom H. Gann, Member  
J. B. Goodwin, Member

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

**A G E N D A  
10:30 AM  
March 31, 2016**

**John H. Reagan Building  
JHR 140, 105 W 15<sup>th</sup> Street  
Austin, Texas**

**CALL TO ORDER**

**ROLL CALL**

**J. Paul Oxer, Chairman**

**CERTIFICATION OF QUORUM**

*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.*

Resolution Recognizing April as Fair Housing Month

**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. Action may be taken on any item on this agenda, regardless of how designated.

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

**EXECUTIVE**

- a) Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for the meetings of January 28, 2016, and February 25, 2016

**J. Beau Eccles**  
Board Secretary

**ASSET MANAGEMENT**

- b) Presentation, Discussion and Possible Action on Material Amendments to the Housing Tax Credit Land Use Restriction Agreement ("LURA")

**Raquel Morales**  
Director

01070	Sagebrush Apartments	Brady
01106	Bunker Hill Senior Village	Stephenville
03158	Red River Senior Village	Vernon
03161	Dripping Springs Seniors Village	Waco
03163	Cedar View Apartments	Mineral Wells
04052	Chisholm Trail Senior Village	Belton
98119	Sea Breeze Apartments	Port Lavaca

- c) Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application

13129	Rose Meadows	Levelland
13167	Freedoms Path at Kerrville	Kerrville
14284	The Vineyards	Lubbock
15134	Artisan at Judson Park	San Antonio



- d) Presentation, Discussion and Possible Action regarding a modification to Housing Trust Fund ("HTF") Direct Loan  
852026 Transitional Housing for Victims of Domestic Violence      Denton

#### **BOND FINANCE**

- e) Presentation, Discussion and Possible Action regarding publication of a Request for Proposal ("RFP") for a Master Servicer for the Texas First Time Homebuyer Program, the My First Texas Home Program, and other first-time homebuyer programs that may be implemented by the Department

**Monica Galuski**  
Director

#### **MULTIFAMILY FINANCE**

- f) Presentation, Discussion and Possible Action on Inducement Resolution No. 16-012 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority  
16606 Emli at Liberty Crossing      Wilmer

**Marni Holloway**  
Director

#### **COMMUNITY AFFAIRS**

- g) Presentation, Discussion, and Possible Action Reallocating Recaptured Program Year ("PY") 2014 Emergency Solutions Grants Program Funding  
h) Presentation, Discussion, and Possible Action on the PY 2016 Department of Energy ("DOE") Weatherization Assistance Program ("WAP") State Plan and Awards

**Michael DeYoung**  
Director

#### **RULES**

- i) Presentation, Discussion, and Possible Actions on: first, an order adopting the amendments to 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.620 (concerning Monitoring for Non-Profit Participation, HUB or CHDO Participation); second, an order adopting the repeal of §10.610 (concerning Tenant Selection Criteria); and, third, an order adopting new §10.610 (concerning Written Policies and Procedures) and directing that these be published in the *Texas Register*

**Stephanie Naquin**  
Director, MF Compliance

#### **CONSENT AGENDA REPORT ITEMS**

##### **ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:**

- a) TDHCA Outreach Activities, March 2016  
b) Report Regarding Progress on the Study on Homelessness among Veterans  
c) Report on the closing of the Department's 2016 Series A Single Family Mortgage Revenue Bonds and 2016 Series B Single Family Mortgage Revenue Refunding Bonds  
d) Report on Reservation System Participant ("RSP") Agreements issued under the HOME Investment Partnerships Program ("HOME") Single Family ("SF") Programs Reservation System

**Michael Lyttle**  
Chief, External Affairs

**Elizabeth Yevich**  
Dir, Housing Resource Ctr.

**Monica Galuski**  
Director, Bond Finance

**Jennifer Molinari**  
Director, HOME Program

#### **ACTION ITEMS**

##### **ITEM 3: REPORTS**

- a) Report on Department's Fair Housing Activities  
b) Report on the proposed National Housing Trust Fund roundtables  
c) Report on 2017 Qualified Allocation Plan ("QAP") Project  
d) Quarterly Report on Texas Homeownership Division Activity

**Suzanne Hemphill**  
Fair Housing Project Mgr

**Marni Holloway**  
Dir, Multifamily Finance

**Cathy Gutierrez**  
Dir, Texas Homeownership Program

**ITEM 4: BOND FINANCE**

Presentation, Discussion, and Possible Action on Resolution No. 16-013 Authorizing Substitute Liquidity Facilities and Reoffering Circulars for the Department’s Single Family Variable Rate Bonds; Approving Amendments to the Remarketing Agreements; Authorizing the Execution and Delivery of Documents and Instruments Relating to the Foregoing; Making Certain Findings and Determinations in Connection Therewith; and Containing Other Provisions Relating to the Subject

**Monica Galuski**  
Director

**ITEM 5: ASSET MANAGEMENT**

Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application

**Raquel Morales**  
Director

15234 Merritt Leisure Midland

**ITEM 6: HOME PROGRAM**

Presentation, Discussion, and Possible Action on Activities Assisted under HOME Investment Partnerships Program (“HOME”) Reservation System Participant (“RSP”) Agreement No. 2011-0062 with EBENZ Inc. (“EBENZ”) for four single family homes located in Texas City and League City, Galveston County

**Jennifer Molinari**  
Director

**ITEM 7: COMMUNITY AFFAIRS**

Presentation, Discussion, and Possible Action on the Ratification of Program Year (“PY”) 2016 Community Services Block Grant Awards (“CSBG”) for Cameron and Willacy Counties Community Projects Incorporated (“CWCCP”) and Urban Community Center of North Texas (“UCC”)

**Michael DeYoung**  
Director

**ITEM 8: MULTIFAMILY FINANCE**

- a) Report and Possible Action regarding Eligibility of Representative Letters on Application #16319 Residence at Coulter
- b) Presentation, Discussion and Possible Action regarding the Financing Structure of a Multifamily Direct Loan Award  
15502 Westridge Villa Frisco
- c) Presentation, Discussion and Possible Action on Determination Notices for Housing Tax Credits with another Issuer  
16401 George W. Baines El Paso  
16402 Charles R. Morehead El Paso

**Marni Holloway**  
Director

**ITEM 9: RULES**

Presentation, Discussion, and Possible Actions on: first, withdrawal of previously proposed repeal and concurrent proposed new 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614 (concerning Utility Allowances); second, the proposed repeal of §10.614 (concerning Utility Allowances); and third, the proposed new §10.614 (concerning Utility Allowances) and directing that these be published for public comment in the *Texas Register*

**Stephanie Naquin**  
Director, MF Compliance

**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):

**J. Paul Oxer**  
Chairman

- 1. The Board may go into Executive Session Pursuant to Tex. Gov’t 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;
- 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; including seeking legal advice in connection with a 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.

#### **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](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information.

If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

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 Elena Peinado, 512-475-3814, 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 Elena Peinado al siguiente número 512-475-3814 por lo menos tres días antes de la junta para hacer los preparativos apropiados.

#### **NOTICE AS TO HANDGUN PROHIBITION DURING THE OPEN MEETING OF A GOVERNMENTAL ENTITY IN THIS ROOM ON THIS DATE:**

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista.

**NONE OF THESE RESTRICTIONS EXTEND BEYOND THIS ROOM ON THIS DATE AND DURING THE MEETING OF THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

Texas Department of Housing and Community Affairs

RESOLUTION

WHEREAS, April 2016 is Fair Housing Month and marks the 48th anniversary of the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968), signed by U.S. President Lyndon Baines Johnson on April 11, 1968;

WHEREAS, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the sale, rental, financing, or advertising of housing and charges the Secretary of the U.S. Department of Housing and Urban Development (“HUD”) with administering HUD programs in a manner that meets the requirements of the law and affirmatively furthers the purposes of the Fair Housing Act;

WHEREAS, the Texas Department of Housing and Community Affairs administers HUD and other housing programs that promote the development and supply of safe, decent, affordable housing for qualifying Texans;

WHEREAS, it is the policy of the Texas Department of Housing and Community Affairs to support equal housing opportunity in the administration of all of its programs and services, including encouraging equitable lending practices for its homebuyer programs and ensuring compliance with Fair Housing rules and guidelines for its multifamily developments;

WHEREAS, the Texas Department of Housing and Community Affairs, through its programs, workshops, trainings, and materials seeks continually to educate property managers, consultants, program administrators, architects, contractors, developers, engineers, lenders, real estate professionals, and others about the importance of their commitment and adherence to the requirements of the Fair Housing Act;

WHEREAS, the Texas Department of Housing and Community Affairs encourages the development of educational fair housing programs in local communities throughout the State and is seeking to build new opportunities for fair housing education and training; and

WHEREAS, the Texas Department of Housing and Community Affairs and the State of Texas support equal housing opportunity and housing choice in accordance with the Fair Housing Act not only during Fair Housing Month in April, but throughout the entire year;

NOW, therefore, it is hereby

RESOLVED, that in the pursuit of the goal and responsibility of providing equal housing opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate April 2016 as Fair Housing Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance for free and equal housing treatment and opportunity for all.

Signed this thirty-first day of March 2016.



J. Paul Oxer, Chair

Dr. Juan Muñoz, Vice Chair

Leslie Bingham Escareño, Member

Tom H. Gann, Member

T. Tolbert Chisum, Member

J. B. Goodwin, Member

Timothy K. Irvine, Executive Director

# CONSENT AGENDA

1a

**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on Board Meeting Minutes Summaries for January 28, 2016, and February 25, 2016

**RECOMMENDED ACTION**

Approve Board Meeting Minutes Summaries for January 28, 2016, and February 25, 2016

**RESOLVED**, that the Board Meeting Minutes Summaries for January 28, 2016, and February 25, 2016, are hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board**  
**Board Meeting Minutes Summary**  
**January 28, 2016**

On Thursday, the twenty-eighth day of January 2016, at 10:00 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) was held in Room JHR 140, John H. Reagan Building, 105 W. 15<sup>th</sup> Street, Austin, Texas.

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

- J. Paul Oxer
- Dr. Juan Muñoz
- T. Tolbert Chisum
- Leslie Bingham Escareño

J. Paul Oxer served as Chair, and James “Beau” Eccles served as secretary.

- 1) Michael Lyttle, TDHCA Chief of External Affairs, read into the record a resolution in honor of February being Black History Month. The Board by acclaim unanimously adopted the resolution.
- 2) Jennifer Molinari, TDHCA Director of the HOME Program, provided clarifying information on Consent Agenda Item 1(o) – Presentation, Discussion, and Possible Action on adoption of amendments to 10 Texas Administrative Code (“TAC”) Chapter 23, Single Family HOME Program, Subchapter A, General Guidance, §23.2 Definitions; Subchapter C, Homeowner Rehabilitation Assistance, §23.32 Homeowner Rehabilitation Assistance (“HRA”) Administrative Requirements; Subchapter D, Homebuyer Assistance Program, §23.41 Homebuyer Assistance (“HBA”) Program Requirements and §23.42 HBA Administrative Requirements; Subchapter E, Contract for Deed Conversion Program, §23.51 Contract for Deed Conversion (“CFDC”) Program Requirements and §23.52 CFDC Administrative Requirement; Subchapter F, Tenant-Based Rental Assistance Program, §23.62 Tenant-Based Rental Assistance (“TBRA”) Administrative Requirements; and Subchapter G, Single Family Development Program, §23.72 Single Family Development (“SFD”) Administrative Requirements, and directing that they be published in the *Texas Register*.
- 3) The Consent Agenda, as clarified, was approved unanimously by the Board except for Item 2(b) – Compliance Division Update – which was moved to the Action Item Agenda.
- 4) Action Item 2(b) – Compliance Division Update – was presented by Patricia Murphy, TDHCA Chief of Compliance, with additional information provided by Tim Irvine, TDHCA Executive Director. The Board heard the report and took no action.
- 5) Action Item 3(a) – Report on the extension of the Program Year 2015 Low Income Home Energy Assistance Program (“LIHEAP”) Awards for the Comprehensive Energy Assistance Program (“CEAP”) and the Weatherization Assistance Program (“WAP”) – was presented by Michael DeYoung, TDHCA Director of Community Affairs. The Board heard the report and took no action.
- 6) Action Item 3(b) – Report on the Department’s Swap Portfolio and recent activities with respect thereto – was presented by Monica Galuski, TDHCA Director of Bond Finance. The Board heard the report and took no action.



7) Action Item 3(c) – Report on the meeting of the Audit Committee – was presented by Mark Scott, TDHCA Director of Internal Audit. The Board heard the report and took no action.

8) Action Item 4(a) – Internal Audit Report #15-007 “Program Income” – was presented by Mr. Scott. The Board heard the report and unanimously approved to accept the report.

9) Action Item 4(b) – Presentation, Discussion, and Possible Action regarding Acceptance of State Auditor’s Office audit reports on TDHCA’s Financial Statements – was presented by Mr. Scott with additional information provided by State Auditor’s Office staff Cesar Saldivar and Philip Stringer. The Board heard the report and unanimously approved to accept the report.

10) Action Item 5(a) – Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for the current Competitive Housing Tax Credits – was presented by Marni Holloway, TDHCA Director of Multifamily Finance. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the Frequently Asked Questions and responses.

- Sarah Anderson, S. Anderson Consulting, testified with concerns about staff recommendation

11) Action Item 5(b) – Presentation, Discussion, and Possible Action regarding an Award of HOME funds from the 2015-1 Multifamily Development Program Notice of Funding Availability for #15102 Reserves at Perryton, Perryton. The Board unanimously approved staff recommendation to award HOME funds to the transaction.

12) Action Item 6(a) – Presentation, Discussion, and Possible Action on Awards for the 2015 HOME Investment Partnerships Program (“HOME”) Single Family Programs Competitive Notices of Funding Availability (“NOFA”) for Single Family Non-Development Programs – was presented by Ms. Molinari. The Board unanimously approved staff recommendation to award HOME funds to the as-identified-in-the-board-book applicants.

13) Action Item 6(b) – Presentation, Discussion, and Possible Action on an amendment to a HOME Investment Partnerships Program (“HOME”) Homeowner Rehabilitation Assistance (“HRA”) Household Commitment Contract (“HCC”) issued under Reservation Agreement 2011-0092 for the reconstruction of a single family home by Runnels County – was presented by Ms. Molinari. Following public comment (listed below), the Board unanimously approved staff recommendation to amend the contract.

- Barry Hilliard, County Judge for Runnels County, testified in support of staff recommendation

14) Action Item 6(c) – Presentation, Discussion, and Possible Action related to activities assisted under HOME Investment Partnerships Program (“HOME”) Reservation System Participant (“RSP”) Agreement No. 2011-0062 with EBENZ Inc. (“EBENZ”) for four single family homes located in Texas City and League City, Galveston County – was presented by Ms. Molinari. Following public comment (listed below), the Board unanimously approved staff recommendation to identify an appropriate course of action with this contract and report back to the Board.

- Ebenezer Anene, EBENZ Inc., provided additional information about the item

15) Action Item 7 – Presentation, Discussion, and Possible Action for the Board to approve or approve with amendments, the proposed amendment to the 2016-2017 Housing Trust Fund Plan and authorize staff

to submit the Housing Trust Fund Plan Amendment to all appropriate offices – was presented by Homero Cabello, TDHCA Director of Single Family Operations and Services. The Board unanimously approved staff recommendation to amend the plan and submit to the appropriate offices.

16) Action Item 8 – Presentation, Discussion, and Possible Action regarding refinancing for Oasis Cove (HTC# 11164, HOME# 1001491) with TCAP Repayment Funds – was presented by Tom Gouris, TDHCA Deputy Executive Director. The Board unanimously approved staff recommendation to refinance the development accordingly.

17) Action Item 9 – Presentation, Discussion, and Possible Action on Awards for Program Year 2015 Community Services Block Grant Discretionary Funds Notice of Funding Availability ("NOFA") I for CSBG Network Operational Investments and Intensive Assessments and NOFA II for Native American and Migrant Seasonal Farmworker Populations – was presented by Mr. DeYoung. The Board unanimously approved staff recommendation on the awards.

18) At 11:58 a.m. the Board went into Executive Session and reconvened in open session at 12:46 p.m. No action was taken in or as a result of Executive Session.

13) The following public comment was made on matters other than items for which there were posted agenda items:

- Haiwa Salwitz, ADAPT Texas, provided comment on several Department programs which serve persons with disabilities
- Tim Alcott, San Antonio Housing Authority, provided comments on the development process for the 2017 Qualified Allocation Plan as well as addressing several issues herewith in.

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 12:54 p.m. The next meeting is set for Thursday, February 25, 2016.

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Secretary

Approved:

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Chair

**Texas Department of Housing and Community Affairs Governing Board**  
**Board Meeting Minutes Summary**  
**February 25, 2016**

On Thursday, the twenty-fifth day of February 2016, at 10:00 a.m., the regular monthly meeting of the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) was held in Room JHR 140, John H. Reagan Building, 105 W. 15<sup>th</sup> Street, Austin, Texas.

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

- J. Paul Oxer
- T. Tolbert Chisum
- Thomas Gann
- J.B. Goodwin

J. Paul Oxer served as Chair, and James “Beau” Eccles served as secretary.

1) The Consent Agenda as modified was approved unanimously by the Board with the exception of Item 2(d) – 2017 Qualified Allocation Plan Project, which was moved to the Action Item Agenda. Due to public comment (listed below), staff provided clarifying information on Item 1(j) – Presentation, Discussion and Possible Action on Material Amendments to the Housing Tax Credit Land Use Restriction Agreement (LURA) for #01111 Village at Meadowbend, Temple; #04145 Village at Meadowbend II, Temple; #04146 Casa Saldana, Mercedes; #97050 Cimarron Senior Apartments, Corpus Christi; #98020 South Pointe Apartments, Corpus Christi; #00068 Timber Run Apartments, Spring; #01076 Laurel Point Apartments, Houston; and #02149 Madison Pointe Apartments, Dallas.

- Ginger McGuire, Austin Stone, requested clarification on how TDHCA handles HUBs being eliminated from LURAs

2) Action Item 2(d) – 2017 Qualified Allocation Plan Project – was presented by Marni Holloway, TDHCA Director of Multifamily Finance, with additional information from Tim Irvine, TDHCA Executive Director. The Board heard the report and took no action.

3) Action Item 3 – Report Regarding the Housing and Services Partnership Academy – was presented by Elizabeth Yevich, TDHCA Director of the Housing Resource Center (“HRC”), with additional information from Terri Richard, TDHCA HRC staff. The Board heard the report and took no action.

4) Action Item 4 – Presentation, Discussion, and Possible Action to authorize staff to procure a statewide pool of housing industry professionals to assist on an as-needed basis with practical, ad hoc solutions for Department Single Family contracts, activities, and assets – was presented by Homero Cabello, TDHCA Director of Single Family Operations and Services, with additional information from Mr. Eccles and Brooke Boston, TDHCA Deputy Executive Director. The Board unanimously approved staff recommendation for the procurement.

5) Action Item 5(a) – Report regarding the effect of adding Elderly Preference funding to a previously approved Elderly Limitation Development – was presented by Tom Gouris, TDHCA Deputy Executive Director, with additional information from Mr. Irvine. The Board heard the report and took no action.

6) Action Item 5(b) – Presentation, Discussion, and Possible Action regarding Frequently Asked Questions for Multifamily Programs – was presented by Ms. Holloway. Following public comment (listed below), the Board unanimously approved staff recommendation to approve the Frequently Asked Questions.

- Robbye Meyer, Arx Advantage, testified with concerns about staff recommendation

7) Action Item 5(c) – Report regarding disclosure of Undesirable Site and Neighborhood Features for 4% Housing Tax Credit and Direct Loan Applications – was presented by Ms. Holloway. The Board heard the report, listed to public comment (listed below), and took no action.

- Barry Palmer, Coats Rose, testified with concerns about how TDHCA was administering the 4% Housing Tax Credit Program as it relates to this item

8) Action Item 5(d) – Presentation, Discussion, and Possible Action on a Determination Notice for Housing Tax Credits with another Issuer for #16405 New Hope at Harrisburg, Houston – was presented by Ms. Holloway. Following public comment (listed below), the Board unanimously approved staff recommendation to issue a determination notice.

- Joy Horak-Brown, New Hope Housing, testified in support of staff recommendation

9) Action Item 5(e) – Presentation, Discussion, and Possible Action Regarding the Issuance of Multifamily Housing Revenue Bonds (Chisolm Trace and Cheyenne Village Apartments) Series 2016 Resolution No. 16-011 and Determination Notices of Housing Tax Credits – was presented by Teresa Morales, TDHCA Manager of Multifamily Finance. The Board unanimously approved staff recommendation to issue the bonds and determination notice.

10) Action Item 5(f) – Presentation, Discussion, and Possible Action Regarding Appeal of tax credit application amendment for #15267 Thomas Westfall Memorial Apartments, El Paso – was not heard by the Board as staff requested the item be pulled from the agenda.

11) Action Item 5(g) – Report and Possible Action to Address a State Representative Vacancy and its Impact on Obtaining a Scoring Letter Under §11.9(d)(5) – was presented by Ms. Holloway with additional information from Mr. Eccles. The Board heard the report and public comment (listed below) and took no action.

- Tim Alcott, San Antonio Housing Authority, provided additional information on the item

12) Action Item 6 – Presentation, Discussion, and Possible Action on appeal of recommendation to debar Charles Miller for a period of ten years – was presented by Ms. Holloway with additional information from Mr. Eccles. Following public comment (listed below), the Board unanimously approved a motion to depart from staff recommendation and debar Mr. Miller for 20 years.

- Robert Bone, counsel for Mr. Miller, testified in opposition to staff recommendation

13) Action Item 7(a) – Presentation, Discussion, and Possible Action on the Reprogramming of Program Year (“PY”) 2015 Community Services Block Grant (“CSBG”) Discretionary and Administrative Funds – was presented by Ms. Boston. The Board unanimously approved staff recommendation on the reprogramming of the funds.

14) Action Item 7(b) – Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program (“LIHEAP”) Reprogramming of Unused Funds – was presented by Ms. Boston. The Board unanimously approved staff recommendation on the reprogramming of the funds.

15) Action Item 7(c) – Presentation, Discussion, and Possible Action on the Use of Program Year 2016 Community Services Block Grant (“CSBG”) Discretionary Funds – was presented by Ms. Boston. The Board unanimously approved staff recommendation for awarding the funds.

16) At 11:17 a.m. the Board went into Executive Session and reconvened in open session at 12:03 p.m. No action was taken in or as a result of Executive Session.

17) The following public comment was made on matters other than items for which there were posted agenda items:

- Jen Joyce Brewerton, Texas Affiliation of Affordable Housing Providers, provided comment requesting that TDHCA re-open public comment on compliance rules relating to utility allowances

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 12:54 p.m. The next meeting is set for Thursday, February 25, 2016.

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Secretary

Approved:

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Chair

1b

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Sagebrush Apartments (#01070 and #851007)

**RECOMMENDED ACTION**

**WHEREAS**, Sagebrush Apartments received an award of 9% Housing Tax Credits (“HTC”) and Housing Trust Fund (“HTF”) in 2001 to construct 60 multifamily units in Brady;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Donaldson, now known as Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, DF Affordable Housing Partners, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement;

**WHEREAS**, Ms. Holleman also requests a waiver of the amendment fee specified in 10 TAC §10.901 (13);

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board; and

**WHEREAS**, 10 TAC §10.901 allows a waiver to be granted in specific extenuating and extraordinary circumstances;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Sagebrush Apartments is approved but the waiver of the amendment fee is denied, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Sagebrush Apartments was approved in 2001 for the construction of 60 multifamily units in Brady. The HTC LURA for the Development has a 40-year term, including a 25-year Compliance Period. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, DF Affordable Housing Partners, Inc. submitted a request on behalf of the Development Owner, DF Sagebrush Chisholm Trail Senior Village, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016 and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Ms. Holleman also requests a waiver of the \$2,500 amendment fee (for this Development and five other properties that have requested the same amendment) pursuant to 10 TAC §10.901, which provides authority to the Executive Director to grant a waiver of fees for specific extenuating and extraordinary circumstances. According to Ms. Holleman, paying the amendment fee would result in financial hardship for the Development due to limited cash flow and large deferred developer fees that remain unpaid. Ms. Holleman provided a chart reflecting the outstanding deferred developer fees for this property which total \$80,131. Staff has reviewed the Development's past Annual Owners Financial Certifications for 2013 and 2014, as well as 2015 unaudited financial statements submitted by Ms. Holleman. A review of this information concluded that the property generated sufficient income from operations to pay its operating expenses as well as other financial obligations outside of the property's expenses and required debt service without placing this Development in a negative financial position.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 18, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that even with the loss of the three application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. Staff does not recommend approval of the waiver of the amendment fee.





Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

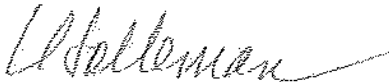
	Outstanding Deferred Developer Fees	Liabilities to Affiliate (GP)
Sagebrush Apartments	\$ 80,131	\$ 61,766
Bunker Hill Senior Village	\$ 67,190	\$ 66,809
Red River Senior Village	\$ 71,458	\$ -
Dripping Springs Senior Village	\$ 486,443	\$ 65,210
Cedar View Apartments	\$ 251,441	\$ 43,120

Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Leslie Holleman

enclosure

**DF SAGEBRUSH APARTMENTS, L.P.**  
**218 LYNN GAVITT ROAD**  
**BRADY, TX 76825**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 70202

Dear Mr. Moore,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

The public hearing will be held in the Sagebrush Apartments clubhouse at 218 Lynn Gavitt Road, Brady, TX on Thursday February 18<sup>th</sup> at 3:00pm.

Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF SAGEBRUSH APARTMENTS, L.P.**  
**218 LYNN GAVITT ROAD**  
**BRADY, TX 76825**

February 1, 2016

David Long  
President  
Texas State Affordable Housing Corporation  
2200 E. MLK Jr. Blvd.  
Austin, Texas 78702

Dear Mr. Long,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

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Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner

**DF SAGEBRUSH APARTMENTS, L.P.**  
**218 LYNN GAVITT ROAD**  
**BRADY, TX 76825**

February 1, 2016

Mayor Anthony Groves  
City of Brady  
201 East Main Street  
Brady, Texas 76825

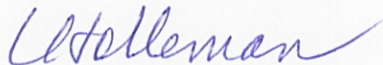
Dear Mayor Groves,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

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Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner

the  
staff  
affairs



**DF SAGEBRUSH APARTMENTS, L.P.**  
**218 LYNN GAVITT ROAD**  
**BRADY, TX 76825**

February 1, 2016

Representative J.D. Sheffield  
Texas State House - District 59  
P.O. Box 2910  
Austin, Texas 78768

Dear Representative Sheffield,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

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Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner

**DF SAGEBRUSH APARTMENTS, L.P.  
218 LYNN GAVITT ROAD  
BRADY, TX 76825**

February 1, 2016

Senator Charles Perry  
Texas State Senate – District 28  
P.O. Box 12068, Capitol Station  
Austin, Texas 78711

Dear Senator Perry,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

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Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF SAGEBRUSH APARTMENTS, L.P.**  
**218 LYNN GAVITT ROAD**  
**BRADY, TX 76825**

February 1, 2016

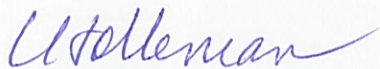
Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Sagebrush Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Sagebrush Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Sagebrush Apartments.

The public hearing will be held in the Sagebrush Apartments clubhouse at 218 Lynn Gavitt Road, Brady, TX on Thursday, February 18<sup>th</sup> at 3:00pm.

Sincerely

DF SAGEBRUSH APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF Sagebrush Apartments, L.P.  
218 Lynn Gavitt Rd  
Brady, TX 76825**

Meeting Information: Remove HUB requirement from the LURA

Date: February 18, 2016

Time: 3:00pm

Location: Sagebrush Apartments Clubhouse

**AGENDA**

1. Call Meeting to Order - 3:01 pm
2. Introduction - Jessica Alvarado, Sr. Rg Mgr, UAH Property LP  
Janette Calk, Property Manager  
Michael Flores, Maintenance
3. State Purpose of Hearing – request TDHCA to remove the HUB requirement from the Land Use Restriction Agreement
4. Additional Comments - N/A
5. Meeting Adjourned – 3:06 pm

Additional Informatin/Comments:

N/A

Recorded by:



Date:

2/18/16

# Sagebrush Apartments

*"We do not discriminate against color, race, handicap, family status or national origin"*

## HUB Certificate February 18, 2016

- 101 Kendall, Tina
- 102 Torrez, Cynthia
- 103 Allen, Ashley
- 104 Bruce, Dianna
- 201 Gauny, Katheryn
- 202 Adam Miranda
- 203 Dunham, Marcy
- 204 McAnally, Christi
- 301 Zapata, Julia
- 302 Aguirre, Christina
- 303 Adkinson, Kelsey
- 304 Griffin, Glee
- 401 Prince, Pansy
- 402 M.W. Woodall
- 403 Martin, Chasity
- 404 Duque, Loli
- 501 Smith, Brooke
- 502 Latham, Crystal
- 503 Aguirre, Mary Ann - *Mary Ann Aguirre*
- 504 Stidham, Vada
- 601 Harris, Tami
- 602
- 603 Howard, Cassie
- 604 Calk, Janette
- 701 Arnold, Mary Sue - *Mary Sue Arnold*
- 702 Roque, Anna
- 703 Jordan, Elva *Elva Jordan*
- 704 Reddell, Jimmie *Jimmie Reddell*

801 Whipkey, Keith  
802 Francis, Bryn  
803 Onyegbaduo, Uche  
804 Elkington, Thomas  
901 Wolfe, Kody  
902 Bufe, Kayla  
903 Smith, Scott  
904 Reyes, Britnay  
1001 Pfiester, Carrie  
1002 Khadka, Kishor  
1003 Chapaga, Dhana  
1004 Conner, Sandra  
1101 Sherman, Debra  
1102  
1103 Loveless, Jamie  
1104 Michalec, Marsha  
1201 Escabedo, Viola  
1202 Fields, Fletcher  
1203 Burrer, Brad  
1204 Williams, Angela  
1301  
1302 Estrada, Bree  
1303 Vick, Violet  
1304 Fish, Susan  
1401 McCleery, Danny - *Danny Mc Cleery*  
1402 Armstrong, Alex  
1403 Campbell, Jeremy  
1404 McCaleb, Delain  
1501 Goad, Kalena  
1502 Hopper, Emily  
1503 Reyes, Veronica - *Veronica Alizzi*  
1504 Molin, Melinda

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Bunker Hill Senior Village (#01106 and #851008)

**RECOMMENDED ACTION**

**WHEREAS**, Bunker Hill Senior Village received an award of 9% Housing Tax Credits (“HTC”) and Housing Trust Funds (“HTF”) in 2001 to construct 44 multifamily units in Stephenville;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Donaldson, now known as Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, Bunker Management, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement;

**WHEREAS**, Ms. Holleman also requests a waiver of the amendment fee specified in 10 TAC §10.901 (13);

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board; and

**WHEREAS**, 10 TAC §10.901 allows a waiver to be granted in specific extenuating and extraordinary circumstances;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Bunker Hill Senior Village is approved but the waiver of the amendment fee is denied, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Bunker Hill Senior Village was approved in 2001 for the construction of 44 multifamily units in Stephenville. The HTC LURA for the Development has a 40-year term, including a 25-year Compliance Period. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, Bunker Management, Inc. submitted a request on behalf of the Development Owner, Bunker Senior Village, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016 and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Ms. Holleman also requests a waiver of the \$2,500 amendment fee (for this Development and five other properties that have requested the same amendment) pursuant to 10 TAC §10.901, which provides authority to the Executive Director to grant a waiver of fees for specific extenuating and extraordinary circumstances. According to Ms. Holleman, paying the amendment fee would result in financial hardship for the Development due to limited cash flow and large deferred developer fees that remain unpaid. Ms. Holleman provided a chart reflecting the outstanding deferred developer fees for this property which total \$67,190. Staff has reviewed the Development's past Annual Owners Financial Certifications for 2013 and 2014, as well as 2015 unaudited financial statements submitted by Ms. Holleman. A review of this information concluded that the property generated sufficient income from operations to pay its operating expenses as well as other financial obligations outside of the property's expenses and required debt service during this time period without placing this Development in a negative financial position.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 18, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that with even with the loss of the three application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. Staff does not recommend approval of the waiver of the amendment fee.



Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

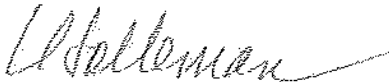
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Red River Senior Village	\$ 71,458	\$ -
Dripping Springs Senior Village	\$ 486,443	\$ 65,210
Cedar View Apartments	\$ 251,441	\$ 43,120

Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Leslie Holleman

enclosure

**BUNKER SENIOR VILLAGE, L.P.  
1801 W LINGLEVILLE ROAD  
STEPHENVILLE, TEXAS 76401**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 80202

Dear Mr. Moore,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Bunker Hill Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. Bunker Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Bunker Hill Senior Village.

The public hearing will be held in the Bunker Hill Senior Village clubhouse at 1801 W. Lingleville Road in Stephenville, TX on Thursday, February 18 at 3:00 pm.

Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner



**BUNKER SENIOR VILLAGE, L.P.  
1801 W LINGLEVILLE ROAD  
STEPHENVILLE, TEXAS 76401**

February 1, 2016

Mr. David Long  
President  
Texas State Affordable Housing Corporation  
2200 E. MLK Jr. Blvd.  
Austin, Texas 78702

Dear Mr. Long,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Bunker Hill Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. Bunker Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Bunker Hill Senior Village.

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Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner

**BUNKER SENIOR VILLAGE, L.P.  
1801 W LINGLEVILLE ROAD  
STEPHENVILLE, TEXAS 76401**

February 1, 2016

Mayor Kenny Weldon  
City of Stephenville  
298 W. Washington  
Stephenville, TX 76401

Dear Mayor Weldon,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Bunker Hill Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. Bunker Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Bunker Hill Senior Village.

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Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner



**BUNKER SENIOR VILLAGE, L.P.**  
**1801 W LINGLEVILLE ROAD**  
**STEPHENVILLE, TEXAS 76401**

February 1, 2016

Representative J.D. Sheffield  
Texas State House – District 59  
P.O. Box 2910  
Austin, TX 78768

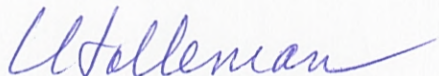
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Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner

**BUNKER SENIOR VILLAGE, L.P.**  
**1801 W LINGLEVILLE ROAD**  
**STEPHENVILLE, TEXAS 76401**

staff  
1/1/16

February 1, 2016

Senator Craig Estes  
Texas State Senate – District 30  
P.O. Box 12068, Capitol Station  
Austin, TX 78711

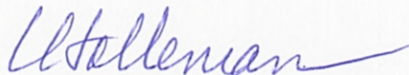
Dear Senator Estes,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Bunker Hill Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. Bunker Senior Village, Ltd has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Bunker Hill Senior Village.

The public hearing will be held in the Bunker Hill Senior Village clubhouse at 1801 W. Lingleville Road in Stephenville on Thursday, February 18 at 3:00 pm.

Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner



**BUNKER SENIOR VILLAGE, L.P.**  
**1801 W LINGLEVILLE ROAD**  
**STEPHENVILLE, TEXAS 76401**

February 1, 2016

Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Bunker Hill Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. Bunker Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Bunker Hill Senior Village.

The public hearing will be held in the Bunker Hill Senior Village clubhouse on Thursday, February 18 at 3:00 pm.

Sincerely

BUNKER SENIOR VILLAGE, L.P.



Leslie Holleman  
Secretary of the General Partner

## **Bunker Hill Senior Village public hearing**

Meeting called to order at 3:00pm by Cynthia Reeves

### **Members present:**

23 residents attended

### **Reading of Agenda**

- To discuss a proposed change in the Land use Restriction Agreement, a procedural requirement for tax credis properties which governs Bunker Hill Apartments (Leslie Holleman
  
- HUB Certificate

### **Business**

- Resident Sudy Williams asked if it changed the qualification to be a resident.  
Resolved Cynthia Reeves resolved by explaining that it did not affect the qualifications

**Meeting adjourned by Cynthia Reeves at 3:07pm**

SIGN IN SHEET

COMPLEX: ~~Red River~~ Bunker Hill

DATE: 02/19/2016

EVENT: HUB Public Hearing

Name:

1. Donna Olson

2. Aline Mitchell

3. Sher Ann

4. JOANNA Loomis

5. Gloria Paul

6. LUELLA Campbell

7. Karen High

8. Patricia Welton

9. Audrey Rust

10. Emma Toquinto

11. Elsie Bills

12. Betty Simons

13. Janice Malby

14. Nellie Subetz

15. Sue Carr

16. Diane Bruce

17. Algenia Stephen

18. Tassay Shaver

19. Maude Hall

20. Betty Dueska

21. Louisa Williams

Manager: \_\_\_\_\_

SIGN IN SHEET

COMPLEX Bunker Hill

DATE: 02/19/2010

EVENT: HUB Public Hearing

Name:

1. Steve McDonald

2. Dana Emfinger

3.

4. Cynthia Reeves - Regional Manager

5. Nikki Lang - Area Manager

6. Shana Knight - Manager

7. Sheena Massie - Manager

8.

9.

10.

11.

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17.

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21.

Manager:

N. Lang - Area Manager



state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us).

	<p><a href="http://www.tdhca.state.tx.us">Texas Department of Housing &amp; Community Affairs - TDHCA</a></p> <p><a href="http://www.tdhca.state.tx.us">www.tdhca.state.tx.us</a></p> <p>Texas state agency providing housing and community development opportunities for low income individuals, non-profit organizations, private companies, contractors ...</p>
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*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:** Leslie Holleman [<mailto:leslie@holleman-associates.com>]  
**Sent:** Wednesday, February 24, 2016 3:32 PM  
**To:** Lee Ann Chance  
**Cc:** Deborah Welchel  
**Subject:** Re: LURA Amendment Request - Public Hearings

The public hearing for Bunker Hill was held on Thursday Feb 18th at 3:00pm. The sign in date must just be an error.....

**Leslie**

Leslie Holleman & Associates, Inc.

135-F Country Center Dr #263

Pagosa Springs, CO 81147

(970) 731-9797 phone

(970) 507-0451 cell

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**From:** [Deborah Welchel](#)  
**To:** [Leslie Holleman](#); [Lee Ann Chance](#)  
**Subject:** RE: LURA Amendment Request - Public Hearings  
**Date:** Wednesday, February 24, 2016 4:06:32 PM  
**Attachments:** [image001.png](#)

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Yes Ma'am....it was a typo on the sign-in sheet. The meeting was held on Thursday, February 18<sup>th</sup> and the Regional Manager and Area Manager were in attendance.

Please let me know if you have any additional questions.

Take care...Debbie

Deborah Welchel

Senior Asset Manager

UAH Property Management, LP

512-671-0000 cell | 512-267-7432 office



*This message may contain confidential and/or privileged information. If you are not the addressee or authorized to receive this for the addressee, you must not use, copy, disclose, or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation.*

**From:** Leslie Holleman [mailto:[leslie@holleman-associates.com](mailto:leslie@holleman-associates.com)]  
**Sent:** Wednesday, February 24, 2016 4:03 PM  
**To:** Lee Ann Chance <[leeann.chance@tdhca.state.tx.us](mailto:leeann.chance@tdhca.state.tx.us)>  
**Cc:** Deborah Welchel <[DWelchel@uahmgt.com](mailto:DWelchel@uahmgt.com)>  
**Subject:** Re: LURA Amendment Request - Public Hearings

I have forwarded to Debbie Welchel, the Asset Manager at UAH Property Management over this property, for her response.

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Red River Senior Village (#03158)

**RECOMMENDED ACTION**

**WHEREAS**, Red River Senior Village received an award of 9% Housing Tax Credits (“HTC”) in 2003 to construct 60 multifamily units in Vernon;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Donaldson, now known as Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, DF Affordable Housing Partners, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement;

**WHEREAS**, Ms. Holleman also requests a waiver of the amendment fee specified in 10 TAC §10.901 (13);

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board; and

**WHEREAS**, 10 TAC §10.901 allows a waiver to be granted in specific extenuating and extraordinary circumstances;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Red River Senior Village is approved but the waiver of the amendment fee is denied, as presented to this meeting and the

Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing

### **BACKGROUND**

Red River Senior Village was approved in 2003 for the construction of 60 multifamily units in Vernon. The HTC LURA for the Development has a 40-year term, including a 15-year Compliance Period, which expires December 31, 2019. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, DF Affordable Housing Partners, Inc. submitted a request on behalf of the Development Owner, DF Red River Senior Village, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016 and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Ms. Holleman also requests a waiver of the \$2,500 amendment fee (for this Development and five other properties that have requested the same amendment) pursuant to 10 TAC §10.901, which provides authority to the Executive Director to grant a waiver of fees for specific extenuating and extraordinary circumstances. According to Ms. Holleman, paying the amendment fee would result in financial hardship for the Development due to limited cash flow and large deferred developer fees that remain unpaid. Ms. Holleman provided a chart reflecting the outstanding deferred developer fees for this property which total \$71,458. Staff has reviewed the Development's past Annual Owners Financial Certifications for 2013 and 2014, as well as 2015 unaudited financial statements submitted by Ms. Holleman. A review of this information concluded that the property generated sufficient income from operations to pay its operating expenses as well as other financial obligations outside of the property's expenses and required debt service without placing this Development in a negative financial position.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 19, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that with even with the loss of the three application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. Staff does not recommend approval of the waiver of the amendment fee.



Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

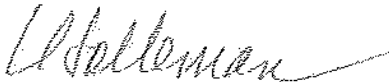
	Outstanding Deferred Developer Fees	Liabilities to Affiliate (GP)
Sagebrush Apartments	\$ 80,131	\$ 61,766
Bunker Hill Senior Village	\$ 67,190	\$ 66,809
Red River Senior Village	\$ 71,458	\$ -
Dripping Springs Senior Village	\$ 486,443	\$ 65,210
Cedar View Apartments	\$ 251,441	\$ 43,120

Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Leslie Holleman

enclosure

**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 70202

Dear Mr. Moore,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Ciante Bell  
Senior Real Estate Servicing Coordinator  
Community Development Trust  
1350 Broadway, Suite 700  
New York, NY 10018-7702

Dear Ciante,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

staff  
4/10/16



**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Mayor Joe Rogers  
City of Vernon  
1725 Wilbarger Street  
Vernon, TC 76384

Dear Mayor Rogers,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

star  
Hone

**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Representative Drew Springer, Jr.  
Texas State House – District 68  
P.O. Box 2910  
Austin, Texas 78768

Dear Representative Springer,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Senator Charles Perry  
Texas State Senate – District 28  
P.O. Box 12068, Capitol Station  
Austin, Texas 78711

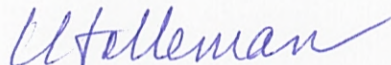
Dear Senator Perry,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

**DF RED RIVER SENIOR VILLAGE, L.P.  
900 ROSS STREET  
VERNON, TX 76384**

February 1, 2016

Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Red River Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Red River Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Red River Senior Village.

The public hearing will be held in the Red River Senior Village clubhouse at 900 Ross Street, Vernon, TX on Friday, February 19<sup>th</sup> at 3:00pm.

Sincerely

DF RED RIVER SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

**Red River Senior Village Public Hearing      Feb.19, 2016**

Meeting called to order at 3:00 P.M. by Nikki Lang.

**Members present:**

Nikki Lang

Pamela Vest

**Reading of Agenda**

To discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties which governs Red River Senior Village.

HUB Certificate

**Business**

Business discussed:

No questions were asked.

**Meeting adjourned at 3:30 P.M.**



SIGN IN SHEET

COMPLEX: Red River

DATE: Feb. 19, 2016

EVENT: Public Hearing - HUB

Name:

1. Lupe Abrarato
2. Lou Dean
3. Joe Jarosek
4. C.J. Campbell
5. Jane Daniels
6. Linda Cleare
7. Juanita Elliott (son Larry Bursey)
8. Robbie Walker
9. Dorothy L. Kaker
10. Cindy Harper
11. Gary Harper
12. Mye Lynn Scott
13. Carl W. W. Scott
14. Francis Hancock
15. H. D. Ro
16. Pamela Vest
17. Nikki Lang
- 18.
- 19.
- 20.
- 21.

Manager: \_\_\_\_\_

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Dripping Springs Senior Village (#03161)

**RECOMMENDED ACTION**

**WHEREAS**, Dripping Springs Senior Village received an award of 9% Housing Tax Credits (“HTC”) in 2003 to construct 100 multifamily units in Waco;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Donaldson, now known as Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, DF Affordable Housing Partners, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement;

**WHEREAS**, Ms. Holleman also requests a waiver of the amendment fee specified in 10 TAC §10.901 (13);

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board; and

**WHEREAS**, 10 TAC §10.901 allows a waiver to be granted in specific extenuating and extraordinary circumstances;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Dripping Springs Senior Village is approved but the waiver of the amendment fee is denied, as presented to this meeting and

the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Dripping Springs Senior Village was approved in 2003 for the construction of 100 multifamily units in Waco. The HTC LURA for the Development has a 40-year term, including a 15-year Compliance Period. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, DF Affordable Housing Partners, Inc. submitted a request on behalf of the Development Owner, DF Dripping Springs Senior Village, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016 and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Ms. Holleman also requests a waiver of the \$2,500 amendment fee (for this Development and five other properties that have requested the same amendment) pursuant to 10 TAC §10.901, which provides authority to the Executive Director to grant a waiver of fees for specific extenuating and extraordinary circumstances. According to Ms. Holleman, paying the amendment fee would result in financial hardship for the Development due to limited cash flow and large deferred developer fees that remain unpaid. Ms. Holleman provided a chart reflecting the outstanding deferred developer fees for this property which total \$486,443. Staff has reviewed the Development's past Annual Owners Financial Certifications for 2013 and 2014, as well as 2015 unaudited financial statements submitted by Ms. Holleman. A review of this information concluded that the property generated sufficient income from operations to pay its operating expenses as well as other financial obligations outside of the property's expenses and required debt service without placing this Development in a negative financial position.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 17, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that with even with the loss of the three application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. Staff does not recommend approval of the waiver of the amendment fee.





Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

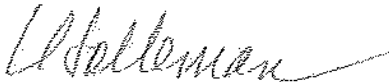
	Outstanding Deferred Developer Fees	Liabilities to Affiliate (GP)
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Bunker Hill Senior Village	\$ 67,190	\$ 66,809
Red River Senior Village	\$ 71,458	\$ -
Dripping Springs Senior Village	\$ 486,443	\$ 65,210
Cedar View Apartments	\$ 251,441	\$ 43,120

Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Leslie Holleman

enclosure

**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.**  
**2405 JJ FLEWELLEN ROAD**  
**WACO, TX 76704**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 80202

Dear Mr. Moore,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

The public hearing will be held in the Dripping Springs Senior Village clubhouse at 2405 JJ Flewellen Road, Waco, TX on Wednesday, February 17 at 1:00 pm.

Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.  
2405 JJ FLEWELLEN ROAD  
WACO, TX 76704**

February 1, 2016

Ciante Bell  
Senior Real Estate Servicing Coordinator  
Community Development Trust  
1350 Broadway, Suite 700  
New York, NY 10018-7702

Dear Ciante,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

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Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.  
2405 JJ FLEWELLEN ROAD  
WACO, TX 76704**

February 1, 2016

Mayor Malcom Duncan, Jr.  
City of Waco  
300 Austin Avenue  
Waco, Texas 76702

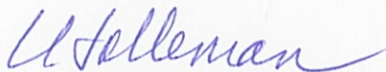
Dear Mayor Duncan,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

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Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.  
2405 JJ FLEWELLEN ROAD  
WACO, TX 76704**

February 1, 2016

Representative Kyle Kacal  
Texas State House – District 12  
P.O. Box 2910  
Austin, Texas 78768

Dear Representative Kacal,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

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Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.  
2405 JJ FLEWELLEN ROAD  
WACO, TX 76704**

February 1, 2016

Senator Brian Birdwell  
Texas State Senate – District 22  
P.O. Box 12068, Capitol Station  
Austin, Texas 78711

Dear Senator Birdwell,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

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Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.  
2405 JJ FLEWELLEN ROAD  
WACO, TX 76704**

February 1, 2016

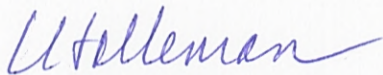
Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Dripping Springs Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Dripping Springs Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Dripping Springs Senior Village.

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Sincerely

DF DRIPPING SPRINGS SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

## Dripping Springs Senior Village HUB Certificate Public Hearing Notes

Thursday, February 17, 2016 1:00PM

- Hearing was held at the property
- 11 residents were in attendance
- Carissa Rex, Regional Manager, introduced herself and explained that the purpose of the public hearing was to inform all that attended that the owner of the property was requesting that the HUB requirement be removed. She explained that HUB stood for Historically Underutilized Business, which could include a business owned by a woman or a minority. She also explained that the owner, up until recently was qualified to be the HUB but she no longer is eligible due to no longer residing in Texas.
- Ms. Helen Johnson, a resident in 804, asked who the owner was and if this goes away and they lose the tax credits, who is going to pay for that?
- Ms. Rex indicated that Leslie Holleman is still the owner and her information is in the management office, she also explained that Ms. Holleman is not losing tax credits so it would not impact the property at all.
- Ms. Helen Johnson then asked who gets the tax credit?
- Ms. Rex explained that she would explain the actual tax credit program after the meeting if she wanted to stay a bit.
- Ms. Morrison, a resident in unit 1001 asked if Leslie Holleman was always the owner?
- Ms. Rex indicated that yes, Ms. Holleman was always the owner.
- Ms. Rex asked if there were any further questions on the subject.
- There were none
- Ms. Rex closed the meeting by explaining to the residents that this process would have no impact on their residency at Dripping Springs. The management, apartments, paperwork and rental amounts would not be affected by this process.
- End of meeting at 1:27PM

Dripping Springs Senior Village – HUB Public Hearing – February 17, 2016 1PM

Mary Parks #803

Melba Lang #1103

Helen Johnson #804

Verta Banks #903

Loris Bell

Carol Kiehl

Jessie Haliburton

Marie Masley #103

Glodine Morrison #7001

Margie Sault - 2504

Lois Mary Paris 1401



**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Cedar View Apartments (HTC#03163 and HTF#853331)

**RECOMMENDED ACTION**

**WHEREAS**, Cedar View Apartments received an award of 9% Housing Tax Credits (“HTC”) and Housing Trust Funds (“HTF”) in 2003 to construct 72 multifamily units in Mineral Wells;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Donaldson, now known as Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, DF Affordable Housing Partners, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement;

**WHEREAS**, Ms. Holleman also requests a waiver of the amendment fee specified in 10 TAC §10.901 (13);

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board; and

**WHEREAS**, 10 TAC §10.901 allows a waiver to be granted in specific extenuating and extraordinary circumstances;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Cedar View Apartments Village is approved but the waiver of the amendment fee is denied, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

### **BACKGROUND**

Cedar View Apartments was approved in 2003 for the construction of 72 multifamily units in Mineral Wells. The LURA for the Development has a 40-year term, including a 15-year Compliance Period. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, DF Affordable Housing Partners, Inc. submitted a request on behalf of the Development Owner, DF Cedar View Apartments, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016 and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Ms. Holleman also requests a waiver of the \$2,500 amendment fee (for this Development and five other properties that have requested the same amendment) pursuant to 10 TAC §10.901, which provides authority to the Executive Director to grant a waiver of fees for specific extenuating and extraordinary circumstances. According to Ms. Holleman, paying the amendment fee would result in financial hardship for the Development due to limited cash flow and large deferred developer fees that remain unpaid. Ms. Holleman provided a chart reflecting the outstanding deferred developer fees for this property which total \$251,441. Staff has reviewed the Development's past Annual Owners Financial Certifications for 2013 and 2014, as well as 2015 unaudited financial statements submitted by Ms. Holleman. A review of this information concluded that the property generated sufficient income from operations to pay its operating expenses as well as other financial obligations outside of the property's expenses and required debt service without placing this Development in a negative financial position.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 16, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that with even with the loss of the three (3) application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period. Staff does not recommend approval of the waiver of the amendment fee.



Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

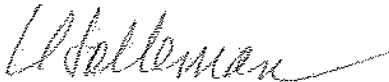
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Sagebrush Apartments	\$ 80,131	\$ 61,766
Bunker Hill Senior Village	\$ 67,190	\$ 66,809
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Cedar View Apartments	\$ 251,441	\$ 43,120

Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Leslie Holleman

enclosure

**DF CEDAR VIEW APARTMENTS, L.P.**  
**1701 HIGHWAY 180 WEST**  
**MINERAL WELLS, TX 76067**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 80202

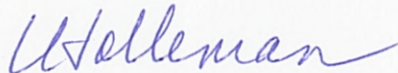
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The public hearing will be held in the Cedar View Apartments clubhouse at 1701 Highway 180 West, Mineral Wells, TX on Tuesday, February 16 at 3:00 pm.

Sincerely

DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF CEDAR VIEW APARTMENTS, L.P.  
1701 HIGHWAY 180 WEST  
MINERAL WELLS, TX 76067**

February 1, 2016

Representative Jim Lloyd Keffer  
Texas State House - District 60  
P.O. Box 2910  
Austin, TX 78768


Dear Representative Keffer,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Cedar View Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Cedar View Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Cedar View Apartments.

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Sincerely

DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner

**DF CEDAR VIEW APARTMENTS, L.P.**  
**1701 HIGHWAY 180 WEST**  
**MINERAL WELLS, TX 76067**

February 1, 2016

Ciante Bell  
Senior Real Estate Servicing Coordinator  
Community Development Trust  
1350 Broadway, Suite 700  
New York, NY 10018-7702

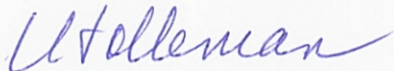
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DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF CEDAR VIEW APARTMENTS, L.P.  
1701 HIGHWAY 180 WEST  
MINERAL WELLS, TX 76067**

February 1, 2016

Mayor Mike Allen  
City of Mineral Wells  
115 S.W. 1<sup>st</sup> Avenue  
Mineral Wells, TX 76067

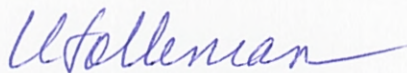
Dear Mayor Allen,

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Sincerely

DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner

**DF CEDAR VIEW APARTMENTS, L.P.**  
**1701 HIGHWAY 180 WEST**  
**MINERAL WELLS, TX 76067**

February 1, 2016

Senator Craig Estes  
Texas State Senate – District 30  
P.O. Box 12068, Capitol Station  
Austin, TX 78711

Dear Senator Estes,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Cedar View Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Cedar View Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Cedar View Apartments.

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Sincerely

DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



**DF CEDAR VIEW APARTMENTS, L.P.**  
**1701 HIGHWAY 180 WEST**  
**MINERAL WELLS, TX 76067**

staff  
Hone

February 1, 2016

Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Cedar View Apartments. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Cedar View Apartments, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Cedar View Apartments.

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Sincerely

DF CEDAR VIEW APARTMENTS, L.P.



Leslie Holleman  
President of the General Partner



## **Cedar View Public Hearing**

Meeting called to order at 3:00 pm by Nikki Lang

### **Members present:**

Shana Knight  
Nikki Lang  
Cynthia Reeves

### **Reading of Agenda**

- To discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties which governs Cedar View Apartments (Leslie Holleman)
- HUB Certificate

### **Business**

- No business was discussed at this meeting because there were no attendees

**Meeting adjourned at 3:30 pm.**

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Chisholm Trail Senior Village (#04052 and #07015)

**RECOMMENDED ACTION**

**WHEREAS**, Chisholm Trail Senior Village received an award of 9% Housing Tax Credits (“HTC”) in 2004 and an additional award in 2007 to construct 60 multifamily units in Belton;

**WHEREAS**, the tax credit application for the Development received three points for having a Historically Underutilized Business (“HUB”), namely Leslie Holleman (“Ms. Holleman”), a sole proprietor, participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, Ms. Holleman, the co-owner of the General Partner, DF Affordable Housing Partners, Inc., requests to remain in the ownership structure;

**WHEREAS**, Ms. Holleman requests approval to amend the LURA for the Development to eliminate the HUB requirement; and

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB to be removed when it is unable to maintain its HUB status but is determined to maintain its ownership interest as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board;

**NOW, therefore, it is hereby**

**RESOLVED**, that the material LURA amendment for Chisholm Trail Senior Village is approved, as presented to this meeting and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

Chisholm Trail Senior Village was approved in 2004 for the construction of 60 multifamily units in Belton. The HTC LURA for the Development has a 40-year term, including a 15-year Compliance Period, which expires December 31, 2020. On January 20, 2016, Leslie Holleman, a sole proprietor and co-owner (51% interest) of the General Partner, DF Affordable Housing Partners, Inc. submitted a request on behalf of the Development Owner, DF Chisholm Trail Senior Village, L.P., for the elimination of the requirement for a HUB to hold an ownership interest in the Project, and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Project throughout the Compliance Period. Ms. Holleman states that her HUB status expired in February 2016, and that the Texas Comptroller will not renew her certificate because she no longer resides in Texas. It is Ms. Holleman's intent to continue to hold an ownership interest in the Development and materially participate in the operation.

Pursuant to 10 TAC §10.405(b)(3)(A), the Owner notified the tenants, lenders, investors and State and local public officials, and held a public hearing on February 17, 2016. No negative public comment about the amendment was made.

In addition, staff confirmed that even with the loss of the three application points for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period.



Leslie Holleman & Associates, Inc.  
*Residential Real Estate Development & Consulting*

January 20, 2016

Raquel Morales  
Director of Asset Management  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701

Re: HTC #01070 / HTF #851007 Sagebrush Apartments  
HTC #01106 / HTF #851008 Bunker Hill Senior Village  
HTC #03158 Red River Senior Village  
HTC #03161 Dripping Springs Senior Village  
HTC #03163 / HTF #853331 Cedar View Apartments  
HTC #04052 / #07015 Chisholm Trail Senior Village

Dear Raquel:

As you are aware, I have maintained a Texas HUB Certificate for many years (in my name as a Sole Proprietor) and this HUB is included in the LURAs for the above name properties. Unfortunately, due to a recent change in my state of residency status, when my Texas HUB certificate expires in February, 2016, it will not be eligible for renewal. My ownership interest in these properties and my participation in their development and operations for the past 10 to 15 years has remained unchanged and it is my intent that this will continue in the future. Therefore, pursuant to §10.406(g)(iii) of the Uniform Multifamily Rule ("the Rule"), I hereby request a Material LURA Amendment in order to retire the HUB requirement for each of these properties. Please find the enclosed check for \$2,500 which should be applied to Chisholm Trail Senior Village (#04052/07015).

Additionally, pursuant to §10.901, I am also requesting an Amendment Fee waiver for the other five properties due to "specific extenuating and extraordinary circumstances". Paying this fee would result in a significant financial hardship for Sagebrush Apartments, Bunker Hill Senior Village, Red River Senior Village, Dripping Springs Senior Village, and Cedar View Apartments. These mostly small and rural properties operate with extremely limited cash flow, and consequently have large deferred developer fees which remain unpaid and will likely never be retired (see summary chart below).

	Outstanding Deferred Developer Fees	Liabilities to Affiliate (GP)
Sagebrush Apartments	\$ 80,131	\$ 61,766
Bunker Hill Senior Village	\$ 67,190	\$ 66,809
Red River Senior Village	\$ 71,458	\$ -
Dripping Springs Senior Village	\$ 486,443	\$ 65,210
Cedar View Apartments	\$ 251,441	\$ 43,120

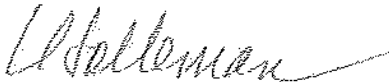


Ms. Raquel Morales  
Texas Department of Housing and Community Affairs  
Page 2

These are aging properties and, as is typical, expense growth exceeds income growth. Appliances and HVAC systems are nearing the end of their useful lives and many were replaced in 2015. Paying an additional \$2,500 fee simply due to the fact that I am no longer a Texas resident would only further burden these properties, which have extremely tight operations which should be apparent from our financial history submitted in the Annual Owners Financial Certifications. If requested I would be happy to provide 2014 audited financial statements as well.

I appreciate your consideration of this amendment and waiver request. Please contact me at (970) 731-9797 or by email at [leslie@holleman-associates.com](mailto:leslie@holleman-associates.com) with any questions or if you need additional information.

Sincerely,

A handwritten signature in cursive script that reads "L Holleman".

Leslie Holleman

enclosure

**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

Justin Moore  
Asset Manager  
Alden Torch Financial  
1225 17<sup>th</sup> Street, Suite 1400  
Denver, CO 80202

Dear Mr. Moore,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

Ciante Bell  
Senior Real Estate Servicing Coordinator  
Community Development Trust  
1350 Broadway, Suite 700  
New York, NY 10018-7702

Dear Ciante,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

Mayor Marion Grayson  
City of Belton  
333 Water Street  
Belton, Texas 76513

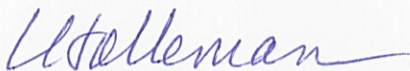
Dear Mayor Grayson,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business ("HUB") Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman's ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

Representative Molly S. White  
Texas State House – District 55  
P.O. Box 2910  
Austin, Texas 78768

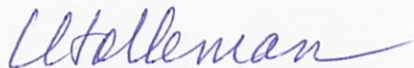
Dear Representative White,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

Senator Troy Fraser  
Texas State Senate – District 24  
P.O. Box 12068 – Capitol Station  
Austin, Texas 78711

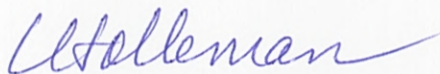
Dear Senator Fraser,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner



**DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.  
1003 W. MARTIN LUTHER KING JR. BLVD.  
BELTON, TX 76513**

February 1, 2016

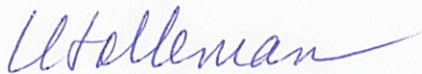
Dear Resident,

This letter is to inform you of a public hearing scheduled to discuss a proposed change in the Land Use Restriction Agreement, a procedural requirement for tax credit properties, which governs Chisholm Trail Senior Village. Leslie Holleman (individually) has maintained a Texas Historically Underutilized Business (“HUB”) Certificate for many years; however due to a recent change in her residency status, her HUB Certificate is no longer eligible for renewal. DF Chisholm Trail Senior Village, LP has requested that Texas Department of Housing and Community Affairs remove the HUB requirement from the Land Use Restriction Agreement governing the property. Leslie Holleman’s ownership interest will remain the same, she will simply no longer be a certified HUB. This procedural change will have no impact on the Management and daily operations of Chisholm Trail Senior Village.

The public hearing will be held in the Chisholm Trail Senior Village clubhouse at 1003 W. Martin Luther King Jr Blvd, Belton, TX on Wednesday, February 17 at 3:30 pm.

Sincerely

DF CHISHOLM TRAIL SENIOR VILLAGE, L.P.



Leslie Holleman  
President of the General Partner

## Chisholm Trail Senior Village HUB Certificate Public Hearing Notes

Thursday, February 17, 2016 3:30PM

- Hearing was held at the property
- 5 residents were in attendances
- Carissa Rex, Regional Manager, introduced herself and explained that the purpose of the public hearing was to inform all that attended that the owner of the property was requesting that the HUB requirement be removed. She explained that HUB stood for Historically Underutilized Business, which could include a business owned by a woman or a minority. She also explained that the owner, up until recently was qualified to be the HUB but she no longer is eligible due to no longer residing in Texas.
- Ms. Pat Mahoney, a resident in 502, asked if she would find another business in Texas to take her place. Ms. Rex explained that the request is to remove the requirement.
- Ms. Naomi Shurghart, a resident in 403 asked if the owner received a break on her taxes for this. Ms. Rex explained that the HUB was only something considered at the time of the application and she was unaware of any tax credits for the owner.
- Ms. Rex asked if anyone had any other questions.
- Ms. Peggy Kitchings, a resident in unit 1301, asked for Ms. Rex to tell what HUB stood for again.
- Ms. Rex answered that HUB stood for Historically Underutilized Business.
- Ms. Rex asked again if there were any other questions. There were none.
- Ms. Rex closed the meeting by explaining to the residents that this process would have no impact on their residency at Chisholm Trail. The management, apartments, paperwork and rental amounts would not be affected by this process.
- End of meeting at 3:51PM



SIGN IN SHEET

COMPLEX: Chisholm Trail Senior Village

DATE: Feb. 17<sup>th</sup>, 2016

EVENT: Public Hearing on HUB Certificate

CLASSIFICATION:

NAME:	Unit#
1. <u>Sue Shugart</u>	<u>203</u>
2. <u>Sy</u>	<u>503</u>
3. <u>Peggy Kitching</u>	<u>1501</u>
4. <u>Pat</u>	<u>502</u>
5. <u>Yan Lata</u>	<u>301</u>
6.	
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19.	
20.	

Manager: 

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve the transfer of the HUB Managing General Partnership interest to a non-HUB general partner and a material amendment to the Housing Tax Credit Land Use Restriction Agreement (“LURA”) for Sea Breeze Village Apartments (File No. 98119)

**RECOMMENDED ACTION**

**WHEREAS**, Sea Breeze Village Apartments (the “Development”) received an award of 9% Housing Tax Credits (“HTC”) in 1998 to construct 72 multifamily units in Port Lavaca;

**WHEREAS**, the tax credit application for the Development received points and/or other preferences for having a Historically Underutilized Business (“HUB”), namely HVM Housing, LLC., participate in the ownership of the Development;

**WHEREAS**, the LURA for the Development requires that throughout the Compliance Period, unless otherwise permitted by the Department, the HUB shall hold an ownership interest in the Project and must maintain regular, continuous, and substantial participation in the development and operation of the Project;

**WHEREAS**, the Development is within the Compliance Period, as defined in the LURA;

**WHEREAS**, the current sole members of the General Partner, including the HUB Managing General Partner, have entered into a purchase and sale agreement to sell the property to a new entity, and the Development Owner requests approval to amend the LURA for the Development to eliminate the HUB requirement; and

**WHEREAS**, 10 TAC §10.406(g) allows for a HUB general partner to sell its interest to a non-HUB general partner as long as the LURA does not require such continual ownership or a material LURA amendment is approved, and the Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to make this change and have this request placed before the Board for action;

**NOW, therefore, it is hereby**

**RESOLVED**, that the ownership transfer and material LURA amendment for Sea Breeze Village Apartments are approved, subject to approval of the Previous Participation review related to the requested change in ownership pursuant to 10 TAC §1.301, as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

Sea Breeze Village Apartments was approved in 1998 for the construction of 72 units in Port Lavaca. The Housing Tax Credit LURA for the Development has a 40-year Extended Use Period, including a 25-year Compliance Period, which expires August 15, 2040. The original tax credit application identified Gemini Holdings, Inc. as the HUB, and on June 17, 2013, the Department approved an ownership transfer to replace Gemini Holdings, Inc. with HVM Housing, LLC, as the co-general partner and HUB.

On January 4, 2016, Carol Hoover, President and co-owner of the HUB Managing General Partner, HVM Housing, LLC, submitted a request on behalf of the Development Owner, Sea Breeze Village Apartments, Ltd., for the elimination of the requirement for a HUB to hold an ownership interest in the Development and the requirement for the HUB to maintain regular, continuous, and substantial participation in the development and operation of the Development throughout the Compliance Period. Ms. Hoover states that her HUB was not removed from its position and chooses to exit the ownership structure on its own volition. Concurrent with this LURA amendment request the Department received a request for approval of an ownership transfer for the subject Development. The ownership transfer proposes a full sale of the property to a new entity. The new entity is currently undergoing previous participation review.

Pursuant to 10 TAC §10.405(b)(4), the Owner notified the tenants, lenders, investors, and State and local public officials and held a public hearing on February 12, 2016. No negative public comment about the proposed amendment was made.

In addition, staff confirmed that even with the loss of the points awarded for the HUB participation, the application would have remained competitive to receive an award of tax credits.

Staff recommends approval of the transfer of the HUB managing general partnership interest to the proposed non-HUB general partner, subject to approval of the Previous Participation review related to the requested change in ownership pursuant to 10 TAC §1.301. Staff also recommends approval of the request to amend the LURA to eliminate the requirement for participation of a HUB in the ownership structure and operation of the Development throughout the Compliance Period.

**Sea Breeze Village Apartments, Ltd.**  
701 Brazos Street, Suite 1050  
Austin, Texas 78701

January 4, 2016

**VIA HAND DELIVERY**

Colton Sanders  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, Texas 78701-2410

Re: Sea Breeze Village Apartments (the "**Property**")  
TDHCA File No. 98119

Dear Colton:

The undersigned is the Managing General Partner (herein so called) and HUB (hereinafter defined) of Sea Breeze Village Apartments, Ltd., a Texas limited partnership and the current owner of the Property ("**Owner**"). This letter constitutes notice of an ownership transfer in accordance with Section 10.406(e) of the Uniform Multifamily Rules (the "**Rules**") and a request for a material LURA amendment in accordance with Section 10.405(b) of the Rules. Specifically, the LURA for this Property requires ownership participation by an historically underutilized business (a "**HUB**"). The Managing General Partner, acting on behalf of the Owner, hereby requests elimination of that requirement for the reasons set forth below.

**Background Information**

The Owner currently consists of the Managing General Partner, EAM Associates, Inc., (the "**Co-General Partner**"), and Banc of America Housing Fund IIIA Limited Partnership and Enterprise Neighborhood Partners Fund II, L.P. as co-limited partners. The Managing General Partner, acting on behalf of the Owner, has determined it is in its best economic interest to sell the Property and has entered into a purchase contract (the "**Contract**") with Hope Housing Foundation, Inc., a Texas nonprofit corporation ("**Hope**"). Hope will then assign the Contract to Port Lavaca Sea Breeze Partnership, Ltd., a Texas limited partnership ("**Port Lavaca**").

**Request**

Based upon recent changes to Section 10.406(e) of the Rules, the Managing General Partner, acting on behalf of the Owner, requests that TDHCA remove the HUB requirement from its LURA thereby allowing Port Lavaca to take ownership control of the Property while maintaining compliance with the LURA. In accordance with the Rules:

- (1) The Managing General Partner, acting on behalf of the Owner, acted in concert with the Co-General Partner in choosing to sell the Property to Port Lavaca. The Managing General Partner was not removed from its position. If verification is required from the Managing General Partner, that can be obtained.
- (2) The participation of the Managing General Partner as the HUB with regard to the Property is substantive and meaningful, and will continue to be so until the sale of the Property. TDHCA is well-familiar with the Managing General Partner and the way in which it has actively participated when owning properties for multiple years.



**LURA Amendment**

In accordance with Section 10.405(b) of the Rules, the Managing General Partner, acting on behalf of the Owner, is delivering a fee in the amount of \$2,500. In addition, the Managing General Partner, acting on behalf of the Owner, commits to hold a public hearing, as required by the Rules, and to notify all residents, investors, lenders, and appropriate elected officials. Drafts of the public hearing notices are attached for your consideration. Upon approval from TDHCA, the Managing General Partner, acting on behalf of the Owner, will proceed to set a date and time for the Public Hearing and will provide TDHCA with evidence that the notice has been delivered and the hearing has been conducted. With that, the Managing General Partner, acting on behalf of the Owner, requests staff recommendation, in support of this request, to be considered at the January 28, 2016 TDHCA Board meeting.

Thank you very much for your assistance. Please do not hesitate to contact us if you require any additional information.

Sincerely,

HVM Housing, L.L.C.,  
its managing general partner

By: Carol Hoover  
Name: Carol Hoover  
Title: President

EAM Associates, Inc.,  
its Co-General Partner

By: Jeffrey R. Cunnolly  
Name: Jeffrey R. Cunnolly  
Title: Vice President

Attachments

- cc: Tom Gouris – via email to [tom.gouris@tdhca.state.tx.us](mailto:tom.gouris@tdhca.state.tx.us)
- Patricia Murphy – via email to [patricia.murphy@tdhca.state.tx.us](mailto:patricia.murphy@tdhca.state.tx.us)
- Alvin Thomas – via email to [alvin@372hope.org](mailto:alvin@372hope.org)
- Cynthia L. Bast - via email [cbast@lockelord.com](mailto:cbast@lockelord.com)
- Matthew Borah – via email to [mborah@lockelord.com](mailto:mborah@lockelord.com)

**Sea Breeze Village Apartments, Ltd.**  
701 Brazos Street, Suite 1050  
Austin, Texas 78701

January \_\_\_\_, 2016

Dear Resident:

Sea Breeze Village Apartments (the “**Community**”) is owned by Sea Breeze Village Apartments, Ltd. (the “**Owner**”). In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the “**Department**”) (Phone: 512-475-3800; Website: www.tdhca.state.tx.us).

The Owner is structured with HVM Housing, L.L.C. (“**HVM**”) as the managing general partner. HVM is certified by the State of Texas as a Historically Underutilized Business (a “**HUB**”). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner has decided to sell the Property prior to the expiration of this mandatory period. Therefore, the Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract to facilitate that process.

In making its decision whether to approve the Owner’s request, the Department considers the opinions and views of the members of the Community. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community’s management office/clubhouse on \_\_\_\_\_, January \_\_\_\_, 2016 at \_\_:00 \_\_.m..

Please note that this proposal would not affect your current lease agreement, your rent payment, or your security deposit. You would *not* be required to move out of your home or take any other action because of this change. If the Department approves the Owner’s request, the Community will not change at all from its current form.

We appreciate that Sea Breeze Village Apartments is your home and we invite you to attend and give your input on this proposal.

Thank you for choosing Sea Breeze Village Apartments as your home.

Sincerely,

**SEA BREEZE VILLAGE APARTMENTS, LTD.**,  
a Texas limited partnership

By: HVM Housing, L.L.C.,  
its managing general partner

By: \_\_\_\_\_  
Name: Carol Hoover  
Title: President

By: EAM Associates, Inc.,  
its co-general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Sea Breeze Village Apartments**  
701 Brazos Street, Suite 1050  
Austin, Texas 78701

[Elected Official]

January \_\_, 2016

Dear [Addressee]:

Sea Breeze Village Apartments, Ltd. (the "**Owner**") is the owner of Sea Breeze Village Apartments (the "**Community**") which is located at 233 S. Alcoa Drive, Port Lavaca, Calhoun County, Texas. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is structured with HVM Housing, L.L.C. ("**HVM**") as the managing general partner. HVM is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner has decided to sell the Property prior to the expiration of this mandatory period. Therefore, the Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract to facilitate that process.

In making its decision whether to approve the Owner's request, the Department considers the opinions and views of the members of the Community and its elected representatives. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on \_\_\_\_\_, January \_\_, 2016 at \_:00 \_m..

We invite you or one of your staff to attend and give your input on this proposal.

Sincerely,

**SEA BREEZE VILLAGE APARTMENTS, LTD.,**  
a Texas limited partnership

By: HVM Housing, L.L.C.,  
its managing general partner

By: \_\_\_\_\_  
Name: Carol Hoover  
Title: President

By: EAM Associates, Inc.,  
its co-general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Sea Breeze Village Apartments**  
701 Brazos Street, Suite 1050  
Austin, Texas 78701

January \_\_, 2016

[Investor/Lender]

Dear [Addressee]:

Sea Breeze Village Apartments, Ltd. (the "**Owner**") is the owner of Sea Breeze Village Apartments (the "**Community**") which is located at 233 S. Alcoa Drive, Port Lavaca, Calhoun County, Texas. In order to help finance the construction and development of the Community, the Owner received federal funding through the Texas Department of Housing and Community Affairs (the "**Department**").

The Owner is structured with HVM Housing, L.L.C. ("**HVM**") as the managing general partner. HVM is certified by the State of Texas as a Historically Underutilized Business (a "**HUB**"). A contractual restriction imposed by TDHCA mandated that a HUB participate in the ownership of the Community for a designated period of time. The Owner has decided to sell the Property prior to the expiration of this mandatory period. Therefore, the Owner is requesting TDHCA approval to remove the ongoing HUB requirement from its contract to facilitate that process.

In making its decision whether to approve the Owner's request, the Department considers the opinions and views of the members of the Community, its elected representatives and the Owner's other financing partners. Accordingly, there will be a public meeting to discuss this matter. This meeting will take place at the Community's management office/clubhouse on \_\_\_\_\_, January \_\_, 2016 at \_:00 \_m.

We invite you to attend and give your input on this proposal.

Sincerely,

**SEA BREEZE VILLAGE APARTMENTS, LTD.,**  
a Texas limited partnership

By: HVM Housing, L.L.C.,  
its managing general partner

By: \_\_\_\_\_  
Name: Carol Hoover  
Title: President

By: EAM Associates, Inc.,  
its co-general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



1c

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit Application for Rose Meadows (#13129)

**RECOMMENDED ACTION**

**WHEREAS**, Rose Meadows received an award of 9% Housing Tax Credits in 2013 to construct 48 new units in Levelland;

**WHEREAS**, the Development Owner has requested approval to reduce the development site acreage from 4.0 acres to 3.47 acres due to a Right-of-Way (“ROW”) required by the City of Levelland;

**WHEREAS**, the acreage decreased by 0.53 acre (13.25%), which resulted in a 15.27% increase in residential density;

**WHEREAS**, Board approval is required for a modification of the residential density of at least 5% under Texas Government Code §2306.6712 and 10 TAC §10.405(a)(3)(F), and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

**WHEREAS**, the site acreage and the changes in residential density do not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the approval of the amendment of the Housing Tax Credit application for Rose Meadows is approved as presented to this meeting and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Rose Meadows was submitted and approved for a 9% HTC allocation during the 2013 cycle to construct 48 new multifamily units in Levelland, Hockley County. When the property was purchased, the site acreage was identified as 4.0 acres. The as-built survey provided at cost certification revealed that the site acreage was reduced to 3.47. The Development Owner, Vaughn C. Zimmerman, explains that the site was originally represented to them as 4.0 acres but had not been platted at the time of the HTC application. Before the closing, the site was platted and the

ROW's were identified, but the property continued to be represented as 4.0 acres. It was not until the property was re-platted for the construction loan closing that the development site was determined to be 3.47 acres. The survey conducted at that time identified a 0.53 acre ROW located in and along Alamo Road, and this was confirmed by the final plat. The development site acreage was reduced by 0.53 acre (13.25%) from what was identified at application, which resulted in a 15.27% increase in the residential density.

A review of the site plan identified at application underwriting indicates the reduction in the acreage did not affect the Development's original design. The development costs were not impacted by this change. Also, the LURA included the current legal description, and therefore, was not affected.

Staff recommends approval of the amendment request, subject to no negative public comment received.

# ROSE MEADOWS

Levelland, TX

January 28, 2016

Ms. Lee Ann Chance, Asset Mgr  
THDCA  
221 East 11<sup>th</sup> Street  
Austin, TX 78711

RE: Amendment Request for Rose Meadows Apts #13129

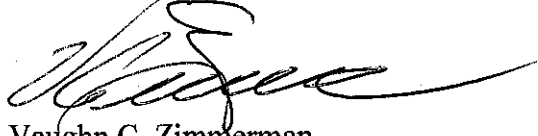
Dear Ms. Chance:

Please accept this as our Formal Request for Amendments to the following items for Rose Meadows Apartments:

- \*LURA Amendment to correct the BINs in the original LURA
- \*Amendment to the Residential Density for this Property.  
Reduction in original Land Area from 4 Acres to 3.7 Acres  
due to the elimination of Alamo Road when the Land was Replatted.  
This increased the Residential Density of 12 at Application to  
12.97 at Final Allocation. Included is the Zoning Approval  
indicating that the City Requirements were satisfied along with  
the original Plat showing the original 4 Acres with the Road.

Enclosed is our check for the Amendment Fee of \$2,500. If you have any questions or require anything further please contact Marie Koeneman at 417-890-3215 or by e-mail at [mkoeneman@wilhoitproperties.com](mailto:mkoeneman@wilhoitproperties.com).

Most Sincerely,



Vaughn C. Zimmerman  
Managing Member

CC: file



at Application

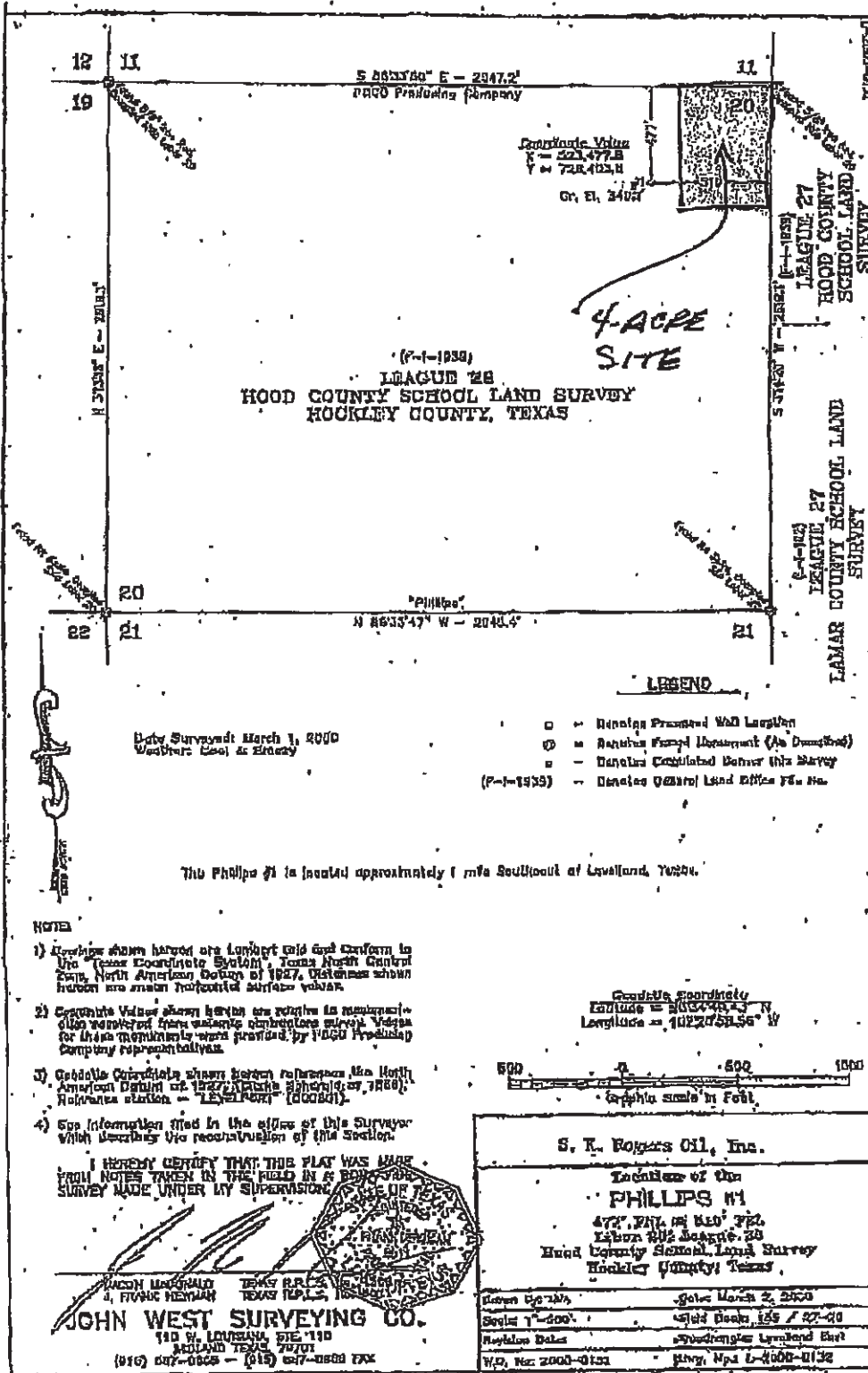


EXHIBIT "A"

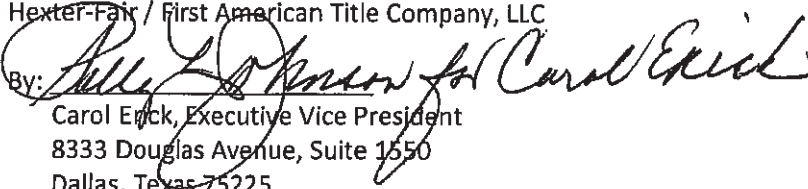
Seller: Abo Land Company, LLC

Buyer: Zimmerman Properties Development, LLC and/or Assigns

Property: Approx. 4.00 acres, on Alamo Road, League 29, Hood County School Land Sy., Hockley County, Tx.

Title Company acknowledges receipt of contract on January 7, 2013 and earnest money check in the amount of \$1,000.00 on January 7, 2013.

Hexter-Fair / First American Title Company, LLC

By: 

Carol Erick, Executive Vice President

8333 Douglas Avenue, Suite 1550

Dallas, Texas 75225

Ph. 214/373-9999

Fax: 214/987-3351

email: Carol Erick – [cerick@firstam.com](mailto:cerick@firstam.com)

Polly Johnson – [pjohnson@firstam.com](mailto:pjohnson@firstam.com)

## Legal Description

The Northeastern most 4-acres of land from League 28 of the Hood County School Land Survey as shown on a separate legal description.

Beginning at an iron rod and the northwest corner of League 28, Hood County School Land Survey;

Thence going S  $86^{\circ}33'50''$  E a distance of 2,597.2' to an iron rod;

Thence S  $3^{\circ}13'18''$  W a distance of 500';

Thence N  $86^{\circ}33'50''$  W a distance of 350';

Thence N  $3^{\circ}13'18''$  E, a distance of 500';

Thence N  $86^{\circ}33'50''$  W to the point of beginning.



**KNIFFIN SURVEYORS**  
REGISTERED PROFESSIONAL SURVEYORS

OFF: 903.593.1014  
P.O. BOX 685  
TYLER, TEXAS 75710

FAX: 903.593.1019  
121 S. BROADWAY #851  
TYLER, TEXAS 75702

February 22, 2013

**FIELD NOTES FOR 4.000 ACRES  
LABOR 20, LEAGUE 28  
HOOD COUNTY SCHOOL LAND SURVEY  
HOCKLEY COUNTY, TEXAS**

---

All that certain tract or parcel of land, being 4.000 acres situated in Labor 20, League 28, Hood County School Land Survey, Hockley County, Texas, and being more completely described as follows, to wit:

Bearings are based on the monumented north line of said Labor 20.

**BEGINNING** at a PK nail (set) for the northeast corner of said Labor 20 near the centerline of Alamo Road and in the west line of League 27 for the northeast corner of this tract and being the southeast corner of Labor 11;

**THENCE** South 03 degrees 14 minutes 03 seconds West, with the east line of said Labor 20 and the west line of League 27, a distance of 470.92 feet to a PK nail (set) for the southeast corner of this tract lying near the center line of Alamo Road;

**THENCE** North 86 degrees 33 minutes 50 seconds West, a distance of 370.00 feet to a 5/8" iron rod (set) for the southwest corner of this tract;

**THENCE** North 03 degrees 14 minutes 03 seconds East, a distance of 470.92 feet to a 5/8" iron rod (set) for the northwest corner of this tract from which a 1/2" iron pipe (found) for the northwest corner of Labor 20 and the southwest corner of Labor 11 bears North 86 degrees 33 minutes 50 seconds West a distance of 2576.90 feet;

**THENCE** South 86 degrees 33 minutes 50 seconds East, with the north line of said Labor 20, a distance of 370.00 feet to the POINT OF BEGINNING and containing 4.000 acres of land.





**First American Title**

Commitment For Title Insurance T-7

ISSUED BY

**First American Title Insurance Company**

# Schedule A

Effective Date: **January 10, 2013** at 8:00 a.m.

GF No. **1779611-HXF71**

Commitment No. **1779611-HXF71**, issued **February 13, 2013**, at 8:00 a.m.

1. The policy or policies to be issued are:

- (a) OWNER'S POLICY OF TITLE INSURANCE (Form T-1)  
(Not applicable for improved one-to-four family residential real estate)  
Policy Amount: \$100,000.00  
PROPOSED INSURED: Zimmerman Properties Development, LLC
- (b) TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE  
ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)  
Policy Amount: \$  
PROPOSED INSURED:
- (c) LOAN POLICY OF TITLE INSURANCE (Form T-2)  
Policy Amount: \$  
PROPOSED INSURED:  
Proposed Borrower:
- (d) TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)  
Policy Amount \$  
PROPOSED INSURED:  
Proposed Borrower:
- (e) LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)  
Binder Amount: \$  
PROPOSED INSURED:  
Proposed Borrower:
- (f) OTHER  
Policy Amount: \$  
PROPOSED INSURED:

2. The interest in the land covered by this Commitment is: **Fee Simple**

3. Record title to the land on the Effective Date appears to be vested in: **ABO Land Company, LLC**

4. Legal description of land: A TRACT OF LAND OUT OF LABOR TWENTY (20), LEAGUE TWENTY-EIGHT (28) HOOD COUNTY SCHOOL LAND, HOCKLEY COUNTY, TEXAS, TO BE MORE PARTICULARLY DESCRIBED ON SURVEY TO BE OBTAINED.



*First American Title*

Commitment For Title Insurance T-7

ISSUED BY

**First American Title Insurance Company**

**Schedule B**

**EXCEPTIONS FROM COVERAGE**

G.F. No. or File No. **1779611-HXF71**

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):

See Item 10 (a) below.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured. (Applies to the Owner's Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
  - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
  - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
  - c. to filled-in lands, or artificial islands, or
  - d. to statutory water rights, including riparian rights, or
  - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.

(Applies to the Owner's Policy only.)

5. Standby fees, taxes and assessments by any taxing authority for the year 2013, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Loan Policy of Title Insurance (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2013 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner.

(Applies to the Loan Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)

8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Loan Policy (T-2) only.)
9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Loan Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Loan Policy of Title Insurance (T-2R) only). Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Loan Policy of Title Insurance (T-2R).
10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception):
  - a. Any covenants, conditions or restrictions indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin are hereby deleted to the extent such covenants, conditions or restrictions violate 42 USC 3604 {c}. Recorded in Volume 424, Page 541 of the Deed Records of Hockley County, Texas.
  - b. Subject to the rules and regulations of the High Plains Underground Water Conservation District No.1, recorded in Volume 134, Page 512 of the Deed Records of Hockley County, Texas.
  - c. Subject to County Ordinances recorded in Volume 360, Page 122 and Volume 415, Page 375 of the Deed Records of Hockley County, Texas.
  - d. Subject to a 20' easement on the entire East side of the labor reserved for road and recorded in a Deed in Volume 15, Page 590 of the Deed Records of Hockley County, Texas.
  - e. Royalty reservations contained in deed and recorded in Volume 85, Page 98 and Page 99 and Volume 366, Pages 469 and 470 of the Deed Records of Hockley County, Texas.
  - f. Mineral Deed recorded in Volume 376, Page 769 of the Deed Records of Hockley County, Texas.
  - g. Subject to oil and gas leases recorded in Volume 16, Page 143 and Volume 654 Page 36 of the Oil and Gas Lease Records of Hockley County, Texas.
  - h. Right of way to Permian Corp., recorded in Volume 246, Page 425 of the Deed Records of Hockley County, Texas.
  - i. Right of way to Hockley County recorded in Volume 330, Page 846 of the Deed Records of Hockley County, Texas.
  - j. Right of way to City of Levelland recorded in Volume 340, Page 667 of the Deed Records of Hockley County, Texas.
  - k. Subject to all right of ways or easements either of record or on the ground.
  - l. Subject to any portion of land lying within any roadway.
  - m. Subject to the rights of parties in possession. (owners policy only)
  - n. Save and except all of the oil, gas and other minerals as the same was reserved in Deed by Grantor, recorded in Volume 939, Page 278, of the Official Public Records of Hockley County, Texas.

- o. Subject to and oil and gas lease to SK Rogers oil, Inc., recorded in Volume 800. Page 616 of the Official Public Records of Hockley County, Texas.
- p. Subject to an oil and gas lease to Crossroads Energy Partners, LLC and recorded in Volume 914. Page 204 of the Official Public Records of Hockley County, Texas.





*First American Title*

Commitment For Title Insurance T-7

ISSUED BY

**First American Title Insurance Company**

## Schedule C

G.F. No. or File No. **1779611-HXF71**

Your Policy will not cover loss, costs, attorney's fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is Issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
  - no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
  - all standby fees, taxes, assessments and charges against the property have been paid,
  - all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers, and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
  - there is legal right of access to and from the land,
  - (on a Loan Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. We will require a resolution from ABO Land Company, LLC, authorizing the sale of the property and setting forth the authorized signatories.
6. We will require a resolution from Zimmerman Properties Development, LLC, authorizing the purchase of the property and setting forth the authorized signatories.



*First American Title*

Commitment For Title Insurance T-7

ISSUED BY

**First American Title Insurance Company**

# Schedule D

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The following individuals are directors and/or officers, as indicated, of the Title Insurance Company issuing this Commitment

**UNDERWRITER:** First American Title Insurance Company, a California Corporation.

Shareholder owning or controlling, directly or indirectly, ten percent or more of the shares of the Underwriter: First American Title Insurance Company is a wholly owned subsidiary of First American Financial Corporation, a public company formed in Delaware.

Directors: Dennis J. Gilmore and Timothy V. Kemp, Mark E. Seaton, Christopher M. Leavell, Jeffrey S. Robinson

Officers: President: Dennis J. Gilmore; Senior Vice President, Secretary: Timothy V. Kemp; and Chief Financial Officer: Max O. Valdes

2. The following disclosures are made by the Title Insurance Agent issuing this Commitment:

**AGENT: First American Title Company, LLC**

Shareholder, owner, partner or other person having, owning or controlling one percent (1%) or more of the Title Insurance Agent: FATCO Holdings, LLC 100%

Shareholder, owner, partner or other person having, owning or controlling ten percent (10%) or more of an entity that has, owns or controls one percent (1%) or more of the Title Insurance Agent:

FATCO Holdings, LLC 100%

If the Title Insurance Agent is a corporation, the following is a list of the members of the Board of Directors:

Managers: Curtis A. Caspersen, Chester C. Carmer III, Michael C. Savas.

If the Title Insurance Agent is a corporation, the following is a list of its officers:

President: Chester C. Carmer III; Secretary, Michael C. Savas; Treasurer, Robin P. Gilroy

2. The following disclosures are made by the Title Insurance Agent issuing this Commitment: Hexter-Fair / First American Title Company, LLC

Hexter-Fair / First American Title Company, LLC is 100% owned by First American Title Company, LLC, a Texas limited liability company, which is wholly owned by FATCO Holdings, LLC, a Delaware limited liability company.

The following individuals are Officers and/or Directors of Hexter-Fair / First American Title Company, LLC

**Officers:**

David Fair, President  
Britt Fair, Treasurer  
Chester C. Carmer, Vice President and Secretary  
Devin Stone, Vice President

**Managers:**

David Fair  
Curt Caspersen  
Chester C. Carmer  
Devin Stone

3. \*You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving a portion of the premium from the settlement of this transaction will be disclosed on the closing or settlement statement.

\*You are further advised that the estimated title premium \* is:

Owner Policy	\$ _____
Mortgagee Policy	\$ _____
Endorsement Charges	\$ _____
Total	\$ _____

Of this total amount \$ \_\_\_\_\_ or 15 % (complete only one) will be paid to the policy issuing Title Insurance Company; \$ \_\_\_\_\_ or \_\_\_\_\_ % (complete only one) will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium \* will be paid to other parties as follows:

Amount	To Whom	For Services
\$ _____ or _____ % (complete only one)	_____	_____
\$ _____ or _____ % (complete only one)	_____	_____

\$ \_\_\_\_\_ or \_\_\_\_\_% (complete only one) \_\_\_\_\_

"The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance."

## Commitment for Title Insurance Form (T-7)

### DELETION OF ARBITRATION PROVISION

(Not applicable to the Texas Residential Owner's Policy)

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

**Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company. The arbitration provision in the Policy is as follows:**

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE





**First American Title**

**Important Notice**

ISSUED BY

**First American Title Insurance Company**

**IMPORTANT NOTICE**

To obtain information or make a complaint:

You may call 's toll-free telephone number for information or to make a complaint at:

You may also write to at:

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

**1-800-252-3439**

You may write the Texas Department of Insurance:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: (512) 475-1771

Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

**PREMIUM OR CLAIM DISPUTES:**

Should you have a dispute concerning your premium or about a claim you should contact First American Title Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

**ATTACH THIS NOTICE TO YOUR POLICY:**

This notice is for information only and does not become a part or condition of the attached document.

**AVISO IMPORTANTE**

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de 's para informacion o para someter una queja al:

Usted tambien puede escribir a :

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

**1-800-252-3439**

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104  
Austin, TX 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

**DISPUTAS SOBRE PRIMAS O RECLAMOS:**

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el First American Title Insurance Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

**UNA ESTE AVISO A SU POLIZA:**

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

Form 50-TXNOTICE (11-1-09)

Page 1 of 1

Mandatory Complaint Notice (11-1-09)  
Texas

1779611 HXF 71

13-5521  
Vol 984 pg 750

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**General Warranty Deed**

**Effective Date:** December 27, 2013

**Grantor:** ABO Land Company, LLC, a Texas limited liability company

**Grantor's Mailing Address:**

1001 8<sup>th</sup> Street  
Levelland, Hockley County, Texas 79336

**Grantee:** Levelland ZP Rose Meadows Apartments, LP, a Missouri limited partnership

**Grantee's Mailing Address:**

1730 East Republic Road, Suite F  
Springfield, Missouri 65804

**Consideration:**

Cash and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

**Property (including any improvements):**

The real property described in Exhibit "A" attached hereto; together with all buildings, fixtures and other real property improvements located on said real property; and the benefits and appurtenances on or appertaining to said real property and improvements.

**Reservations from Conveyance:**

For Grantor and Grantor's heirs, successors, and assigns forever, a reservation of all water in and under and that may be produced from the Property. If the water estate is subject to existing production or an existing license, this reservation includes the production, the license, and all benefits from it.

FILED FOR RECORDS  
AT 2:02 O'CLOCK P.M.

DEC 31 2013

*W. R. Humala*  
County Clerk, Hockley County, Texas

Grantor, for itself, its successors and assigns, waives and conveys to Grantee and Grantee's successors and assigns, the right of ingress and egress to and from the surface of the Property relating to the portion of the water estate reserved herein by Grantor.

Nothing herein, however, restricts or prohibits the pooling or unitization of the portion of the water estate owned by Grantor with land other than the Property or the exploration or production of water by means of wells that are drilled on the surface of land other than the Property but enter or bottom under the Property, provided that these operations in no manner interfere with the surface of the Property or subsurface support of any improvements constructed or to be constructed on the Property.

**Exceptions to Conveyance and Warranty:**

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2013, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

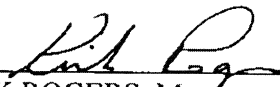
Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

**The Property is conveyed to Grantee, and Grantee accepts the Property, subject to the restriction and covenant that no dwelling shall be constructed, erected, placed, maintained or permitted on the Property that is located within one hundred fifty (150) feet of any existing oil or gas well as of the date of this Deed (the "Restriction"). The Restriction is solely for the benefit of Grantor, its successors and assigns (the "Benefitted Party"). The Restriction is perpetual unless and until same is terminated by instrument executed by the Benefitted Party, is a covenant running with the land, and shall be binding on all parties acquiring all or any portion of the Property, whether by descent, devise, purchase or otherwise. Every owner of any portion of the Property shall, by the acceptance of title to any portion of or interest in the Property, thereby agree to abide and be bound by the Restriction. If the Restriction is violated, the Benefitted Party may exercise any and all remedies available at law or in equity, including injunctive relief.**

When the context requires, singular nouns and pronouns include the plural.

**GRANTOR:**

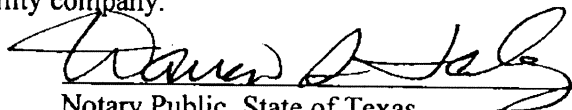
ABO Land Company, LLC, a Texas limited liability company

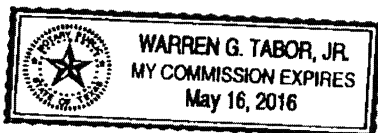
  
KIRK ROGERS, Manager

STATE OF TEXAS )

COUNTY OF HOCKLEY )

This instrument was acknowledged before me on December 27, 2013, by KIRK ROGERS, as the Manager of ABO LAND COMPANY, LLC, a Texas limited liability company, on behalf of said limited liability company.

  
Notary Public, State of Texas  
My commission expires: \_\_\_\_\_





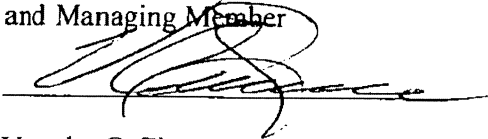
**GRANTEE:**

Levelland ZP Rose Meadows Apartments, LP, a Missouri limited partnership

By: Levelland ZP Rose Meadows Housing, LLC, a Missouri limited liability company, its General Partner

By: Zimmerman Properties, LLC, a Missouri limited liability company, its Managing Member

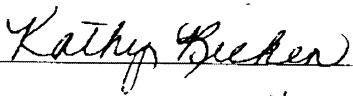
By: Zimmerman Investments, L.L.C., a Missouri limited liability company, its sole Member and Managing Member

By: 

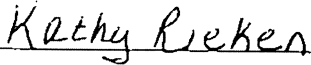
Vaughn C. Zimmerman, Trustee of the Vaughn C. Zimmerman Revocable Trust U/A dated May 5, 1995, as restated, its Managing Member

STATE OF MISSOURI       §  
  §  
COUNTY OF GREENE     §

This instrument was acknowledged before me on December 24, 2013, by Vaughn C. Zimmerman, Trustee of the Vaughn C. Zimmerman Revocable Trust U/A dated May 5, 1995, as restated, the Managing Member of Zimmerman Investments, L.L.C., a Missouri limited liability company, sole Member and Managing Member of Zimmerman Properties, LLC, a Missouri limited liability company, the Managing Member of Levelland ZP Rose Meadows Housing LLC, a Missouri limited liability company, the General Partner of Levelland ZP Rose Meadows Apartments, LP, a Missouri limited partnership, on behalf of said limited liability companies and limited partnership.



Notary Public, State of Missouri



My Commission Expires:  
\_\_\_\_\_



**KATHY RIEKEN**  
Notary's Printed/Typed Name  
My Commission Expires  
October 24, 2014  
Greene County  
Commission #10524575

EXHIBIT "A"

All that certain tract or parcel of land, being 4.000 acres situated in Labor 20, League 28, Hood County School Land Survey, Hockley County, Texas, and being more completely described as follows, to wit:

Bearings are based on the monumented north line of said Labor 20.

BEGINNING at a PK nail (set) for the northeast corner of said Labor 20 near the centerline of Alamo Road and in the west line of League 27 for the northeast corner of this tract and being the southeast corner of Labor 11;

THENCE South 03 degrees 14 minutes 03 seconds West, with the east line of said Labor 20 and the west line of League 27, a distance of 470.92 feet to a PK nail (set) for the southeast corner of this tract lying near the centerline of Alamo Road;

THENCE North 86 degrees 33 minutes 50 seconds West, a distance of 370.00 feet to a 5/8" iron rod (set) for the southwest corner of this tract;

THENCE North 03 degrees 14 minutes 03 seconds East, a distance of 470.92 feet to a 5/8" iron rod (set) for the northwest corner of this tract from which a 1/2" iron pipe (found) for the northwest corner of Labor 20 and the southwest corner of Labor 11 bears North 86 degrees 33 minutes 50 seconds West a distance of 2576.90 feet;

THENCE South 86 degrees 33 minutes 50 seconds East, with the north line of said Labor 20, a distance of 370.00 feet to the POINT OF BEGINNING and containing 4.000 acres of land, more or less.

**AFTER RECORDING RETURN TO:**

**Levelland ZP Rose Meadows Apartments, LP**

**1730 East Republic Road, Suite F**

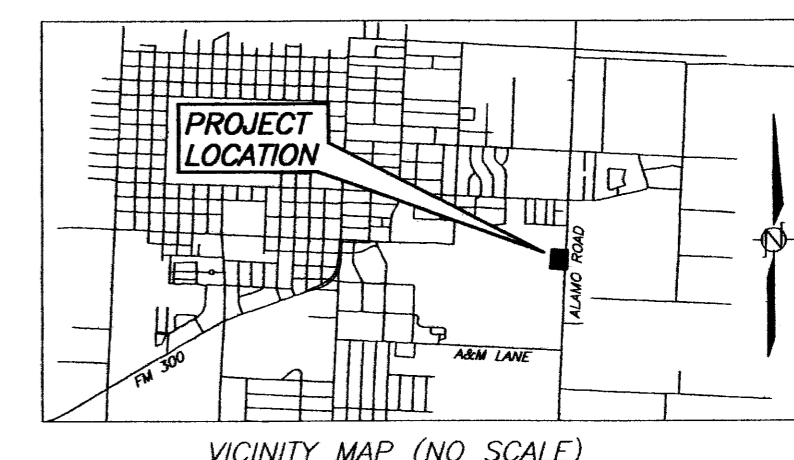
**Springfield, MO 65804**

LABOR 11

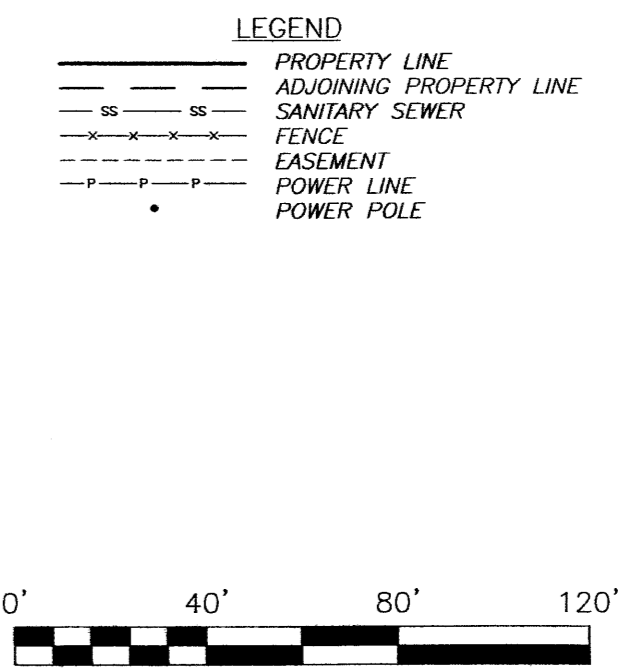


VACANT LAND  
4.000 ACRES

- TABLE "A" NOTES:**
- MONUMENTS ARE AS SHOWN.
  - ADDRESS: ALAMO ROAD, LEVELLAND, TEXAS
  - SUBJECT PROPERTY LIES WITHIN ZONE "X" (AREAS OF 0.2% ANNUAL FLOOD CHANGE) AS DEPICTED ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP 480354 PANEL 0005B, EFFECTIVE DATE: AUG. 2, 1990
  - GROSS LAND AREA: 4.000 ACRES (174,240 SF)
  - HORIZONTAL AND VERTICAL DATUM USED: NAD83 & NAVD88
  - PER THE CITY OF LEVELLAND, TEXAS ZONING REGULATIONS, THIS PROPERTY IS ZONED "SF-1", RESTRICTED SINGLE FAMILY.  
"SF-1" ZONING REQUIREMENTS:  
SETBACKS:  
FRONT: SHALL BE A MINIMUM OF 25 FEET.  
SIDE: SHALL BE A MINIMUM OF 5 FEET.  
REAR: SHALL BE A MINIMUM OF NA.  
BUILDING HEIGHT REQUIREMENTS: NOT AVAILABLE
  - THERE ARE NO BUILDINGS ON THIS SITE.
  - OBSERVED UTILITIES ARE AS SHOWN.
  - ADJOINING OWNERSHIP FROM RECORD INFORMATION.
  - PROPERTY LIES AT AN INTERSECTION.
  - THERE IS NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
  - THERE ARE NO PROPOSED CHANGES IN STREET RIGHT OF WAYS.
  - THERE IS NO EVIDENCE OF THE SITE BEING USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
  - THERE ARE NO WETLAND AREAS ON THE SITE.
  - SURVEYOR'S CERTIFICATE OF INSURANCE IS AVAILABLE UPON REQUEST.



- REFERENCE PLAT:**  
NONE.
- BENCHMARKS:**  
BENCHMARK #1 - 1/2" IRON PIPE FND AT NWc OF LABOR 20 = 3507.46'
- ENCROACHMENTS:**  
NONE
- UTILITY NOTE:**  
TELEPHONE, WATER AND ELECTRICAL SERVICE IS AVAILABLE ALAMO ROAD.
- SURVEY REFERENCE:**  
TITLE COMMITMENT NUMBER: GF NO 1779611-1HX71  
EFFECTIVE DATE: JANUARY 10, 2013  
FIRST AMERICAN TITLE INSURANCE COMPANY
- THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS:
    - SUBJECT TO THE RULES AND REGULATIONS OF THE HIGH PLAINS UNDERGROUND WATER CONSERVATION DISTRICT NO. 1, RECORDED IN VOLUME 134, PAGE 512 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
    - SUBJECT TO COUNTY ORDINANCES RECORDED IN VOLUME 360, PAGE 122 AND VOLUME 415, PAGE 375 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
    - SUBJECT TO A 20' EASEMENT ON THE ENTIRE EAST SIDE OF THE LABOR RESERVED FOR ROAD AND RECORDED IN VOLUME 15, PAGE 590 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
    - RIGHT-OF-WAY TO PERMAN CORP., RECORDED IN VOLUME 246, PAGE 425 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS. (BLANKET)
    - RIGHT-OF-WAY EASEMENT TO HOCKLEY COUNTY RECORDED IN VOLUME 330, PAGE 846 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
    - UTILITY EASEMENT TO CITY OF LEVELLAND RECORDED IN VOLUME 340, PAGE 667 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.



**FIELD NOTE DESCRIPTION**

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, BEING 4.000 ACRES SITUATED IN LABOR 20, LEAGUE 28, HOOD COUNTY SCHOOL LAND SURVEY, HOCKLEY COUNTY, TEXAS, AND BEING MORE COMPLETELY DESCRIBED AS FOLLOWS, TO WIT:

BEARINGS ARE BASED ON THE MONUMENTED NORTH LINE OF SAID LABOR 20.

BEGINNING AT A PK NAIL (SET) FOR THE NORTHEAST CORNER OF SAID LABOR 20 NEAR THE CENTERLINE OF ALAMO ROAD AND IN THE WEST LINE OF LEAGUE 27 FOR THE NORTHEAST CORNER OF THIS TRACT AND BEING THE SOUTHEAST CORNER OF LABOR 11;

THENCE SOUTH 03 DEGREES 14 MINUTES 03 SECONDS WEST, WITH THE EAST LINE OF SAID LABOR 20 AND THE WEST LINE OF LEAGUE 27, A DISTANCE OF 470.92 FEET TO A PK NAIL (SET) FOR THE SOUTHEAST CORNER OF THIS TRACT LYING NEAR THE CENTERLINE OF ALAMO ROAD;

THENCE NORTH 86 DEGREES 33 MINUTES 50 SECONDS WEST, A DISTANCE OF 370.00 FEET TO A 5/8" IRON ROD (SET) FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE NORTH 03 DEGREES 14 MINUTES 03 SECONDS EAST, A DISTANCE OF 470.92 FEET TO A 5/8" IRON ROD (SET) FOR THE NORTHWEST CORNER OF THIS TRACT FROM WHICH A 1/2" IRON PIPE (FOUND) FOR THE NORTHWEST CORNER OF LABOR 20 AND THE SOUTHWEST CORNER OF LABOR 11 BEARS NORTH 86 DEGREES 33 MINUTES 50 SECONDS WEST A DISTANCE OF 2576.90 FEET;

THENCE SOUTH 86 DEGREES 33 MINUTES 50 SECONDS EAST, WITH THE NORTH LINE OF SAID LABOR 20, A DISTANCE OF 370.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.000 ACRES OF LAND.

**SURVEYOR CERTIFICATION**

TO: LEVELLAND 2P ROSEMEADOWS APARTMENTS, LP, LEVELLAND 2P ROSEMEADOWS HOUSING, LLC, ZIMMERMAN PROPERTIES DEVELOPMENT, LLC, AND HEXTER-FAIR/FIRST AMERICAN TITLE COMPANY (GF NO. 1779611-1HX71):

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDE ITEMS 1, 2, 3, 4, 5, 6(b), 7(c), 11(b), 13, 14, 16, 17, 18, 19, 20, AND 21 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON FEBRUARY 13, 2013.

GIVEN UNDER MY HAND & SEAL, THIS THE 21st DAY OF MARCH, 2013.

*Cruse B. Sudduth*  
CRUSE B. SUDDUTH  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308

DRAWN BY: G. FLEMING	DATE: 3/21/2013
CHECKED BY: C. SUDDUTH	DRAWING NO.: 13-11 ALTA
JOB NO.: 2013-11	SHEET: 1 OF 1

**K** 121 S. BROADWAY, SUITE 851  
TYLER, TEXAS 75702  
PH 903.593.1014 FAX 903.593.1019  
E-MAIL CRUSE@KVSURVEYORS.COM

**KNIFFIN SURVEYORS**  
LAND SURVEYING - CIVIL ENGINEERING

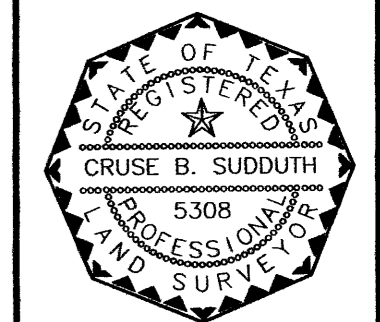
**ROSE MEADOWS APARTMENTS**  
ALAMO ROAD  
LEVELLAND, TEXAS

**ALTA/ACSM LAND TITLE SURVEY**

PROJ. NO. \_\_\_\_\_  
DATE 3/21/13  
DESIGNER CBS  
DRAWN BY G. FLEMING  
CFN \_\_\_\_\_ REV \_\_\_\_\_  
SHEET 1 OF 1

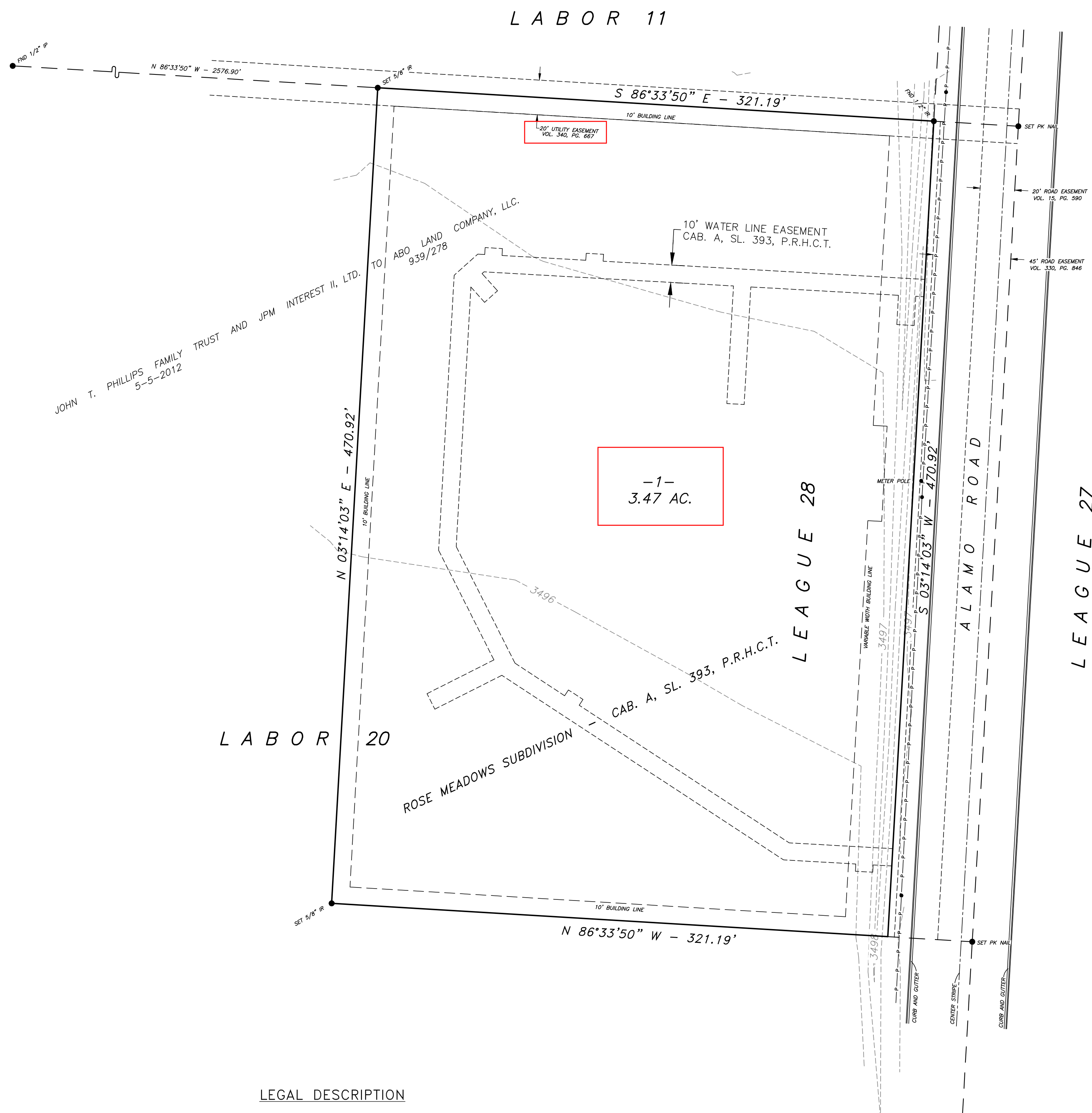
14700 W. 114TH TERRACE  
LENEKA, KANSAS 66215  
913-894-5150 FAX 913-894-5977  
E-MAIL ix@kveing.com  
WEB SITE www.kveing.com

**KAW VALLEY ENGINEERING, INC. - CONSULTING ENGINEERS**  
Offices: Junction City, Ks. Leavenworth, Ks.



REV	DATE	DESCRIPTION	DSN	CHK





**LEGAL DESCRIPTION**

LOT ONE (1), OF THE ROSE MEADOWS SUBDIVISION, AN ADDITION TO THE CITY OF LEVELLAND BEING A PART OUT OF LABOR TWENTY (20), LEAGUE TWENTY-EIGHT (28), HOOD COUNTY SCHOOL LAND, HOCKLEY COUNTY, TEXAS, AS SHOWN BY PLAT, RECORDED IN CABINET A, SLIDE 393, OF THE PLAT RECORDS OF HOCKLEY COUNTY, TEXAS.

**TABLE "A" NOTES:**

1. MONUMENTS ARE AS SHOWN.
2. ADDRESS: ALAMO ROAD, LEVELLAND, TEXAS
3. SUBJECT PROPERTY LIES WITHIN ZONE "X" (AREAS OF 0.2% ANNUAL FLOOD CHANCE) AS DEPICTED ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP 480354 PANEL 0005B. EFFECTIVE DATE: AUG. 2, 1990
4. GROSS LAND AREA: 4.000 ACRES (174,240 SF)
5. HORIZONTAL AND VERTICAL DATUM USED: NAD83 & NAVD88
- 6(b). PER THE CITY OF LEVELLAND, TEXAS ZONING REGULATIONS, THIS PROPERTY IS ZONED "SF-1", RESTRICTED SINGLE FAMILY.
  - "SF-1" ZONING REQUIREMENTS:
  - SETBACKS:
  - FRONT: SHALL BE A MINIMUM OF 25 FEET.
  - SIDE: SHALL BE A MINIMUM OF 5 FEET.
  - REAR: SHALL BE A MINIMUM OF "NA"
  - BUILDING HEIGHT REQUIREMENTS: NOT AVAILABLE
- 7(c). THERE ARE NO BUILDINGS ON THIS SITE.
- 11(b). OBSERVED UTILITIES ARE AS SHOWN.
13. ADJOINING OWNERSHIP FROM RECORD INFORMATION.
14. PROPERTY LIES AT AN INTERSECTION.
16. THERE IS NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
17. THERE ARE NO PROPOSED CHANGES IN STREET RIGHT OF WAYS.
18. THERE IS NO EVIDENCE OF THE SITE BEING USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
19. THERE ARE NO WETLAND AREAS ON THIS SITE.
21. SURVEYOR'S CERTIFICATE OF INSURANCE IS AVAILABLE UPON REQUEST.

**REFERENCE PLAT:**

ROSE MEADOWS SUBDIVISION RECORDED IN CABINET A, SLIDE 393, PLAT RECORDS OF HOCKLEY COUNTY, TEXAS

**BENCHMARKS:**

BENCHMARK #1 - 1/2" IRON PIPE FND AT NW CORNER OF LABOR 20 = 3507.46'

**ENCROACHMENTS:**

NONE

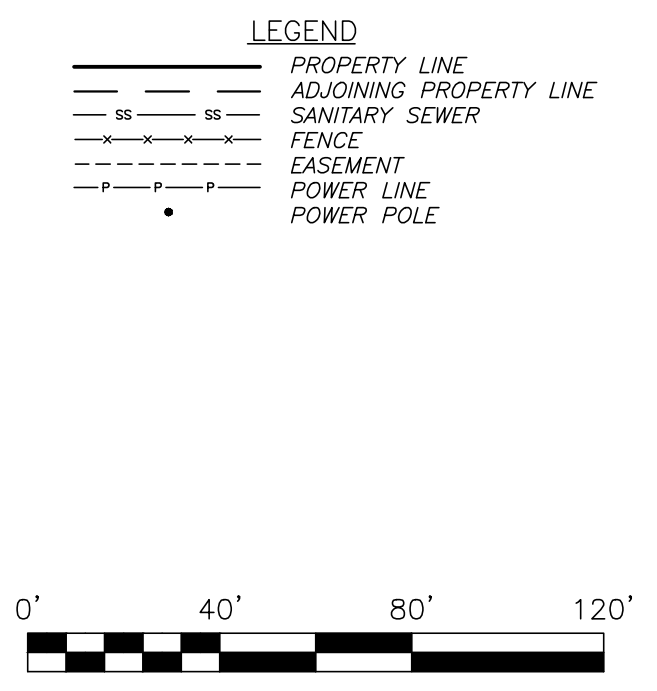
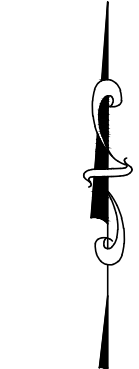
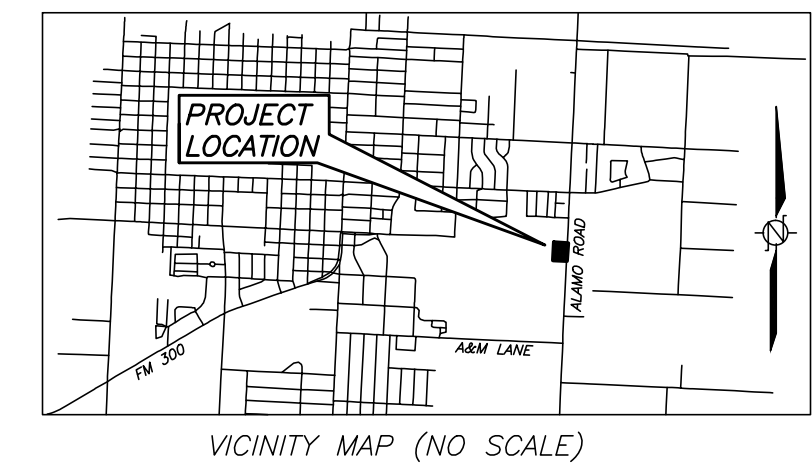
**UTILITY NOTE:**

TELEPHONE, WATER AND ELECTRICAL SERVICE IS AVAILABLE ALAMO ROAD.

**SURVEY REFERENCE:**

TITLE COMMITMENT NUMBER: GF NO 1901157-HXF71  
EFFECTIVE DATE: JANUARY 20, 2014  
FIRST AMERICAN TITLE INSURANCE COMPANY

10. THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS:
  - a. ANY COVENANTS, CONDITIONS OR RESTRICTIONS INDICATING A PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN ARE HEREBY DELETED TO THE EXTENT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE 42 USC 3604 [c]. ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 393, OF THE PLAT RECORDS OF HOCKLEY COUNTY, TEXAS.
  - b. SUBJECT TO THE RULES AND REGULATIONS OF THE HIGH PLAINS UNDERGROUND WATER CONSERVATION DISTRICT NO. 1, RECORDED IN VOLUME 134, PAGE 512 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - c. SUBJECT TO COUNTY ORDINANCES RECORDED IN VOLUME 360, PAGE 122 AND VOLUME 15, PAGE 375 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - d. ROYALTY RESERVATIONS CONTAINED IN DEED AND RECORDED IN VOLUME 85, PAGE 98 & 99, VOLUME 366, PAGE 469 & 470 AND VOLUME 376, PAGE 769 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - f. UNDERGROUND WATER RIGHTS RESERVED GENERAL WARRANTY DEED DATED DECEMBER 27, 2013 EXECUTED BY ABO LAND COMPANY, LLC TO ZP LEVELLAND ROSE MEADOWS APARTMENTS, LP AND RECORDED IN VOLUME 984, PAGE 750 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS.
  - h. SUBJECT TO AN OIL AND GAS LEASE TO SK ROGERS OIL, INC., RECORDED IN VOLUME 800, PAGE 616 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS.
  - i. SUBJECT TO ANY PORTION OF LAND LYING WITHIN ANY ROADWAY.
  - j. SUBJECT TO A 20' EASEMENT ON THE ENTIRE EAST SIDE OF THE LABOR RESERVED FOR ROAD AND RECORDED IN VOLUME 15, PAGE 590 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - k. RIGHT OF WAY TO PERMIAN CORP., RECORDED IN VOLUME 246, PAGE 425 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - l. RIGHT OF WAY TO HOCKLEY COUNTY RECORDED IN VOLUME 330, PAGE 846 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS. (DOES NOT AFFECT)
  - m. RIGHT OF WAY TO CITY OF LEVELLAND RECORDED IN VOLUME 340, PAGE 667 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS.
  - n. RESTRICTION AND COVENANT THAT NO DWELLING SHALL BE CONSTRUCTED OR PERMITTED ON THE SUBJECT PROPERTY THAT IS LOCATED WITHIN ONE HUNDRED FIFTY (150) FEET OF ANY THEN EXISTING OIL OR GAS WELL CONTAINED IN GENERAL WARRANTY DEED DATED DECEMBER 27, 2013, EXECUTED BY ABO LAND COMPANY, LLC TO ZP LEVELLAND ROSE MEADOWS APARTMENTS, LP AND RECORDED IN VOLUME 984, PAGE 750 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS.
  - o. THE FOLLOWING AS SET FORTH IN PLAT RECORDED IN CABINET A, SLIDE 393, OF THE MAP RECORDS OF HOCKLEY COUNTY, TEXAS: A TEN FOOT (10FT.) BUILDING SETBACK LINE ALONG THE NORTH, WEST AND SOUTH BOUNDARY LINES; A TWENTY-FIVE FOOT (25FT.) BUILDING SETBACK LINE NEAR THE EAST BOUNDARY LINE AND ALONG THE WEST SIDE OF ALAMO ROAD; AND A TEN FOOT (10 FT.) WATER LINE EASEMENT OVER AND ACROSS THE SUBJECT PROPERTY.



**SURVEYOR CERTIFICATION**

TO LEVELLAND ZP ROSE MEADOWS APARTMENTS, LP; LEVELLAND ZP ROSE MEADOWS HOUSING, LLC; SOUTHERN BANK, ITS SUCCESSORS AND/OR ASSIGNS; RAYMOND JAMES TAX CREDIT FUNDS, INC.; RAYMOND JAMES TAX CREDIT FUND 40, LLC, ITS AFFILIATES AND ANY OF THEIR SUCCESSORS AND/OR ASSIGNS; AND HEXTER-FAIR/FIRST AMERICAN TITLE COMPANY, LLC (GF NO. 1901157-HXF71), AGENT FOR FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6, 8, 11(A), 11(B), 13, 14, 16, 17, 18, 19, 20, AND 21 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON FEBRUARY 13, 2013.

GIVEN UNDER MY HAND & SEAL, THIS THE 5TH DAY OF MARCH, 2014.

*Cruse B. Sudduth*

CRUSE B. SUDDUTH  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308

DRAWN BY: G. FLEMING	DATE: 3/5/14
CHECKED BY: C. SUDDUTH	DRAWING NO.: 13-11 ALTA
JOB NO.: 2013-11	SHEET: 1 OF 1

121 S. BROADWAY, SUITE 851  
TYLER, TEXAS 75702  
PH 903.593.1014 FAX 903.593.1019  
E-MAIL CRUSE@KSURVEYORS.COM

**KS**  
KNIFFIN SURVEYORS  
LAND SURVEYING - CIVIL ENGINEERING

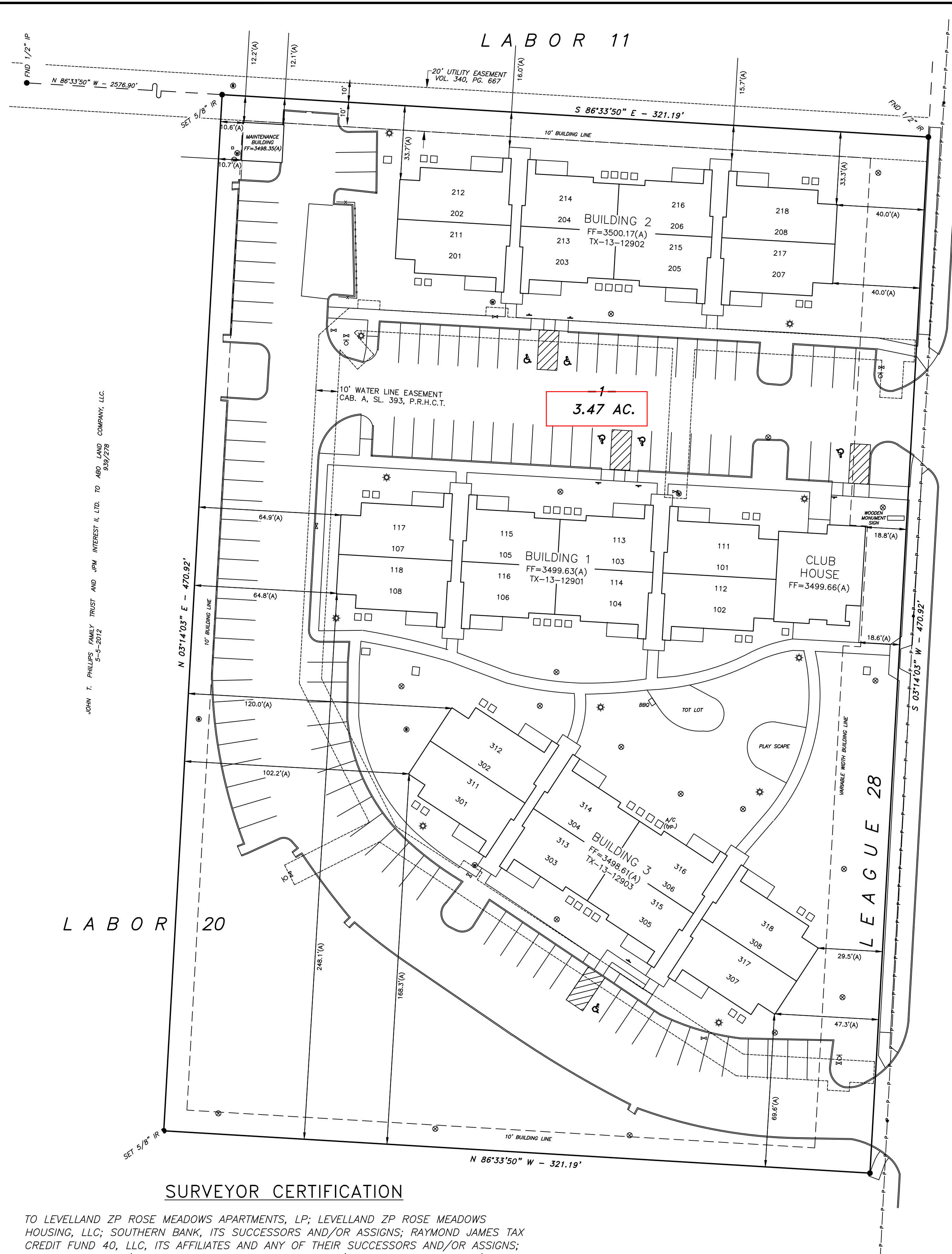
PROJ. NO.	DATE	DESIGNER	DRAWN BY	CFN	SHEET
	3/5/14	CBS	G. FLEMING		0
<p><b>ROSE MEADOWS APARTMENTS</b> ALAMO ROAD LEVELLAND, TEXAS</p> <p><b>ALTA/ACSM LAND TITLE SURVEY</b></p>					
REV	DATE	DESCRIPTION	DSN	DWN	CHK

14700 W. 114TH TERRACE  
LENEXA, KANSAS 66215  
913-894-5150 FAX 913-894-5977  
E-MAIL lx@kveing.com  
WEB SITE www.kveing.com

**KAW VALLEY ENGINEERING, INC. - CONSULTING ENGINEERS**  
Offices: Junction City, Ks. Kansas City, Mo. Lenexa, Ks.



LABOR 11



ALAMO ROAD

LEAGUE 27

LABOR 20

SURVEYOR CERTIFICATION

TO LEVELLAND ZP ROSE MEADOWS APARTMENTS, LP; LEVELLAND ZP ROSE MEADOWS HOUSING, LLC; SOUTHERN BANK, ITS SUCCESSORS AND/OR ASSIGNS; RAMONDA JAMES TAX CREDIT FUND 40, LLC, ITS AFFILIATES AND ANY OF THEIR SUCCESSORS AND/OR ASSIGNS; AND HEXTER-FAIR/FIRST AMERICAN TITLE COMPANY, LLC (GF NO. 1901157-HXF71), AGENT FOR FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6, 8, 11(A), 11(B), 13, 14, 16, 17, 18, 19, 20, AND 21 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 7, 2015.

GIVEN UNDER MY HAND & SEAL, THIS THE 28th DAY OF JANUARY, 2016.

Cruse B. Sudduth

CRUSE B. SUDDUTH REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308

LEGAL DESCRIPTION

LOT ONE (1), OF THE ROSE MEADOWS SUBDIVISION, AN ADDITION TO THE CITY OF LEVELLAND BEING A PART OF LABOR TWENTY (20), LEAGUE TWENTY-EIGHT (28), HOOD COUNTY SCHOOL LAND, HOCKLEY COUNTY, TEXAS, AS SHOWN BY PLAT, RECORDED IN CABINET A, SLIDE 393, OF THE PLAT RECORDS OF HOCKLEY COUNTY, TEXAS.

PREPARED FOR: ZIMMERMAN PROPERTIES, LLC 1730 EAST REPUBLIC ROAD, SUITE F SPRINGFIELD, MISSOURI 65804 CONTACT: KATHY RIEKEN (417) 890-3224

TABLE "A" NOTES:

- 1. MONUMENTS ARE AS SHOWN.
2. ADDRESS: 1002 S. ALAMO ROAD, LEVELLAND, TEXAS 79336
3. SUBJECT PROPERTY LIES WITHIN ZONE "X" (AREAS OF 0.2% ANNUAL FLOOD CHANCE) AS DEPICTED ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP 480354 PANEL 0005B. EFFECTIVE DATE: AUG. 2, 1990
4. GROSS LAND AREA: 3.47 ACRES (151,153 SF)
5. HORIZONTAL AND VERTICAL DATUM USED: NAD83 & NAVD88
6(b). PER THE CITY OF LEVELLAND, TEXAS ZONING REGULATIONS, THIS PROPERTY IS ZONED "MULTI-3", LOW DENSITY MULTI-FAMILY DISTRICT.
'M-3' ZONING REQUIREMENTS:
SETBACKS:
FRONT: SHALL BE A MINIMUM OF 25 FEET.
SIDE: SHALL BE A MINIMUM OF 10 FEET.
REAR: SHALL BE A MINIMUM OF NA.
7(c). BUILDING HEIGHT = 31 FEET.
11(b). OBSERVED UTILITIES ARE AS SHOWN.
13. ADJOINING OWNERSHIP FROM RECORD INFORMATION.
14. THIS PROPERTY LIES 311' NORTH OF A&M LN. AT ALAMO RD.
16. THERE IS NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
17. THERE ARE NO PROPOSED CHANGES IN STREET RIGHT OF WAYS.
18. THERE IS NO EVIDENCE OF THE SITE BEING USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
19. THERE ARE NO WETLAND AREAS ON THE SITE.
21. SURVEYOR'S CERTIFICATE OF INSURANCE IS AVAILABLE UPON REQUEST.

REFERENCE PLAT:

ROSE MEADOWS SUBDIVISION RECORDED IN CABINET A, SLIDE 393, PLAT RECORDS OF HOCKLEY COUNTY, TEXAS

BENCHMARKS:

BENCHMARK #1 - 1/2" IRON PIPE FND AT NWc OF LABOR 20 = 3507.46'

ENCROACHMENTS:

NONE

UTILITY NOTE:

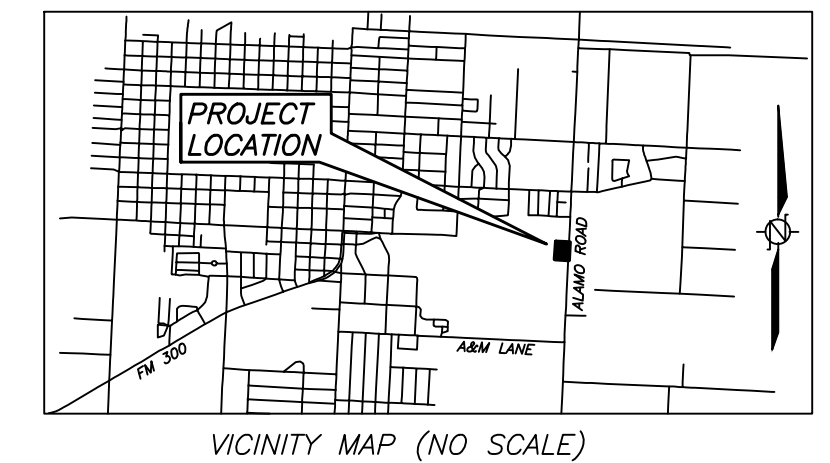
TELEPHONE, WATER AND ELECTRICAL SERVICE IS AVAILABLE ALONG ALAMO ROAD.

SURVEY REFERENCE:

TITLE COMMITMENT NUMBER: GF NO 1901157-HXF71
EFFECTIVE DATE: MARCH 12, 2014
FIRST AMERICAN TITLE INSURANCE COMPANY

6. THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS:

- a. ANY COVENANTS, CONDITIONS OR RESTRICTIONS INDICATING A PREFERENCE, LIMITATION OR DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN ARE HEREBY DELETED TO THE EXTENT SUCH COVENANTS, CONDITIONS OR RESTRICTIONS VIOLATE 42 USC 3604 (C), ACCORDING TO THE PLAT RECORDED IN CABINET A, SLIDE 393, OF THE PLAT RECORDS OF HOCKLEY COUNTY, TEXAS.
b. SUBJECT TO THE RULES AND REGULATIONS OF THE HIGH PLAINS UNDERGROUND WATER CONSERVATION DISTRICT NO. 1, RECORDED IN VOLUME 134, PAGE 512 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
c. SUBJECT TO COUNTY ORDINANCES RECORDED IN VOLUME 360, PAGE 122 AND VOLUME 415, PAGE 375 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
d. ROYALTY RESERVATIONS CONTAINED IN DEED AND RECORDED IN VOLUME 85, PAGE 98 & 99, VOLUME 366, PAGE 469 & 470 AND VOLUME 376, PAGE 789 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
e. UNDERGROUND WATER RIGHTS RESERVED GENERAL WARRANTY DEED DATED DECEMBER 27, 2013 EXECUTED BY ABO LAND COMPANY, LLC TO ZP LEVELLAND ROSE MEADOWS APARTMENTS, LP AND RECORDED IN VOLUME 984, PAGE 750 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
f. SUBJECT TO AN OIL AND GAS LEASE TO SK ROGERS OIL, INC., RECORDED IN VOLUME 800, PAGE 616 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
g. RIGHT OF WAY TO PERMAN CORP., RECORDED IN VOLUME 246, PAGE 425 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
h. UTILITIES EASEMENT TO CITY OF LEVELLAND RECORDED IN VOLUME 340, PAGE 667 OF THE DEED RECORDS OF HOCKLEY COUNTY, TEXAS, AS SHOWN ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
i. RESTRICTION AND COVENANT THAT NO DWELLING SHALL BE CONSTRUCTED OR PERMITTED ON THE SUBJECT PROPERTY THAT IS LOCATED WITHIN ONE HUNDRED FIFTY (150') OF ANY OIL OR GAS WELL CONTAINED IN GENERAL WARRANTY DEED DATED DECEMBER 27, 2013, EXECUTED BY ABO LAND COMPANY, LLC TO ZP LEVELLAND ROSE MEADOWS APARTMENTS, LP AND RECORDED IN VOLUME 984, PAGE 750 OF THE OFFICIAL PUBLIC RECORDS OF HOCKLEY COUNTY, TEXAS, AS NOTED ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.
j. THE FOLLOWING AS SET FORTH IN PLAT RECORDED IN CABINET A, SLIDE 393, OF THE MAP RECORDS OF HOCKLEY COUNTY, TEXAS: A TEN FOOT (10FT.) BUILDING SETBACK LINE ALONG THE NORTH, WEST AND SOUTH BOUNDARY LINES; A TWENTY-FIVE FOOT (25FT.) BUILDING SETBACK LINE NEAR THE EAST BOUNDARY LINE AND ALONG THE WEST SIDE OF ALAMO ROAD; AND A TEN FOOT (10 FT.) WATER LINE EASEMENT OVER AND ACROSS THE SUBJECT PROPERTY, AS SHOWN ON SURVEY PREPARED BY CRUSE B. SUDDUTH, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308 WITH KNIFFIN SURVEYORS UNDER JOB NO. 2013-11.



LEGEND

- BOUNDARY LINE
ADJOINING BOUNDARY LINE
CONCRETE
SANITARY SEWER
STORM SEWER
GAS LINE
POWER LINE
FENCE
EASEMENT
POWER POLE
GUY ANCHOR
MANHOLE
FIRE HYDRANT
WATER VALVE
WATER METER
LIGHT POLE
MEASURED DIMENSION
DESIGNED DIMENSION

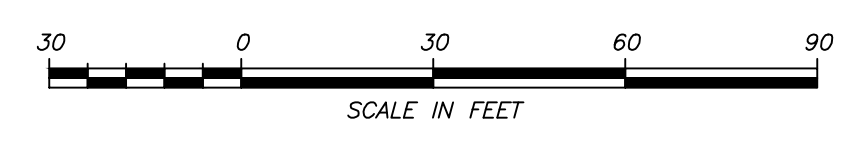
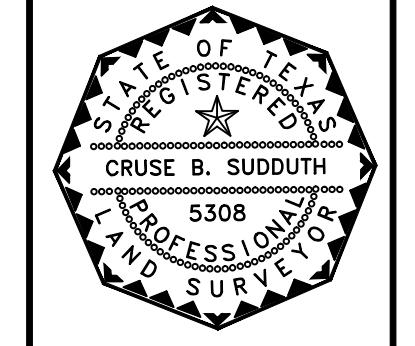


Table with columns: PROJ. NO., DATE, RPLS, DRAWN BY, SHEET, REV, DSN, DWN, CHK, REV DATE, DESCRIPTION. Includes project details like 'ROSE MEADOWS APARTMENTS' and 'ASBUILT ALTA/ACSM LAND TITLE SURVEY'.



121 S. BROADWAY, SUITE 851 TYLER, TEXAS 75702
PH 903.593.1014 FAX 903.593.1019
E-MAIL harold@ksurveyors.com
KNIFFIN SURVEYORS
LAND SURVEYING - CIVIL ENGINEERING
FIRM# 100581-00 SURVEYING
FIRM# F-10785 ENGINEERING

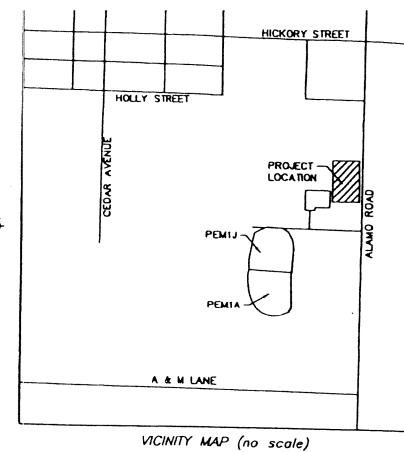
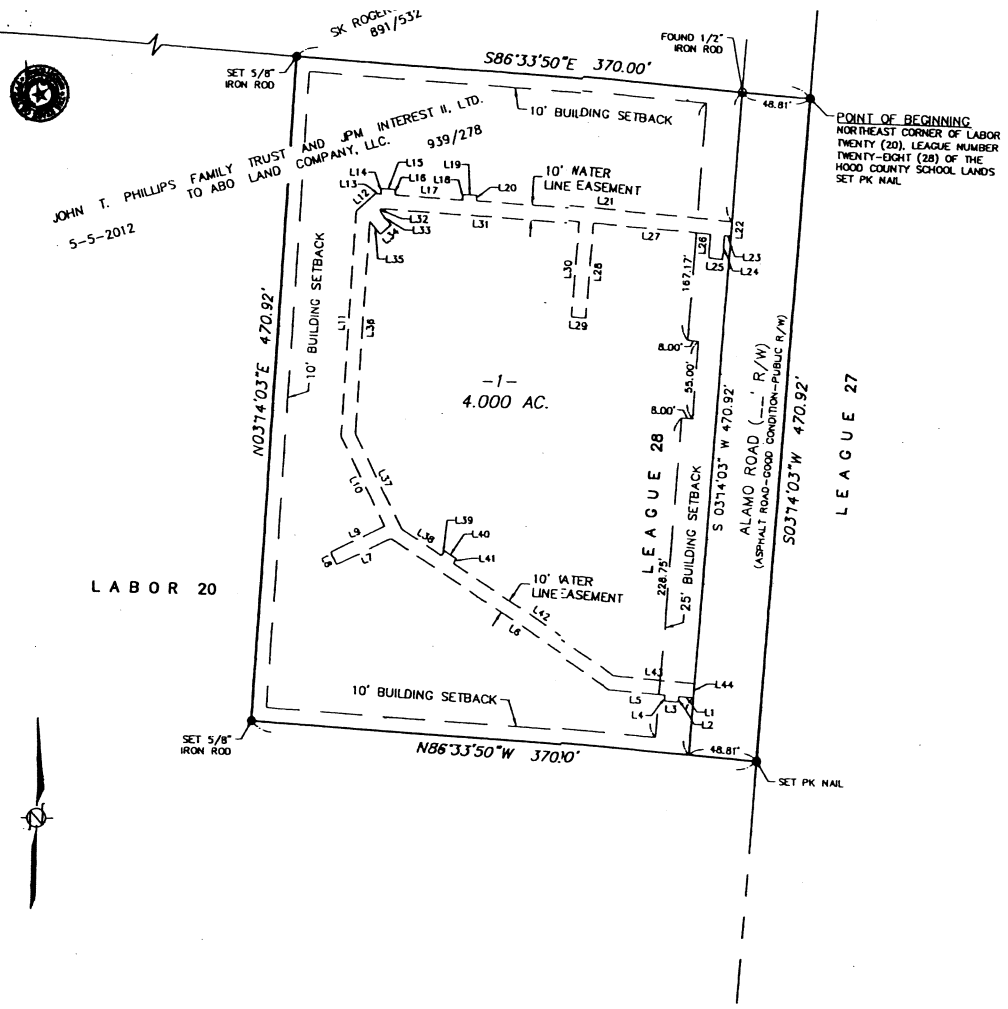
ROSE MEADOWS APARTMENTS
1201 S. AUSTIN STREET
LEVELLAND, TEXAS
ASBUILT ALTA/ACSM LAND TITLE SURVEY



000000

On: Feb 17, 2014 at 10:43 AM  
Project Number: 00000421  
Amount: \$11.00

LINE #	LINE	BEARING	DISTANCE
L1	10.74	N86°45'57"W	
L2	4.20	S031°4'03"E	
L3	10.00	N86°45'57"W	
L4	4.20	N031°4'03"E	
L5	41.76	N86°45'57"W	
L6	194.15	N86°45'57"W	
L7	43.29	S63°14'03"E	
L8	10.00	N26°45'57"W	
L9	43.20	N63°14'03"E	
L10	70.77	N26°45'57"W	
L11	158.83	N031°4'03"E	
L12	18.28	N48°14'03"E	
L13	3.99	S86°45'57"E	
L14	4.00	N031°4'03"E	
L15	10.00	S86°45'57"E	
L16	4.00	S031°4'03"W	
L17	48.38	S86°45'57"E	
L18	4.00	N031°4'03"E	
L19	10.00	S86°45'57"E	
L20	4.00	S031°4'03"W	
L21	185.81	S86°45'57"E	
L22	10.00	S031°4'03"W	
L23	4.70	N86°45'57"W	
L24	16.89	S031°4'03"W	
L25	10.00	N86°45'57"W	
L26	16.89	N031°4'03"E	
L27	85.28	N86°45'57"W	
L28	67.90	S031°4'03"W	
L29	10.00	N86°45'57"W	
L30	67.90	N031°4'03"E	
L31	144.05	N86°45'57"W	
L32	1.48	S48°14'03"W	
L33	13.33	S41°45'57"E	
L34	10.00	S48°14'03"W	
L35	11.85	N41°45'57"W	
L36	149.91	S031°4'03"W	
L37	75.26	S26°45'57"E	
L38	34.22	S36°45'57"E	
L39	4.00	N331°4'03"E	
L40	10.00	S56°45'57"E	
L41	4.00	S331°4'03"W	
L42	144.75	S56°45'57"E	
L43	59.62	S86°45'57"E	
L44	10.00	S031°4'03"W	



JOHN T. PHILLIPS FAMILY TRUST AND ABO COMPANY, LLC.  
5-5-2012

LABOR 20

**SIGNATURE BLOCK - LOT 1**

LEVELLAND 2P ROSE MEADOWS APARTMENTS, LP, A MISSOURI LIMITED PARTNERSHIP DOES HEREBY CERTIFY THAT THEY ARE THE OWNERS OF LOT 1 AND DO ACCEPT THIS AS THEIR PLAN FOR THE SUBDIVISION INTO LOTS AND DO HEREBY DEDICATE TO THE PUBLIC FOREVER THE STREETS, ALLEYS AND WATERLINE EASEMENTS AS SHOWN BY: LEVELLAND 2P ROSE MEADOWS HOUSING, LLC, A MISSOURI LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER BY: ZIMMERMAN PROPERTIES, LLC, A MISSOURI LIMITED LIABILITY COMPANY, ITS MANAGING MEMBER BY: ZIMMERMAN INVESTMENTS, L.L.C., A MISSOURI LIMITED LIABILITY COMPANY, ITS MANAGING MEMBER

BY: *[Signature]*  
WALGHU C. ZIMMERMAN, TRUSTEE OF THE WALGHU C. ZIMMERMAN REVOCABLE TRUST U/A DATED MAY 5, 1995, AS RESTATED

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED WALGHU C. ZIMMERMAN, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

GIVEN UNDER MY HAND & SEAL OF OFFICE THIS 22nd DAY OF January, 2014

*Kathy Reiken*  
NOTARY PUBLIC STATE OF MISSOURI  
NOTARY PUBLIC IN AND FOR THE STATE OF MISSOURI  
MY COMMISSION EXPIRES \_\_\_\_\_



KATHY REIKEN  
By Commission Expires  
October 24, 2014  
Greene County  
Commission #1028457

KNOW ALL MEN BY THESE PRESENTS:  
THAT I, CRUISE B. SUDDUTH, DO HEREBY CERTIFY THAT I PREPARED THIS PLAN FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THE CORNER MONUMENTS SHOWN THEREON WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION.

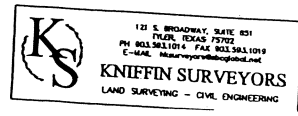


*Cruise B. Sudduth*  
SURVEYOR

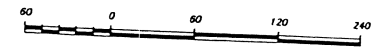
APPROVED THIS 10<sup>th</sup> DAY OF December, 2013 BY THE CITY PLANNING AND ZONING COMMISSION OF THE CITY OF LEVELLAND, TEXAS.  
*[Signature]*  
CHAIRMAN  
*[Signature]*  
SECRETARY

APPROVED THIS 30<sup>th</sup> DAY OF December, 2013 BY THE CITY COUNCIL OF THE CITY OF LEVELLAND, TEXAS.  
*[Signature]*  
MAYOR  
*[Signature]*  
CITY SECRETARY

LOT 1 - 3.47 AC.  
ROW - 0.53 AC.



FINAL PLAT  
ROSE MEADOWS SUBDIVISION  
AN ADDITION TO THE CITY OF LEVELLAND  
BEING  
PART OF LABOR 20, LEAGUE 28  
HOOD COUNTY SCHOOL LAND  
HOCKLEY COUNTY, TEXAS



Cab A, Slide 393

FILE NO. 77-34  
THE STATE OF TEXAS X  
COUNTY OF HOCKLEY X

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That we, C. M. Phillips and wife, Evalyn Phillips, for and in consideration of the sum of TEN AND NO/100-----(\$10.00)-----Dollars, to us in hand paid by Hockley County, Texas, the receipt whereof is hereby acknowledged, have granted and conveyed, and by these presents do grant and convey unto the said Hockley County, Texas, its successors and assigns, the free and uninterrupted use, liberty, privilege and easement of passing in and along a certain way for county road right-of-way purposes, across the following strip of land off the East side of Labors 11 and 20, League 28, Hood County School Lands, Hockley County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found in the East line of said Labor 11 and in the present center-line of said County Road, the Southwest corner of a certain 41.01 acre school tract and the Northeast and beginning corner of this tract; whence an iron pipe found for the Northeast corner of said Labor 11 bears North 0°34' East, 1309.16 feet;

THENCE South 0°34' West, along said Labor line, at 1309.17 feet pass the Southeast corner of said Labor 11, and continuing along the East line of said Labor 20 for a total distance of 3927.5 feet to a 1" iron pipe found for the Southeast corner of said Labor 20 and for the Southeast corner of this tract;

THENCE North 89°13' West, along the South line of said Labor 20, 45.0 feet to a point, the Southwest corner of this tract;

THENCE North 0°34' East, at 2618.33 feet pass the common line between Labors 11 and 20, and continuing for a total distance of 3927.5 feet to a point in the South line of said school tract, the Northwest corner of this tract;

THENCE South 89°13' East, 45.0 feet to the place of beginning.

Containing 4.06 acres, of which 2.25 acres is in present right-of-way, leaving a net of 1.81 acres of new right-of-way.

TO HAVE AND TO HOLD said right-of-way easement, unto said Hockley County, its successors and assigns, for County road purposes.

WITNESS OUR HANDS this the 3<sup>rd</sup> day of January 19 77.

C. M. Phillips  
C. M. Phillips  
Evalyn Phillips  
Evalyn Phillips

THE STATE OF TEXAS X  
COUNTY OF HOCKLEY X

BEFORE ME, the undersigned authority, on this day personally appeared C. M. Phillips and wife, Evalyn Phillips, known to me to be the persons whose names

are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

1977 <sup>BY MY HAND AND SEAL OF OFFICE</sup>, this the 3rd day of January.



Jane Stanley  
Notary Public, Hockley County, Texas

FILE NO. 77-38, W.D. MANUEL GUERRA ET UX RO, JOE M. RICO JR.  
FILED FOR RECORD JANUARY 4, 1977 at 1:40 P.M.  
AND DULY RECORDED JANUARY 6, 1977 at 1:00 P.M.  
R.O. DERRIS, COUNTY CLERK, HOCKLEY COUNTY, TEXAS

EVL 330 PAGE 847

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action to approve a material amendment to the Housing Tax Credit Application for Freedoms Path at Kerrville (#13167)

**RECOMMENDED ACTION**

**WHEREAS**, Freedoms Path at Kerrville received an award of 9% Housing Tax Credits in 2013 to construct 49 units in the City of Kerrville;

**WHEREAS**, the Development Owner is requesting approval to decrease the acreage of the development site from 5.00 acres to 3.91 acres, resulting in a 27% increase in the residential density;

**WHEREAS**, the land for the subject Development Site was donated by the US Department of Veterans Affairs (“VA”) under an Enhanced Use Lease Agreement with the Development Owner and no acquisition costs were claimed;

**WHEREAS**, §2306.6712(d)(6) of the Texas Government Code and 10 TAC §10.405(3)(F) considers a significant modification of residential density of the development of at least 5% to be a material alteration requiring Board approval; and

**WHEREAS**, the change in site acreage does not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the approval of the amendment of the Housing Tax Credit application for Freedoms Path at Kerrville is approved as presented to this meeting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Freedoms Path at Kerrville was submitted and approved for a 9% HTC allocation during the 2013 cycle. The Applicant (Donald Paxton) has requested an amendment to the application with respect to the site acreage. The original Application indicated that the Development would be constructed on five acres, but approval is being requested to decrease the acreage to 3.91 acres. This 1.09-acre reduction represents a 21.80% decrease in acreage and a 27.88% increase in density.

The Applicant stated that this Development is part of the Department of Veterans Affairs (“VA”) Building Utilization Review and Repurposing Initiative that the Secretary of VA approved on May 19, 2011, to help





Staff has reviewed the original application and scoring documentation against this amendment request and has concluded that none of the changes would have resulted in selection or threshold criteria changes that would have affected the application score.

Staff recommends approval of the request, subject to no negative public comment received.

January 27, 2016

Tim Irvine  
Executive Director  
Texas Department of Housing and Community Affairs  
221 East Eleventh Street  
Austin, TX 78701

Re: Freedom's Path at Kerrville (TDHCA # 13167)

Dear Mr. Irvine:

This letter will act as Kerrville Senior Apartments Limited Partnership (Partnership) request to make a Material Application Amendment to the above referenced development. We are requesting a decrease of the site acreage from the proposed 5+/- acres in the original application submittal in the 2013 Low Income Housing Tax Credit (LIHTC) funding round held by the Texas Department of Housing Community Affairs (TDHCA).

The Partnership always intended for the 5+/- acre site to be developed into two separate phases. In the original application submittal the architectural design & easements were not finalized and therefore, we were unable to state precisely the actual acreage for each phase. With these design issues not finalized we decided to maintain the original site control documents to match the total 5+/-acreage in our LIHTC application submittal.

The requested change will clarify the actual acreage for the Land Use Restriction Agreement for Freedom's Path at Kerrville from 5+/- acreage to the actual 3.91+/- acreage (**Legal Description Attached**). The change is necessary to submit the second phase LIHTC application in the 2017 funding round. The good cause for the change will allow the developer to provide additional Permanent Supportive Housing to United States military veterans. The financial consequence of this requested change is non-existent. The Partnership has an executed 75-year lease with the Veterans Administration for the entire 5+/- acre parcel at no cost.

We thank you for your continued support and look forward to providing additional affordable housing to our veterans. Upon review, if you should have any questions please feel free to contact me at your earliest convenience.

Sincerely,



Donald W Paxton  
Director of Development





FIELD NOTES DESCRIPTION FOR 3.91 ACRES OF LAND  
OUT OF THE V.A. HOSPITAL LAND OFF OF STATE  
HIGHWAY NO. 27 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 3.91 acres (170,152.4 sq. ft.), more or less, out of Samuel Wallace Survey No. 111, Abstract No. 539 in Kerr County, Texas; part of a certain 731.75 acre tract conveyed from the State of Texas to the United States of America by a Warranty Deed executed the 31<sup>st</sup> day of December, 1925 and recorded in volume 45 at Page 471 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a P-K nail found at or near a chain link fence corner post for the south corner of the herein described tract, the east corner of a certain 1.87 acre tract conveyed from Southern Pacific Transportation Co. to the United States of America by General Warranty Deed executed the 24<sup>th</sup> day of July, 1974 and recorded in Volume 174 at Page 612 of the Deed of Records of Kerr County, Texas, and the west corner of a certain 15.51 acre tract conveyed from John Bradley Roberson, et ux to Brian McCarty and Marla McCarty by an Assumption Warranty Deed executed the 28<sup>th</sup> day of September, 2001 and recorded in Volume 1148 at Page 610 of the Real Property Records of Kerr County, Texas; which point bears, approximately, 7750 ft. S45°W and 848 ft. N63° 48'W from the east corner of Survey No. 111;

THENCE, along or near a chain link fence with the northeast line of said 1.87 acre tract: N63°19'59"W, 177.02 ft. to a ½" iron stake set found at the beginning of a 03°05' curve to the right; and 332.69 ft. along the arc of said curve to the right subtended by a 10°14'53" central angle and 1860.00 ft. radius (long chord: N58°24'06"W, 332.24 ft.) to a ½" iron stake set on the east side of the private entry street into the V.A Hospital property for the west corner of the herein described tract;

THENCE, upon over and across said 731.75 acre tract along the east side of the private street accessing the V.A. Hospital property, all calls to set ½" iron stakes unless otherwise stated : N39° 25'49"E, 32.50 ft. ; N 59°52'36"E, 33.02 ft. ; N89°16'09"E, 72.16 ft. to an "X" cut in a concrete drainage structure; N67°19'41"E, 81.20 ft. ; N32°56'05"E, 26.09 ft. ; N28°57'52"E, 38.02 ft. ; and N46°52'13"E, 46.65 ft. to a ½ " iron stake set for a northerly corner of the herein described tract;

THENCE, continuing upon, over and across said 731.75 acre tract: S27°30'15"W, 215.66 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; S43°29'37"E, 92.41 ft. to a set ½" iron stake; S70°21'26"E, 210.68 ft. to a ½" iron stake set for a reentrant corner of the herein described tract; N22°08'36"W, 152.81 ft. to a set ½" iron stake; and North, 166.30 ft. to a ½" iron stake set on the south side of said private entry street into the V.A Hospital property for a northerly corner of the herein described tract;



THENCE, continuing upon, over and across said 731.75 acre tract along the south side of the said private street accessing the V.A. Hospital property, all calls to set ½" iron stakes: S65°20'22"E, 125.02 ft.; S75°29'01"E, 85.74 ft.; S89°08'52"E, 68.98 ft.; N74°59'03"E, 47.33 ft.; N61°58'51"E, 164.24 ft.; and N48°03'49"E, 71.14 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 731.75 acre tract S00°50'16"W, 279.81 ft. to a ½" iron stake set near a chain link fence in the north line of said 15.51 acre tract for the southeast corner of the herein described tract;

THENCE, near a chain link fence with the said north line of 15.51 acre tract continuing upon, over and across said 731.75 acre tract S67°51'24"W, 466.07 ft. to the PLACE OF BEGINNING.



**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit Application for The Vineyards in Lubbock (#14284)

**RECOMMENDED ACTION**

**WHEREAS**, in 2014, the Vineyards received an award of 9% Housing Tax Credits in 2014 to construct 96 new units in Lubbock;

**WHEREAS**, the Development Owner has requested approval to reduce the development site acreage from 5.38 acres to 4.94 acres due to a Right-of-Way dedication to the City of Lubbock;

**WHEREAS**, the decrease in acreage by a total of 0.44 acres results in a 8.91% increase in residential density;

**WHEREAS**, Board approval is required for a modification of the residential density of at least 5% under Texas Government Code §2306.6712 and 10 TAC §10.405(a)(3)(F), and the Owner has complied with the amendment requirements in 10 TAC §10.405(a); and

**WHEREAS**, the site acreage and the changes in residential density do not negatively affect the Development, impact the viability of the transaction, or affect the amount of tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the approval of the amendment of the Housing Tax Credit application for The Vineyards is approved as presented to this meeting and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

## **BACKGROUND**

The Vineyards was submitted and approved for a 9% HTC allocation during the 2014 cycle to construct 96 new multifamily units in Lubbock. Prior to the Development Owner purchasing the site, the City of Lubbock (“the City”) planned to widen the street (Milwaukee Avenue) that is adjacent to the Development. However, at the time of Application, the City did not file a Right of Way (“ROW”) dedication. As a result, the title company and surveyor were not aware of the site acreage required to be dedicated and therefore, reflected the Development as 5.34 acres. When the property was platted, it was discovered that the City completed the road construction months earlier but did not file the appropriate documents. The City was contacted about this issue and subsequently recorded a Street Dedication Deed on October 20, 2014. The Warranty Deed and title policy submitted with the 10% Test on July 1, 2015, reflect the adjusted site as 4.94 acres. The Development Owner also provided a current survey that reflects the developed site as 4.94 acres. The total decrease in acreage is 0.44 acres and results in an 8.91% increase in the residential density. Additionally, there was a minor shift in the position and design of the clubhouse in the final site plan. The design changed the square footage of the clubhouse from 3,266 to 3,237 resulting in a less than 1% reduction in the common area and staff has confirmed no changes have occurred to the amenities identified on the plan submitted at the time of application.

Staff has reviewed the original application and underwriting report and has concluded that the reduced site acreage does not negatively impact the tax credit allocation awarded.

Staff recommends approval of the request to amend the HTC application as presented.



# SH LUBBOCK MILWAUKEE, LP



November 17, 2015

Texas Department of Housing and Community Affairs  
Multifamily Division  
221 East 11<sup>th</sup> Street  
Austin, Texas 78701  
Attention: Lee Ann Chance

**RE: The Vineyards Apartments – Application Amendment for TDHCA #14284**

Dear Ms. Chance,

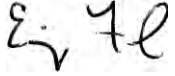
Please accept this letter as our formal request to amend the site acreage for The Vineyards Apartments (TDHCA #14284) from 5.38 acres to 4.94 acres.

Prior to our purchasing the site, the City of Lubbock planned to widen Milwaukee Avenue and required an additional ROW be dedicated by the seller. During the initial application stage a title policy (Exhibit A) was acquired which did not show the ROW dedication. In addition, the surveyor was engaged and completed the boundary survey indicating 5.38 acres (Exhibit B). Unfortunately the dedication instruments were not properly filed by the city until eight months later (Exhibit C). In fact, the city had finished construction of the road prior to their filing the ROW dedication. Since the ROW documents had not been filed the surveyor had no way of knowing the site acreage included the portion of land to be dedicated. It wasn't until the property was platted that the mistake was noticed and the city made aware of their error. After all the appropriate documentation was filed a revised ALTA survey was performed indicating 4.94 acres (Exhibit D).

The city's ROW was beyond the control of the Owner but necessary to meet its access and site plan requirements for the City of Lubbock. The reduction of land did not impact the design of the site, number of units or buildings and has no adverse implications on future tenants.

Should you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Flores".

Enrique Flores, IV  
Authorized Representative of SH Lubbock Milwaukee, LP  
8311 Rockwood Lane  
Austin, Texas 78757  
(512) 914-0953 Phone  
(512) 900-2860 Fax  
[hflores@madhousedevlopment.net](mailto:hflores@madhousedevlopment.net)

Paul Stell - ALTA/ACSM

Job No. 14124

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

COMMITMENT FOR TITLE INSURANCE  
ISSUED BY



We, North American Title Insurance Company, a California corporation, will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule B and Schedule C. Our Policy will be the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

IN WITNESS WHEREOF, North American Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Commitment to become valid when countersigned by an authorized officer or agent of the Company.

North American Title Insurance Company

Attest:

Jeffrey P. Brown, Secretary



By:

Emilio Fernandez, President

  
(Authorized Signature)

CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.
2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements, or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, and Exclusions.

(THIS COMMITMENT IS INVALID UNLESS SCHEDULES A, B, C AND D ARE ATTACHED HERETO.)

## TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title.

The Commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía de aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Mineral and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown on Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

- EXCEPTIONS are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.
- EXCLUSIONS are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.
- CONDITIONS are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the State Board of Insurance by calling North American Title Insurance Company at 1-800-869-3434 (Western States) or 1-800-374-8475 (Eastern States) or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the Policy. Some of the changes to consider are:

Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.



**SCHEDULE A**

GF No. or File No.: 140067

Effective Date of Commitment: February 11, 2014 at 8:00 a.m.

Issued: February 25, 2014

1. The policy or policies to be issued are:
  - a. OWNER'S POLICY OF TITLE INSURANCE (Form T-1)  
(Not applicable for improved one-to-four family residential real estate)  
Policy Amount: \$700,000.00  
PROPOSED INSURED: SH Lubbock Milwaukee, LP
  - b. TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE  
--ONE-TO-FOUR FAMILY RESIDENCES (Form T-1 R)  
Policy Amount:  
PROPOSED INSURED:
  - c. LOAN POLICY OF TITLE INSURANCE (Form T-2)  
Policy Amount:  
PROPOSED INSURED:  
Proposed Borrower:
  - d. TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)  
Policy Amount:  
PROPOSED INSURED:  
Proposed Borrower:
  - e. LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)  
Binder Amount:  
PROPOSED INSURED:  
Proposed Borrower:
  - f. OTHER  
Policy Amount:  
PROPOSED INSURED:
2. The interest in the land covered by this Commitment is:  
  
Fee Simple
3. Record title to the land on the Effective Date appears to be vested in:  
  
87<sup>th</sup> Street Partners, LLC
4. Legal description of land:

Mates and Bounds Description on a 5.38 acre (234,511 sq. ft.) tract of land out of Section 27, Block AK, Lubbock County, Texas, and being more particularly described as follows;

Beginning at a point near the center of Milwaukee Avenue and in the East line of Section 27, Block AK, Lubbock County, Texas, for the Southeast and Beginning corner of this tract, whence the Southeast corner of Section 27, Block AK bears S00°05'19"E, a distance of 821.44 feet;

Thence West, at a distance of 55.00 feet pass a 1/2" iron rod with orange cap (AMD ENG), set in the West Right of Way line of said Milwaukee Avenue, continuing for a total distance of 756.13 feet to a 1/2" iron rod with orange cap (AMD ENG), set for the Southwest corner of this tract;

Thence N00°01'01"W, a distance of 310.00 feet to a 1/2" iron rod with orange cap (AMD ENG), set in the South line of 94th Street as recorded in Volume 9959, Page 335, Official Public Records of Lubbock County, Texas, for the Northwest corner of this tract;

Thence N89°57'56"E, along the South line of said 94th Street, at 700.74 feet pass a point in the West Right of Way line of Milwaukee Avenue whence a nail with yellow cap, found bears North, 0.43 feet and West, 0.70 feet, continuing for a total distance of 755.74 feet to a point near the center of Milwaukee Avenue and in the East line of Section 27, Block AK, Lubbock County, Texas, for the Northeast corner of this tract;

Thence S00°05'19"E, along said Milwaukee Avenue and the East line of Section 27, Block AK, a distance of 310.45 feet to the Point of Beginning.

Containing 5.38 acres (234,511 sq. ft.)

GF No. 140067

### **SCHEDULE B EXCEPTIONS FROM COVERAGE**

In addition to the Exclusions and Conditions and Stipulations, your policy will not cover loss, costs, attorney's fees and expenses resulting from:

1. ~~The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):~~  

Deleted
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured. (Applies to the Owner Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
  - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs, or oceans, or
  - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
  - c. to filled-in lands, or artificial islands, or
  - d. to statutory water rights, including riparian rights, or
  - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.  
(Applies to the Owner Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2014 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2014 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Mortgagee Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Mortgagee (T-2) Policy only.)

GF No. 140067

9. **The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short form Residential Mortgagee Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Mortgagee Policy of Title Insurance (T-2R) only. Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Mortgagee Policy of Title Insurance. (T-2R)**
10. **The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):**
- a. **Rights of parties in possession.**
  - b. **Right of Way Easement recorded in Volume 5670 Page 284 of the Real Property Records of Lubbock County, Texas.**
  - c. **Sanitary Sewer Line Easement recorded in Volume 7814 Page 270 of the Real Property Records of Lubbock County, Texas.**
  - d. **Drainage Easement recorded in Volume 9959 Page 344 of the Official Public Records of Lubbock County, Texas.**
  - e. **Subject to any portion of property lying in or under a roadway.**
  - f. **Easements or claims of easements not recorded in the public records.**
  - g. **All leases, grants, exceptions or reservation of coal, lignite, oil, gas and other minerals together with all rights, privileges and immunities relating thereto appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.**




GF No. 140067

### SCHEDULE C

Your Policy will not cover loss, costs, attorneys fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
  - no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
  - all standby fees, taxes, assessments and charges against the property have been paid,
  - all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialman's liens have attached to the property,
  - there is legal right of access to and from the land,
  - (on a Mortgagee Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. Note: Procedural Rule P-27 as provided for in Article (9.39 A of the Texas Insurance Code requires that "Good Funds" be received and deposited before a Title Agent may disburse from its Trust Fund Account.
6. Note: We find no outstanding liens of record affecting the subject property. Inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest claim in the subject property.
7. We must be furnished for examination a copy of the limited liability company agreement established 87<sup>th</sup> Street Partners, LLC, a Texas limited liability company, which names the managers who operate the limited liability company and the members who are owners of interest in the limited liability company.

BY:

  
Authorized Countersignature

GF Number: 140067

**SCHEDULE D**

Disclosures pursuant to Procedural Rule P-21, by Texas Department of Insurance:

**UNDERWRITER:** Westcor Land Title Insurance Company, a California corporation.  
Shareholders of 10% or more of Westcor Land Title Insurance Company: NTC Global Holding Group and Mother Lode Holding Company.  
Individuals/Entities owning 10% or more of the above cited Entities: NTC Global Holding Group- Terrence L. Wright, Mother Lode Holding Company- French Family 1993 Irrevocable Trust, and French Family Trust dated 4/13/87.

**DIRECTORS OF WESTCOR LAND TITLE INSURANCE COMPANY:**  
Terrence L. Wright, David Philipp, Mary O'Donnell, Roy W. Lassiter and Robbie D. Graham

**OFFICERS OF WESTCOR LAND TITLE INSURANCE COMPANY:**  
Mary O'Donnell, President/Chief Executive Officer, Michael Schefstad, Chief Financial Officer/Treasurer, Patricia W. Bower, Secretary/General Counsel, Susan Pelham, Vice President, Scott Chandler, Vice President and Richard Murray, Vice President

As to Title One, Digital Title Services, LLC (Title Insurance Agent), the following disclosures are made:

B-1. If Agent is a corporation, the shareholders owning or controlling, directly or indirectly 1% or more of the shares of Agent as of the last day of the year preceding the date hereinabove set forth are as follows (or owning or controlling 10% or more of an entity that owns 1% or more of the Agent): Bradley W. Elder, Title One Investment Group

B-2. Individuals, firms, partnerships, associations, corporations, trusts or other entities owning 10% or more of those entities referred to in item no. B-1 hereinabove as of the last day of the year preceding the date hereinabove set forth are as follows: Gary Greenstreet, RBH Idaho, LLC

B-3. If Undersigned Agent is a corporation, the following is a list of the members of the Board of Directors, as of the last day of the year preceding the date hereinabove set forth.

LLC Managers: Bradley W. Elder, Gary Greenstreet, Curtis Hogan, Van Echols, RBH Idaho, LLC

B-4. If the Agent is a corporation, the names of any directors, president, executive or senior vice president, secretary and treasurer if any of the Title Insurance Agent are as follows:

President: Bradley W. Elder  
Senior Vice President: David Frisbie  
Vice President: Gregory Noyola

C-1. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving any sum from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated\* title premium is:

Owners Policy	\$4,047.00
Loan Policy	_____
Endorsement Charges	_____
Other	_____
<b>Total</b>	<b>\$4047.00</b>

Of this total amount \$ \_\_\_\_\_ or 15 % (complete one only) will be paid to Westcor Land Title Insurance Company; \$ \_\_\_\_\_ or \_\_\_\_\_% (complete one only) will be retained by Title Insurance Agent; and any remainder of the estimated premium will be paid to other parties as follows:

Amount	Paid to	Services
\$ _____ or _____ % (complete one only)	_____	_____
\$ _____ or _____ % (complete one only)	_____	_____
\$ _____ or _____ % (complete one only)	_____	_____

\*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance.

**DELETION OF ARBITRATION PROVISION**  
(Not applicable to the Texas Residential Owner Policy)

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The Arbitration provision in the Policy is as follows:

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

I request deletion of the Arbitration provision.

SIGNATURE:

DATE:

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Allow the Company to add an exception to "rights of parties in possession". If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

#### IMPORTANT NOTICE

FOR INFORMATION, OR TO MAKE A COMPLAINT, CALL OUR TOLL-FREE TELEPHONE NUMBER  
1-800-374-8475 (TEXAS AND EASTERN STATES) OR  
1-800-869-3434 (WESTERN STATES).

ALSO YOU MAY CONTACT THE TEXAS DEPARTMENT OF INSURANCE AT 1-800-252-3439 to obtain information on:

1. filing a complaint against an insurance company or agent,
2. whether an insurance company or agent is licensed,
3. complaints received against an insurance company or agent,
4. policyholder rights, and
5. a list of consumer publications and services available through the Department.

YOU MAY ALSO WRITE TO THE  
TEXAS DEPARTMENT OF INSURANCE  
P.O. Box 149104  
Austin, Texas 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

#### AVISO IMPORTANTE

PARA INFORMACIÓN, O PARA SOMETER UNA QUEJA LLAME AL NÚMERO GRATIS  
1-800-374-8475 (TEXAS AND EASTERN STATES) OR  
1-800-869-3434 (WESTERN STATES).

TAMBIÉN PUEDE COMUNICARSE CON EL DEPARTAMENTO DE SEGUROS DE TEXAS AL 1-800-252-3439 para obtener información sobre:

1. como someter una queja en contra de una compañía de seguros o agentes de seguros,
2. si una compañía de seguros o agente de seguros tiene licencia,
3. quejas recibidas en contra de una compañía de seguros o agentes de seguros,
4. los derechos del asegurado, y
5. una lista de publicaciones y servicios para consumidores disponibles a través del Departamento.

TAMBIÉN PUEDE ESCRIBIR AL  
DEPARTAMENTO DE SEGUROS DE TEXAS  
P.O. Box 149104  
Austin, Texas 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)



1855 Gateway Boulevard, Suite 600  
Concord, California 94520

# NORTH AMERICAN TITLE GROUP FAMILY OF COMPANIES

## Privacy Policy Notice (2/01/08)

We at the North American Title Group family of companies take your privacy very seriously. This Notice is being given on behalf of each of the companies listed below<sup>1</sup> (the "North American Title Companies"), as well as on behalf of North American Advantage Insurance Services, LLC. It explains our policy regarding the personal information of our customers and our former customers.

### OUR PRIVACY POLICIES AND PRACTICES

#### The North American Title Companies

- 1. Information North American Title Companies collect, and the sources from which we collect it:** On forms related to your real estate transaction, North American Title Companies collect personal information that you, our affiliates or third parties have provided to us, such as, for example, your name, address, and sale price of your home. All of the information that we collect is referred to in this notice as "NAT Collected Information".
- 2. What information North American Title Companies disclose to our affiliates:** From time to time, as permitted by law, the North American Title Companies may share NAT Collected Information with each other and with North American Advantage Insurance Services, LLC ("NAAIS") about customers and former customers. You may ask us not to share NAT Collected Information among the North American Title Companies and NAAIS by writing to us and letting us know at: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. Your request will not affect NAT Collected Information that the North American Title Companies are otherwise permitted by law to share, such as, in certain circumstances, NAT Collected Information related to our experiences and transactions with you.
- 3. What information North American Title Companies disclose to third parties:**

  - If permitted by federal law and the law of your state, we may disclose some or all of the following information to companies that perform marketing services on our behalf and to certain unaffiliated insurance companies with whom we have joint marketing agreements: your name, current address, purchased property address, and closing date.
  - We also may share NAT Collected Information about customers and former customers with other unaffiliated third parties, as permitted by law. For example, NAT Collected Information may be shared in certain circumstances (A) with companies involved in servicing or processing your account (B) with insurance regulatory authorities, and (C) with law enforcement officials, to protect against fraud or other crimes.
- 4. Your right to access your personal information:** You have the right to review your personal information that we have on record about you. If you wish to review that information, please contact the local North American Title Company office identified on the title insurance product to which this notice is attached or where you received this notice and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.



**North American Advantage Insurance Services, LLC**

**1. Information North American Advantage Insurance Services, LLC ("NAAIS") collect and sources from which we collect it:** NAAIS collects personal information about you from you, our affiliates, or third parties on forms related to your transaction with NAAIS or a North American Title Company, such as your name, address, or information about the property that is or will be insured. We also receive information from companies, which compile and distribute public records. All of the information that NAAIS collects, as described in this paragraph, is referred to in this notice as "NAAIS Collected Information."

**2. Information NAAIS may disclose to its affiliates or third parties:** NAAIS may disclose NAAIS Collected Information about you or others without your permission as permitted or required by law, including to the following types of institutions for the reasons described:

- To a third party or an affiliate if the disclosure will enable that party to perform a business, professional or insurance function for us in connection with an insurance transaction involving you.
- To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction.
- To an insurance institution, agent, or credit reporting agency for either this agency or the entity to whom we disclose the information to perform a function in connection with an insurance transaction involving you.
- To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities.

**3. Your right to access and amend your personal information:** You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within two (2) years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

**To obtain access to your information:** You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, and the recorded information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

**To correct, amend, or delete any of your information:** You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal, which you will have an opportunity to challenge.

\*\*\*\*\*

**SECURITY PROCEDURES**

We restrict access to NAT Collected Information and NAAIS Collected Information about you to individuals who need to know such information in order to you with your product or service. We maintain physical, electronic and procedural safeguards to protect NAT Collected Information and NAAIS Collected Information about you.

\*\*\*\*\*

#### **CHANGES TO OUR PRIVACY POLICY**

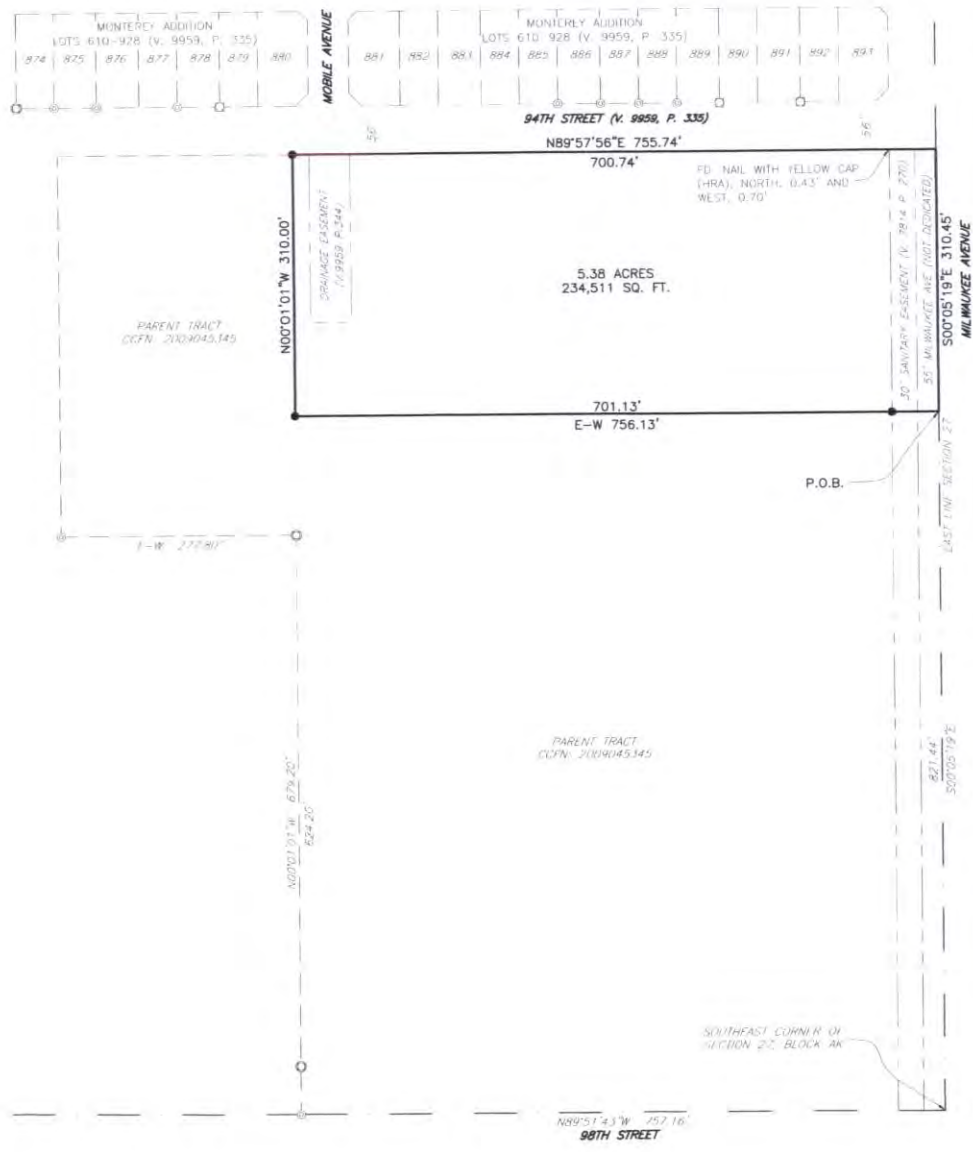
This Notice reflects our privacy policy as of February 1, 2008. We reserve the right to change, modify or amend this policy at any time. Please check our Privacy Policy periodically for changes.

1The North American Title Group Family of Companies are: North American Title Company, North American Title Insurance Company, North American Title Alliance, LLC, North American Title Florida Alliance, LLC, North American Services, LLC, North American Exchange Company, North American Title Agency, North American Abstract Agency and North American Legal Services, L.L.C.

\*\*\*\*\*

#### **ACKNOWLEDGEMENT**

Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents accompanied by this Notice will constitute your acknowledgment of receipt of this Privacy Policy Notice.



**Survey Description**

Metes and Bounds Description on a 5.38 acre (234,511 sq. ft.) tract of land out of Section 27, Block AK, Lubbock County, Texas, and being more particularly described as follows:

Beginning at a point near the center of Milwaukee Avenue and in the East line of Section 27, Block AK, Lubbock County, Texas, for the Southeast and Beginning corner of this tract, whence the Southeast corner of Section 27, Block AK bears S00°05'19"E, a distance of 821.44 feet;

Thence West, at a distance of 55.00 feet pass a 1/2" iron rod with orange cap (AMD ENG), set in the West Right of Way line of said Milwaukee Avenue, continuing for a total distance of 756.13 feet to a 1/2" iron rod with orange cap (AMD ENG), set for the Southwest corner of this tract;

Thence N00°01'01"W, a distance of 310.00 feet to a 1/2" iron rod with orange cap (AMD ENG), set in the South line of 94th Street as recorded in Volume 9959, Page 335, Official Public Records of Lubbock County, Texas, for the Northwest corner of this tract;

Thence N89°57'56"E, along the South line of said 94th Street, at 700.74 feet pass a point in the West Right of Way line of Milwaukee Avenue whence a nail with yellow cap, found bears North, 0.43 feet and West, 0.70 feet, continuing for a total distance of 755.74 feet to a point near the center of Milwaukee Avenue and in the East line of Section 27, Block AK, Lubbock County, Texas, for the Northeast corner of this tract;

Thence S00°05'19"E, along said Milwaukee Avenue and the East line of Section 27, Block AK, a distance of 310.45 feet to the Point of Beginning.

Containing 5.38 acres (234,511 sq. ft.)

**Surveyors Report:**

This plat was prepared for the exclusive use of the individual and/or institutions named on this survey. It is non-transferable to additional institutions or individuals without expressed recertification by AMD Engineering, LLC.

This plat is the property of AMD Engineering, LLC. Reproduction of this plat for any purpose is expressly forbidden without the written consent of an authorized agent of AMD Engineering, LLC.

This survey is subject to any facts which may be disclosed by a full and accurate title search.

Record documents other than those shown may affect this tract.

Visible evidence of conditions affecting this tract is as shown on this plat.

Monuments indicated as found by this survey are not "physical monuments of record dignity" unless so noted.

Found monuments are accepted by this surveyor as controlling evidence due to substantial agreement with record documents.

Heavy lines indicate plat limits.

Bearings are based on the East line of Section 27, Block AK, as being previously recognized as S00°05'19"E.

Distances are actual Surface Distances.

- 1/2" IRON ROD WITH ORANGE CAP (AMD ENG), SET
- 1/2" IRON ROD WITH ORANGE CAP (ARACUS), FD...CM
- ⊗ 1/2" IRON ROD WITH YELLOW CAP (HRA), FD...CM
- 1/2" IRON ROD, FD...CM



I, Charles Lynn Sawyer, Registered Professional Land Surveyor, do hereby certify that this plat and description was prepared from an actual survey of the property and that the information hereon represents the findings of this survey to the best of my knowledge and belief.

*Charles Lynn Sawyer*  
 Charles Lynn Sawyer  
 Registered Professional Land Surveyor #5809  
 Survey Date: February 20, 2014  
 Job No. 14019

**AMD**  
 CIVIL ENGINEERING  
 LAND SURVEYING  
 AMD Engineering, LLC  
 2807 74th Street, Suite 8  
 Lubbock, TX 79423  
 Phone: 806-771-5976  
 Fax: 806-771-7625  
 TPE Reg. # F-9187  
 Accuracy - Efficiency - Integrity

**PLAT OF SURVEY**  
 OF A 5.38 ACRE (234,511 SQ. FT.) TRACT OF LAND OUT OF SECTION  
 27, BLOCK AK, LUBBOCK COUNTY, TEXAS

PREPARED FOR:  
 Stellar Development

DRAWN BY: JDN  
 CHECKED BY: CLS  
 JOB No. 14019

\* THIS SURVEY IS A SUBMITTAL TO THE LUBBOCK COUNTY RECORDS DEPARTMENT AND IS SUBJECT TO THE LUBBOCK COUNTY RECORDS DEPARTMENT'S REVIEW AND APPROVAL.

File and Return to  
Dave Booher R.O.W.  
City of Lubbock



DED  
3 PGS  
2014037575

STREET DEDICATION DEED

THE STATE OF TEXAS §  
COUNTY OF LUBBOCK §

KNOW ALL MEN BY THESE PRESENTS:

THAT 87<sup>TH</sup> STREET PARTNERS, LLC, herein called "Grantor", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to it in hand paid by the CITY OF LUBBOCK, TEXAS, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

TO HAVE AND TO HOLD this above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said public forever so long as said premises are used for public street purposes.

WITNESS MY HAND this 20<sup>th</sup> day of OCTOBER, 2014.

87<sup>TH</sup> STREET PARTNERS, LLC

By: Ronald T. Betenbough

Printed Name: RONALD T. BETENBOUGH

Title: PRESIDENT

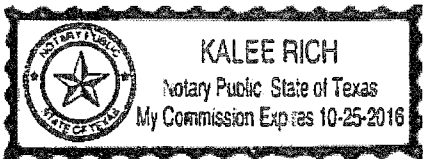
THE STATE OF TEXAS §  
COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Ronald T. Betenbough, 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 and as the act and deed of said 87<sup>th</sup> Street Partners, LLC.

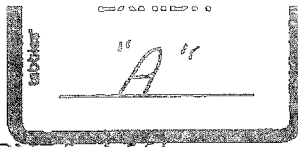
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20<sup>th</sup> day of October, 2014.

Kalee Rich  
Notary Public in and for the State of Texas

My Commission Expires: 10-25-2016



MILWAUKEE R-O-W



METES AND BOUNDS DESCRIPTION of a 1.564 acre tract of land located in Section 27, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at an "X" chiseled in concrete set for the Southeast corner of said Section 27:

THENCE N. 88°00'35" W., along the South line of said Section 27, a distance of 95.39 feet to an "X" chiseled in concrete set for a corner of this tract:

THENCE N. 01°59'25" E. a distance of 55.00 feet to a 1/2" iron rod with cap marked "HUGO REED ASSOC" set for a point of intersection;

THENCE Northeasterly, along a curve to the left, said curve having a radius of 30.00 feet, a central angle of 90°15'32", a chord bearing of N. 46°51'40" E., a chord distance of 42.52 feet to a 1/2" iron rod with cap marked "HUGO REED ASSOC" set for a point of tangency;

THENCE N. 01°43'53" E. a distance of 207.86 feet to a 1/2" iron rod with cap marked "HUGO REED ASSOC" set for a point of intersection;

THENCE N. 04°35'50" E. a distance of 200.00 feet to a 1/2" iron rod with cap marked "HUGO REED ASSOC" set for a point of intersection;

THENCE N. 01°43'53" E. a distance of 640.24 feet to a 1/2" iron rod with cap marked "HUGO REED ASSOC" set in the South right-of-way line of 94th Street for a corner of this tract:

THENCE S. 88°10'42" E. a distance of 55.00 feet to an "X" chiseled in concrete set in the East line of said Section 27 for a corner of this tract;

THENCE S. 01°43'53" W., along the East line of said Section 27 a distance of 1133.20 feet to the Point of Beginning.

Bearings are relative to the Texas Coordinate System of 1983, CORS 96, Epoch 2002.0

Surveyed on the ground.

October 14, 2014

Robert A. Christopher  
Registered Professional Land Surveyor No. 5167  
Licensed State Land Surveyor  
State of Texas



5000 06 12 11 B  
510,716

Parcel 4083



FILED AND RECORDED



OFFICIAL PUBLIC RECORDS

*Kelly Pinion*

Kelly Pinion, County Clerk

Lubbock County TEXAS

October 20 2014 03:35:45 PM

FEE \$25 00

2014037575

LEGAL DESCRIPTION

Tract "A", The Vineyards, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat, and/or dedication deed thereof, recorded in County Clerk File Number 2015009698 of the Official Public Records of Lubbock County, Texas

ZONING NOTES

Zoning of this property is A-2 (High Density Apartment District). Building setbacks for Zone A-2 are as follows: Front: 25 feet, except that when the entire front yard is landscaped and permanently maintained, the required front yard may be 15 feet. Rear: The minimum rear yard shall be 5 feet, except when the proposed development is adjacent to an "R-1" or "R-2" District, even if separated by an alley, the minimum rear yard setback for any two-story structure shall be 50 feet from the rear lot line. Side: There shall be a minimum side yard of 5 feet on each side of any single story structure, 10 feet on each side of any two-story structure, except that on corner lots the minimum side yard adjacent to the street shall be 10 feet. When property abuts on "R-1" or "R-2" zoning district, the minimum side yard setback for any two-story structure shall be fifty (50) feet. Provided, further, that in no case shall a garage fronting onto a street be within twenty (20) feet of the street property line. No side yard shall be required for individual row dwelling or townhouse units except at the end of each structure, where a ten-foot side yard shall be required. Projections into required building setbacks: Cornices, eaves, sills, canopies, and chimneys may extend 2 feet into any required yard. Bay windows are not permitted under this section. Unenclosed fire escapes, stairways, and/or balconies, covered or uncovered, may extend 4 feet into the required front or rear yard. Lot Width: The minimum lot width shall be one hundred (100) feet for all other uses except as provided for row dwelling and townhouses in the "specific use" section. Floor Area Ratio: Seventy-five-hundredths (.75) square foot of total floor area for each one square foot of lot area. Height Limit: Building shall not exceed three (3) stories and shall not exceed forty (40) feet.

GENERAL NOTES

This Plat is based on a survey made on the ground September 9, 2014. Monuments shown as found on this survey were accepted by this surveyor as controlling evidence due to substantial agreement with Record Documents and are not considered as Monuments or Record Dignity unless so noted. No substantial discrepancies between Record Documents and conditions as found on the ground were uncovered on this survey unless noted. Benchmark 1: Box cut in top of curb on South side of 94th Street and West side of Milwaukee Avenue. Elevation: 3266.10 NAVD 88

BASIS OF BEARING

Basis of Bearings related to the East line of Section 27, Block AK, as being previously recognized as S00°05'19"E. Distances are Actual Surface Distances.

SOLID WASTE DUMP

There is no evidence of any solid waste dump, sump, or sanitary landfill on the site.

EARTH MOVING WORK

There is no evidence of any earth moving work, building construction, or building addition on the site.

ADDRESS

No Address on Record

LAND AREA

There is 4.94 Acres (215,186 Square Feet) within the Limits of this survey.



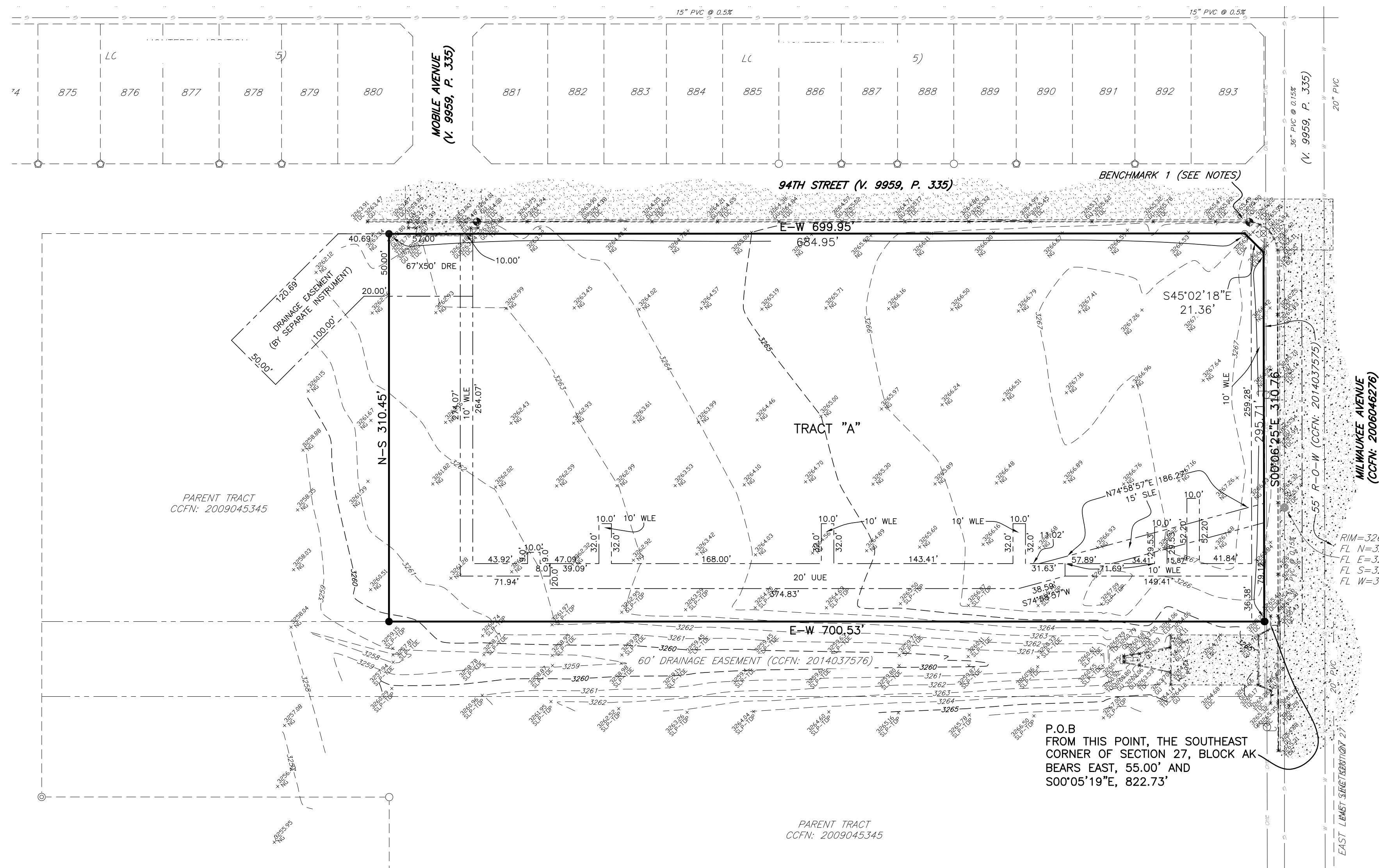
ALTA/ACSM LAND TITLE SURVEY

Surveyor's Certification: I hereby certify to North American Title Company and SH Milwaukee, LP, and their respective successors and assigns, as follows:

- 1. On the 9th day of September, 2014, this survey was made by me (or under my direct supervision) on the ground as per the field notes shown on this survey and is true, correct, and accurate as to the boundaries (which have been physically inspected by me) and areas of the subject property and the size, location, and type of buildings and improvements thereon, if any, and as to the other matters shown thereon. This survey satisfies the Minimum Standard Detail Requirements (including, but not limited to, items 1, 2, 3, 4, 6(b), 8, 11(a)(b), 13, 16, 17, 18, and 20(a)(b) of Table "A" thereof) and the Accuracy Standards for ALTA/ACSM Land Title Surveys, as adopted by the American Land Title Association (ALTA), the National Society of Professional Surveyors (NSPS), and the American Congress on Surveying and Mapping (ACSM) and in effect on the date of this certification. Proper field procedures, instrumentation and adequate survey personnel were employed order to achieve results comparable to those outlined in the "Minimum Angle, Distance and Closure Requirements for Survey Measurements which Control Land Boundaries for ALTA/ACSM Land Title Surveys.
2. The area or quantity of the subject property as set forth in this survey is accurate to the nearest square foot.
3. This survey correctly shows the location of the following matters affecting the subject property, whether or not located on the subject property: all easements (public and private), rights of ways (public and private), improvements, signs, fences, drainage ditches, above and below ground telephone, power and light, and other public and private utility lines and/or poles, railroads, streams (and other waterways, including all permanently inundated areas, whether or not navigable), building setback lines, party walls, and encroachments visible on the ground or of record; all places of entry and exit of all utilities to and from the subject property; all matters set forth in that certain commitment for mortgage's policy of title insurance with an effective date of February 17, 2014, issued by Old Republic National Title Company, under G.F./Case No. 1503536-COM; and all matters of which I have knowledge or have been advised, whether or not of record, and, except, as shown hereon, no such matters affect the subject property. All matters shown on this survey that are created or affected by an instrument of record contain a reference to the specific recording information under which such instrument has been filed for public record.
4. Encroachments as used herein include encroachments or protrusions onto the subject property by improvements on adjacent property, rights-of-way, or easements and encroachments and protrusions onto adjacent property, rights-of-way, easements, or building setbacks by any improvements on the subject property and any conflicts or overlaps of the metes and bounds calls of the subject property and those of adjacent property, easements, or rights-of-ways.
5. The subject property currently has unrestricted ingress and egress to and from 94th Street and Milwaukee Avenue (there are no intervening strips, gaps, or gores between the boundary of the subject property and the boundary of such streets and roads), and such streets are paved, dedicated public right-of-ways maintained by the City of Lubbock, State of Texas, or Lubbock County.
6. A portion of the subject property does lie within the 100-year flood plain as per National Flood Insurance Program FIRM Community Panel No. 48303C0290F, Map Revised January 2, 2013.

Dated: March 26, 2015

Charles Lynn Sawyer
Registered Professional Land Surveyor No. 5809



LEGEND

- 1/2" IRON ROD WITH ORANGE CAP (AMD ENG), SET
"X" CHISELED IN BRICK, FD...CM
IRON ROD, FD...CM
1/2" IRON ROD WITH ORANGE CAP (ABACUS), FD...CM
INDICATES MAN HOLE
INDICATES BENCH MARK (SEE NOTES)
INDICATES POWER POLE
OVERHEAD POWER LINE
INDICATES SEWER LINE
CONCRETE PAVING
ASPHALT PAVING

VICINITY MAP

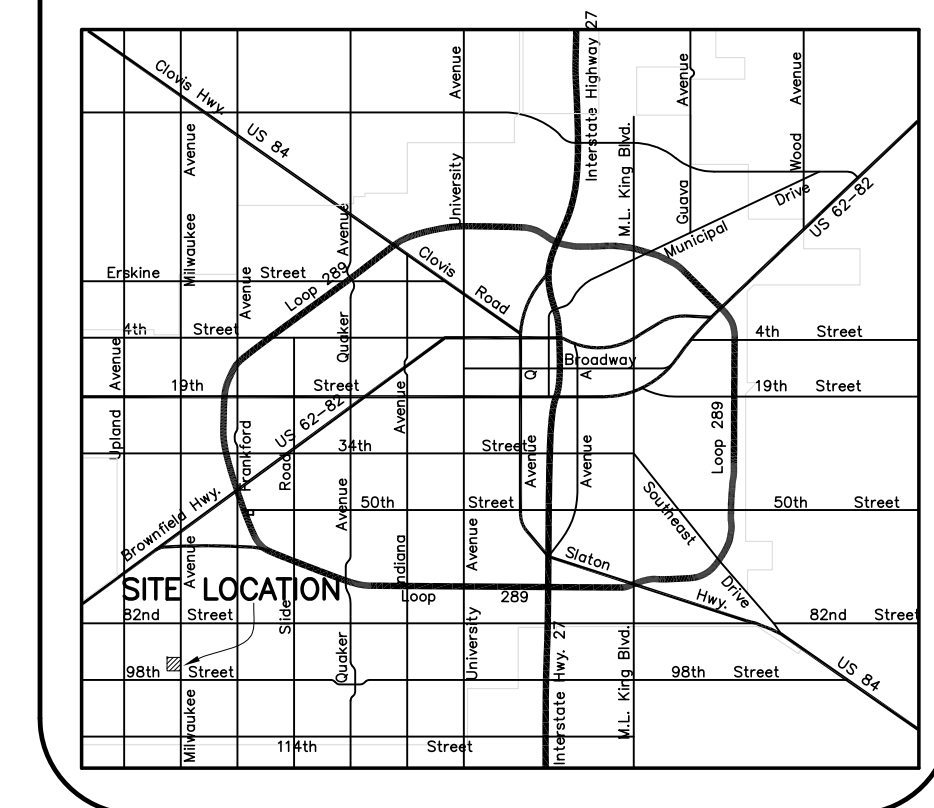


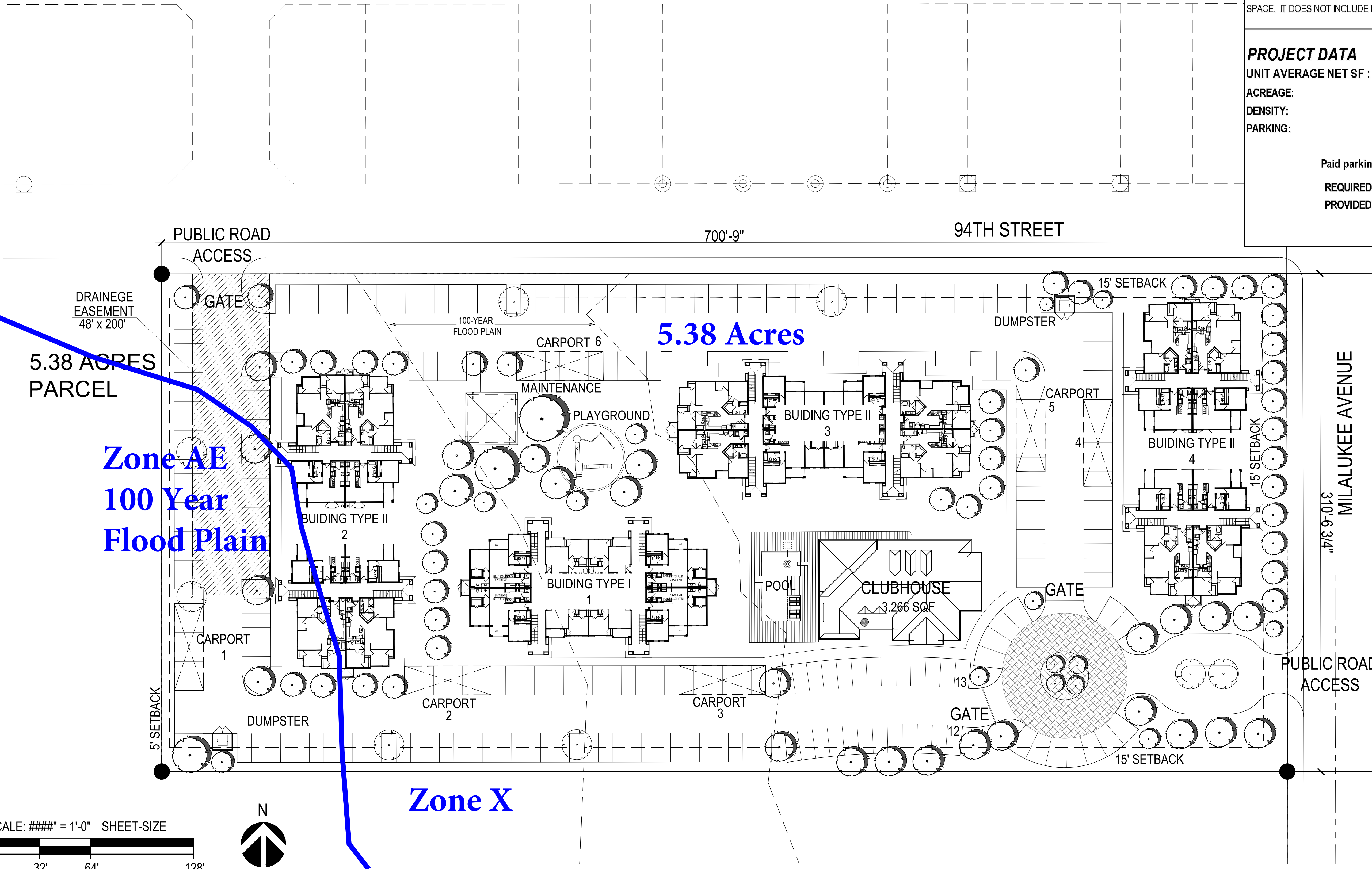
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from Application

MILWAUKEE AVENUE MADHOUSE DEVELOPMENT/STELLAR GROUP						
UNIT TABULATION						2014071
UNIT NAME	UNIT TYPE	NET AREA(SF)	UNIT COUNT	PERCENTAGE	TOTAL AREA	% BREAKDOWN
A1	1br/1ba	750	12	12.50%	9,000	12.50%
B1	2br/2ba	1,034	48	50.00%	49,632	50.00%
C1	3br/2ba	1,259	36	37.50%	45,324	37.50%
<b>TOTALS</b>			<b>96</b>	<b>100.00%</b>	<b>103,956</b>	
<b>UNIT AVERAGE NET SF :</b>				<b>1,083</b>		
* NET AREA IS COMPUTED TO INCLUDE SQUARE FOOTAGE FROM EXTERIOR FACE OF ALL EXTERIOR FRAME WALLS THAT ENCLOSE A/C SPACE. IT DOES NOT INCLUDE PATIOS, BALCONIES, PATIO/BALCONY STORAGE.						
<b>PROJECT DATA</b>						
<b>UNIT AVERAGE NET SF :</b>				<b>1,083 S.F.</b>		
<b>ACREAGE:</b>				<b>5.00 ACRES</b>		
<b>DENSITY:</b>				<b>19.20 UNITS/ACRE</b>		
<b>PARKING:</b>						
CARPORT PARKING				<b>36 SPACES</b>		
Paid parking, not free to residents						
<b>REQUIRED</b>				<b>210 SPACES</b>		
<b>PROVIDED SURFACE PARKING</b>				<b>211 SPACES</b>		
				<b>2.2 SPACES/UNIT</b>		

Corrected number of free tenant parking spaces. Total number of parking spaces is now 247 spaces.



A 201



from 10% Test

**FIRE DEPARTMENT NOTES**

- WHERE REQUIRED BY CODE, BUILDINGS ARE TO BE PROVIDED WITH AN AUTOMATIC SPRINKLER SYSTEM PER NFPA 13R.
- NO FIXED OR MOVING GATE SECTION SHALL INTERFERE WITH MINIMUM FIRE DEPT. ACCESS WIDTH, TURNING RADI OR OTHERWISE IMPEDE APPARATUS MOVEMENT OR USE OF FIRE HYDRANTS ETC.
- FIRE SPRINKLER SYSTEMS ARE DESIGN BUILD. REQUIREMENTS TO BE CONFIRMED BY CONTRACTOR.
- FIRE APPARATUS ACCESS IS REQUIRED TO BE UNOBSTRUCTED, NOT LESS THAN 26'-0" IN WIDTH, 14'-0" CLEAR HEIGHT.
- SIGNAGE PACKAGE TO BE DESIGN BUILD.
- FIRE DEPARTMENT CONNECTION HAS BEEN COORDINATED IN THE PLUMBING PLANS.
- FIRE DEPARTMENT APPROVED KNOX BOX SHALL BE PROVIDED AT THE MAIN GATES AND AREAS WHERE REQUIRED BY THE FIRE DEPARTMENT. CONTRACTOR TO CONFIRM NUMBER AND LOCATIONS WITH LOCAL FIRE INSPECTOR PRIOR TO INSTALLATION.

**SITE NOTES**

- THIS SITE PLAN IS FOR REFERENCE ONLY - REFER TO CIVIL FOR SITE DIMENSIONAL CONTROL.
- REFER TO CIVIL AND LANDSCAPE DRAWINGS FOR SIDEWALKS AND ACCESSIBLE ROUTE THROUGHOUT SITE, FENCING, GATE LOCATIONS AND DETAILS.
- REFER TO MEP FOR ELECTRICAL TRANSFORMER LOCATIONS.
- DEVELOPMENT AND USE OF THIS SITE MUST CONFORM WITH ALL APPLICABLE CODES AND ORDINANCES.
- ALL NEW OR RELOCATED UTILITIES WILL BE PLACED UNDERGROUND UNLESS NOTED OTHERWISE.
- ANY LIGHTING WILL BE PLACED SO AS TO DIRECT LIGHT AWAY FROM RESIDENTIAL DISTRICTS AND WILL NOT EXCEED ONE-FOOT CANDLE AT THE PROPERTY LINE, UNLESS REQUIRED BY LOCAL ORDINANCE TO BE MORE. NO NOISE, ODOR OR VIBRATION WILL BE EMITTED AT ANY LEVEL EXCEEDING THE GENERAL LEVEL OF NOISE, ODOR OR VIBRATION EMITTED BY USES IN THE AREA OUTSIDE OF THE SITE.
- OWNERS OF PROPERTY ADJACENT TO PUBLIC RIGHTS-OF-WAY SHALL HAVE RESPONSIBILITY FOR MAINTAINING ALL LANDSCAPING LOCATED IN THE RIGHTS-OF-WAY, IN ACCORDANCE WITH APPROVED PLANS.
- AFTER FINAL APPROVAL THE PROJECT WILL BE INSPECTED FOR ZONING COMPLIANCE DURING CONSTRUCTION AND PRIOR TO OCCUPANCY. THE CONTRACTOR IS TO NOTIFY THE GOVERNING AUTHORITY PRIOR TO OCCUPANCY TO ARRANGE FOR INSPECTIONS.
- ALL ROOFTOP EQUIPMENT AND SATELLITE DISHES SHALL BE SCREENED TO THE HEIGHT OF THE TALLEST EQUIPMENT.
- ALL SERVICE AREAS SHALL BE SCREENED TO CONCEAL TRASH CONTAINERS, GAS METERS, LOADING DOCKS, TRANSFORMERS, BACKFLOW PREVENTERS AND OTHER MECHANICAL OR ELECTRICAL EQUIPMENT FROM EYE LEVEL ADJACENT TO ALL PUBLIC STREETS.
- BARBED, RAZOR, OR CONCERTINA WIRE (OR SIMILAR) SHALL NOT BE USED ON THIS SITE WHERE VISIBLE FROM PUBLIC STREETS OR ADJACENT RESIDENTIAL AREAS.
- SIDEWALK SLOPES SHALL NOT EXCEED 1%, CROSS SLOPES NOT TO EXCEED 2% (REF. CIVIL).
- REFER TO SHEET A1.02 FOR PARKING TABULATIONS.
- BIKE RACKS REFER TO LANDSCAPE.
- ALL ENTRANCE GATES TO PROVIDE KNOX BOX FOR FIRE DEPARTMENT ACCESS. COORDINATE LOCATION WITH FIRE DEPARTMENT PRIOR TO INSTALLATION.

**LEGEND**

	ACCESSIBLE PARKING SPACE
	VAN ACCESSIBLE SPACE
	24' FIRE LANE-SEGMENTED STRIPE TO BE PAINTED SW 75% ON HORIZONTAL SURFACE NEXT TO CURB
	PROPERTY LINE
	EASEMENT LINE
	LANDSCAPE SETBACK LINE
	ASSUMED PROPERTY LINE
	BUILDING TYPE
	BUILDING NUMBER
	PARKING SPACES PER BAY
	ADA UNIT- UNITS OCCUR ON THE FIRST FLOOR ONLY.
	MIRRORED
	FSRR LOCATION REFER TO MEP & CIVIL PLANS
	DENOTES LOCATION FOR HEARING AND VISUALLY IMPAIRED UNITS. UNITS OCCUR ON THE FIRST FLOOR ONLY.
	DENOTES LOCATION FOR CARPORTS. REF. TO A6.02 FOR DETAILS
	ELECTRIC METER LOCATION REF. TO MEP
	TRANSFORMER LOCATION REF. TO MEP

Designed by: MS  
 Drawn by: KSS - EH  
 Architect of Record: RPF  
 Date Plotted: 05/29/15

Issue for Pricing / Bidding:  
 Issue for Permit Application: 10/24/14  
 Issue for Construction: 05/29/15

Revisions:

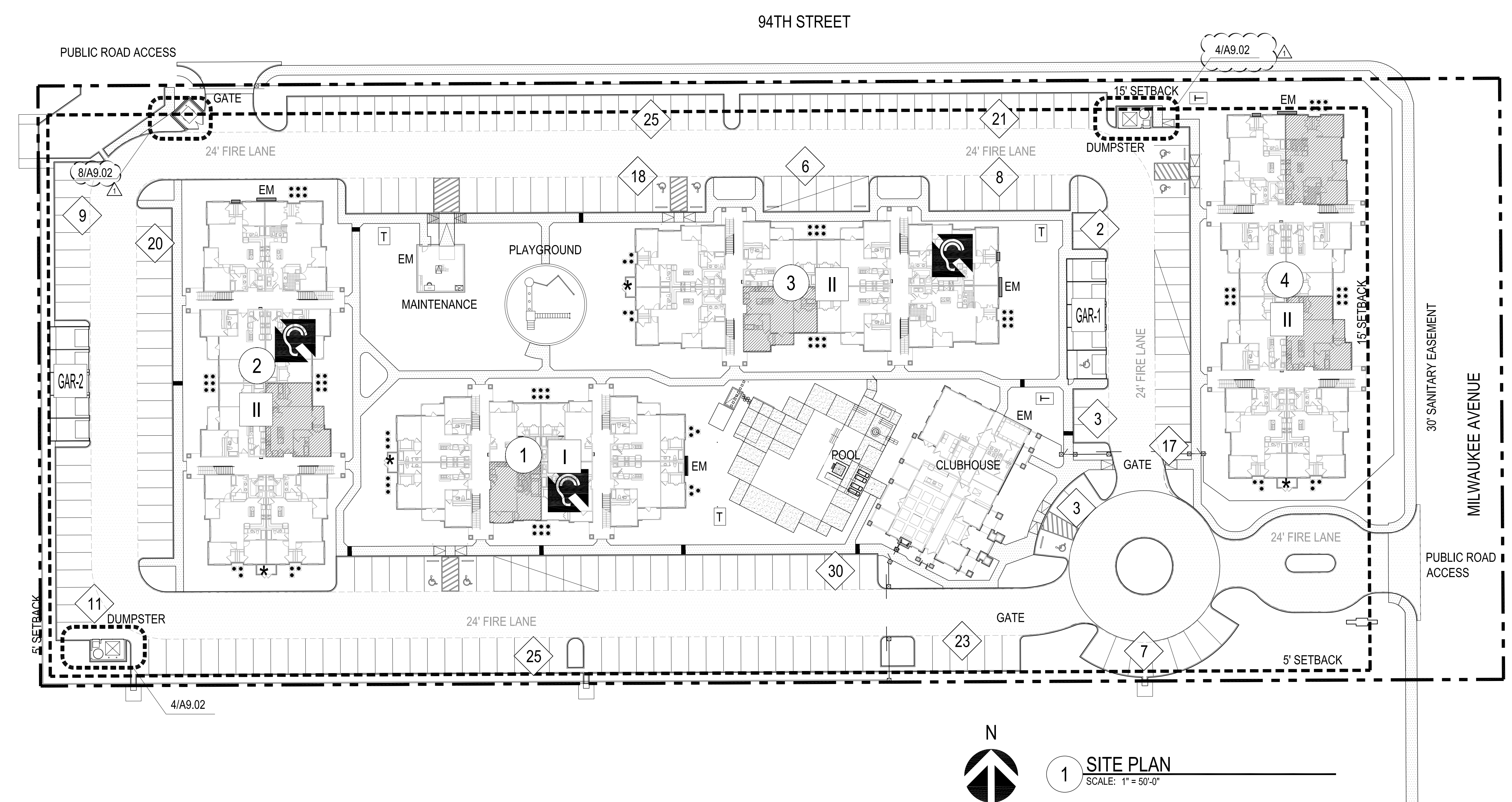
#	DATE	COMMENTS
1	05-29-15	REVISION 1

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**STELLAR**  
 ARCHITECTS, L.P.

**THE VINEYARDS LUBBOCK, TX**  
 MADHOUSE DEVELOPMENT &  
 STELLAR DEVELOPMENT



**1 SITE PLAN**  
 SCALE: 1" = 50'-0"

05/29/15

EXP. 5/31/2015

**HUMPHREYS & PARTNERS ARCHITECTS, L.P.**  
 5339 ALPHA ROAD - SUITE 300 - DALLAS, TEXAS 75240  
 (972) 701-8836 • (972) 701-8839 FAX  
 DALLAS • NEWPORT BEACH • NEW ORLEANS • OMAHA • SAN ANTONIO • SCOTTSDALE • NEW YORK • CHICAGO • EDMONTON • TORONTO  
 www.humphreys.com

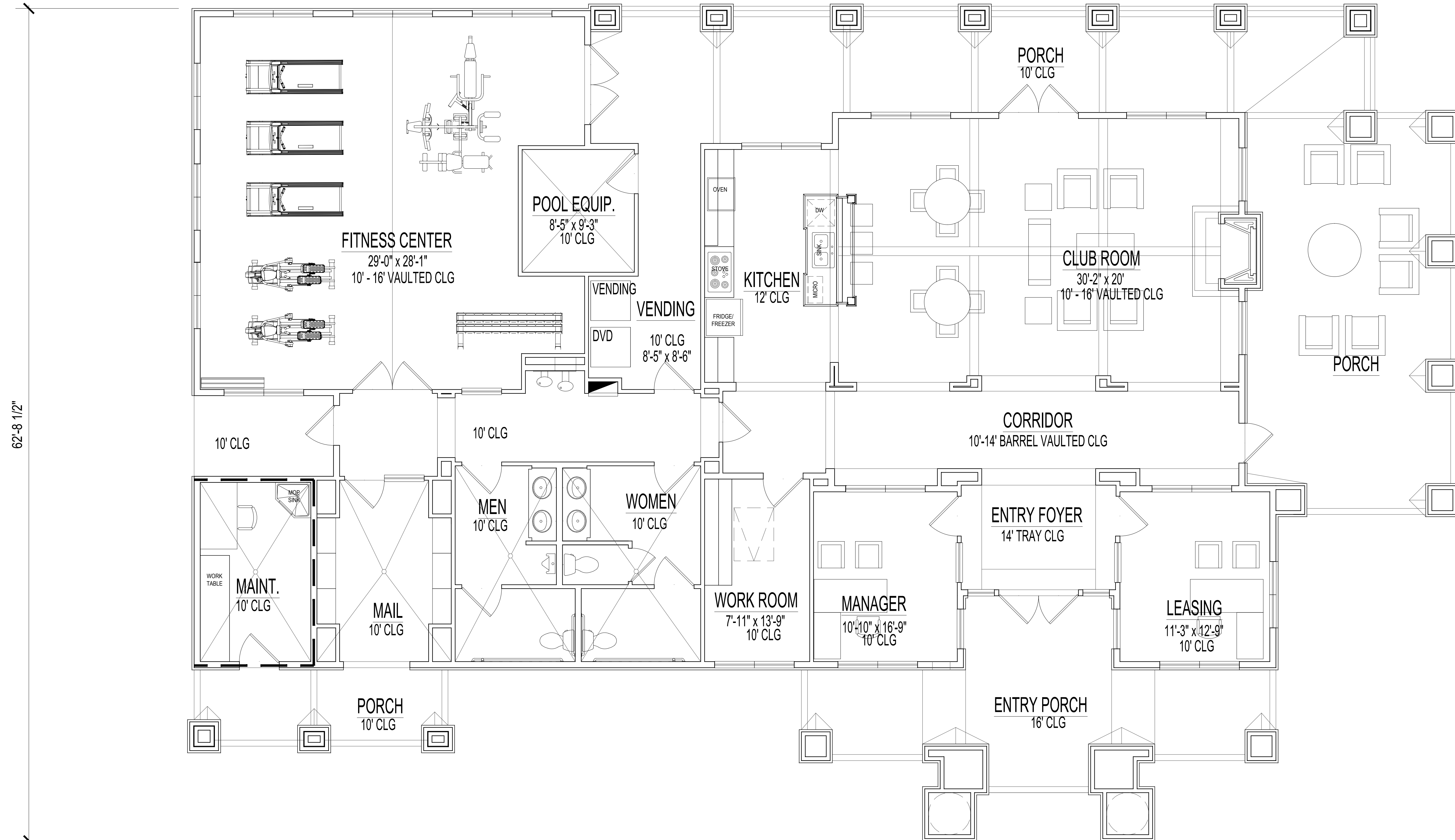
SHEET CONTENTS:  
 SITE PLAN

SHEET NO.  
**A1.01**

14071

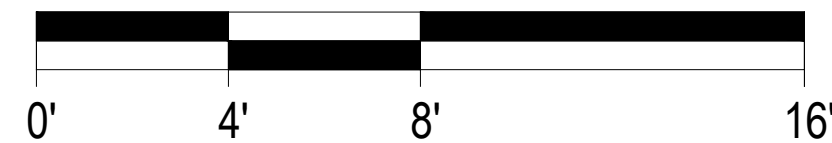


95'-5 1/2"



62'-8 1/2"

SCALE: 1/4" = 1'-0" (24"x36" SHEET)



NET AREA: 3266 sqf.

### CLUBHOUSE PLAN

A 810

## THE VINEYARDS

### MADHOUSE DEVELOPMENT / STELLAR GROUP

2/24/2014

LUBBOCK, TEXAS

HPA#14071



### HUMPHREYS & PARTNERS ARCHITECTS L.P.

5339 Alpha Road, Suite 300 Dallas, TX 75240 (972) 701-9636 (972) 701-9639  
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Architectural conceptual site plans are for feasibility purpose only. Revisions may occur due to further investigation from regulatory authorities and building code analysis. Dimensions shown are of a strategic intent only. Refer to surveys and civil drawings for technical information and measurements.



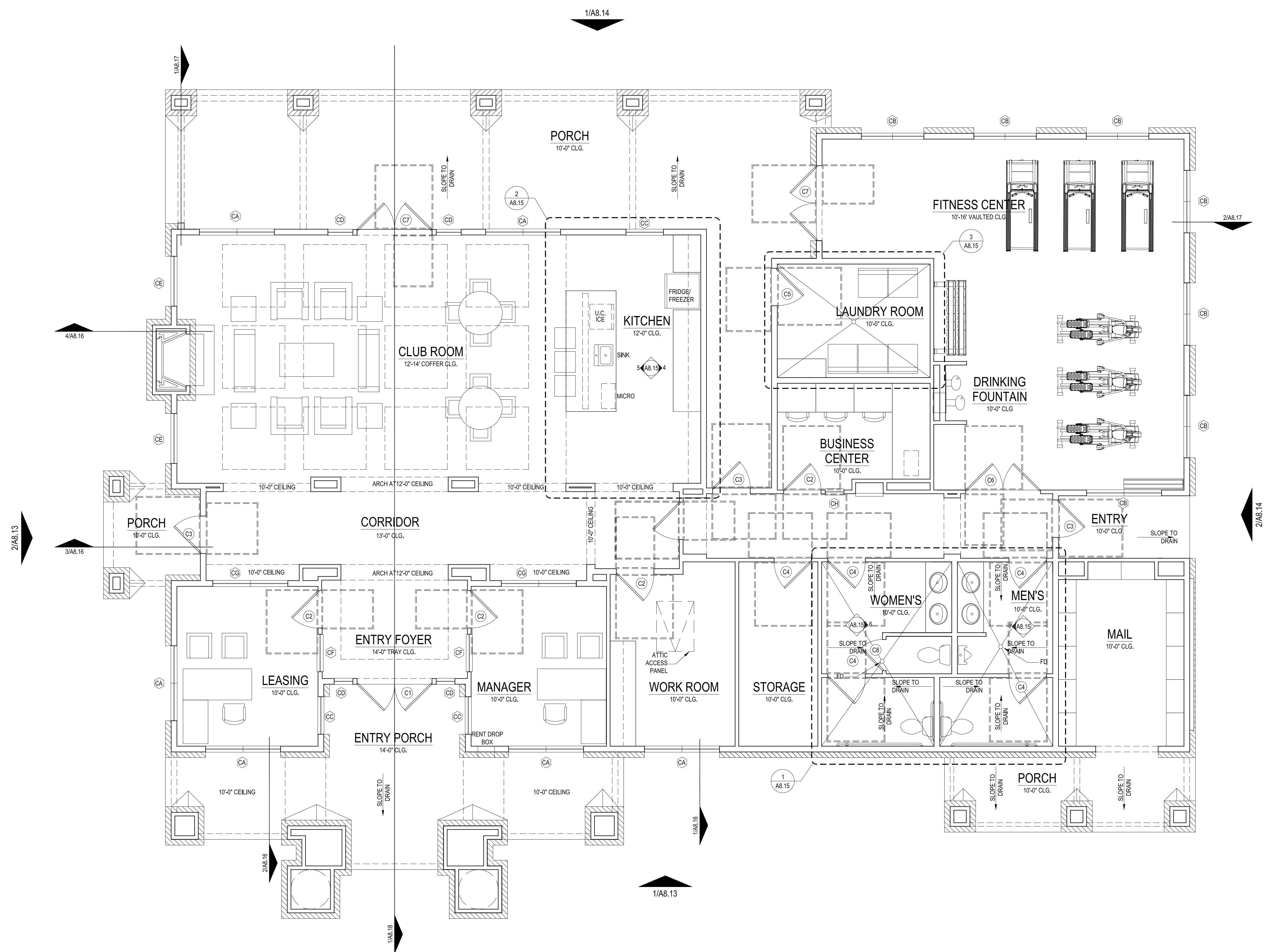
revised clubhouse design

**GENERAL CLUBHOUSE NOTES**

1. REF. TO MEP DWGS FOR LOCATION OF SMOKE & FIRE DETECTORS.
2. REF. SHEET A1.02 FOR TYPICAL INTERIOR ELEVATION PROFILES & NOTES.
3. REF. SHEET A1.02 FOR ABBREVIATIONS AND GENERAL PROJECT NOTES.
4. REF. TO SHEET A1.05a & A1.05b FOR TYPICAL WALL ASSEMBLIES.
5. REF. SHEET A2.01 & A2.01a FOR DOOR SCHEDULE & DETAILS.
6. REF. SHEET A2.02 & A2.02a FOR WINDOW SCHEDULE & DETAILS.
7. ALL DIMENSIONS ARE TO FACE OF STUD OR CENTER LINE OF OPENING.
8. ALL ANGLES ARE 45 DEG. TO HORIZONTAL & VERTICAL DIRECTIONS, UNLESS OTHERWISE NOTED.
9. SOUND INSULATE WALLS AROUND ALL HVAC CLOSESETS AND OTHER WALLS AS INDICATED ON PLANS.
10. ALL INTERIOR DOORS SHALL ALLOW 34" AIRFLOW FOR RETURN AIR AT BOTTOM OF DOOR.
11. FOR DIMENSIONING PURPOSES, TYPICAL STUD WALLS ARE DIMENSIONED AS 5 1/2" THICK.
12. PAINT UNDERSIDE OF ALL EXPOSED SHELING.
13. ALL EXTERIOR WINDOWS SHALL MEET ALL FEDERAL, STATE AND ANY LOCAL GLAZING STANDARDS.
14. REFER TO A1.04 FOR ALL INTERIOR ACCESSIBILITY REQUIREMENTS.
15. INTERIOR ELEVATIONS ARE FOR SCHEMATIC CABINET LAYOUT ONLY. CONTRACTOR TO VERIFY ALL DIMENSIONS. PROVIDE FILLERS AS REQUIRED. REFER TO CABINET SHOP DRAWINGS.
16. A SIGN STATING THE MAXIMUM OCCUPANCY LOAD OF THE CLUBROOM MUST BE POSTED IN A CONSPICUOUS LOCATION IN THE CLUBROOM.

**SYMBOL LEGEND - CLUBHOUSE**

(X)	WINDOW TAG SYMBOL	(Hatched Box)	MIN. 30" X 48" CLEAR FLOOR SPACE REQUIRED. PROVIDE 32" X 52" CLEAR FLOOR SPACE FOR FIELD TOLERANCES AND FINISHES.
(X)	DOOR TAG SYMBOL	(Diamond)	INTERIOR ELEVATION SYMBOL
1/1A.01	DETAIL SECTION TAG	4 43.01 2	
(FEC)	SURFACE MOUNTED FIRE EXTINGUISHER. CABINETS MAX. 5'-0" A.F.F. TO TOP OF CABINET, MAX. 75 FT. TRAVEL DISTANCE-MOUNT BOTTOM OF CABINET LESS THAN 27" A.F.F.	T	TEMPERED GLASS PER IRC 2406



**1 CLUBHOUSE FLOOR PLAN - NOTES**

SCALE: 1/4" = 1'-0" GROSS: 4,651 SF NET: 3,237 SF

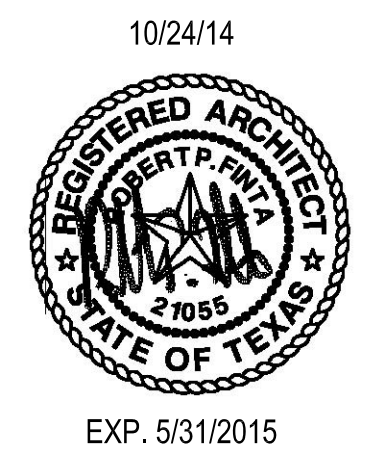
Designed by: MS  
 Drawn by: KSS - EH  
 Architect of Record: RPF  
 Date Plotted: 10/24/14  
 Issue for Bidding / Bidding  
 Issue for Permit Application: 10/24/14  
 Issue for Construction

Revisions:		
#	DATE	COMMENTS

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**THE VINEYARDS LUBBOCK, TX**  
**MADHOUSE DEVELOPMENT & STELLAR DEVELOPMENT**



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SHEET CONTENTS:  
 CLUBHOUSE NOTES PLAN

SHEET NO.  
**A8.11a**

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”) Application for Artisan at Judson Park (#15134).

**RECOMMENDED ACTION**

**WHEREAS**, Artisan at Judson Park received an award of 9% Housing Tax Credits in 2015 to construct 126 new units in San Antonio, Bexar County;

**WHEREAS**, the Development Owner is requesting approval for changes to the site plan as a result of a noise study and tree preservation study as required by the City of San Antonio;

**WHEREAS**, §2306.6712(d)(1) of the Texas Government Code considers a significant modification of the site plan to be a material alteration requiring Board approval; and

**WHEREAS**, the requested changes do not negatively affect the Development, impact the viability of the transaction, negatively impact scoring items in the tax credit application, or affect the amount of the tax credits awarded;

**NOW, therefore, it is hereby**

**RESOLVED**, that the approval of the amendment of the Housing Tax Credit Application for Artisan at Judson Park is approved and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

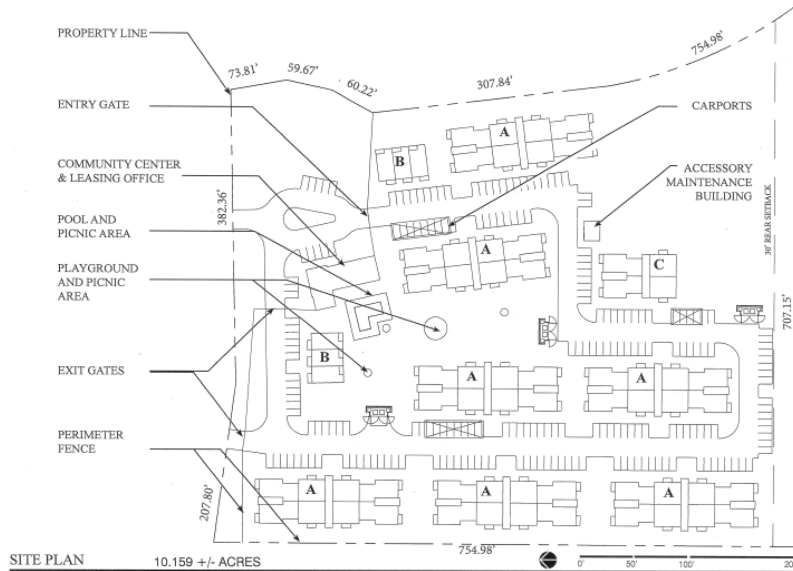
**BACKGROUND**

Artisan at Judson Park received a 2015 9% HTC award to construct 126 multifamily units in San Antonio. The Development Owner, ARDC Judson Ltd. (through its consultant, Franklin Development) has requested approval for changes to the site plan of this development resulting from recommendations contained in a full noise study and a tree preservation study.

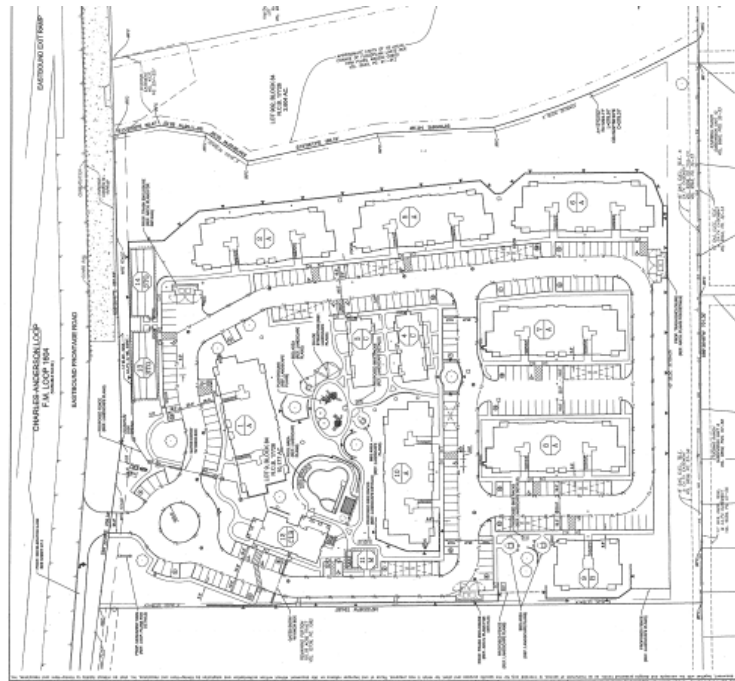
According to the owner, a full noise study determined that repositioning the buildings and proposed amenities differently on the site would help to mitigate noise levels due to proximity to a major highway (North Loop 1604) and the Randolph Air Force Base. A copy of the noise study was provided to the Department. The Owner further stated in follow up correspondence that the original site plan that was approved at Application was presented to the noise study report provider

and the landscape architect. The response from both was the updated site plan for which approval is being requested. The Owner indicated that the revised site plan now meets City requirements as well as noise mitigation and preserves as many trees as possible on the site. The original and proposed site plans are below.

### Site Plan at Application



### Proposed Site Plan



The Development Owner's revised site plan and amendment request also reflects that as a result of repositioning the buildings on the site, the Owner is able to provide additional parking and the addition of two storage buildings for residents. The Owner has confirmed that these additional enhancements to the site will be provided with not impact to the development's cost.

The additional changes in development costs and financing have been re-evaluated by the Department's Real Estate Analysis Division and have been found to have no negative impact on the financial feasibility of the Development or impact the credit recommendation at this time. Staff has reviewed the original application against this amendment request and has concluded that the changes reflected would not have impacted the threshold or selection criteria, and do not negatively impact the tax credit allocation awarded.

Staff recommends approval of the request to amend the HTC application as presented.



January 20, 2016

Ms. Dee Patience  
Asset Resolution Manager  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Re: Request for Amendment to 2015 Application  
Project # 15134 Artisan at Judson Park

Dear Ms. Patience:

Per this letter ARDC Judson, Ltd respectfully requests amendment to the SITE PLAN submitted in 2015 application for Project # 15134 – Artisan at Judson Park. The necessity for this amendment was not foreseeable at the time of application.

At time of application, a noise study of the site was commissioned due to proximity of development to Interstate Loop 1604. The study recommended mitigation of highway noise for buildings located close to the highway. The site plan presented at application was prepared in accordance to noise study information at the time.

Subsequent to application two studies were commissioned. 1) A Full noise study which contained more detailed analysis; and 2) A tree preservation study as required by the City of San Antonio as part of their Parkland Dedication requirement for a new plat.

The full noise study determined that siting the buildings differently would promote a greater degree of shielding living units and outdoor amenities from highway noise. These changes would result in no additional cost to development.

The Tree preservation study determined we could keep quantity and sizes of existing heritage trees on the site, promoting additional tree preservation.

With information from these studies our noise engineer and site architect revised the attached site plan. The proposed site plan improves the quality of the site and amenities. The repositioning of buildings does not add additional costs, and we will enjoy the benefit of keeping existing heritage trees as well as a more successful noise mitigation plan.





There is no change to the number of units or residential buildings.

As a bonus, the repositioning of the buildings also gave us the opportunity to increase parking and add two storage buildings for the residents as follows:

	Application	Proposed
Storage buildings	0	2
Surface Parking	189	193
Carport Parking	20	59
Bike Spaces	0	16

The amount of parking exceeds city building requirements and is provided at no additional costs.

It is our opinion the cost to provide additional carports / storage / and bike spaces will be offset by savings in noise mitigation costs and tree preservation. There is no change to development cost schedule.

An amendment fee of \$2,500 is enclosed. Please let us know if further information is needed. The necessity for this amendment was not foreseeable at the time of application.

Thanks in advance for your help and support.

Sincerely

Edgar Sandoval  
Authorized Representative

Application

# ARTISAN AT JUDSON PARK

SAN ANTONIO, TEXAS

ALAMO ARCHITECTS  
1512 SOUTH FLORES  
SAN ANTONIO, TEXAS  
P: 210.227.2612  
F: 210.227.9457

## DRAWING INDEX

<u>SITE PLAN</u>	<u>2</u>
<u>PROJECT SUMMARY</u>	<u>3</u>
<u>COMMUNITY CENTER ELEVATION &amp; FLOOR PLAN</u>	<u>4</u>
<u>MAINTENANCE BLDG ELEVATION &amp; FLOOR PLAN</u>	<u>5</u>
<u>UNIT A FLOOR PLAN</u>	<u>6</u>
<u>UNIT B FLOOR PLAN</u>	<u>7</u>
<u>UNIT C FLOOR PLAN</u>	<u>8</u>
<u>BUILDING TYPE A ELEVATION &amp; FLOOR PLAN</u>	<u>9</u>
<u>BUILDING TYPE B ELEVATION &amp; FLOOR PLAN</u>	<u>10</u>
<u>BUILDING TYPE C ELEVATION &amp; FLOOR PLAN</u>	<u>11</u>

<b>Project Summary</b>						
<b>Artisan at Judson Park</b>						
Type	Description	S.F.	Building Type			Total Bldgs
			A	B	C	
			7	2	1	10
						<b>Total Units</b>
Unit B	Two Bedroom, Two Bath	969	8		4	60
<b>Total Type B</b>		<b>58,140</b>				<b>60</b>
Unit C-1	Three Bedroom, Two Bath	1,165	8		4	60
Unit C-2	Three Bedroom, Two Bath	1,245		3		6
<b>Total Type C</b>		<b>77,370</b>				<b>66</b>
<b>Total Unit Count</b>						<b>126</b>
<b>Net Rentable Square Footage by Building Type</b>			<b>17072</b>	<b>3735</b>	<b>8536</b>	
<b>Total Net Rentable Square Footage</b>						<b>135,510</b>
<b>Maintenance Building</b>						<b>539</b>
<b>Community Center (Conditioned)</b>						<b>2,859</b>
<b>Project Total</b>						<b>138,369</b>
Total fully accessible handicap as required:		5% of 126 = (6.3) 7 units				
Total sight and hearing impaired units provided:		2% of 126 = (2.5) 3 Units				
<b>Parking</b>						
1.5 spaces per unit	Surface	189				
2 spaces	Carport	20				
Total		209				

**PROJECT SUMMARY**

PROPERTY LINE

73.81'

59.67'

60.22'

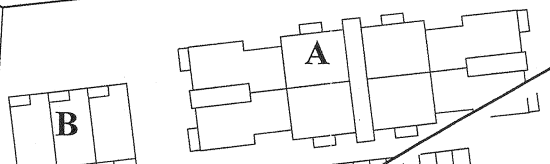
307.84'

754.98'

ENTRY GATE

CARPORTS

COMMUNITY CENTER  
& LEASING OFFICE



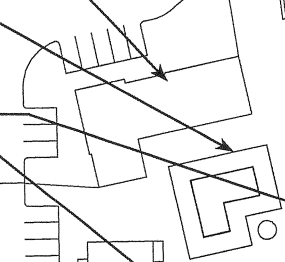
ACCESSORY  
MAINTENANCE  
BUILDING

POOL AND  
PICNIC AREA

382.36'



PLAYGROUND  
AND PICNIC  
AREA



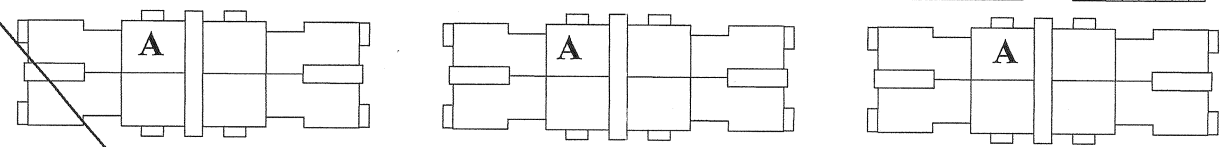
EXIT GATES

30' REAR SETBACK

707.15'

PERIMETER  
FENCE

207.80'

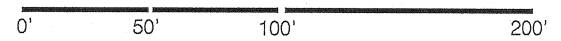


754.98'

SITE PLAN

10.159 +/- ACRES

ARTISAN AT JUDSON PARK - FEBRUARY 2015







## SITE DATA TABLE

### GENERAL SITE DATA

ZONING	C-2 AHOD (COMMERCIAL AIRPORT HAZARD OVERLAY DISTRICT) PROJECT TO FOLLOW MF-33 ZONING RULES
ADDRESS	5053 N LOOP 1604 E
LOT AREA	10.177 ACRES
LEGAL DESCRIPTION	LOT 9, BLOCK 84, NCB 17726 ARTISAN AT JUDSON PARK
TOTAL UNIT COUNT	TOTAL: 126 UNITS
SITE DENSITY (MAX. - 33 UNITS / AC)	13 UNITS / AC

### BUILDING DATA

BUILDING HEIGHT (MAX. - 45 FT.)	BUILDING TYPE A = 30'-8" BUILDING TYPE B = 30'-11" BUILDING TYPE C = 23'-7" CLUBHOUSE = 19'-2" STORAGE = 15'-3"
---------------------------------	---

### PARKING DATA

REQUIRED PARKING SPACES	1 SPACES PER UNIT (126) = 126 SPACES
REQUIRED ACCESSIBLE SPACES	5 SPACES
REQUIRED BICYCLE SPACES	10% OF REQUIRED PARKING = 13 SPACES
PARKING SPACES PROVIDED	
STANDARD (9'x18')	181
CARPORT:	57
ACCESSIBLE (OPEN):	12
ACCESSIBLE (CARPORT):	2
BIKE SPACES:	16
TOTAL:	268

1d

**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action regarding a modification to the Housing Trust Fund (“HTF”) Direct Loan for Transitional Housing for Victims of Domestic Violence in Denton (HTF File# 852026).

**RECOMMENDED ACTION**

**WHEREAS**, Transitional Housing for Victims of Domestic Violence was awarded \$604,000 in Housing Trust Funds in 2002 for the new construction of 11 units of affordable transitional housing in Denton;

**WHEREAS**, the Development Owner, Denton Affordable Housing Corporation (“DAHC”), is now requesting approval for forgiveness of a portion of the HTF loan and to modify the loan terms for the remaining balance from a non-amortizing loan at 0% interest to a hard debt second lien;

**WHEREAS**, the Department’s rules regarding Amendments to Direct Loan Terms, under Subchapter E, §10.405(c), allow an Owner to request changes to the loan post closing that will be processed as a loan modification but only expressly identify modifications that will be a result of a Department work out arrangement;

**WHEREAS**, the proposal from the Owner is considered a work out arrangement; however, the Department’s rules are silent with respect to forgiveness; and

**WHEREAS**, the Asset Management Division is seeking the Board’s approval to recommend this loan modification and offer the Development Owner new terms on the HTF loan consisting of a hard debt second lien encompassing the entire amount of the outstanding balance (\$604K), amortized over the remaining term of the note (18 years) at 0% interest with annual debt service of \$18,000, of which \$5,500 will be deposited annually into a replacement reserve account and the remaining \$12,500 returned to the Department but both, along with any other reserve deposit if made, will be applied to the loan balance;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested and recommended changes are approved as presented to this meeting, and the Executive Director and his designees are hereby, authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Transitional Housing for Victims of Domestic Violence is an 11-unit, scattered site development located in Denton that was financed in part with a \$604,000, non-amortizing, interest free balloon loan from the

Department's Housing Trust Fund. The note calls for deferral of loan repayment and re-evaluation of cash flow by the Department every five years and a maturity date of August 2034. To date no balloon reductions on the loan have been made. All units at the property serve households that have experienced domestic violence and in need of affordable housing and support services. DAHC partners with two other nonprofit organizations in carrying out this transitional housing program.

In May 2013 the owner requested and received approval from the Department's Board to amend the HTF LURA for the development in order to change the occupancy requirement for eight of the units, which were originally restricted for occupancy by households with incomes at or below 30% of area median income (AMI) to 60% of AMI. The Owner's request at that time indicated that this change would allow the property to gradually increase the rents on these units in order to generate additional income to support the financial operations of the property.

The Development Owner is now requesting approval to modify the \$604,000 HTF loan to forgive approximately \$230,559.72 of the original loan amount, which is the amount that would have been paid off had the loan been amortized from inception and the property had sufficient cash flow to repay. Additionally, the Owner requests approval to modify the loan terms for the remaining \$373,440.28 balance from a non-amortizing balloon note to an amortizing, 0% interest hard debt payment structure for the remaining term of the note (18 years). To demonstrate the Owner's good faith effort to repay the remaining balance of the note, three payments of \$2,013.33 have recently been made since December 2015 on the existing note. Additionally, the Owner has indicated that going forward they believe they can afford to make monthly hard debt payments of \$1,500 (\$18,000 annually). Staff's review of the property's actual operating statements since 2013 reveal that modest increases in rental income have been achieved since the Board's approval of the amendment request in May 2013, and the property has experienced positive net income before debt service since that time as well. Additionally, staff confirmed with the Owner that the property does not currently have a balance in their replacement reserves. Previously, the property would deposit \$100/month for all 11 units; however, this balance would quickly diminish once improvements to the property were required and the property has not been able to maintain a balance as a result. The first lien lender for this property does not require replacement reserves to be maintained for the property. The first lien debt is expected to be fully retired by 2018.

Staff reviewed the changes requested by the Owner, but alternatively recommends a modification of the existing HTF loan to amortize the outstanding balance of \$604,000 at 0% interest for the remaining 18 year term left on the note and require an annual debt service of \$18,000. At the time of maturity (August 2034) the Department will evaluate the Development's ability to pay the remaining balance due at that time. The annual debt service amount would be divided as follows: \$5,500 would be required to be deposited annually into a replacement reserve account held by the owner with oversight by the Department and \$12,500 applied to the loan balance. If the Owner is able to deposit more into the reserve account beyond the \$5,500 annually, and can document that to the Department's satisfaction, the Department will credit the additional amount deposited into the reserve account toward the debt service applied to the loan balance. The Owner, in conversations with staff, is amenable to this alternative modification.

June 10, 2015

Raquel Morales  
Rosalio Banuelos  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: CMTS #4105; Loan #700852026

Dear Raquel,

Thank you for taking the time to meet with me last week, Raquel. I appreciate it very much.

Please accept this letter as my request to modify the above referenced loan balance to reflect the loan's amortization and forgiveness as follows:

Original Loan Amount	\$ 604,000.00
Loan Origination Date	August 29, 2003
Loan Maturity Date	August 28, 2034
Period of Loan	31 Years
Time Elapsed through June 2015	11 years, 10 months
Time Elapsed Amortized Amount	\$ 230,559.72
Requested Adjusted Loan Balance	\$ 373,440.28

Denton Affordable Housing Corporation (DAHC) understood through verbal discussions that the above referenced loan would be structured as a loan to be evaluated every 5 years for availability of cash flow to service the debt. DAHC understood that the loan would be forgiven on an amortization schedule during the periods debt service was not required.

The Promissory Note does not reflect the same terms and conditions that are stated in the original Loan Commitment and subsequent Amendment to the Loan Commitment. Neither the Loan Commitment, Amendment, nor the Promissory Note reflect any references to "forgiveability". The current outstanding balance of the loan is at the original loan amount of \$604,000 since there have been no debt service payments made by DAHC.

TDHCA allowed a LURA amendment in 2013 to modify the income and rent restrictions so that all eleven units are restricted at 60% AMI instead of a mix of 30% and 60%. This allowed DAHC to increase some of the rents to increase the cash flow of the project.



Per our conversation last week, I am requesting that the above referenced loan balance to be adjusted to \$373,440.28 and I am committing to TDHCA that DAHC will begin making debt service payments on this loan beginning in July 2015.

Please contact me with any additional information you will need to execute this request.

I am so very thankful for your willingness to work with DAHC on this issue.

Sincerely,

Sheila Harper  
Executive Director

1e

BOARD ACTION REQUEST

BOND FINANCE DIVISION

MARCH 31, 2016

Presentation, Discussion and Possible Action regarding publication of a Request for Proposal ("RFP") for a Master Servicer for the Texas First Time Homebuyer Program, the My First Texas Home Program, and other first-time homebuyer programs that may be implemented by the Department.

RECOMMENDED ACTION

WHEREAS, the Department currently provides financing, including down payment and closing cost assistance, to low and moderate-income first-time homebuyers through the My First Texas Home Program ("TMP-79") and through the issuance of single family mortgage revenue bonds;

WHEREAS, a Master Servicer is a requirement for the continued operation of TMP-79 and for single family mortgage revenue bond programs; and

WHEREAS, the Department's current Master Servicer contract expires September 30, 2016;

NOW, therefore it is hereby

RESOLVED, that the Director of Bond Finance be authorized, empowered, and directed, for and on behalf of the Department, to publish an RFP for a Master Servicer, to select a Master Servicer in accordance with the RFP, and to report the selection to the Board.

BACKGROUND.

The Department provides financing to low and moderate income first-time homebuyers that includes a first mortgage loan and a second mortgage loan. Participating lenders originate the mortgage loans. The first mortgages are sold to a servicer (the "Master Servicer") that pools the loans into mortgage-backed securities ("MBS") and delivers the MBS to either third-party TBA investors, or to a trust estate as security for a bond issue. The second loans are assigned for the benefit of the trust estate that funded the down payment and closing cost assistance. The Master Servicer services both the first and second mortgage loans.

The Master Servicer is required to be a qualified Ginnie Mae issuer/servicer, a Fannie Mae/Freddie Mac approved seller/servicer, an FHA-approved mortgagee, a VA-approved lender, and an RHS approved lender. In addition to general loan servicing duties, the Master Servicer is responsible for securing commitments from Ginnie Mae, Fannie Mae, and/or Freddie Mac, reviewing program documents and loan files, monthly reporting on processing timelines and delinquencies, purchasing and pooling loans, and issuing and delivering MBS.

The current Master Servicer for the Department's single family programs is U.S. Bank National Association, most recently selected as Master Servicer in August 2015.

Staff will develop and publish an RFP to identify qualified Master Servicers, select a Master Servicer and report the selection to the Board.

1f



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on Inducement Resolution No. 16-012 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2016 Waiting List for Emli at Liberty Crossing

**RECOMMENDED ACTION**

**WHEREAS**, a bond pre-application for Emli at Liberty Crossing, sponsored by Zachry Weir and Richard Ashton, was submitted to the Department for consideration of an inducement resolution;

**WHEREAS**, the Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

**WHEREAS**, the inducement allows staff to submit an application to the Bond Review Board (“BRB”) to await a Certificate of Reservation;

**NOW, therefore, it is hereby**

**RESOLVED**, the Inducement Resolution No. 16-012 to proceed with the application submissions to the BRB for possible receipt of State Volume Cap issuance authority from the 2016 Private Activity Bond Program for Emli at Liberty Crossing (#16606) is hereby approved in the form presented to this meeting.

**BACKGROUND**

The BRB administers the state’s annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the Development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 150 days to close on the private activity bonds.

During the 150-day process, the Department will review the complete application for compliance with the Department’s Rules and underwrite the transaction in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be presented to the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development.

Each year, the State of Texas is notified of the cap on the amount of private activity tax exempt revenue bonds that may be issued within the state. Approximately \$604 million is set aside for multifamily until August 15<sup>th</sup> for the 2016 program year, which includes the TDHCA set aside of approximately \$120 million. Inducement Resolution No. 16-012 would reserve approximately \$25 million in state volume cap.

The proposed development is to be located at approximately 307 South Goode Road in Wilmer, Dallas County, and will include the new construction of 252 units serving the general population. This transaction is proposed to be Priority 3 with all of the units rent and income restricted at 60% of the Area Median Family Income (“AMFI”). The Department has not received any letters of support or opposition for this development.

## RESOLUTION NO. 16-012

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENTS; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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, 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 persons and families of low, very low and extremely low income and families of moderate income (all as defined in the Act); 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 persons and families of low, very low and extremely 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 multifamily residential rental development 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, it is proposed that the Department issue its revenue bonds in one or more series for the purpose of providing financing for the multifamily residential rental developments (the “Developments”) more fully described in Exhibit A attached hereto. The ownership of the Developments as more fully described in Exhibit A will consist of the applicable ownership entity and its principals or a related person (the “Owners”) within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the Owners have made not more than 60 days prior to the date hereof, payments with respect to the Developments and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Developments from the proceeds of tax-exempt and taxable obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owners have indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Developments will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owners for the costs associated with the Developments listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owners, the Department reasonably expects to incur debt in the form of tax-exempt and taxable obligations for purposes of paying the costs of the Developments described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Developments one or more Applications for Allocation of Private Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds for the purpose of providing funds to the Owners to finance the Developments on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

## ARTICLE 1

### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3. Reimbursement. The Department reasonably expects to reimburse the Owners for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction of its Development and listed on Exhibit A attached hereto ("Costs of the Developments") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation of its Development, including reimbursing the applicable Owner for all

costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Developments; (b) to fund any reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4. Principal Amount. Based on representations of the Owners, the Department reasonably expects that the maximum principal amount of debt issued to reimburse the Owners for the Costs of the Developments will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6. The Developments. Substantially all of the proceeds of the Bonds shall be used to finance the Developments, which are to be occupied entirely by Eligible Tenants, as determined by the Department, and which are to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owners for costs of its Development.

Section 1.8. Costs of Developments. The Costs of the Developments may include any cost of acquiring, constructing, reconstructing, improving, installing and expanding the Developments. Without limiting the generality of the foregoing, the Costs of the Developments shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Developments, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Developments, the placing of the Developments in operation and that satisfy the Code and the Act. The Owners shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without



notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owners and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds); (b) the receipt of an opinion from Bracewell LLP or other nationally recognized bond counsel acceptable to the Department (“Bond Counsel”), substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Developments’ necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12. Related Persons. The Department acknowledges that financing of all or any part of the Developments may be undertaken by any company or partnership that is a “related person” to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owners.

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department’s official intent for expenditures on Costs of the Developments which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Developments may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, 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 1.15. 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 Board, the Executive Director of the Department, the Deputy Executive Director of Asset Analysis and Management of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership of the Department, the Director of Multifamily Finance of the Department, and the Secretary or any Assistant Secretary to the 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

### CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Developments and Owners. The Board finds that:

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit;  
and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Developments will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

## ARTICLE 3

### GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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 Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

*[Execution page follows]*

PASSED AND APPROVED this 31<sup>st</sup> day of March, 2016.

[SEAL]

By: \_\_\_\_\_  
Chair, Governing Board

ATTEST:

\_\_\_\_\_  
Secretary to the Governing Board

*Signature Page to Inducement Resolution*

**EXHIBIT “A”**

Description of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
Emli at Liberty Crossing	Liberty Crossing TC I, LP, a Texas to be formed limited partnership	General Partner/Member: Liberty Crossing GP, LLC, a Texas to be formed limited liability company	\$25,000,000
Costs: Construction of a 252-unit affordable, multifamily housing development to be known as Emli at Liberty Crossing, to be located at approximately 307 South Goode Road, Wilmer, Dallas County, 75172.			

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action Reallocating Recaptured Program Year (“PY”) 2014  
Emergency Solutions Grants Program Funding

**RECOMMENDED ACTION**

**WHEREAS**, Emergency Solutions Grant ("ESG") funds are annually awarded to the State of Texas by the U.S. Department of Housing and Urban Development (“HUD”);

**WHEREAS**, for Program Year 2014, the Department received from HUD approximately \$8,239,076, of which \$7,916,287 was awarded to 25 contracts and \$305,093 was retained for State administration of the program;

**WHEREAS**, the contract year for the 25 2014 ESG Subrecipients was October 1, 2014, to September 30, 2015;

**WHEREAS**, the Department extended 15 of the 2014 ESG contracts to allow for an end date of December 31, 2015, in order to maximize the ESG Subrecipient’s ability to meet their contract goals and expend the funding;

**WHEREAS**, the Department awarded one 2014 ESG contract with Family Endeavors in July 2015, with an expiration date of March 31, 2016, in order to fully fund Family Endeavors’ 2015 ESG application;

**WHEREAS**, as of March 8, 2016, after all 2014 contracts which started in October 1, 2014, including the 15 contracts that had been extended, expired, approximately \$82,710 in 2014 ESG funds remained and has been recaptured by the department;

**WHEREAS**, the 2014 ESG funds will expire if they are not expended by Subrecipients by July 21, 2016;

**WHEREAS**, the 2014 ESG NOFA stated that “If, subsequent to announcement of awards made under the FY2014 NOFA, additional ESG funds become available either through a supplemental appropriation or recapture, or if prior year funds become available, the additional funding will be used to make additional awards to compliant TDHCA ESG Subrecipients with a current contract. The minimum

amount of an additional award will be \$25,000”

**WHEREAS**, as of March 17, 2016, three 2015 ESG Subrecipients were identified with the highest expenditure rates on their 2015 ESG contracts and a willingness to accept a new 2014 ESG award: Shelter Agencies for Families in East Texas, Inc., Women’s Shelter of East Texas, Inc., and Corpus Christi Hope House, Inc. and these organizations have indicated an ability and willingness to expend the remaining 2014 ESG funds; and

**WHEREAS**, these three entities are being reviewed for their previous participation and approved for awards by the Executive Award Review and Advisory Committee (“EARAC”);

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the award of approximately \$82,711 in PY 2014 ESG contracts to the three noted Subrecipients with 2015 ESG contracts that have the highest expenditure rates and willingness to accept a new 2014 ESG award, with the approval of and with any additional conditions imposed by EARAC and

**FURTHER RESOLVED**, that the Executive Director, his designees, and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the award of any additional PY 2014 funds that are indentified either from the Department’s unexpended administrative funding or the one remaining 2014 ESG contract from to any of the three named Subrecipients even if the amounts are less than \$25,000.

## **BACKGROUND**

The ESG Program is funded by HUD. The ESG's focus is to assist people to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness. ESG funds can be utilized for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless; the payment of certain expenses related to operating emergency shelters; essential services related to emergency shelters and street outreach for the homeless; and, homelessness prevention and rapid re-housing assistance. The 2014 ESG expenditure limits (*e.g.*, no more than 60% on emergency shelter or street outreach and limit of 3% administrative funds), match requirement (*e.g.*, 100% match), and all applicable regulations apply to the additional funding.

Staff has reached out to the three 2015 ESG subrecipients with the highest expenditure rates: Shelter Agencies for Families in East Texas, Inc., Women's Shelter of East Texas, Inc, and Corpus Christi Hope House, Inc. Staff has determined that each organization has the capacity to expend \$27,570 on ESG eligibility activities, within the expenditure limits in the original 2014 ESG contracts by June 30, 2016. In addition, the three agencies are also able to provide 100% matching funding for these new awards.

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on the PY 2016 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) State Plan and Awards

**RECOMMENDED ACTION**

**WHEREAS**, the Department develops and submits a State Plan to DOE each year to administer the WAP;

**WHEREAS**, the Draft PY 2016 DOE WAP State Plan was approved for release for public comment at the Board meeting of February 25, 2016;

**WHEREAS**, the public comment period was open from February 26, 2016, to March 21, 2016, and public comment was received and is summarized in Attachment A of this action;

**WHEREAS**, consistent with DOE requirements, the Weatherization Assistance Program Policy Advisory Council met on Tuesday March 22, 2016, by conference call, and upon review and discussion, recommended in favor of the Plan;

**WHEREAS**, the Department has prepared the Final PY 2016 DOE WAP State Plan, including a list of the entities to be awarded funds and the proposed award amounts based on the states formula, for submission to the DOE;

**WHEREAS**, the Department expects to receive Federal Fiscal Year (“FFY”) 2016 DOE WAP funds in the amount of \$5,165,132; and

**WHEREAS**, the DOE WAP funds are allocated based on the formula detailed in 10 TAC §5.503, Distribution of WAP Funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that the PY 2016 DOE WAP State Plan, including associated awards, in the form presented to this meeting, is hereby approved with authority to make non-substantive technical and grammatical edits and corrections including the clarification that where “staff” is indicated the clause be noted as “Executive Director, or its designee;”

**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 submit such plan, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to DOE;



**FURTHER RESOLVED**, that the awards of Program Year 2016 DOE WAP funds in the amount of \$4,607,970 as indicated in plan Section IV.1 Subgrantees and included as Attachment A of this item, be and they are hereby approved as described therein; and

**FURTHER RESOLVED**, that subsequent 2016 DOE WAP funds received and 2015 unutilized funds will be similarly awarded in accordance with the approved method and formula or as needed to accommodate full utilization of funds among only those providers with ability to expend additional funds.

### **BACKGROUND**

A draft of the 2016 DOE WAP State Plan was approved at the Board meeting of February 25, 2016, for release for public comment. The Draft Plan and announcement of a public hearing was made available on the Department's website and by listserv email distribution, on Friday, February 26, 2016. The Department conducted a public hearing on Tuesday, March 15, 2016, at 1:30 p.m. at Department headquarters in Austin. The public comment period closed at 10:00 a.m. on Monday, March 21, 2016. Public comment was received and is attached as Attachment A of this Action.

DOE regulations also require a Weatherization Assistance Program Policy Advisory Council ("WAP PAC") be designated in the Plan in order to provide guidance and comment on the plan. The WAP PAC members are appointed by the Department and broadly represent organizations and agencies throughout the State that represent low-income persons, particularly low-income elderly persons, low-income persons with disabilities, and low-income Native Americans.

The WAP PAC meeting occurred on Tuesday March 22, 2016, by conference call. After receiving an overview of the Weatherization Assistance Program and the Draft PY 2016 DOE WAP State Plan from Department staff, members reviewed and discussed the Plan, and all present members expressed support for the Plan.

DOE Weatherization funding provides for the installation of weatherization measures to increase energy efficiency of a home including caulking, weather-stripping, adding ceiling, wall, and floor insulation, patching holes in the building envelope, duct work, and repair or replacement of energy inefficient heating and cooling systems. Additionally, the funds allow for Subgrantees to complete financial audits, household energy audits, outreach and engagement activities, and program administration. Further, funding provides for State administration and State training and technical assistance activities.

The Plan includes awards of funds to entities.

The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) includes a review of DOE WAP awards prior to contract execution. The review has been performed and awards are recommended by the Executive Award Review and Advisory Committee ("EARAC") with the following entities having been identified with concerns or conditions:

<b>Agency</b>	<b>Recommendation Status</b>
Community Action Committee of Victoria	Approved conditioned on the resolution of unresolved monitoring findings, and repayment of disallowed costs to the satisfaction of the Department within 30 days of this Board action.
Community Services, Inc.	Approved conditioned on the resolution of unresolved monitoring findings, and repayment of disallowed costs (or acceptability of a repayment plan) to the satisfaction of the Department within 30 days of this Board action.
Dallas County Department of Health and Human Services	Approved conditioned on the provision, within 30 days of this Board action, of disclosure of any pending federal or state litigation (including administrative proceedings) against the subrecipient along with any final decrees within the last three years that materially relate to the administration of state or federal funds of such a substantial nature that it would be included in an A-133 audit, and upon concurrence of compliance staff that no disclosure to EARAC is required.
Economic Opportunities Advancement Corporation of Planning Region XI	Approved conditioned on the resolution of unresolved monitoring findings and repayment of disallowed costs to the satisfaction of the Department within 30 days of this Board action.
Fort Worth, City of	Approved conditioned on the provision, within 30 days of this Board action, of disclosure of any pending federal or state litigation (including administrative proceedings) against the subrecipient along with any final decrees within the last three years that materially relate to the administration of the program.
Nueces County Community Action Agency	Approved conditioned on the provision, within 30 days of this Board action, of disclosure of any pending federal or state litigation (including administrative proceedings) against the subrecipient along with any final decrees within the last three years that materially relate to the administration of the program.
Rolling Plains Management Corporation	Approved conditioned on the provision, within 30 days of this Board action, of disclosure of any pending federal or state litigation (including administrative proceedings) against the subrecipient along with any final decrees within the last three years that materially relate to the administration of the program.
Travis County Health and Human Services and Veteran Services Department	Approved conditioned on the provision, within 30 days of this Board action, of disclosure of any pending federal or state litigation (including administrative proceedings) against the subrecipient along with any final decrees within the last three years that materially relate to the administration of the program.

**PY 2016 Department of Energy (“DOE”) Weatherization Assistance Program (“WAP”) Awards**

	SUBRECIPIENT	Award
1	Alamo Area Council of Governments	362,050
2	Big Bend Community Action Committee, Inc.	76,787
3	Brazos Valley Community Action Agency	155,917
4	Combined Community Action, Inc.	108,520
5	Community Action Committee of Victoria*	142,788
6	Community Action Corporation of South Texas	486,365
7	Community Council of South Central Texas	100,926
8	Community Services, Inc.*	259,276
9	Concho Valley Community Action Agency	93,466
10	Dallas County Department of Human Services**	349,500
11	Economic Opportunities Advancement Corporation of Planning Region XI*	97,900
12	El Paso Community Action Program-Project BRAVO, Inc.	207,040
13	Fort Worth, City of **	221,181
14	Greater East Texas Community Action Program	257,251
15	Hill Country Community Action Association, Inc.	129,959
16	Neighborhood Centers, Inc.	543,052
17	Nueces County Community Action Agency**	85,729
18	Panhandle Community Services	132,037
19	Rolling Plains Management Corporation**	173,215
20	South Plains Community Action Association, Inc.	121,434
21	TBD (East Texas)	88,059
22	Texoma Council of Governments	141,062
23	Travis County Health and Human Services and Veteran Services Department**	143,629
24	West Texas Opportunities, Inc.	130,827
	Total	4,607,970

\* and \*\* - See Conditions to Awards Noted in Table Above

## **Attachment A: Summary of Public Comments and Staff Recommendations Related to FFY 2016 Department of Energy (DOE) Application and State Plan**

### **SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.**

Comments were accepted at public hearings held in Austin March 21, 2016, and comments were also accepted in writing. Public comments were accepted beginning February 26 through March 21, 2016. The Department's response to all comments received is set out below. The comments and responses include both administrative clarifications and corrections and the corresponding Department responses. Comments and responses are presented in order as they appear in the DOE State Plan, with comments received from:

- (1) Stella Rodriguez, Executive Director, Texas Association of Community Action Agencies
- (2) Karen Swenson, Executive Director, Greater East Texas Community Action Program
- (3) Kelly Franke, Executive Director, Combined Community Action, Inc.

### **Section V.2 Selection of Areas to be Served**

**COMMENT SUMMARY (1):** Commenter recommends that the plan be drafted to reflect that the Request for Applications for the area previously served by Tri-County Community Action, Inc. has not been released.

**STAFF RESPONSE:** The language included in the State Plan accurately reflects funds being held for the area previously served by Tri-County Community Action, Inc. as "TBD" (to be determined) and identifies the RFA as having been released. While the RFA may not be posted by the time the DOE Plan is posted in the Board materials, the RFA will have been released by the time the Plan is submitted to DOE. Staff recommends no change to the plan.

### **V.5.1 – Technical Guides and Materials**

**COMMENT SUMMARY (1 and 3):** Commenters requested that staff insert an explanation of the "Deck of Cards" reference and the relevant training requirements associated.

**STAFF RESPONSE:** Staff has amended the Plan to add an explanation that "Deck of Cards" refers to Standard Work Specification (SWS) and the Job Task Analysis (JTA's) and replaces the former Materials Installation Standards Manual (MISM). Upon approval from DOE, Department staff will prepare appropriate training in order to educate the subrecipient network.

### **V.5.3 – Final Inspection**

**COMMENT SUMMARY (1):** Commenter recommends that staff remove the reference of "through spring 2016" from this section.

**STAFF RESPONSE:** Staff concurs and has reflected the recommendation in the revised plan.

#### **V.8.4 – Training and Technical Assistance Approach and Activities**

COMMENT SUMMARY (1): Commenter recommends that staff remove the reference of “through spring 2016” from this section.

STAFF RESPONSE: Staff concurs and has reflected the recommendation in the revised plan.

#### **V.8.4 – Training and Technical Assistance**

COMMENT SUMMARY (1): Commenter recommends that quarterly teleconferences be held concerning DOE WAP issues.

STAFF RESPONSE: Staff concurs and will work with the subrecipient network to convene quarterly WAP teleconferences on pertinent weatherization issues.

#### **V.8.4 – Training and Technical Assistance**

COMMENT SUMMARY (2): Commenter suggests that the DOE Plan reflect that the Energy Auditor Certification not be included as a requirement until DOE provides the guidance and instructions to the states.

STAFF RESPONSE: Staff concurs and will remove the requirement language from the Plan until the appropriate guidance is received.

#### **2016 WAP Health and Safety Plan**

COMMENT SUMMARY (1): Commenter recommends that the Department clarify regarding the 150 ppm testing levels for ovens with the Standard Work Specifications (SWS) which states CO testing of an oven should not produce results that exceed 200 ppm.

STAFF RESPONSE: The Department concurs and will adopt the 200 ppm for ovens in the DOE program.

#### **General Comments on State Plan**

COMMENT SUMMARY (2 and 3): Commenters state that the DOE Plan reflects 2 monitors that do not hold the QCI certification.

STAFF RESPONSE: In accordance with the DOE regulations, all staff that conduct unit inspections will have the QCI certification, the Staff delineated in the Plan include staff that conduct the onsite (not unit inspection) portion of the monitoring.



**APPLICATION FOR FEDERAL ASSISTANCE SF-424**

Version 02

1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		2. Type of Application: <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision		If Revision, select appropriate letter(s) Other (specify):	
3. Date Received			4. Applicant Identifier:		
5a. Fed Entity Identifier:			5b. Federal Award Identifier: DE-EE0006186		
<b>State Use Only:</b>					
6. Date Received by State: 07/01/2016		7. State Application Identifier: TX-W-200			
<b>8. APPLICANT INFORMATION:</b>					
a. Legal Name: State of Texas					
b. Employer/Taxpayer Identification Number (EIN/TIN): 742610542			c. Organizational DUNS: 806781902		
<b>d. Address:</b>					
Street 1: P.O. BOX 13941					
Street 2:					
City: Austin					
County:					
State: TX					
Province:					
Country: U.S.A.					
Zip / Postal Code: 787113941					
<b>e. Organizational Unit:</b>					
Department Name: Texas Department of Housing and Community Affairs			Division Name: Community Affairs Division		
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>					
Prefix: Mr		First Name: Michael			
Middle Name:					
Last Name: DeYoung					
Suffix:					
Title: Community Affairs Division Director					
Organizational Affiliation: Texas Dept. of Housing and Community Affairs					
Telephone Number: 5124752125		Fax Number: 5124753935			
Email: michael.deyoung@tdhca.state.tx.us					

**APPLICATION FOR FEDERAL ASSISTANCE SF-424**

Version 02

**9. Type of Applicant:**

A State Government

**10. Name of Federal Agency:**

U. S. Department of Energy

**11. Catalog of Federal Domestic Assistance Number:**

81.042

CFDA Title:

Weatherization Assistance Program

**12. Funding Opportunity Number:**

DE-WAP-0002016

Title:

2016 Weatherization Assistance Funding Opportunity

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Statewide

**15. Descriptive Title of Applicant's Project:**

Provide Statewide Weatherization Assistance



**U.S. Department of Energy  
WEATHERIZATION ASSISTANCE PROGRAM (WAP)  
WEATHERIZATION ANNUAL FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

**IV.1 Subgrantees**

<b>Subgrantee (City)</b>	<b>Planned Funds/Units</b>
Alamo Area Council of Governments (San Antonio)	\$362,050.00 34
Big Bend Community Action Committee (Marfa)	\$76,787.00 5
Brazos Valley Community Action Agency (College Station)	\$155,917.00 13
Combined Community Action, Inc. (Giddings)	\$108,520.00 9
Community Action Committee of Victoria Texas (Victoria )	\$142,788.00 12
Community Action Corporation of South Texas (Alice)	\$486,365.00 49
Community Council of South Central Texas, Inc (Seguin)	\$100,926.00 8
Community Services, Inc. (Corsicana)	\$259,276.00 23
Concho Valley Community Action Agency (San Angelo)	\$93,466.00 7
Dallas County Health & Human Services (Dallas)	\$349,500.00 39
Economic Opportunities Advancement Corporation (Waco)	\$97,900.00 7
El Paso Community Action Program, Project Bravo (El Paso)	\$207,040.00 18
Fort Worth, City of (Fort Worth)	\$221,181.00 20
Greater East Texas Community Action Program (Nacogdoches)	\$257,251.00 23
Hill Country Community Action Association, Inc. (San Saba)	\$129,959.00 11
Neighborhood Centers Inc. (Houston)	\$543,052.00 55
Nueces County Community Action Agency (Corpus Christi)	\$85,729.00 6
Panhandle Community Services (Amarillo)	\$132,037.00 11
Rolling Plains Management Corporation (Crowell)	\$173,215.00 15
South Plains Community Action Association, Inc. (Levelland)	\$121,434.00 10
TBD (East Texas )	\$88,059.00 6
Texoma Council of Governments (Sherman)	\$141,062.00 12
Travis County Health and Human Services and Veterans Services (Austin)	\$143,629.00 12
West Texas Opportunities (Lamesa)	\$130,827.00 11

**U.S. Department of Energy  
WEATHERIZATION ASSISTANCE PROGRAM (WAP)  
WEATHERIZATION ANNUAL FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

<b>Total:</b>	<b>\$4,607,970.00</b> <b>416</b>
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**IV.2 WAP Production Schedule**

<b>Weatherization Plans</b>	<b>Units</b>
Total Units (excluding reweatherized)	416
Reweatherized Units	0

Note: Planned units by quarter or category are no longer required, no information required for persons.

<b>Average Unit Costs, Units subject to DOE Project Rules</b>		
<b>VEHICLE &amp; EQUIPMENT AVERAGE COST PER DWELLING UNIT (DOE RULES)</b>		
A	Total Vehicles & Equipment (\$5,000 or more) Budget	\$0.00
B	Total Units Weatherized	416
C	Total Units Reweatherized	00
D	Total Dwelling Units to be Weatherized and Reweatherized (B + C)	416
E	Average Vehicles & Equipment Acquisition Cost per Unit (A divided by D)	\$0.00
<b>AVERAGE COST PER DWELLING UNIT (DOE RULES)</b>		
F	Total Funds for Program Operations	\$2,863,003.00
G	Total Dwelling Units to be Weatherized and Reweatherized (from line D)	416
H	Average Program Operations Costs per Unit (F divided by G)	\$6,882.22
I	Average Vehicles & Equipment Acquisition Cost per Unit (from line E)	\$0.00
J	Total Average Cost per Dwelling (H plus I)	\$6,882.22

**IV.3 Energy Savings**

Method used to calculate savings: <input checked="" type="checkbox"/> WAP algorithm <input type="checkbox"/> Other (describe below)			
	Units	Savings Calculator (MBtus)	Energy Savings
This Year Estimate	416	29.3	12189
Prior Year Estimate	564	30.5	17202
Prior Year Actual	231	30.5	7046
<b>Method used to calculate savings description:</b>			

**IV.4 DOE-Funded Leveraging Activities**

N/A
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**IV.5 Policy Advisory Council Members**

Check if an existing state council or commission serves in this category and add name below

Combined Community Action Inc.	Type of organization: Non-profit (not a financial institution) Contact Name: Kelly Franke Phone: (979)540-2985 Email: <a href="mailto:KJFranke@ccaction.com">KJFranke@ccaction.com</a>
Greater East Texas Community Action Program	Type of organization: Non-profit (not a financial institution) Contact Name: Karen Swenson, Executive Director Phone: (936)564-2491 Email: <a href="mailto:kswenson@sbcglobal.net">kswenson@sbcglobal.net</a>



**U.S. Department of Energy  
WEATHERIZATION ASSISTANCE PROGRAM (WAP)  
WEATHERIZATION ANNUAL FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

Texas Department of Aging and Disability Services	Type of organization: Unit of State Government Contact Name: Toni Packard Phone: (512)438-4290 Email: <a href="mailto:toni.packard@dads.state.tx.us">toni.packard@dads.state.tx.us</a>
Ysleta del Sur Pueblo Housing Department	Type of organization: Indian Tribe Contact Name: Al Joseph Phone: 9158599196 Email: <a href="mailto:ajoseph@ydsp-nsn.gov">ajoseph@ydsp-nsn.gov</a>

**IV.6 State Plan Hearings (Note: attach notes and transcripts to the SF-424)**

<b>Date Held</b>	<b>Newspapers that publicized the hearings and the dates the notice ran</b>
02/26/2016	Draft plan and Notice of Public Hearing posted on the Department's website; public listserve announcement sent announcing availability of plan and public hearing details.
03/11/2016	Announcement of Public Hearing sent for publication in the Texas Register.
02/25/2016	The TDHCA Board of Directors authorized release of the draft plan for public comment.
03/21/2016	WAPAC meeting was held and received one comment that resulted in minor change to the State Plan.
03/15/2016	Public Hearing for the 2016 DOE Plan began at 1:30pm. Public comment period was through 03/21/2016. Comments were received from the State Organization and resulted in minor revisions to the State Plan.

**IV.7 Miscellaneous**

<p><b>Recipient Business Officer</b>                  Michael De Young  <a href="mailto:Michael.deyoung@tdhca.state.tx.us">Michael.deyoung@tdhca.state.tx.us</a>                  221 East 11th Street                  Austin, Texas 78701                  (512) 475--2125</p> <p><b>Recipient Principal Investigator</b>                  Michael De Young  <a href="mailto:Michael.deyoung@tdhca.state.tx.us">Michael.deyoung@tdhca.state.tx.us</a>                  221 East 11th Street                  Austin, Texas 78701                  (512) 475--2125</p> <p><b>Policy Advisory Council</b>                  The Policy Advisory Council ("PAC") is broadly representative of organizations and agencies and provides balance, background, and sensitivity with respect to solving the problems of low-income persons, including weatherization and energy conservation problems. Historically, the PAC has met annually after the public hearing for the DOE plan.</p> <p>The low-income elderly population is represented by the PAC members from Combined Community Action and the Greater East Texas Community Action Association. The low-income persons with disabilities population is represented by the PAC member from the Texas Department of Aging and Disability Services. The low-income Native American population is represented by the PAC member from the Ysleta del Sur Pueblo Housing Department.</p> <p><b>Liability Insurance</b>                  The liability insurance separate line item includes pollution occurrence insurance in addition to the general liability insurance. Most regular liability insurance policies do not provide coverage for pollution occurrence. If Subgrantees require additional funding for liability insurance, they must first provide the Department with three price quotes. When approved, additional liability insurance costs may be paid from administrative or program support categories. The Department strongly recommends the Subgrantees require their contractors to carry pollution occurrence insurance to avoid liability for any mistakes the contractors may make. Each Subgrantee should get a legal opinion regarding the best course to take for implementing the pollution occurrence insurance coverage.</p>
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**BUDGET INFORMATION - Non-Construction Programs**

1. Program/Project Identification No. EE0006186		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941		4. Program/Project Start Date 07/01/2016	5. Completion Date 06/30/2017

**SECTION A - BUDGET SUMMARY**

Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. 2016 WAP Formula Funds	81.042	\$ 0.00		\$ 5,165,132.00		\$ 5,165,132.00
2. STATE			\$ 0.00		\$ 0.00	\$ 0.00
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

**SECTION B - BUDGET CATEGORIES**

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1) GRANTEE ADMINISTR ATION	(2) SUBGRANTE E ADMINISTR	(3) GRANTEE T&TA	(4) SUBGRANT EE T&TA	
a. Personnel	\$ 148,906.00	\$ 0.00	\$ 158,343.00	\$ 0.00	\$ 307,249.00
b. Benefits	\$ 37,227.00	\$ 0.00	\$ 39,586.00	\$ 0.00	\$ 76,813.00
c. Travel	\$ 0.00	\$ 0.00	\$ 27,720.00	\$ 0.00	\$ 27,720.00
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
e. Supplies	\$ 2,000.00	\$ 0.00	\$ 2,004.00	\$ 0.00	\$ 4,004.00
f. Contract	\$ 0.00	\$ 391,851.00	\$ 0.00	\$ 528,576.00	\$ 4,607,970.00
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
h. Other	\$ 3,114.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,114.00
i. Total Direct Charges	\$ 191,247.00	\$ 391,851.00	\$ 227,653.00	\$ 528,576.00	\$ 5,026,870.00
j. Indirect	\$ 67,008.00	\$ 0.00	\$ 71,254.00	\$ 0.00	\$ 138,262.00
k. Totals	\$ 258,255.00	\$ 391,851.00	\$ 298,907.00	\$ 528,576.00	\$ 5,165,132.00
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

**BUDGET INFORMATION - Non-Construction Programs**

1. Program/Project Identification No. EE0006186		2. Program/Project Title Weatherization Assistance Program	
3. Name and Address State of Texas P.O. BOX 13941 Austin, TX 787113941	4. Program/Project Start Date 07/01/2016		
	5. Completion Date 06/30/2017		

<b>SECTION A - BUDGET SUMMARY</b>						
Grant Program Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.						
2.						
3.						
4.						
5. TOTAL		\$ 0.00	\$ 0.00	\$ 5,165,132.00	\$ 0.00	\$ 5,165,132.00

<b>SECTION B - BUDGET CATEGORIES</b>						
6. Object Class Categories	Grant Program, Function or Activity				Total (5)	
	(1) PROGRAM OPERATION S	(2) HEALTH AND SAFETY	(3) LIABILITY INSURANCE	(4) FINANCIAL AUDITS		
a. Personnel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 307,249.00	
b. Benefits	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 76,813.00	
c. Travel	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 27,720.00	
d. Equipment	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
e. Supplies	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 4,004.00	
f. Contract	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 4,607,970.00	
g. Construction	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	
h. Other	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 3,114.00	
i. Total Direct Charges	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 5,026,870.00	
j. Indirect	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 138,262.00	
k. Totals	\$ 2,863,003.00	\$ 678,250.00	\$ 127,090.00	\$ 19,200.00	\$ 5,165,132.00	
7. Program Income	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

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This worksheet should be completed as specified in Section III of the Weatherization Assistance Program Application Package.

**V.1 Eligibility**

**V.1.1 Approach to Determining Client Eligibility**

Provide a description of the definition of income used to determine eligibility

Pursuant to Weatherization Program Notice ("WPN") 16-3, eligible households will have an income that is at or below 200% of the federal poverty level. Households that contain a member who has received cash assistance payments under Title IV (Temporary Assistance to Needy Families or "TANF") or XVI (Supplemental Security Income for the Aged, Blind, and Disabled or "SSI") of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance shall be categorically eligible.

Describe what household Eligibility basis will be used in the Program

Subgrantees shall follow the Department's Texas Administrative Code rules, Title 10, Part 1, Chapters 1 and 2 and 5, when considering eligibility and income determination criteria. The Department will ensure that its Subgrantees have determined eligibility criteria based upon:

Defined terms as detailed in 10 TAC §5.2; and

Income eligibility guidelines as detailed in 10 TAC §5.19, as amended to comply with WPN 16-3.

Describe the process for ensuring qualified aliens are eligible for weatherization benefits

The Welfare Reform Act, officially referred to as the Personal Responsibility and Work Opportunity Act of 1996, H.R. 3734, placed specific restrictions on the eligibility of aliens for "Federal means-tested public benefits" for a period of five years. As defined in a Federal Register notice dated August 26, 1997 (62 FR 45256) the Department of Health and Human Services (HHS) is interpreting "Federal means-tested public benefits" to include only those benefits provided under Federal means-tested, mandatory spending programs. HHS Information Memorandum LIHEAP-IM-25 dated August 28, 1997, states that all qualified aliens, regardless of when they entered the U.S., continue to be eligible to receive assistance and services under the Low-Income Home Energy Assistance Program (LIHEAP) if they meet other program requirements.

To ensure program continuity between LIHEAP and DOE Weatherization for the many Subgrantees operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. The primary area of confusion resides in the types of local agencies that are exempt/nonexempt from "status verification requirements." Local agencies that are both charitable and nonprofit would be exempt, which comprise about three-quarters of the local agency network. However, those agencies which are designated as local government agencies operating the Weatherization Assistance Program and do not subgrant eligibility determination to a qualified nonprofit organization would not be exempt and, therefore, must conduct "status verification." WAP Subgrantees that are not exempt shall use the Systematic Alien Verification for Entitlements (SAVE) system to verify the status of qualified aliens that apply for weatherization services.

The DOE and LIHEAP WAP are in compliance with **LIHEAP-IM-99-10 issued June 15, 1999 retracting any requirement that weatherization providers must do any type of certification of alien status in multifamily buildings.**

**V.1.2 Approach to Determining Building Eligibility**

Procedures to determine that units weatherized have eligibility documentation

Subgrantees maintain a client file for each unit weatherized, including documented proof that the dwelling unit is an eligible dwelling unit as defined in 10 CFR §440.22. The Department determines that weatherized units have eligibility documentation during monitoring reviews.

Describe Reweathering compliance

Texas limits reweatherization to 5% of all units weatherized. To ensure the cap is not exceeded, Subgrantees may not reweatherize a unit without prior approval

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

from the Department.

Reweathering will be allowed on units that have received limited weatherization prior to September 30, 1994. A new energy audit must be conducted on each unit reweatherized.

Describe what structures are eligible for weatherization

10 TAC §5.2 includes the following definitions which describe structures eligible for weatherization:

Dwelling Unit--A house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

Multifamily Dwelling Unit--A structure containing more than one Dwelling Unit.

Rental Unit--A Dwelling Unit occupied by a person who pays rent for the use of the Dwelling Unit.

Shelter--A Dwelling Unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

Describe how Rental Units/Multifamily Buildings will be addressed

In accordance with 10 CFR §440.22(b)(3), the Department requires that Subgrantees keep on file procedures that address protection of renters' rights, to ensure:

- Written permission of the building owner or his agent before commencing work.
- Cash/in-kind contribution from building owner when feasible.
- Benefits of the services accrue primarily to the low-income tenants residing in such units.
- For a reasonable period of time after completion, the household will not be subjected to rent increases (unless those increases are demonstrably related to other matters other than the weatherization work performed).
  - There are adequate procedures whereby the Grantee can receive tenant complaints and owners can appeal, should rental increases occur.
- No undue or excessive enhancement shall occur to the value of the dwelling unit.
- To secure the federal investment and to address issues of eviction from and sale of property, per 10 CFR §440.22(c), Grantees may seek landlord agreement to placement of a lien (or other contractual restrictions) upon the property being weatherized.

The Department will abide by 10 CFR §440.22, ensuring that not less than 66% of the eligible building units (50% for duplexes and four-unit buildings, and certain eligible types of large multifamily buildings) are eligible units or will become eligible dwelling units within 180 days under a Federal, State or local government program for rehabilitating the building or making similar improvements. WPN 10-15 provides guidance on Department of Housing and Urban Development ("HUD") and Department of Agriculture ("USDA") multifamily buildings that have been pre-determined to meet income eligibility guidelines. WPN 11-09 provides guidance on the review and verification required for those buildings. Assessments and client file documentation for rental units and multifamily units are also detailed in the Multifamily Weatherization Best Practice posted on the Department's website at <http://www.tdhca.state.tx.us/community-affairs/wap/docs/WAP-BP-MFWeatherization.pdf>.

Because large multifamily buildings have different audit requirements, Subgrantees must obtain prior written approval through the Department to use the 50% eligibility, and DOE must approve the proposed activity. The Department will seek DOE approval.

Describe the deferral Process

A Dwelling Unit shall not be weatherized when there is a potentially harmful situation that may adversely affect the occupants or the Subrecipient's weatherization crew and staff, or when a Dwelling Unit is found to have structural concerns that render the Dwelling Unit unable to benefit from weatherization. The Subrecipient must declare their intent to defer weatherization on an eligible unit on the assessment form. The assessment form should include the client's name and address, dates of the assessment, and the date on which the client was informed of the issue in writing. The written notice to the client must include a clear description of the problem, conditions under which weatherization could continue, the responsibility of all parties involved, and any rights or options the client has. A copy of the notice must be given to the client, and a signed copy placed in the client application file. Only after the issue has been corrected to the satisfaction of the Subrecipient shall weatherization work begin.

If structural concerns or health and safety issues identified (which would be exacerbated by any weatherization work performed) on an individual unit cannot be abated within program rules or within the allowable WAP limits, the unit exceeds the scope of this program.



**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

Should a client request a second opinion on a deferral or walk-away, the Subgrantee is encouraged to contact the appropriate local government inspector to request an inspection of the site. Should the client refuse to have a local government inspector inspect the unit, the crew will note the refusal in the client file, and no work shall be performed on the unit. If the inspector deems that work pending deferral can or should be performed, crews/contractors and contractors are encouraged to work with the inspector's suggestions to make the improvements. However, the inspector does not make the final determination on the amount of work, cost of work, or measures applied to the unit. Should the Subgrantee deem the suggested measures to be financially or programmatically out of the scope of weatherization, the Subgrantee may defer the weatherization work on the unit. Documentation of this determination, whether the weatherization is completed or not, must be included in the client file.

Crewmembers or contractors who work on a unit that could or should be a deferral or walk-away do so at their own risk.

**V.1.3 Definition of Children**

Definition of children (below age): **6**

**V.1.4 Approach to Tribal Organizations**

Recommend tribal organization(s) be treated as local applicant?

If YES, Recommendation. If NO, Statement that assistance to low-income tribe members and other low-income persons is equal.

The 70th Texas Legislature created the Native American Restitutionary Program (Oil Overcharge Restitutionary Act, Texas Government Code, Chapter 2305) for the purposes of providing oil overcharge restitution to the Texas Native Americans. In the Texas WAP, the Native-American Indian population is treated and served in the same manner as other applicants.

**V.2 Selection of Areas to Be Served**

The Texas WAP is available to eligible low-income households in all 254 counties of the state. Subgrantees are held responsible for all intake, eligibility, and weatherization activities. If the Subgrantees' performance record is satisfactory according to both state and federal regulations, then the Department will offer to renew the contract if the Subgrantee so desires. The Department's award committee may decline to recommend an award or place additional conditions on an award based upon its previous participation review as outlined in 10 TAC §1.5. Chapter 1, Subchapter §1.302. Eight of the PY2016 awards were approved by the Department's Board subject to conditions requiring resolution.

New or additional DOE subgrantees for counties that become unserved by the DOE WAP will be selected according to DOE regulations found in 10 CFR §440.15 and 10 TAC §1.302. A new or additional subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a Department-funded Weatherization Assistance Program. At present, all but nine Texas counties are served with a network of 24 existing Subgrantees. This number is subject to change depending on the needs of the program throughout the year.

Tri-County Community Action (TCCA), the entity that served Harrison, Jasper, Newton, Panola, Sabine, San Augustine, Shelby, Tyler and Upshur counties has relinquished WAP. The Department has released an RFA for a new service provider in that area.

**Formula Distribution**

The Department updates the budget allocation proportion by county and Subgrantee based on poverty income, elderly poverty, median household income (from the 2010 U.S. Census data), and climate data (from the National Climatic Data Center, Climate Normals, 2010), as outlined in 10 TAC §5.504.

The Department allocates funds to Subgrantees by applying a formula based upon the DOE allocation for program year; or if the allocation amount is not known, based on an assumption of level funding from the previous program year. Once the allocation amount is known, the formula is re-run. The allocation formulas reflect the 2010 Census data. If any carryover funds are available, they will be distributed by allocation formula and used to increase the number of units to be weatherized. The Department will adjust guidance to reflect the adjusted average expenditure limit per unit for the program year.

If the Department determines it is necessary to permanently reassign a service area to a new subgrantee, the subgrantee will be chosen in accordance with 10 CFR §440.15. The fund allocations for individual service areas are determined by a 5-factor distribution formula as outlined in 10 TAC §5.504:

- (1) Number of non-elderly poverty households per county;
- (2) Number of elderly poverty households (601+) per county;
- (3) Median income variance per county;

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

(Grant Number: EE0006186, State: TX, Program Year: 2016)

- (4) Inverse poverty household density ratio per county; and  
(5) Heating/Cooling Degree days per county.

The Department may deobligate all or part of the funds provided under this contract as outlined in 10 TAC §5.614 . A Subgrantee’s failure to expend the funds provided under this contract in a timely manner may also result in the Subgrantee’s ineligibility to receive additional funding during the program year.

**V.3 Priorities for Service Delivery**

The Department will ensure by contract that its Subgrantees give priority to weatherizing dwellings owned or occupied by low-income persons 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. Applicants from these groups must be placed at the top of a Subgrantee's waiting list. The Department ensures that Subgrantees give proper attention to these requirements through monitoring/evaluation of the Subgrantee.

**V.4 Climatic Conditions**

The climatic conditions for the State of Texas are imbedded in the algorithms of the Weatherization Assistant (WA 8.9) energy audit software toll engineered by the Oak Ridge National Laboratory for the Department of Energy. As part of the energy audit modeling, the Department requires the Subgrantee Network to select the nearest weather station to the dwelling units. The Weather files imbedded in the WA 8.9 contains 30 year data of Heating and Cooling degree days for each weather station.

As described in the report prepared by the Pacific Northwest National Laboratory & Oak Ridge National Laboratory for the Department of Energy, the state of Texas has several IECC climate zones. [http://apps1.eere.energy.gov/buildings/publications/pdfs/building\\_america/ba\\_climateguide\\_7\\_1.pdf](http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/ba_climateguide_7_1.pdf). These climate zones are used as an aid in helping Subgrantees to identify the appropriate climate designation for the counties in which they are providing WAP services. In addition to prescribing appropriate mechanical equipment (example of climate specific measures would be evaporative cooling which may be prescribed in the Hot Dry climate of Texas and not in the Mixed Humid part of Texas) the IRC prescriptive thermal envelope of measures are different. The climate zones found in Texas are as follows:

1. Hot-Humid

A hot-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation and where one or both of the following occur:

- A 67°F (19.5°C) or higher wet bulb temperature for 3,000 or more hours during the warmest six consecutive months of the year; or
- A 73°F (23°C) or higher wet bulb temperature for 1,500 or more hours during the warmest six consecutive months of the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 2A and 2B		Zone 3A
Ceiling	R 30	R30
Windows	U 0.65	U 0.50
Walls	R-13	R-13
Floors	R – 13	R 13
SHGC	0.30	0.30

2. Hot-Dry

A hot-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation and where the monthly average outdoor temperature remains above 45°F (7°C) throughout the year.

IRC Prescriptive Thermal Envelope Measures:

Zone 3A and 3B	
Ceiling	R30
Windows	U0.50

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

Walls	R13
Floors	R 13
SHGC	.030

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### 3. Mixed-Humid

A mixed-humid climate is defined as a region that receives more than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (65°F basis) or fewer, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

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Zone 3A	
Ceiling	R30
Windows	U 0.50
Walls	R13
Floors	R 13
SHGC	.030

---

### 4. Mixed-Dry

A mixed-dry climate is defined as a region that receives less than 20 inches (50 cm) of annual precipitation, has approximately 5,400 heating degree days (50°F basis) or less, and where the average monthly outdoor temperature drops below 45°F (7°C) during the winter months.

IRC Prescriptive Thermal Envelope Measures:

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Zone 4	
Ceiling	R38
Windows	U 0.35
Walls	R13
Floors	R 19

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In addition to the 2009 IRC adopted by the State of Texas, several individual cities have adopted amendments to the code. The adoption and amendments to the 2009 IRC impact the WA 8.9 energy audits in that cities are required to evaluate user defined measures to meet the codes adopted by each individual City.

## V.5 Type of Weatherization Work to Be Done

### V.5.1 Technical Guides and Materials

#### Type of Work to be Done

- A. Low Cost/No Cost: The Department will not require any low cost/no cost services.
- B. Incidental Repair: If such repairs are necessary to make the installation or preservation of weatherization materials effective, the cost of incidental repair materials shall not exceed the cost of weatherization materials. The goal of the WAP remains energy conservation, not housing rehabilitation.
- C. The purchase and installation of through the door water/ice units and stand alone freezers in not allowed.
- D. Storm doors are not allowable weatherization measures in the State of Texas.
- E. The Department will not require a minimum material expenditure ratio.

**Shelters.** Shelters may be weatherized if prior written approval is given by the Department. Living space (size) for purposes of determining expenditure level is to be calculated at 800 square feet per unit or each floor considered a unit.

**Fuel Switching.** Per WPN 13-5, Revised Energy Audit Approval Procedures and Other Related Audit Issues, dated September 23, 2013, the Department does not permit the general practice of fuel switching when replacing furnaces, water heaters, and other appliances. However, the Department

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

**may** allow the changing or converting of a furnace/appliance using one fuel source to another on a limited, case-by-case basis. These approvals will only be granted when all related costs demonstrate the effectiveness of the fuel switch over the life of the measure.

**Electric Base Load Measures (EBL).** Approved EBL measures include replacement of refrigerators, electric water heaters, and compact fluorescent lights. EBL measures must be determined cost effective with an SIR of 1 or greater by either audit analysis or separate DOE approved analytical tools. Refrigerators must be metered for a minimum of two (2) hours. All dwelling units will be evaluated to determine the most cost effective measures to be installed in each unit weatherized and to determine the order in which measures will be installed. The evaluation of each unit must include building envelope measures, mechanical measures, and Electric Base Load measures.

**Lead-Based Paint Safe Work Practices.** Approved Lead Safe Work practices include but may not be limited to "Renovate Right" pamphlet given to clients, test kits, worker protection gear, materials for set-up, and camera(s) to document process.

**Technical Guides and Materials**

<http://www.tdhca.state.tx.us/community-affairs/wap/docs/SF-SWS-Guide.pdf> and

<http://www.tdhca.state.tx.us/community-affairs/wap/docs/MH-SWS-Guide.pdf>

<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

The following Technical Guides and Materials are available on the Department's website:

(<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>):

Material Installation Standards Manual (September 28, 2012) (working on updates)

Weatherization Field Guide (May 21, 2010)

Mechanical Systems Field Guide (October 30, 2010)

NEAT Training Guide (revised November 9, 2015)

Updates are pending receipt of "Deck of Cards" guidance from Santa Fe Community College regarding MFH. Once the updates are completed and approved by DOE, the documents will be posted online and Subgrantees and their subcontractors required to attend one or more webinars for training on how to use the guides. The Deck of Cards refers to Standard Work Specification (SWS) and Job Task Analysis (JTA's) and replaces the former Materials Installation Standards Manual (MISM). Upon approval from DOE, Department staff will prepare appropriate training in order to educate the Subrecipient network.

Further, the Department has several Weatherization Best Practices posted at:

<http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>.

All Subgrantee agreements and vendor contracts active in PY 2015 and beyond contain language which clearly documents the SWS specifications for work quality outlined in WPN 15-4, Section 2. A signed contract shall confirm that the organization understands and agrees to these expectations. Each contract will include the following clause or exhibit:

**Materials and Work Standards**

A. Subrecipient shall weatherize eligible dwelling units using only weatherization materials which meet or exceed the standards prescribed by DOE in Appendix A of 10 CFR Part 440.

B. All weatherization measures installed shall meet or exceed the standards prescribed by DOE in Weatherization Program Notice (WPN) 15-4 regarding Standard Work Specifications, as detailed in the Department's Materials Installation Standards Manual.

D. All weatherization work must be performed in accordance to the DOE-approved energy audit procedures, 10 CFR Part 440 Appendix A, State of Texas adopted International Residential Code (or that of jurisdictions authorized by State law to adopt later editions).

E. Subgrantee will include the substance of this section in all subcontracts.

**V.5.2 Energy Audit Procedures**

Audit Procedures and Dates Most Recently Approved by DOE

**Single-Family :** NEAT- DOE approved March 28, 2011

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

**Manufactured Housing :** MHEA- DOE approved March 28, 2011

**Multi-Family :** NEAT- under 24 units NEAT (which are individually heated or cooled)- DOE approved March 28, 2011

Comments

The Department submitted a request for re-approval of its energy audit programs. The Department requested a tier-one review, using an already-DOE-approved audit tool designed to calculate the required Savings-to- Investment ratios, particularly the National Energy Audit (NEAT) for single family and small multifamily (conditional) and the Manufactured Home Energy Audit (MHEA) for manufactured housing. To guide preparations for this request, the Department uses an Audit Approval Task Tracker (example attached to SF-424). The Department did not request the use of a Priority List.

Pursuant to WPN 13-5, since the Department will request to use an already-DOE-approved audit tool, our request did not include a description of the energy estimating methodology, measure interaction, or cost-effectiveness requirements listed in Attachment 1. Our request included the measures that are typically enabled and provide the input data, assumptions, and audit results (recommended measures) for at least ten sample dwelling units from a sampling of Subgrantees. These audits are typical of those weatherized by the Texas WAP representing climate zones throughout the state. All of the information on field procedures and administrative requirements described in Attachment 1 were provided with the request.

**V.5.3 Final Inspection**

The Department has provided the Subgrantee network with sufficient T&TA funding to complete the QCI certification process through an IREC certified training provider. The Department is tracking the progress of each Subgrantee to ensure full compliance with unit inspection requirements of WPN 15-4. The QCI certification for Subgrantee staff will continue for new WAP staff replacements.

The Department currently has four certified QCI staff. When a certified QCI from the Department goes out to review a unit, they will sign a form stating that the audit for the unit was reviewed and that a state QCI inspected the unit. To ensure that work is completed according to program standards, the Department has posted SWS guidelines. The weatherization network has been notified. Language included in all WAP contracts will require use of the SWS on every unit.

Our goal is that every Subgrantee has at least one QCI on staff. The Department is requesting that Subgrantees with a QCI on staff use that staff member as an Independent QCI that is not involved with the weatherized unit prior to final inspection. The Department defines prior involvement as performing the audit, creating the work order, or performing any weatherization work on the weatherized unit. The Department has created a QCI Final Inspection Form for Subgrantees which will allow TDHCA to determine if a QCI employed by the Subgrantee had prior involvement with that unit.

Due to Subgrantee staffing levels, the Department understands that some Subgrantees may not have the ability to have a QCI that is independent of prior activity with the weatherized unit. To ensure compliance with DOE requirements regarding the minimum number of weatherized units to be inspected, the Department has decided to utilize the DOE Prescribed QCI Policy as described below:

- Independent QCI: In situations where a Subgrantee's QCI is an individual that has no involvement in the prior work on the home either as the auditor or as a member of the crew the following will apply: The Department will perform quality assurance reviews (Unit Inspections) of at least 5 percent of all completed units.
- Independent Auditor/QCI: In situations where a Subgrantee's QCI Auditor performs either the assessment, the audit, creates the work order and performs the final quality control inspection, the following will apply: The Department will perform quality assurance reviews of at least 10 percent of all completed units.

During Unit Inspections or desk reviews, specific data will be collected from Quality Control Inspection forms. The data collected will be reviewed by the Compliance Monitors and/or Community Affairs Division Training and Technical staff to ensure that the individual(s) functioning as both the auditor and the inspector are able to consistently perform both tasks. The Department will use its QCI staff to perform directed training and technical assistance in instances where the individual is found to be deficient. Where necessary, additional Subgrantee staff may be sent for Tier 1 Training at an IREC approved training site.

The Department uses a Building Weatherization Report ("BWR") to gather information about each weatherized unit and to get the Subgrantee's certification that the unit passed a final inspection. The Department has revised the BWR to include a certification from the Subgrantee's QCI that the audit for the unit was reviewed and that the unit passed final inspection by a certified QCI. The revised BWR is submitted as an attachment to the SF-424.

The Department will perform monitoring and verification measures to ensure that no dwelling units are reported as completed prior to the installation of all prescribed weatherization measures, final inspections, and certification of completion of work in a workmanlike manner and in accordance with the priorities



**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

determined by required audit procedures. In conducting the fiscal portion of the monitoring process, the State will verify that all files reviewed and all units inspected have appropriate documentation and supporting fiscal records that demonstrate the completion of the unit prior to reporting the unit as completed. The Subgrantee may not pay an independent third party for any work performed on a unit until the unit has been completed and approved during final inspection. Verification will be accomplished by review of fiscal records, including: purchase request/orders, invoices, general ledgers, check request, dates checks are issued and clearing dates.

#### **V.6 Weatherization Analysis of Effectiveness**

Pursuant to 10 TAC, Chapter 1, Subchapter C, §1.302, a review of a Subgrantee's compliance history in Department programs must be approved by the Department's Executive Award and Review Advisory Committee ("EARAC") and provided to the Department's Board of Directors in order that the Board may consider the compliance history and make and document its award decisions with full knowledge of these matters. Prior to the award of DOE funds to any Subgrantee, EARAC reviews:

1. Summary information regarding findings identified during the last three years; and
2. If the Subgrantee is subject to the requirement of an annual single audit:
  - A. A report of any required single audit or single audit certification form that is currently past due; and
  - B. If such single audit has been submitted and the most recent single audit report contained findings, a copy of that single audit.

The Subrecipient Monitoring section, the section of the Compliance Division that monitors the WAP, submits information regarding its monitoring activity to the EARAC for review. If EARAC finds that a Subgrantee has outstanding issues related to any of the criterion listed above that the Subgrantee's review may not be approved by EARAC, or may be approved with conditions that will be written into the Subgrantee's WAP contract.

Issues identified during this review point to areas in a Subgrantee that require attention, both from a monitoring standpoint and a T&TA standpoint. The reviews not only hold the Subgrantee accountable, they also give the monitoring and T&TA sections guidance in planning future activities.

On a more direct level, the T&TA staff meets with monitoring staff every other week in order to keep an updated evaluation of each Subgrantee. In those meetings, monitoring staff relay issues they find related to individual Subgrantee's as well as overall trends they identify. The T&TA staff applies this information when determining the needs for agency-specific T&TA (for instance, if a Subgrantee has failed inspections) and to plan the curriculum for the regional trainings.

Further, Subgrantee performance is reviewed periodically and at the end of the program year. The Department tracks Subgrantee performance over time by reviewing their monthly production and expenditure reports. Each T&TA staff member reviews the reports submitted by a certain number of Subgrantees and plans activities and the provision of T&TA when necessary. Analysis of reports includes the following:

- Number of homes completed;
- Number of applications pending;
- Number of homes in progress;
- Contract amount;
- Total funds expended;
- Balance of funds; and
- Special comments

#### **V.7 Health and Safety**

Attached to SF-424

#### **V.8 Program Management**

##### **V.8.1 Overview and Organization**

The Department is the state's lead agency responsible for affordable housing and community assistance programs. The Department annually administers funds derived from mortgage revenue bond financing and refinancing, federal grants, and federal tax credits.

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

In 1991, the 72nd Texas Legislature created the Department. The Department's enabling legislation combined programs from the Texas Housing Agency, the Community Development Block Grant Program from the Texas Department of Commerce, and the Texas Department of Community Affairs.

On September 1, 1992, two programs were transferred to the Department from the Texas Department of Human Services: the Low Income Home Energy Assistance Program and the Emergency Nutrition and Temporary Emergency Relief Program. Effective September 1, 1995, in accordance with House Bill 785, regulation of manufactured housing was transferred to the Department. In accordance with House Bill 7, effective September 1, 2002, the Community Development Block Grant and Local Government Services Programs were transferred to the newly created Office of Rural Community Affairs. Effective September 1, 2002, in accordance with Senate Bill 322, the Manufactured Housing Division became an independent entity administratively attached to TDHCA. As a state agency, the Department is under the authority of the Governor of the State of Texas.

The Department's services are offered through four program divisions: HOME Program, Single Family Operations, Multifamily Finance Production, Single Family Finance Production, and Community Affairs, which administers the WAP.

The Department subcontracts with a network of Subgrantees that provide the WAP services. The network is comprised of community action agencies (CAAs), regional Councils of Government (COGs), and organizations in the other public or private nonprofit entity category (PPNPs). All network Subgrantees are provided a draft copy of the yearly weatherization state plan, a notice of the state public hearing, and invited to participate in the public comment process.

Historically, the regular weatherization program year ran from April through March. Starting PY 2015, the weatherization program year has run from July through June.

The Department will continue to administer the program through Subgrantees in accordance with 10 CFR §440.15 provisions and State regulations. If existing Subgrantees are successfully administering the Program, the Department will offer to renew the contract if the Subgrantee so desires and if grant funds are available. When the Department determines that an organization is not administering the program satisfactorily, it may take the following action:

- Correction of the problem(s) with training or technical assistance;
- Re-assignment of the service area (or service area portion) to another Department existing Subgrantee; or,
- Solicitation or selection of a new or additional Subgrantee in accordance with 10 CFR §440.15 provisions.

A new or additional Subgrantee is defined as a CAA or other public or nonprofit entity that is not currently operating a DOE Weatherization Assistance Program.

Consolidation/downsizing: Any downsizing will occur through normal attrition, through a Subgrantee's determination that it can no longer administer the program efficiently/effectively, or through the Department's determination that a Subgrantee can no longer administer the program efficiently/effectively.

Reassignment of service areas for just cause: In the event that a service area can no longer be served by a Subgrantee, the Department reserves the right to reassign services areas. If it appears necessary to permanently reassign the service area, a new Subgrantee may be chosen in an open, competitive solicitation process in accordance with 10 CFR §440.15 or the reassignment may become permanent.

**Client Education**

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantees will be required to provide (at a minimum) educational materials in verbal and written format.

**V.8.2 Administrative Expenditure Limits**

The Department will use 5% of its grant funds for state administration. An additional 5% will be distributed for local WAP field operations under contract. Contract funds are intended for local administration, liability insurance coverage, local fiscal audit, materials, labor, program support and health and safety measures. To help ensure that Subgrantees comply with the full and proper use of all the contract funds, written definitions are to be provided to Subgrantees on budget categories as deemed necessary. The Department has elected to provide the maximum allowable funds for Subgrantee administration to Subgrantees receiving less than \$350,000, so it has not included procedures for deciding which Subgrantees will receive additional funds. This decision is based on the following factors:

- Subgrantees often have to rely on other programs for WAP outreach and other administrative support;
- Subgrantees have had to adjust budgeting to keep pace with cost-of-living increases -- staff salaries, fringe benefits, rent, postage, travel, etc.;
- The State of Texas is 877 miles from Northern to Southern tips, 834 miles from Eastern to Western tips, and is comprised of a total of 266,807 square miles. The extra geography that Subgrantees have to cover to serve all the area's clients equitably requires additional staff, staff time, postage and phone costs, and vehicle wear and maintenance. (Source of Mileage Data: Texas Department of Transportation);

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

- Salaries, space, utilities, telephone, and similar costs associated with program support personnel should be charged to program support; and
- The increasing cost of maintaining appropriate qualified staff is challenging.

For Subgrantees receiving over \$350,000, the administrative allowance will be 5% of each subgrant. For Subgrantees receiving less than \$350,000, the administrative allowance will be 10% of each subgrant.

### V.8.3 Monitoring Activities

The Department will monitor the Weatherization Assistance Program (“WAP”) with the Monitoring staff included in the budget. Subgrantee is defined as an organization with whom the Department contracts and provides WAP funds.

Names and credentials of Department staff dedicated to monitoring DOE activities follow. Monitoring staff are paid out of Grantee Administration budget category.

- Rosy Falcon – over 6 years of weatherization monitoring; BPI certified; has attended DOE sponsored conferences.
- Chad Turner; over 11 years of weatherization experience as a Texas WAP Subgrantee. QCI certified, RSNET certification, BPI Certified and Lead Certification
- Chris Shoopman- 5+ years of weatherization experience
- Kevin Glienke – over 6 years of weatherization monitoring experience; BPI Certified; has attended DOE sponsored conferences; QCI certified.

There is also staff in the T&TA section of the Department that are QCI certified. It is not anticipated, but possible, that some of those staff members could assist with the unit inspections of homes weatherized through funds provided through this State Plan.

The Department will monitor each of the DOE Subgrantees during the contract period which will be July 1, 2016 through June 30, 2017. Many of the DOE Subgrantees also receive funds through the Department of Health and Human Services Community Service Block Grant and Low Income Home Energy Assistance Program. Whenever possible, all three programs will be monitored during one visit to the Subgrantee.

Financial and Administrative monitoring will include, at minimum, a review the Subgrantee’s General Ledgers and policies and procedures (including procurement) as well as support documentation for reported expenditures. These documents will be reviewed to ensure compliance with DOE, Department and other applicable rules and regulations. Through client file monitoring, the Department will ensure that program beneficiaries are eligible low-income families. Through unit inspections, Department staff will ensure that installed measures are allowable and meet or exceed DOE requirements. The Department will review whether charged measures were installed properly and determine compliance with health and safety procedures, client eligibility, energy audit procedures, client education procedures and compliance with the SWS.

The Department will inspect 5% of all completed weatherized units. In order to achieve the 5% inspection rate, and comply with the requirements of WPN 15-4, the Department is requesting that Subgrantees with a QCI on staff do not have that staff member involved with the weatherized unit prior to final inspection. The Department defines prior involvement as performing the audit, creating the work order or performing any weatherization work on the weatherized unit. The Department has created a QCI Final Inspection Form, for Subgrantees which will allow TDHCA to determine if a QCI employed by the Subgrantee had prior involvement with that unit. The Department will review each QCI final inspection document to ensure compliance with the requirement to inspect 5% and will increase the required inspections if necessary.

The Department recognizes that there may be a need to perform additional unit inspections towards the end of the contract period to comply with the requirements of WPN 15-4 if there were not enough units available to sample during the full monitoring review.

Monitors will complete checklists to evaluate a Subgrantee’s compliance. The checklists cover Financial and Administrative requirements, health and safety procedures, client eligibility, energy audit procedures, client education procedures, and compliance with the SWS. Compliance Monitors also review the hard copy of NEAT audit which is required to be in the client file to assure that the scope of the work was directed by the audit.

Monitors typically scan documents as support if there will be findings noted. Upon completion of the review, monitors conduct an exit interview and explain findings noted, if any.

The following list provides additional monitoring details that may occur during the monitoring review.

- Monitors may request copies of fiscal records/support documentation and perform a desk review to gauge the fiscal condition of the Subgrantee prior to onsite monitoring.
- In addition, as needed, monitors may perform a desk review of records requested but not provided during the onsite review and records requested to

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

clarify issues identified during the onsite monitoring visit. The Department recognizes the requirement to issue monitoring letter within 30 days of the review. The Department does not consider the review complete until receipt of information needed to ascertain compliance. Monitoring letters will be issued within 30 days of receipt of all necessary information.

- On occasion, while onsite monitors overlook findings that are identified through a management or peer review of the report and working papers. In these instances, Department staff will strive to call the Subgrantee to discuss the matter prior to the report being issued.

The Department will issue monitoring reports within 30 days of completion of the review. Subgrantees are provided a 30 day corrective action period to respond and provide evidence of correction. On a case by case basis, the Department may grant an extension to respond to the report if there is good cause and the request is made during the corrective action period. The Department will review each response and determine if the Subgrantee has resolved the compliance issue. If the Department determines that the issue is not resolved, the Subgrantee will be notified and required to submit an additional response(s) until the compliance issue is resolved. In certain circumstances, the Department may “close” a compliance issue when there remain no additional actions that can be taken to resolve the issue. At the conclusion of this process, any unresolved compliance issues will be reported to DOE (instances of suspected fraud or serious program abuse will be reported immediately to DOE and the Texas State Auditors Office).

The Department will review the annual financial audits of each Subgrantee agency and will follow up as applicable through annual monitoring visits or desk monitoring. The Department requires each Subgrantee to complete an Audit Certification form within 60 days of the end of the entity’s fiscal year. This is used to determine if a Single Audit is required. Upon receipt of the Single Audit, a review is completed to determine if the packet submitted is complete and all opinions are provided. If the audit contains findings, they are reviewed and discussed by the Director of Internal Audit, the Chief of Compliance and staff to determine the appropriate steps to ensure the entity corrects the issues identified in the audit report or management letter. The Department issues correspondence to the entity, identifying that corrective action measures must be performed and requiring that support documentation to be provided. The entity is provided a time frame to complete the corrective action and to respond to the correspondence. At a maximum, the entity must correct all identified issues within six (6) months of the Single Audit being submitted to the Federal Clearing House.

The Department’s Compliance Monitor(s) keep abreast of the required timeframe for the entity to complete the corrective action and to provide the response. When the response is received, the Department reviews the documentation to determine if the corrective action requirements have been met. If the issues have not been corrected, the Compliance Monitor and/or Community Affairs Monitoring Manager will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department’s Enforcement Committee in accordance with Department Rules and standard operating procedures. During the next monitoring visit to the entity, the Department will determine if the selection of expenditures or materials reviewed reflect compliance with the respective requirement.

The Texas WAP has a successful and compliant history. However, in the event that TDHCA identifies a Subgrantee with significant and unresolved noncompliance will be referred by the Compliance Division to the Training and Technical Assistance Team. Those Subgrantees will be required to meet assigned milestones. Failure to meet milestones may result in contract sanctions, up to and including administrative penalties, debarment, placement on a modified cost reimbursement method of payment, contract suspension, or contract termination.

1. Program Oriented Management Training – Prior to continuing any weatherization-related program activity, all Subgrantee staff that performs any action related to the WAP will be required to complete Program Oriented Management Training (“POM”). POM will include:

- A. Review of WAP statutes and rules
- B. Review of state program requirements
- C. Review of financial and administrative best practices
- D. Review of program best practices

2. Intensive Training and Technical Assistance – Once POM is completed, Subgrantee staff will receive training on critical program components. At each stage of Intensive T&TA, TDHCA team members will provide one-on-one guidance to Subgrantee staff to ensure the correct completion of each component. At the end of Intensive T&TA, Subgrantee staff will have completed another step toward completion a weatherized unit.

- A. Client file documentation
- B. Payment and reimbursement documentation
- C. Accompanied unit assessment
- D. Accompanied Audit completion
- E. Accompanied Interim construction walk-through
- F. Accompanied Final inspection

3. Staged Program Operation – When Subgrantee staff has completed Intensive T&TA, the Subgrantee will complete a pre-determined number of client

**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

intakes. Once the client intakes are completed, TDHCA team members will review the ensuing steps of the weatherization process in the following steps:

- A. Review of the client file documentation
- B. Review of unit assessments
- C. Review of audit input and completion to work order
- D. Accompanied final inspection

Once the Subgrantee has completed the determined number of units and the units have passed TDHCA monitoring, the Subgrantee will resume normal operations for the remainder of the program year. The Subgrantee will be reviewed at the end of the program year for determination of continued funding.

If it is determined that the Subgrantee is not able to administer the weatherization program, the Department will follow the requirements in 10 TAC §2.202 Contract Closeout.

#### **V.8.4 Training and Technical Assistance Approach and Activities**

All training provided will include requirements for compliance with QWP specifications. The Department will conduct training and technical assistance throughout the program year. Department staff may determine that additional training is needed for a particular Subgrantee or the Subgrantee may request it. The Training staff consults with Monitoring staff to determine Subgrantees' additional training needs on an on-going basis. Training will include manufactured housing, management and production schedule, lead safe work practices, building envelope measures, energy audit, health and safety, all with a goal of increasing the efficiency, quality and effectiveness of our program.

In order to assist with the implementation of the QWP specifications, the Department will identify training needs through a four pronged approach:

- A) Review of Findings - The training team will provide training to address specific findings in order to correct identified deficiencies.
- B) Referral by the Monitoring staff - Training areas will focus on input from the referring Monitor.
- C) Online request produced by the Subgrantee - The Department has created an online training and technical assistance database to track training requested by the Subgrantee network. The requestor has a menu of WAP topics to select from. The online training request form can be found on the Department's website, <http://www.tdhca.state.tx.us/community-affairs/wap/index.htm>. The Department's training staff will contact the requestor and customize the training around their needs.
- D) Management Request - Management may make a specific request and dictate the type of training needed.

##### **Tier 1 Training.**

Tier 1 Training began in the spring of 2014 with five Department staff members becoming certified in QCI at an IREC-approved training center. The Department then started providing pre-assessment T&TA to assist Subgrantee staff in preparing for the QCI certification prior to a Subgrantee scheduling QCI training. The Department has a Certified BPI Online Proctor on staff who is able to proctor the written exam for those that do not pass it the first time, thereby reducing the time and travel costs for our network. The exam is proctored in collaboration with Santa Fe Community College. The Department has posted online resources for preparing Subgrantees for the written portion of the test.

Of the twenty-three Subgrantees, twenty-two have at least one staff member that is QCI certified. The twenty-third is utilizing a neighboring QCI. The QCI certification for Subgrantee staff will continue with a goal of having all Subgrantee staff fully on board.

Added to the training plan is Tier 1 Training for subcontractors. In PY 2014, the Department's training plan focused on comprehensive training for all WAP agency staff workers that is aligned with the NREL Job Task Analysis for the position in which the worker is employed. In PY 2015 and beyond, the Department proposes to add to that focus JTA-aligned training for subcontractors. This addition reflects feedback from Department monitoring staff and DOE's plan for improvements in work quality.

Tier 1 training will be provided by Department training and technical assistance staff or its designee. Tier 1 Training will continue long-term with Department and Subgrantee staff gaining Energy Auditor certification in single family and multifamily, along with ongoing training to maintain those skills and certifications. When federal requirements dictate Energy Auditor (EA) certifications, the Department will be requiring all Subgrantees to ensure their contractors also receive other Tier 1 trainings, including Renovation, Repair, and Painting and Occupational Safety and Health Administration (OSHA) 10. Each subcontractor for whom DOE funds are used to provide training for the certification will be required to enter into a retention agreement with the Subgrantee.



**U.S. Department of Energy**  
**WEATHERIZATION ASSISTANCE PROGRAM (WAP)**  
**STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

The Department has provided the Subgrantee network information for obtaining workforce credentials by providing on our website (<http://www.tdhca.state.tx.us/community-affairs/wap/quality-work-plan.htm>) a QWP section dedicated to agencies obtaining the QCI. As other Tier 1 training information becomes available we will be adding content to our website.

**Tier 2 Training.**

Tier 2 training will be provided by Department training and technical assistance staff or its designee. With experience as Program Officers and Trainers, the staff has experience in Subgrantee monitoring, unit assessments, audits, materials installation, inspections, and the training and technical assistance that support each. The staff consists of:

- Marco Cruz – 20+ years experience in the WAP. Certified QCI, Lead-Safe Renovator, OSHA-30
- Laura Saintey – 10+ years experience in the construction industry and 5+ years experience in the WAP. Certified QCI, Lead-Safe Renovator, OSHA-10, BPI Building Analyst Professional, BPI Certified Online Proctor
- Jason Gagne- new trainer currently preparing for Energy Auditor and QCI certifications.

The Department will provide the Lead Renovator certification and refresher and any OSHA courses through a certified third party vendor. These trainings will be required, and the Department will keep a running database of the certifications to assure each Subgrantee obtains the needed certifications to implement the Health and Safety requirements of the WAP program.

The Department will continue to provide training opportunities for staff and Subgrantees including online training, attendance at DOE and DOE-approved conferences, and other opportunities for education and training that might become available. Network wide trainings will primarily be conducted through webinars. At least every quarter the Department conducts teleconferences on DOE WAP initiatives and program notices. In PY2015 the Health and Safety Plan will be followed-up with a webinar to reiterate current standards and any changes made so that the network remains aware of program expectations. Attendance will be monitored to ensure at least one member of each subrecipient is in attendance during the webinar.

**Evaluation of Training Activities**

In order to evaluate compliance with the quality work specifications and the efficacy of its training activities, the training staff or its designee will review its training activities semi-annually and compare those to the Subgrantee monitoring reports. Additionally, Subgrantees will be given the opportunity to provide feedback through evaluation forms distributed at all training sessions. Training staff or its designee will conduct periodic surveys to solicit input from Subgrantees as to their training needs.

More specific training will be designed for each Agency based on the information prompting the request. TA will be documented by using the online training and technical assistance database. Additionally, for onsite T&TA visits, a report will be produced indicating Subgrantee staff present, materials and documents presented to the Subgrantee, and expected outcomes.

Should a Subgrantee hire a new weatherization coordinator, the Subgrantee will be required to notify the Department in writing within 30 days of the date of hiring the coordinator and request training. The Department will contact Subgrantees within 30 days of the date of notification to arrange for training.

**Program Evaluation**

Overall program evaluation remains an admitted struggle for the Department. The Department utilizes an online contract system to collect expenditure and performance data from Subgrantees. As designed, this system does not have the capability to capture unit-level data from our Subgrantees. Provision of a comparative snapshot of the current Subgrantees, would require a database that could capture retrofit activities for each unit completed to include air-leakage reduction, duct leakage, square footage of each unit, and pre- and post- retrofit energy consumption data. The system would have to account for the different climates found in a state as large as Texas (even within some individual service areas), weather anomalies and client family size variations over a multi-year period if comparing energy savings based on consumption alone. While the Department certainly sees the value of a system that could provide this information, the feasibility of doing such extensive data collection is difficult to conceive with existing resources.

**Client Education**

The Department will continue to require WAP Subgrantees to provide client education to each WAP client. Subgrantees will be required to provide (at a minimum) educational materials in verbal and written format. Client education may include temperature strips that indicate the temperature in the room and energy savings materials.

**U.S. Department of Energy  
WEATHERIZATION ASSISTANCE PROGRAM (WAP)  
STATE PLAN/MASTER FILE WORKSHEET**

**(Grant Number: EE0006186, State: TX, Program Year: 2016)**

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n/a
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# State of Texas

## Weatherization Assistance Program

### 2016 HEALTH AND SAFETY PLAN

This plan will provide guidance to the Texas Weatherization Network. Health and Safety issues will be identified by Program Assessors during the initial assessment. Weatherization Crews (either subcontracted or in house) will perform the task(s) identified in the initial assessment and listed in the work order(s).

**Budgeting (Check one):**

The grantee is encouraged to budget health and safety costs as a separate category and, thereby, excludes such costs from the average per-unit cost calculation. This separate category also allows these costs to be isolated from energy efficiency costs in program evaluations. The grantee is reminded that, if health and safety costs are budgeted and reported under the program operations category rather than the health and safety category, the related health and safety costs must be included in the calculation of the average cost per home and cost-justified through the audit.

Separate Health & Safety Budget: Texas exercises the option to budget health and safety costs as a separate budget line item.

H&S budget is not contained in Program Operations. It is not included in the average unit cost or SIR.

Incidental Repairs (List repairs, if any, that will be removed as health and safety measures and implemented as incidental repairs.):

If the grantee chooses to identify any health and safety measures as incidental repairs, they must be implemented as such under the grantee's weatherization program in all cases – meaning, they can never be applied to the health and safety budget category. In order to be considered incidental repairs, the measure must fit the following definition and be cost justified along with the associated efficiency measure. Incidental Repairs means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weather-stripped and providing protective materials, such as paint, used to seal materials installed under this program.

Minor issues related to drainage, electrical, structural, floor, roof repairs, and replacement of doors and windows that are unrepairable are considered to be an incidental repair in Texas, unless it is a contributory item necessary for the proper installation of an ECM. In instances where >32 sq ft of roof repair, or repair/replacement of doors or windows is recommended because the door/window could not otherwise be caulked or weather-stripped effectively this measure should not be billed as a Health and Safety cost; it must be categorized as an incidental repair. Providing protective materials such as primer or paint to seal and protect the weatherization materials installed shall be categorized as an incidental repair and shall be billed as such. Such materials shall only be allowed to protect weatherization materials installed. They shall not be allowable for cosmetic reasons alone. Reference: "Window Door Replacement Best Practice" (DOE-WAP) and "Window Door Repair Best

Practice" (LIHEAP-WAP)

Health and Safety Expenditure Limits (Provide a per-unit average percentage and justification relative to the amount. Low percentages should include a statement of what other funding is being used to support health and safety costs, while larger percentages will require greater justification and relevant historical support.):

The grantee must set health and safety expenditure limits for their Subgrantees, providing justification by explaining the basis for setting these limits and providing related historical experience. It is possible that

these limits may vary depending upon conditions found in different geographical areas. These limits must be expressed as a percentage of the average cost per dwelling unit. For example, if the average cost per dwelling is \$5000, then an expenditure of \$500 per dwelling would equal 10 percent expenditures for health and safety. 10 percent is not a limit on H&S expenditures but exceeding this amount will require ample justification. These funds are to be expended by Subgrantees in direct weatherization activities. While required as a percentage of the average unit cost, if budgeted separately, the health and safety costs are not calculated into the per-house limitation.

Texas exercises the option to budget health and safety costs separately. **NOTE:** DOE calculates Health and Safety for the State of Texas as 25% of the program operations budget. Texas calculates Health and Safety as a percentage of house dollars (materials+labor+program support+health and safety). The calculation (house dollars x 20%) yields a Health and Safety amount that meets the maximum of 20% for Texas Subgrantees.

For Subgrantees, Health and Safety expenditures may not exceed 20% of total unit expenditures (materials, labor, program support, and health and safety) at the end of the contract period. H&S expenditures exceeding this percentage will require justification by the Subgrantee.

The Department feels that the 20% H&S amount is justified based on several factors:

1. The Department anticipates more stringent H&S requirements outlined in WPN 11-6 and WPN 11-6A. It is expected that these additional and specific requirements will result in significant H&S costs. These requirements are historically more aggressive than the H&S agenda Texas has pursued in homes weatherized under the DOE WAP Program.
2. Until January 2011 non-incorporated (non-municipal) rural areas had no established codes and no code enforcement. The WAP ARRA experience has demonstrated that installation costs in these areas are frequently higher because any altered appliance in these areas must now be brought up to the IRC code.
3. ASHRAE 62.2 2013 has been adopted and implemented; accounting for an average of \$750/unit, or 15% of the H&S budget.
4. The Department has included Air Conditioning Units as a Health and Safety Measure.

**Deferral Policy (Provide a detailed narrative of the grantees overall deferral policy):**

Deferral may be necessary if health and safety issues cannot be adequately addressed according to WPN 11-6 guidance. The decision to defer work in a dwelling is difficult but necessary in some cases. This does not mean that assistance will never be available, but that work must be postponed until the problems can be resolved and/or alternative sources of help are found. In the judgment of the auditor, any conditions that exist, which may endanger the health and/or safety of the workers or occupants, should be deferred until the conditions are corrected. Deferral may also be necessary where occupants are uncooperative, abusive, or threatening. The grantee should be specific in their approach and provide the process for clients to be notified in writing of the deferral and what corrective actions are necessary for weatherization to continue. The grantee should also provide a process for the client to appeal to a higher level in the organization.

Per Texas's Health & Safety Plan, a dwelling unit should not be weatherized where there is a major code violation or where there is a potentially harmful situation that may adversely affect the occupants or agency's weatherization crew and/or other staff. When such issues are found to be present, the owner/occupant is notified verbally and in writing; and, only after the owner corrects the identified issues satisfactorily and to code shall any weatherization work begin. The crew must declare their intent to defer weatherization work on an eligible unit on the energy audit worksheet. The audit form shall include the client's name and address, dates of the audit/assessment, date the client was informed, a clear description of the issue(s), a clear description of the condition(s) under which weatherization work could begin/continue, a clear description of the responsibilities of

all parties involved, client's signature(s) indicating that they have been informed of their rights and options and that they understand the issues and their responsibilities. A copy shall be given to the client and a copy shall be placed in the client file.

See Best Practices addressing Client Denials and Referrals posted on the website <http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>

**Client Denials and Referrals**

**Denials/Deferrals--Beyond the Scope**

**Denials/Deferrals—Health & Safety**

**Denials/Deferrals—NEAT Audit**

Texas has a standard template/sample deferral letter that weatherization agencies may use to create the deferral notice that is sent to the client when conditions so warrant.

**Procedure for Identifying Occupant Health Concerns:**

Procedures must be developed and explained on how information is solicited from clients to reveal known or suspected occupant health concerns as part of the initial application for weatherization, additional screening of occupants again during the audit, and what steps will be taken to ensure that weatherization work will not worsen the health concern.

Texas has developed a Health & Safety Questionnaire that will be used as part of the application process that will then be further verified by the assessor at the time of the initial assessment and when conducting the H&S Inspection Checklist. (See "Health & Safety Client Questionnaire and Inspection Checklist" under Client Field and Assessment Forms on Department website: <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

Due to Texas' high humidity levels in much of the state, moisture and mold-like substances are an integral part of assessments. See Best Practices addressing moisture and mold-like substances posted on the website <http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm>:

**Mold Best Practices: , Flow Chart - Remove**

**Mold-Like Substance Notification and Release Form for Texas Weatherization Programs**

**Identification of a Mold-Like Substance**

In addition, if a Mold-Like Substance is detected clients are provided a copy of the Texas Department of State Health Services, "**CONSUMER MOLD INFORMATION SHEET\* Regulation of Mold Assessment and Remediation in Texas.**"

Weatherization agencies and their representatives, including subcontractors, are required to take all reasonable precautions against performing work on homes that will subject the occupants or themselves to health and/or safety risks. In cases where an occupant's health is fragile, or an occupant has been identified to have a health condition, including allergies, and/or the crew work activities would themselves constitute a health and/or safety hazard, the occupant(s) at risk shall be required to leave during the performance of the work activities. In cases where an occupant is identified as having an allergy to a specific weatherization material, that material will not be installed. If comparable alternative materials are available and the occupant has no known allergies to the alternative materials and they meet DOE regulations, crews/contractors may substitute the alternative material(s). If no safe alternative material meeting DOE standards is available, the measure shall not be installed. This must be well documented in the client file.



**Documentation Form(s) have been developed (Check Yes or No):**

Documentation forms must be developed, include the client's name and address, dates of the audit/assessment and when the client was informed of a potential health and safety issue, a clear description of the problem, a statement indicating if, or when weatherization could continue, and the client(s) signature(s) indicating that they understand and have been informed of their rights and options

**Yes X** Texas has developed documentation forms and has a deferral notice in place; all will be used for the documentation of potential health and safety issues. These forms include all of the items listed in the gray box directly above.

No

**Air Conditioning and Heating Systems**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

**X-Concur with WPN 11-6**

"Red tagged", inoperable, or nonexistent heating system replacement, repair, or installation is allowed where climate conditions warrant and in households that include at least one member who is 5 years of age and under, elderly, or disabled.

Because Texas is a predominantly hot weather state, air conditioning system replacement, repair, or installation is allowed in households that include at least one member who is 5 years of age and under, elderly, or disabled.

**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the heating/cooling system issue is determined to be beyond the scope of DOE WAP, weatherization agencies will defer the work and refer the client to other resource agencies who may be able to address the problem. Texas's deferral policy and protocols shall always be strictly adhered to when deferring weatherization work. If client is completely without cooling and the weather warrants, the weatherization agencies shall make a referral to an agency with funding that can provide at-risk clients with a portable air conditioner. In the case where the heating system issue is determined to be beyond the scope of DOE WAP; and the client is completely without heat and the weather warrants, the weatherization agencies shall make a referral to an agency with funding that can provide client with a temporary means of heat, such as a portable heat pump or blankets.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

The Department will initially attempt to qualify existing Air Conditioning units and Heating systems as an ECM. If the AC unit or Heating system does not rank and if the client qualifies under the at risk criteria, then the Subgrantee may repair, replace, or provide a new AC unit or furnace as a Health and Safety Measure.

The goal of all testing shall be to make sure Heating/cooling systems are present, operable, and performing safely. Additionally, we want to determine the presence of at-risk occupants.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would result in a whole-house SIR below a 1, or when there are problems affecting the heat system/furnace that are beyond the

scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral policy above.
<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
The Department provided CAZ Testing training across the state. The course covered worst case depressurization testing, with a focus on when to replace systems for high CO levels, when to shut off the system, open window, and when notify the client and gas company. Best Practices addressing worst case depressurization testing are posted on the website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm">http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm</a>
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>
In addition the Texas Mechanical Systems Field Guides have been distributed to all Subgrantees and posted on the Department’s website under Weatherization Tools and Guides. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Clients shall be given all pertinent information on the appropriate use and maintenance of heating units as well as information regarding the proper disposal of bulk fuel tanks when not removed, if applicable.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Weatherization agencies shall require licensed HVAC subcontractors to dispose of old Heating/cooling systems as part of the repair/installation job. All weatherization agencies and subcontractors must follow local and state regulations when disposing of old Heating/cooling systems components and /or fuels.
<b>Air Conditioning Installation (as specific to installation as a health and safety measure):</b> Provide a narrative on implementation protocols of air conditioning repair, replacement, and installation including justification for allowability that includes climate justification with degree days and how to define at-risk occupants
Air conditioning installation is an allowable health and safety measure in Texas. Texas’ weather and geography directly affects energy consumption in homes. Cooling degree days is a climatic statistic that can be used to reflect the severity and length of the cooling season. Basically, cooling degree days represent the number of hours over the course of a year that the outside air temperature is above 78 degrees Fahrenheit.
Texas is a diverse state with a myriad of climatic conditions. As noted in the following historic average temperatures per larger cities, most areas rarely drop below the heating degree day outside temperature of 65 degrees Fahrenheit. In many areas, heating is needed on a limited basis. However, throughout Texas, cooling is often a necessity.
Texas has several climate zones and the degree of heating necessary varies depending on the area. Combustion Safety is always a prime concern regarding heating systems. Texas is primarily a cooling climate. When conducting energy audits, cooling is a more significant factor than heating in determining energy conservation measures and the health of “vulnerable populations” (i.e.- elderly, children under the age of 5, and those who

have medical needs). In every instance, the cooling loads require more comprehensive measures than heating loads; such as low-e windows, solar screens, reducing humidity, and air conditioners. Therefore, air conditioning installation is an allowable measure in Texas.

**Heating/cooling systems Installation (as specific to installation as a health and safety measure):** Provide a narrative on implementation protocols of Heating/cooling systems repair, replacement, and installation including justification for allowability that includes climate justification with degree days

See above under air conditioning installation for climate justification for Heating/cooling systems installation. Texas is primarily a cooling climate with occasional severe cold weather conditions. Heat loss emergencies in Texas can put clients at severe health and safety risk that could potentially be life-threatening. Thus, Heating/cooling systems installation as a health and safety measure is allowable. Texas requires heat system installation to follow local and state code and it must be performed by a licensed HVAC professional. Weatherization agencies may subcontract licensed HVAC companies/individuals to perform Heating/cooling systems installations and repairs if they follow proper state procurement procedures.

### Appliances and Water Heaters

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Replacement or repair of water heaters is allowed on a case by case basis. Replacement and installation of other appliances are not allowable health and safety costs. Repair and cleaning are allowed.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used for repair and cleaning. Replacement of cook stoves may be done with unrestricted funds from a funding source other than DOE.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the water heater or appliance issue is determined to be beyond the scope of DOE WAP, the agency will defer the work and refer the client to other resource agencies who may be able to address the problem. Texas’s deferral policy and protocols shall always be strictly adhered to when deferring weatherization work.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

**TDHCA Subgrantee Guidance:** The goal of all testing is to verify appliances are present, operable, and performing safely. Testing is outlined in the Weatherization and Mechanical Field Guide posted on the Department’s website under Weatherization Tools and Guides.  
<http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

**TDHCA Subgrantee Guidance for Stoves**

**Stove replacement is Not allowed:**

Cook Stoves with high CO:

- Clean or repair
- If still has high CO levels, then see if another funding source is able to pay for the stove replacement.
- If no other source, the house must be deferred until the occupant can address the stove.
- Document all steps.
- CO deferral levels for Stoves that cannot be remedied

25 ppm for stove top burners  
200 ppm for oven.

The Subgrantees must initially attempt to qualify existing Water Heater as an ECM. If the Water Heater does not rank, Subgrantees may repair or replace the existing unit as a Health and Safety Measure. Testing is outlined in the Weatherization and Mechanical Field Guide.

- CO deferral Levels for Gas water heaters that cannot be remedied  
100 ppm tested at the flue.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral may be exercised when the estimated H&S cost of exceeds the total cost of all Weatherization Measures.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, webinars, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be given all manufacturers information on the appropriate use and maintenance of water heating units.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All weatherization agencies and subcontractors must follow local and state regulations when disposing of old water heating system components. Go to: <http://www.epa.gov/osw/> for current rules and regulations; along with EPA approved disposal sites.

**Asbestos - in siding, walls, ceilings, etc.**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

**X-Concur with WPN 11-6**

Removal of siding is allowed to perform energy conservation measures. All precautions must be taken not to damage siding. Asbestos siding should never be cut or drilled. Recommended, where possible, to insulate through home interior.

**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Crews/contractors will never cut or drill through asbestos siding. Where asbestos siding exists, they must determine if it can be removed and rehung to work from the outside; and use (LSW) practices. Work will be performed from the inside of the unit, whenever possible.

Definition: Asbestos is the name given to a number of naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. Because of these properties, asbestos fibers have been used in a wide range of manufactured goods, including roofing shingles, ceiling and floor tiles, paper and cement products, textiles, coatings, and friction products such as automobile clutch, brake and transmission parts. The Toxic Substances Control Act defines asbestos as the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cumingtonite/grunerite); anthophyllite; tremolite; and actinolite.

The three most common varieties of asbestos are: chrysotile, amosite, and crocidolite. Chrysotile fibers are pliable and cylindrical, and often arranged in bundles. Amosite and crocidolite fibers are like tiny needles. Unlike most minerals, which turn into dust particles when crushed, asbestos breaks up into fine fibers that are too small to be seen by the human eye.

It is difficult to tell whether a material contains asbestos simply by looking at it, unless it is labeled. If in doubt, treat the material as if it contains asbestos. Testing is allowed by a certified AHERA tester.

Inspect exterior wall surfaces and sub-surfaces for asbestos siding prior to drilling or cutting. Typically, asbestos appears as a whitish, fibrous material which may release fibers that range in texture from coarse to silky.

Check state and local codes prior to the temporary removal and replacement of asbestos siding. It may only be allowable if local and state codes allow temporary removal and replacement of asbestos siding.

Keep activities to a minimum in any areas having damaged material that may contain asbestos. Document and inform the client regarding the damaged material and suspected asbestos. Do not further disturb the material. If necessary, weatherization work to that area may have to be deferred.

In Texas, allow for the temporary removal of asbestos siding so that insulation materials may be installed, provided:

- Technicians wear personal protective equipment;
- The ground in the work area is covered with plastic sheeting to capture broken fragments;
- The pieces of siding to be removed are first sprayed with water;
- Breakage is kept to an absolute minimum;
- The siding is replaced; and
- The cost to benefit ratio is justified.

Do not dust, sweep, or vacuum debris that may contain asbestos.

Never saw, sand, scrape, or drill holes in asbestos materials.



Do not track material that could contain asbestos through the house.

All precautions must be taken not to damage the siding during removal. Asbestos siding should never be cut or drilled.

It is recommended that insulation be installed through interior wall surfaces if possible to completely avoid disturbing or removing the asbestos siding on the exterior of the home.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety. Follow State and Local codes pertaining to asbestos.

For additional information and guidance regarding asbestos, reference:

**REFERENCE: Texas Asbestos Health Protection Rules (TAHPR)**

**REFERENCE: ADMINISTRATIVE CODE - TITLE 25 - PART 1**

**[CHAPTER 295.31 - CHAPTER 295.73](#)**

'Texas (TX) Asbestos Removal & Abatement Resources' Sources:

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>
- "Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008. <http://www.dshs.state.tx.us/asbestos/about.shtm>.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when local and/or state code does not allow the removal of asbestos siding as part of general contracting work, or when the asbestos siding cannot be removed without disturbing the asbestos. Deferral and appropriate referral should also be exercised when the asbestos siding is already in such a damaged state that it is releasing asbestos fibers and insulation cannot be installed via interior wall surfaces.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:  
Environmental and Sanitation Licensing Group MC 2835  
Texas Department of State Health Services  
<http://www.dshs.state.tx.us/asbestos/default.shtm>

**MAILING ADDRESS**

P. O. Box 149347  
Austin, Texas 78714-9347

**PHYSICAL ADDRESS**

The Exchange Building  
8407 Wall Street  
Austin, Texas 78754

**MAIN PHONE:**

(512) 834-6787 Ext. 2198 or (800) 572-5548 Ext. 2198

**MAIN FAX:**

(512) 834-6707

Asbestos Program Coordinator

Phone: (512) 834-6787, Extension 2198

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

<p>OSHA Fact Sheet No. 92-06 “Better Protection Against Asbestos in the Workplace” is available on the Department’s website under Health and Safety for all Subgrantees’ use: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p> <p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>
<p>In every instance, clients shall be informed both verbally and in writing that suspected asbestos siding is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos.</p>
<p><b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>Proper disposal procedures are available at Texas Commission on Environmental Quality: Special Waste Disposal: <a href="http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_specialwaste.html">http://www.tceq.texas.gov/permitting/waste_permits/msw_permits/msw_specialwaste.html</a></p> <p><b>Texas Natural Resource Conservation Commission</b>          Technical Assistance Team, Permits Section/MC 124          Municipal Solid Waste Division/ TNRCC          PO Box 13087, Austin , TX 78711-3087          Phone 512-239-6781 Fax 512-239-6717</p>

Asbestos - in vermiculite	
<p><b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.</p>	
<p><b>X-Concur with WPN 11-6</b></p>	<p>When vermiculite is present, unless testing determines otherwise, take precautionary measures as if it contains asbestos, such as not using blower door tests and utilizing personal air monitoring while in attics. Where blower door tests are performed, it is a best practice to perform pressurization instead of depressurization. Encapsulation by an appropriately trained asbestos control professional shall be allowed. <u>Removal shall not be allowed.</u></p>
<p><b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>	
<p>DOE funds may be used.</p>	
<p><b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.</p>	
<p>If determined to be beyond the scope of the DOE WAP, follow all appropriate Deferral and Referral policies and protocols.</p>	
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>	

Minimal standards for remedy include, but are not limited to the following:

If a home contains vermiculite insulation, assume that this material is contaminated with asbestos and do not disturb it.

To determine if the insulation is made from vermiculite refer to the photographs posted at [http://www.epa.gov/asbestos/pubs/verm\\_questions.html](http://www.epa.gov/asbestos/pubs/verm_questions.html). Compare the photos on the website to the undisturbed insulation in the home. Vermiculite insulation is a pebble-like, pour-in product and is usually gray-brown or silver-gold in color.

Asbestos Hazard Emergency Response Act of 1986 (AHERA) certified prescriptive sampling is allowed by a certified tester. However, it is recommended to assume that vermiculite insulation contains asbestos and proceed accordingly.

Do not open any walls to check for vermiculite. Only check for vermiculite in the attic, and if found, leave it undisturbed, when possible.

If it is absolutely necessary to go into the attic containing vermiculite insulation, limit the number of trips and the shorten the length of those trips in order to limit any potential exposure and to avoid disturbing the product as any disturbance could potentially release asbestos fibers into the air.

Wear protective equipment when entering an attic area that may contain vermiculite insulation.

Do not track vermiculite insulation or associated dust into the living spaces of the home.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety. Follow State and Local codes pertaining to asbestos.

For additional information and guidance regarding asbestos, reference:

**Texas Asbestos Health Protection Rules (TAHPR)**

**TEXAS ADMINISTRATIVE CODE - TITLE 25 - PART 1**

**[CHAPTER 295.31 - CHAPTER 295.73](#)**

**'Texas (TX) Asbestos Removal & Abatement Resources' Sources:**

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>

**"Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008.**  
**<http://www.dshs.state.tx.us/asbestos/about.shtm>.**

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral may be exercised if it is determined that the vermiculite insulation material and/or associated dust is seeping into the home living spaces to an extent that cannot be resolved with typical weatherization sealing measures. Deferral of attic portion of the work may be exercised if it is determined that the attic already contains vermiculite insulation and it would be best to leave it undisturbed and encapsulated in its original form. Encapsulation of vermiculite should be performed by an AHERA asbestos control professional only.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:  
Environmental and Sanitation Licensing Group MC 2835  
Texas Department of State Health Services  
<http://www.dshs.state.tx.us/asbestos/default.shtm>

**MAILING ADDRESS**

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(512) 834-6787 Ext. 2198 or (800) 572-5548 Ext. 2198

**MAIN FAX:**

(512) 834-6707

Asbestos Program Coordinator

Phone: (512) 834-6787, Extension 2198

Another source of vermiculite insulation information may be found at:

[http://www.epa.gov/asbestos/pubs/vermiculite\\_message\\_to\\_the\\_public.pdf](http://www.epa.gov/asbestos/pubs/vermiculite_message_to_the_public.pdf)

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

In every instance, clients shall be informed both verbally and in writing that suspected asbestos is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos. When it is determined that vermiculite insulation is present in a client's home, the EPA Fact Sheet, "Protect Your Family from Asbestos-Contaminated Vermiculite Insulation" shall be provided to the client. It can be found at [http://www.epa.gov/asbestos/pubs/vermiculite\\_message\\_to\\_the\\_public.pdf](http://www.epa.gov/asbestos/pubs/vermiculite_message_to_the_public.pdf)

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

Removal and/or disposal are not allowed for vermiculite insulation.

Referral shall be made at the State level at:

Environmental and Sanitation Licensing Group MC 2835

Texas Department of State Health Services

<http://www.dshs.state.tx.us/asbestos/default.shtm>

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Phone: (512) 834-6787, Extension 2198  
DOE guidance does not allow for the removal of asbestos, unless on small covered surfaces. This guidance must always be followed.

**Asbestos - on pipes, furnaces, other small covered surfaces**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

**X-Concur with WPN 11-6**

Assume asbestos is present in covering materials. Encapsulation is allowed by an AHERA asbestos control professional and should be conducted prior to any blower door testing. Removal may also be allowed by an AHERA asbestos control professional based on the situation as determined by the inspector or Agency Representative.

**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If determined to be beyond the scope of the DOE WAP, follow all appropriate Deferral and Referral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Inspect pipe and other coverings for asbestos. Testing is allowed only by a certified Tester. Check local codes prior to removal and replacement of asbestos containing materials. Removal and replacement of asbestos containing materials may be allowable by an AHERA asbestos control professional if local codes allow.

Keep activities to a minimum in any areas having damaged material that may contain asbestos. Document and inform the client regarding the damaged material and suspected asbestos. Do not further disturb the material.

Do not dust, sweep, or vacuum debris that may contain asbestos.

Never saw, sand, scrape, or drill holes in asbestos materials.

Do not track material that could contain asbestos through the house.

Follow EPA and OSHA regulations regarding the safe handling of asbestos to ensure worker and client safety. Follow State and Local codes pertaining to asbestos.

**Texas Asbestos Health Protection Rules (TAHPR)**



**TEXAS ADMINISTRATIVE CODE - TITLE 25 - PART 1**

**CHAPTER 295.31 - CHAPTER 295.73**

**'Texas (TX) Asbestos Removal & Abatement Resources' Sources:**

- "Texas Administrative Code." Health Services, Texas Asbestos Health Protection. 23 May 2006. 27 Jan 2008. <http://www.dshs.state.tx.us/asbestos/rules.shtm>
- "Asbestos Program." Texas Department of State Health Services. 12 Dec 2005. 9 Feb 2008. <http://www.dshs.state.tx.us/asbestos/about.shtm>.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when the cost of an AHERA asbestos control professional to remove the asbestos, exceeds the total cost of all Weatherization Measures. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral shall be made at the State level at:  
Environmental and Sanitation Licensing Group MC 2835  
Texas Department of State Health Services  
<http://www.dshs.state.tx.us/asbestos/default.shtm>

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Asbestos Program Coordinator  
Phone: (512) 834-6787, Extension 2198

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

OSHA Fact Sheet No. 92-06 "Better Protection Against Asbestos in the Workplace" is posted on the Department's website under Health and Safety.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

In every instance, clients shall be informed both verbally and in writing that suspected asbestos is present. Clients shall also be informed as to the precautions that will be taken. Client written materials shall include information about the potential health risks associated with asbestos.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All local, state and federal requirements and regulations shall be followed by Texas Subgrantees. At the State level, asbestos related referral and/or disposal questions, as well as other asbestos related questions/issues, may be referred to DOE guidance does not allow for the removal of asbestos, unless on small covered surfaces. This guidance must always be followed.

**Biologicals and Unsanitary Conditions - odors, mustiness, bacteria, viruses, raw sewage, rotting wood, etc.**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Remediation of conditions that may lead to or promote biological concerns and unsanitary conditions is allowed. Addressing bacteria and viruses is not an allowable cost. Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization workers. More information is available under the Mold and Moisture guidance below.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

This health and safety category shall require sensory inspection for the purpose of detection.

Types of health and safety hazards that may be included under this category include, but are not limited to:

- Odors;
- Mustiness;
- Bacteria;
- Viruses;
- Raw sewage;
- Rotting wood;
- Garbage;
- Etc.

Addressing bacteria and viruses shall not be allowed. Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization crews/contractors.

The use of personal protective equipment shall be strictly enforced. Respirators, protective eyewear, and protective clothing will be worn when there is suspicion or knowledge that biological agents may be present in order to eliminate or minimize crew exposure.

In the past, remediation of conditions listed under this health and safety category was not allowed. It is allowable under WPN 11-6, except for the removal of known bacteria and viruses. Texas will assess the cost-

effectiveness and necessity of remediation of these conditions on a case by case basis.

See Mold and Moisture guidance below for additional standards for remedy.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Visual and sensory inspection must be performed for the purpose of detection of health and safety hazards such as, but are not limited to:

- Odors;
- Mustiness;
- Bacteria;
- Viruses;
- Raw sewage;
- Rotting wood;
- Garbage;
- Etc.

The use of personal protective equipment (Respirators, protective eyewear), and protective clothing will be worn when there is suspicion or knowledge that biological agents may be present in order to eliminate or minimize crew exposure.

Deferral may be necessary in cases where a known agent is present in the home that may create a serious risk to occupants or weatherization crews/contractors. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as the presence of raw sewage or other known agents. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. When biological or virus agents are suspected, referral to the Texas Health and Human Services Commission may be warranted. Information is available at <http://www.hhsc.state.tx.us>

In addition, when warranted, referrals may be made to Child or Adult Protective Services at: <http://www.dfps.state.tx.us>

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be given information on the appropriate clean-up and removal of biological identified during the initial inspection performed by the Assessor.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All Federal, State, and local regulations shall be followed regarding the disposal procedures as they pertain to this health and safety category.

### Building Structure and Roofing

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Building rehabilitation is beyond the scope of the WAP. Homes with conditions that require more than incidental repair should be deferred. More information is available under the Mold and Moisture guidance below.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may not be used for building rehabilitation work that goes beyond the scope of the WAP and requires more than incidental repairs.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

Structurally compromised areas requiring more than incidental repairs shall be deemed beyond the scope of the WAP and shall be deferred.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Minimal standards for remedy include, but are not limited to the following:

Visual inspection.

Ensure that access to areas necessary for weatherization is safe for entry and performance of assessment, work, and inspection.

Notify client of structurally compromised areas; defer weatherization work to those areas.

Basic guidance for WAP crews/contractors:  
 While conducting the initial audit, the building structure shall be inspected for structural integrity. Minor repairs to protect the DOE materials installed may be performed to protect the energy saving investment. However, building rehabilitation is beyond the scope of the WAP. Dwellings whose structural integrity is in question should be referred to agencies that deliver HUD funds or other appropriate local and state agencies. Weatherization services may need to be delayed or deferred until the dwelling can be made safe for crews/contractors and occupants. Incidental (minor) repairs necessary to effectively perform or preserve weatherization materials/measures are allowed. Examples of these include sealing minor roof leaks to preserve new attic insulation and repairing water-damaged flooring as part of replacing a water heater. Incidental structural repairs shall not include cosmetic applications, such as replacing a floor covering such as a carpet or linoleum. Only the structural part shall be replaced/repared.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Homes that require more than incidental (minor) repair should be deferred.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Dwellings whose structural integrity is in question should be referred to HUD or other appropriate local and state

agencies, such as local building departments.

**Resources for dwellings whose structural integrity is in question:**

HUD has 5 field offices in Texas (Dallas, Fort Worth, Houston, Lubbock, and San Antonio). Here is contact info for Dallas. Others are listed at <http://www.hud.gov/local/index.cfm?state=tx&topic=offices>.

Department of Housing and Urban Development

Dallas Field Office

A. Maceo Smith Federal Office Building

525 Griffin Street, Suite 860

Dallas, TX 75202-5007

Phone: (214) 767-8300

Email: [Customer Service](#)

Fax: (214) 767-8973

Further, HUD lists all Texas Public Housing Authorities on their website at:

<http://www.hud.gov/offices/pih/pha/contacts/states/tx.cfm>

Examples of referral agencies include, but are not limited to Habitat for Humanity, United Way, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Clients shall be notified verbally and in writing regarding any structurally compromised areas. Appropriate referral resources shall also be provided to the client.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

All Federal, state and local regulations regarding disposal of construction waste shall be followed.

**Code Compliance**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

**X-Concur with WPN 11-6**

Correction of pre-existing code compliance issues is not an allowable cost other than where weatherization measures are being conducted. State and local (or jurisdiction having authority) codes **must** be followed while installing weatherization measures.

	Condemned properties and properties where “red tagged” health and safety conditions exist that cannot be corrected under this guidance should be deferred.
<b>Funding:</b>	State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
	DOE funds may be used when weatherization measures are being conducted. They may not be used simply to correct pre-existing code compliance issues.
<b>Beyond Scope of DOE WAP:</b>	Describe how the issue will be treated if beyond the scope of DOE WAP.
	If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
<b>Standards for Remedy:</b>	Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.
	Minimal standards for remedy include, but are not limited to the following:  Visual inspection as well as local code enforcement inspections shall be necessary to comply with WPN 11-6 guidance.  Follow all State and Local codes when installing weatherization measures.  Acquire all required permits and licenses pertinent to installing weatherization measures. These vary by jurisdiction and it is the responsibility of each Subgrantee agency to know what the codes are in each of the areas they work, as well as what permits and licenses are required in each of the areas they work.
<b>Standards for Deferral:</b>	Describe when deferral should take place for the specific health and safety category.
	Condemned properties shall be deferred. Properties where “red-tagged” health and safety conditions exist that cannot be addressed with DOE H&S funding, should be deferred.
<b>Standards for Referral:</b>	Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
	Where code compliance issues are identified and cannot be corrected under WPN 11-6 guidance, or program guidance, appropriate referrals should be made. Examples of referral agencies include, but are not limited to Habitat for Humanity, United Way, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b>	Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
	The Department is working with the State Energy Conservation Office (DOE State Energy Program Subgrantee and the State Authority to adopt code) on a Collaborative effort to address code compliance issues. The Collaborative will address code education throughout the state of Texas. Classes will be available to all Subgrantees to attend at a nominal fee set by the Collaborative to cover costs.
<b>Client Education:</b>	Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
	Inform client of observed code compliance issues. Make appropriate referrals as necessary.
<b>Disposal Procedures:</b>	Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
	All Federal, state and local regulations regarding disposal of construction waste shall be followed.

<b>Combustion Gases</b>
<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an



Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Proper venting to the outside for combustion appliances, including gas dryers, is required. Correction of venting is allowed when testing indicates a problem.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used in accordance with guidance in WPN 11-6.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.	
<p>A complete mechanical systems assessment is required to be completed on every home. All relevant information must be recorded on the Heating/cooling systems and Appliance Worksheet. The procedure includes collecting general information; collecting and recording mechanical systems information; visual and diagnostic inspection of the venting and distribution system; and, combustion analysis and diagnostic testing of gas/propane fired equipment, and post-installation safety tests for CO.</p> <p>Combustion safety testing is required when combustion appliances are present. Combustion appliances include any appliance using combustible fuels, including gas water heaters, wood stoves, gas or oil fueled furnace/heat system, including free standing space heaters fueled by kerosene, natural gas, or propane.</p> <p>The combustion appliance safety inspection includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, and worst case depressurization of the combustion appliance zone (CAZ). Combustion safety test results must be acted upon appropriately according to the combustion safety tables. Testing protocols can be found in Chapter 2 and 3 of the Texas Mechanical Systems Field Guide which has been distributed to the entire weatherization network and is located on the Department’s website <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p> <p>As applicable, every combustion appliance will be checked for a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage. DOE will not permit any DOE-funded weatherization work where the dwelling unit is heated with an unvented gas- and/or liquid-fueled space heater as the primary heat source. In such cases the primary space heater must be removed and a vented, code compliant heat source must be installed prior to the installation of weatherization measures. DOE will allow unvented gas- or liquid-fueled space heaters to remain as secondary heat sources provided they comply with ANSI Z21.11.2 ,the IRC, and the IFGC. LIHEAP-WAP may replace non-compliant secondary unvented gas- or liquid-fueled space heaters.</p> <p>Weatherization Assessors and Final Inspectors must test naturally drafting appliances for draft and spillage under worst case conditions before and after air tightening is performed.</p> <p>Weatherization Assessors and Final Inspectors must also test cooking burners for operability, and flame quality.</p> <p>Subgrantees must test for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before weatherization work can start. The Department has defined maximum acceptable CO readings as follows: (1) 25 parts per million for cook stove burners and unvented space heaters; (2) 100 parts per million for vented combustion appliance; and (3) 200 parts per million for cook stove ovens.</p> <p>Investigate and correct a steady state CO reading &gt;100 ppm in the following appliances: water heater, furnace or</p>	

space heater.

CO detectors should be installed in all homes when fuel-fired (combustion) appliances exist. This includes: cook stoves, furnaces, water heaters, wood and coal burning stoves.

Combustion appliances must be installed to the IRC or local code regulations.

**TDHCA Subgrantee Guidance:**

Oven replacements are Not allowed. If CO readings are above the limits above follow these steps:

1. Clean or repair
2. If still has high CO levels, then see if another funding source is able to pay for the stove replacement.
3. If no other source, the house must be deferred until the occupant can address the stove.
4. Document all steps.

REFERENCE: “Combustion Safety & Efficiency Testing” in the Texas Mechanical Systems Field Guide

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the combustion appliance that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The Department implemented ASHRAE 62.2-2013 in its 2014 program year. Training for Subgrantees was provided via webinar on October 29, 2014 and included a refresher on ventilation requirements and instruction on changes from ASHRAE 2010 to 2013, including but not limited to:

1. Local exhaust exceptions
2. Flow measurement
3. Different air flow calculation: The Department will use the updated calculator provided by Residential Energy Dynamics at <http://www.residentialenergydynamics.com/REDCalcFree/Tools/ASHRAE6222013.aspx> . This tool has been updated to apply the changes in the air flow calculation from 2010 to 2013.
4. Infiltration credit
5. Newly added carbon monoxide alarm and pressure drop requirements
6. Use with Multifamily units

In addition, the new ASHRAE standards are incorporated into the Standard Work Specifications published by NREL, which the Department is currently incorporating. Additional training for Subgrantees will be handled on an

ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees, etc. Training for program monitors so that they can monitor for compliance with all requirements will be handled via the webinar and in-house on an as-needed basis. Training and Technical Assistance staff will ensure compliance with ASHRAE 62.2-2013 during technical assistance visits to Subgrantees, and Monitors will ensure compliance with ASHRAE 62.2-2013 when they review completed units.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Client shall be provided with combustion safety and hazards information, including the importance of using exhaust ventilation when cooking and the importance of keeping burners clean to limit the production of CO.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Weatherization agencies shall require subcontractors to dispose of old Heating/cooling systems as part of the repair/installation job. All weatherization agencies and subcontractors must follow local and state regulations when disposing of old Heating/cooling systems components and /or fuels.
<b>Combustion Gas Problem Discovery:</b> Provide a narrative describing the process to be followed when combustion gas testing reveals health and safety concerns.
All homes with combustion appliances shall be tested to determine if carbon monoxide levels exceed those recommended by the Texas Weatherization Technical Standards, EPA, OSHA, and gas utilities. The existing primary standards for Ambient Air Quality, per EPA, are 9 parts per million (ppm) measured over 8 hours, and 35 ppm measured over 1 hour. OSHA standards for CO exposure: The OSHA PEL is 50 ppm. OSHA standards prohibit worker exposure to more than 50 parts of the gas per million part of air averaged during an 8-hour time period.
The Texas TAC requires that crews/contractors investigate and correct steady state CO readings > 200 ppm from gas ovens and >25ppm for cook-top burners. Crews/contractors must also investigate and correct steady-state CO readings > 100 ppm for gas water heaters, and furnaces/space heaters. Combustion air requirements and availability must be calculated for all combustion appliances. When combustion gas testing reveals health and safety concerns, clients shall be notified of the health and safety concern, and the concern shall be remedied to remove the health and safety risk if it can be remedied within the scope of the DOE WAP. If it cannot be satisfactorily remedied within the scope of the DOE WAP, the work may have to be deferred. Clients shall be notified both in writing and verbally, and crews/contractors shall make every reasonable effort to refer the client to other resources.
Should crew members or occupants show any signs of CO poisoning, proper first aid protocols should be followed, including getting them to fresh air right away and seeking immediate medical attention. Common symptoms of CO exposure include: headaches, dizziness and drowsiness. More severe symptoms include: nausea, vomiting, tightness across the chest. Severe carbon monoxide poisoning can cause neurological damage, illness, coma and death.

**Drainage - gutters, down spouts, extensions,  
flashing, sump pumps, landscape, etc.**

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.
<b>X-Concur with WPN 11-6</b>   Major drainage issues are beyond the scope of the WAP. Homes with conditions

	that may create a serious health concern that requires more than incidental repairs should be deferred. See Mold and Moisture guidance below.
<b>Funding:</b>	State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
	DOE funds may not be used to address major drainage issues. The cost to address the drainage issues must not exceed the total cost of all weatherization measures.
<b>Beyond Scope of DOE WAP:</b>	Describe how the issue will be treated if beyond the scope of DOE WAP.
	If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
<b>Standards for Remedy:</b>	Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.
	Major drainage issues are beyond the scope of the WAP. Homes with conditions that may create a serious health concern that require more than incidental repair shall be deferred. Visual inspection and observation shall be the primary mechanism for detecting drainage issues.
<b>Standards for Deferral:</b>	Describe when deferral should take place for the specific health and safety category.
	Deferral should be exercised when major drainage issues are present and could present a serious health risk and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral section above.
<b>Standards for Referral:</b>	Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
	Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as code violations, structural issues or serious drainage issues. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b>	Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
	On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
	The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
	Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b>	Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
	Client education shall include, but not be limited to, the importance of cleaning and maintaining drainage systems.
<b>Disposal Procedures:</b>	Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
	State and local codes and regulations shall always be adhered to for proper disposal procedures.

### Electrical, other than Knob-and-Tube Wiring

<b>Concurrence or Alteration:</b>	Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room
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for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Minor electrical repairs are allowed where health or safety of the occupant(s) may be at risk. Upgrades and repairs are allowed when necessary to perform specific weatherization measures.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.	
Aluminum wiring should be thoroughly inspected before any insulation work is done. If aluminum wiring is found to be active and in the areas to be insulated, no insulation should be added.	
When electrical repairs within the scope of the DOE WAP are required, the typical standard of remedy shall be to sub-contract the repair work to a licensed electrician. All appropriate procurement procedures shall be followed when sub-contracting.	
Testing shall include visual inspection, as well as voltage drop and voltage detection testing.	
<b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.	
Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems are beyond the scope of the DOE WAP, such as certain electrical problems which fall outside of the scope of the DOE WAP because they require more than incidental minor repair. For additional deferral criteria, see deferral section above. If electrical wiring and circuitry is found to be in such a condition as to be a serious safety risk, work should be deferred until the electrical safety issue has been satisfactorily corrected. Client and/or building owner must be informed of the safety risk.	
<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.	
Referral should be made when problems are identified that go beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.	
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.	
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .	
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .	
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.	
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.	
Provide information on overloading circuits and electrical safety and risks.	

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall always be adhered to for proper disposal procedures and protocols.

### Electrical, Knob-and-Tube Wiring

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Minor upgrades and repairs necessary for weatherization measures and where the health or safety of the occupant(s) is at risk may be allowed.
<b>TDHCA concurs with refined guidance</b>	<b>However, TDHCA prohibits installing insulation over knob-and-tube wiring. Thus, insulating over knob-and-tube wiring is not allowable under Texas WAP field standards.</b>

**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used except to install insulation over knob-and-tube wiring which is not allowable. Funds may be used only for minor repairs and upgrades as stipulated above.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Prior to insulating around Knob and Tube wiring, barriers must be installed to keep insulation at least three inches from the K&T. Subgrantees must follow the Best Practice on K&T wiring as well as the Weatherization Field Guides <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, such as certain electrical problems. In the specific instance where active knob-and-tube wiring is present and it presents a safety risk, weatherization work may have to be deferred until the electrical safety issue has been adequately addressed.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under



Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Provide information to client on over-current protection, overloading circuits, and basic electrical safety/risks.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes shall be adhered to for proper disposal procedures and protocols.

### Fire Hazards

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Correction of fire hazards is allowed when necessary to safely perform weatherization.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

At all times, crews/contractors are to look for potential fire hazards.

Crews/contractors and auditors shall check for potential fire hazards in the home during the audit and while performing the weatherization work.

Fire hazards must be remedied. If the remedy falls within the scope of the DOE WAP, the crew shall remedy the situation to eliminate the fire hazard they identified.

If the remedy required to remove the fire hazard goes beyond the scope of the DOE WAP, weatherization work may have to be deferred until the fire hazard has been eliminated. Proper referral and deferral protocols shall be followed.

Clients must be notified of any identified fire hazards and noted in client file.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

When the crew or a sub-contractor working within the scope of the DOE WAP is unable to rectify the fire hazard, deferral protocols should be exercised.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

<p>A referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. In some instances, it is recommended to have the local fire authority inspect the home to ensure that the fire hazard has been fully remedied. If there are elderly persons, persons with disabilities, or small children in the home and the fire hazard that was identified poses a serious risk to their safety, the agency might consider contacting the local fire marshal.</p>
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>
<p>State-wide training specific to OSHA 10 &amp; 30 were conducted during the ARRA WAP.</p>
<p>“Potential Fire Hazards in a Home” is posted on the Department Website under Health and Safety: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p>
<p>Subgrantees are encouraged to have local fire department conduct trainings for staff.</p>
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this [issue of fire hazards] is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>
<p>Clients, occupants, and building owners/landlords will be notified in writing of potential fire hazards identified during the initial inspection performed by the Assessor. “Potential Fire Hazards in a Home” is posted on the Department Website under Health and Safety: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p>
<p><b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes shall always be adhered to for proper disposal procedures and protocols.</p>

<b>Formaldehyde, Volatile Organic Compounds (VOCs), and other Air Pollutants</b>	
<p><b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.</p>	
<p><b>Concur with WPN 11-6</b></p>	<p><b>Removal of pollutants is NOT allowed by WAP workers. Removal of pollutants must be done by the client or a contracted professional, prior to weatherization work being performed. If pollutants pose a risk to workers and removal cannot be performed by a professional or the client refuses to remove the pollutants, the unit must be deferred.</b></p>
<p><b>X-Non-Concurrence: TDHCA guidance</b></p>	
<p><b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>	
<p>DOE funds may not be used to remove pollutants without Department approval.</p>	
<p><b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.</p>	
<p>If the identified pollutants pose a risk to workers and removal cannot be performed because it goes beyond the scope of the DOE WAP, or if the client will not allow the removal of the pollutants, the unit will be deferred.</p>	
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety</p>	

categories, like combustion gases, require testing.

Sensory inspection shall be the primary detection method.

Formaldehyde is a naturally occurring substance in the environment and is made of carbon, hydrogen and oxygen. Formaldehyde is also a by-product of combustion: cars and trucks emit formaldehyde, as does burning wood. Formaldehyde does not accumulate in the environment because it is broken down within a few hours by sunlight or by bacteria present in soil or water. Neither does it accumulate in the body, as humans metabolize formaldehyde quickly.

One of the most important uses of formaldehyde is in adhesives, which are used in the production of wood composite products that are extensively used in furniture, kitchen cabinets, counters and flooring. While small quantities of formaldehyde gas can be emitted from various wood composite products, very little formaldehyde is present in a form that can be released. These low-level emissions diminish over time.

Formaldehyde is an extensively regulated material. Mandatory government regulations set standards to protect human health and the environment. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has standards for workplace exposures to formaldehyde. Texas WAP agencies shall follow the OSHA standards regarding workplace exposures to formaldehyde to ensure worker safety.

Volatile organic compounds (VOCs) are organic chemical compounds that have high enough vapor pressures under normal conditions to significantly vaporize and enter the earth's atmosphere. VOCs include a variety of chemicals, some of which may have short- and long-term adverse health effects. Concentrations of many VOCs are consistently higher indoors (up to ten times higher) than outdoors. VOCs are emitted by a wide array of products numbering in the thousands. Examples include: paints and lacquers, paint strippers, cleaning supplies, pesticides, building materials and furnishings, office equipment such as copiers and printers, correction fluids and carbonless copy paper, graphics and craft materials including glues and adhesives, permanent markers, and photographic solutions.

Organic chemicals are widely used as ingredients in household products. Paints, varnishes, and wax all contain organic solvents, as do many cleaning, disinfecting, cosmetic, degreasing, and hobby products. Fuels are made up of organic chemicals. All of these products can release organic compounds while you are using them, and, to some degree, when they are stored.

EPA's Office of Research and Development's "Total Exposure Assessment Methodology (TEAM) Study" found levels of about a dozen common organic pollutants to be 2 to 5 times higher inside homes than outside, regardless of whether the homes were located in rural or highly industrial areas. Some of the more common household sources of VOCs include: paints, paint strippers, and other solvents; wood preservatives; aerosol sprays; cleansers and disinfectants; moth repellants and air fresheners; stored fuels and automotive products; hobby supplies; dry-cleaned clothing.

Health effects of exposure to VOCs include: eye, nose, and throat irritation; headaches, loss of coordination, nausea; damage to liver, kidney, and central nervous system. Key signs or symptoms associated with exposure to VOCs include conjunctival irritation, nose and throat discomfort, headache, allergic skin reaction, dyspnea, declines in serum cholinesterase levels, nausea, emesis, epistaxis, fatigue, dizziness.

The ability of organic chemicals to cause health effects varies greatly from those that are highly toxic, to those with no known health effect. As with other pollutants, the extent and nature of the health effect will depend on many factors including level of exposure and length of time exposed. Eye and respiratory tract irritation, headaches, dizziness, visual disorders, and memory impairment are among the immediate symptoms that some people have experienced soon after exposure to some organics. At present, not much is known about what

health effects occur from the levels of organics usually found in homes.

All reasonable steps shall be taken to limit worker exposure to VOCs. When using products known to emit VOCs, increase ventilation. Meet or exceed any label precautions. Identify, and if possible, remove the source. If not possible to remove, reduce exposure by using a sealant on all exposed surfaces of paneling and other furnishings. Educate clients regarding the use of integrated pest management techniques to reduce the need for continued use of pesticides. Properly dispose of partially full containers of old or unneeded chemicals. Because gases can leak even from closed containers, this single step could help lower concentrations of organic chemicals in the home and/or workplace. Do not simply toss these unwanted products in the garbage can. State and local codes and regulations regarding disposal of toxic household wastes must be followed.

There are certain specific VOCs that require limited exposure guidelines:

Keep exposure to emissions from products containing **methylene chloride** to a minimum. Consumer products that contain methylene chloride include paint strippers, adhesive removers, and aerosol spray paints. Methylene chloride is converted to carbon monoxide in the body and can cause symptoms associated with exposure to carbon monoxide. Carefully read the labels containing health hazard information and cautions on the proper use of these products. Use products that contain methylene chloride outdoors when possible; use indoors only if the area is well ventilated.

Keep exposure to **benzene** to a minimum. Benzene is a known human carcinogen. The main indoor sources of this chemical are environmental tobacco smoke, stored fuels and paint supplies, and automobile emissions in attached garages. Actions that will reduce benzene exposure include eliminating smoking within the home/workplace, providing for maximum ventilation during painting, and discarding paint supplies and special fuels that will not be used immediately.

Keep exposure to **perchloroethylene** emissions from newly dry-cleaned materials to a minimum. Perchloroethylene is the chemical most widely used in dry cleaning. Recent studies indicate that people breathe low levels of this chemical both in homes where dry-cleaned goods are stored and as they wear dry-cleaned clothing. Taking steps to minimize exposure to this chemical is prudent.

No standards have been set for VOCs in non-industrial settings. OSHA regulates formaldehyde, a specific VOC, as a carcinogen. OSHA has adopted a Permissible Exposure Level (PEL) of .75 ppm, and an action level of 0.5 ppm. HUD has established a level of .4 ppm for mobile homes. Based on current information, it is advisable to mitigate formaldehyde that is present at levels higher than 0.1 ppm.

TEXAS WAP crews/contractors shall take every precaution necessary to minimize exposure to air pollutants. When using chemicals and products that may contain any of the pollutants within this category, strict adherence to label instructions and precautions shall be required. Known pollutants must be removed by the client or a contracted professional prior to performance of weatherization work.

For additional information regarding indoor air pollutants, the EPA booklet, "Indoor Air Pollution: An Introduction for Health Professionals," is available at: <http://www.epa.gov/iaq/pubs/hpguide.html> . Additional resources are available at <http://www.epa.gov/iaq/index.html>

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols. If the pollutant cannot be removed because the client is unwilling to remove it, or exposure cannot be safely and adequately minimized, weatherization work may have to be deferred to ensure the safety of the crew. Clients must always be informed of potential pollutant hazards.

<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
A referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations, or the presence of hazards that may pose a health risk to workers and occupants. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
Guidance on how to recognize potential hazards and when removal is necessary is posted to the Department Website: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Always inform the client/occupant/building owner of observed condition and associated health risks. Provide written materials on safety and proper disposal of household pollutants. Such material is often located on the product label. There are additional written materials at the EPA website listed above.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations must always be adhered to when disposing of toxic household wastes.

<b>Injury Prevention of Occupants and Weatherization Workers – Measures such as repairing stairs and replacing handrails.</b>	
<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>Concur with WPN11-6</b>  <b>X-TDHCA refined guidance</b>	Workers must take all reasonable precautions against performing work on homes that will subject workers or occupants to health and safety risks. Porch or stair repairs that would be required to make a home safe for weatherization workers are not an allowable measure in the program. Such situations are considered to be beyond the scope of Texas WAP.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may not be used, as stipulated above.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing	

protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.
If the crew encounters a situation where a stair case or porch is deemed unsafe and the stair case or porch is necessary to reach the area where the crews/contractors need to perform the weatherization work, and no other access is available, then weatherization work shall be deferred until the home owner has satisfactorily installed the required repair(s).
As part of the safety for crew and assessors will indentify health and safety hazards according the OSHA method "Focus Four" which includes, electrical, fall protection, caught in and between, and stuck-by hazards. The client will be informed in writing of any hazards and the associated risks that may have been observed.
<b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.
See above.
<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such code violations or safety issues requiring repairs that go beyond the scope of the DOE WAP. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
During the ARRA WAP, OSHA Training was provided by AEHS Inc. of San Antonio Texas. AEHS holds OSHA Construction Outreach Trainer Certificates, issued US Department of Labor. AEHS is authorized to conduct OSHA 10 and 30 Curricula. The Department required all weatherization crew members to obtain OSHA 10 certificates and supervisors to obtain OSHA 30 certificates. The training included the OSHA method of "Focus Four," which includes Electrical, Fall Protection, Struck By, and Caught In and Between. The Curricula and attendance sheets are available upon request. The regional training plan includes certification training for new staff.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Inform client/building owner of observed hazards and their associated risks.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall always be followed regarding the proper disposal procedures and protocols.

### Lead Based Paint

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or
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choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Follow EPA's Lead; Renovation, Repair and Painting Program (RRP) rule which was implemented April 21, 2010. In addition to RRP, Weatherization requires all weatherization crews/contractors working in pre-1978 housing to be trained in Lead Safe Weatherization (LSW). Deferral is required when the extent and condition of lead-based paint in the house would potentially create further health and safety hazards.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

In April 2008, EPA published the "Lead; Renovation, Repair, and Painting Program" (LRRPP) final rule. This rule specifically cites Weatherization activities (in the context of "renovation") in several places and has a direct impact on how the WAP proceeds in implementing LSW. **Note: the EPA Final Rule with an effective date of April 21, 2010, requires Certified Renovators to be onboard with Subgrantee crews/contractors or contractors, and performing all the EPA required functions on all pre-1978 housing that has not been determined as exempt by approved protocols.**

DOE further requires all Grantee Monitors/Inspectors be Certified Renovators in order to effectively monitor against the EPA requirements and trained in LSW in order to effectively monitor against LSW minimum requirements. These requirements are outlined in WPN 11-1. Texas is currently in compliance with the Final RRP rule with most crew members having achieved Certified Renovator status. The Texas WAP training staff members are Certified Renovators. This certification will expire in 2015, and the regional training plan includes recertification.

Texas recommends assuming that lead paint may be present in any house built prior to 1978 and to follow the proper DOE LSW protocols, OSHA regulations and EPA regulations in all pre-1978 homes. Unless they were remodeled and paint and varnish added to mobile homes prior to 1978, mobile homes are exempt because lead was not used in the original manufacture of mobile homes. However, crews/contractors must be alert to any remodels that could have contained lead-based paint or varnish when addressing mobile homes. Subgrantees must not assume that all mobile homes are categorically exempt. Any home built before 1978, or any mobile home remodeled using paints and varnishes prior to 1978, may contain lead-based paint. These paints should be considered "guilty until proven innocent" by way of testing.

Texas has fully implemented the EPA final RRP rule and most crew members are Certified Renovators.

In all pre-1978 homes, crews/contractors must assess the physical condition of the home prior to conducting an audit. Why is this necessary? Air movement from a blower door or duct blaster may disturb and circulate lead dust throughout the home. If the home has noticeable paint damage (flaking) or there is an appreciable amount of dust, the blower door and/or duct blaster tests must not be run until after lead testing per EPA RRP rules has shown that no lead is present in the painted surfaces of the home. If the paint is confirmed to have lead, the blower door test should not be conducted to avoid further distribution of lead dust throughout the home.

Testing is allowed per RRP requirements. Job site set up and cleaning verification is required by a Certified

Renovator.

Texas WAP crews/contractors will use LSW work practices that decrease the amount of dust generated. For example:

- Working dry will generate a lot of dust.
- Containing dust with plastic and using wet methods will generate less dust.
- Containing dust with plastic and using wet methods along with HEPA-attached equipment will generate even less dust.

Texas WAP crews/contractors shall avoid creating and spreading dust by following all DOE LSW guidance and training and by following the RRP guidelines and practices. At minimum, Texas crews/contractors will:

- Use low-dust work practices (using shrouds on power tools such as drills, misting down surfaces with water before drilling, etc.)
- Contain the work area per the RRP rules and regulations (6 mil or greater plastic is recommended)
- Keep dust contained to the immediate work area. Do not track dust out of the prepared and contained work area.
- Thoroughly clean the area after the work is completed per the RRP rules and standards. Pre- and Post-digital pictures are required as part of the LSW compliance documentation.
- All occupants must be kept away from the work areas. Warning signs as per the RRP standards must be posted.
- Workers must wear proper respiratory protection for lead dust when working in a leaded work area.

At all times, Texas WAP workers shall:

- Follow LSW and RRP and other EPA requirements
- Adhere to OSHA standards for worker safety
- Follow state and local requirements

As a minimum guideline, the following weatherization activities require lead-safe practices. (Note that this is not a complete list of weatherization activities that may create lead hazards, so it is important to train all workers to follow LSW measures whenever they disturb or could potentially disturb painted surfaces on buildings built prior to 1978.)

- Drilling holes in interior walls
- Drilling holes in and removing siding from exterior walls
- Cutting attic access into ceilings
- Removing caulk or window putty (interior)
- Removing caulk or window putty (exterior)
- Removing weatherstripping
- Modifying doors
- Planing doors in place
- Installing door shoes
- Replacing door jambs and thresholds
- Replacing windows
- Replacing thermostats
- Replacing furnace filters
- Replacing furnaces
- Replacing HEPA filters and cleaning HEPA vacuums at a weatherization facility
- Replacing HEPA filters and cleaning HEPA vacuums at the work site

Crews/contractors must follow all client notification requirements:

- Homes weatherized before December 22, 2008 – “Protect Your Family From Lead in Your Home” EPA

pamphlet;

- Homes weatherized after December 22, 2008 – “Renovate Right: Important Lead Hazard Information for Families, Child care Providers, and Schools” EPA pamphlet.
- The client file must include signed documentation that the client received the Renovate Right pamphlet. No exceptions.

All Texas WAP Subgrantees shall be monitored for compliance with LSW Minimum Standards and EPA RRP requirements. When a Subgrantee is found to be out of compliance, the Subgrantee shall be given a corrective action plan that will require training crews/contractors to ensure that all requirements are being met and to ensure compliance. TDHCA provides additional guidance through Best Practices, FAQs, forms and flowcharts at: <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

***Digital photo documentation must also be included. Even when a home tests negative for lead, the test form must be completed and placed in the client file.***

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

When it is determined that the level of lead present in the home is so high that it presents a hazard to workers, the weatherization work should be deferred until a licensed lead abatement professional has eliminated the health hazard. Clients will always be notified regarding lead-based paint and its potential health hazards. If the lead dust is so wide spread in the home that it would be impossible to contain, the weatherization work should be deferred until a lead abatement professional has removed the health hazard. Deferral is required when the extent and condition of lead-based paint in the house would potentially create further health and safety hazards.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, high levels or extensive lead content or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources. In severe lead contamination situations, it may be necessary to make a referral to a lead paint risk assessment and abatement professional through Texas Department of State Health Services at: <http://www.dshs.state.tx.us/elp>

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

Texas has trained and certified 719 crew members/staff as Lead Safe Renovators during ARRA. Texas is in compliance with the RRP stipulation that crews/contractors working on pre-1978 homes be accompanied by an EPA certified renovator. The Texas WAP training staff are all Certified Renovators. The State monitors are also certified renovators as required by the EPA RRP Rule. Each Subgrantee will have one RRP certified person and all contractors doing WAP work will have LSR available to the worksite as per RRP rules. Texas is currently in compliance with the Final RRP rule with most crew members having achieved Certified Renovator status. Recertification was offered at the state association annual conference.

In addition, WxTV videos on Lead Safe Practices are available to all crew members and WAP staff at: <http://www.tdhca.state.tx.us/community-affairs/wap/wap-training-videos.htm>

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like

mold and moisture, require client education.
Texas WAP crews/contractors will follow all RRP requirements for client education.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Texas WAP crews/contractors will follow all EPA RRP requirements for disposal as well as state and local code requirements.
<b>Lead Based Paint Compliance:</b> Provide a narrative describing how RRP and LSW implementation will be conducted and how the grantee will verify compliance. The explanation should clearly show an understanding that LSW and RRP are separate requirements and both are required to be met.
All Texas WAP Subgrantees shall be monitored for compliance with LSW Minimum Standards and EPA RRP requirements. When a Subgrantee is found to be out of compliance, the Subgrantee shall be given a corrective action plan that will require training crews/contractors to ensure that all requirements are being met and to ensure compliance. Texas created the following Lead Safe Flowchart for the purpose of ensuring that crews/contractors follow all important protocol steps.
REFERENCE: Lead Safe Best Practice is available at: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm">http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm</a>
Lead Safe Work resources are available under Lead Safe Work at: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>
The completion of all required forms and documentation for the client file are posted on-line. A Quality Control Blitz was conducted with agencies to detail all necessary positive and negative documentation required to meet EPA RRP requirements.
Compliance with LSW and RRP requirements are monitored as part of grantee monitoring of the Subgrantees. Texas has already implemented both LSW and RRP requirements. Additionally, Texas monitors compliance by requiring pre- and post- digital photos. It is required that photos be taken of all aspects of LSW and RRP protocols. This best practice provides back up evidence that a test was conducted and shows the result of the test, etc.

### Mold and Moisture

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Limited water damage repairs can be addressed by weatherization workers and correction of moisture and mold creating conditions are allowed when necessary in order to weatherize the home and to ensure the long term stability and durability of the measures. Where severe mold-like substance and moisture issues cannot be addressed, deferral is required.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used as stipulated above.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	

<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>
<p>Visual assessment is required and diagnostics such as moisture meters are recommended pre and prior to final inspection. Per Texas Technical Standards, all units must be inspected for problems associated with excess moisture. Identification of potential moisture problems shall be documented in the client file. Moisture can be addressed as prescribed in the Texas Weatherization Field Guides: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p>
<p><b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.</p>
<p>When mold or mold like substances are identified deferral is required.</p>
<p><b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, health and safety issues such as severe mold which cannot be adequately addressed within the scope of the DOE WAP. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>
<p>The DOE power-point presentation training on Mold and Moisture given by Michael Vogel of MSU Weatherization Training Center is available to all Subgrantees through TDHCA's website: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/wap-training-videos.htm">http://www.tdhca.state.tx.us/community-affairs/wap/wap-training-videos.htm</a> . Other resources available: <a href="http://www.healthyindoorair.org">www.healthyindoorair.org</a> , <a href="http://www.affordablecomfort.org">www.affordablecomfort.org</a> , <a href="http://www.buildingscience.com">www.buildingscience.com</a> , <a href="http://www.homemoisture.org">www.homemoisture.org</a></p> <p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>
<p>Provide client notification and disclaimer on mold-like substances and moisture awareness. The unified weatherization form that identifies if there are mold-like substances, must be included in the client files, regardless of whether there is mold-like substance in the home or not. A <b><i>Mold -Like Substance Notification and Release Form for Texas Weatherization Programs</i></b> must be filled out if mold or mold-like substances are found in the home. Texas Department of State Health Services, <b><i>Consumer Mold Information Sheet</i></b> is required to be given to clients who have moisture problems or mold-like substances, as part of client education.</p>
<p><b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes and regulations must always be followed to ensure proper disposal procedures and protocols.</p>
<p><b>Mold Protocols:</b> Provide a narrative describing protocols for addressing mold found in the client's homes. The protocol should include a method of identifying the presence of mold during the initial audit or assessment, notification to the client, and crew training on how to alleviate mold and moisture conditions in homes.</p>
<p>The primary method of detecting mold and moisture issues shall be visual assessment and diagnostics such as moisture meters, infrared imaging, etc. Visual inspection of moisture creating conditions shall be conducted as</p>

part of the whole house energy audit.

The assessment shall assure existing mold-like conditions are noted, documented and disclosed to the client; and, shall assure existing building envelope conditions do not contribute to mold-like growth when weatherization measures are applied. Mold-like substance assessment means a visual assessment combined with certain allowable diagnostics. It does not mean testing for mold. **DOE funds may not be used to test for mold-like substances.**

Texas WAP crews/contractors shall follow the Mold/Moisture Assessment Checklist when conducting the mold-like substances assessment at the time of the audit.

Assessment shall include a general examination of the building, to include:

- Examine structure, maintenance activities, occupancy patterns
- Visually look for mold-like substances and water staining
- Look for evidence of standing water
- Look for evidence of condensation
- Check basement or crawl space and attic for proper venting and exhaust

Outdoors:

- Soil grade or drainage toward foundation
- Standing water adjacent to foundation
- Wall and roof damage allowing water intrusion
- Missing or blocked rain gutters
- No downspout extensions
- Firewood stacked adjacent to house
- Excessive shrubbery around foundation

Heating/cooling systems:

- Air intakes: debris (organic) vs. clean air
- Filters: dirty, damp, poor type
- Heat exchangers: dirty & damp coils, condensate pans, drainage, stagnant water
- Ducts: contamination, moisture

Occupied Space:

- Plumbing leaks
- Water stains on walls, ceilings and around windows
- Musty odor
- Surface Condensation (especially during mild weather)
- Mold-like substances on carpeting
- Humidifiers
- Window air conditioners
- Lack of bathroom, kitchen exhaust
- Clothes dryer not vented to outside
- Firewood stored indoors
- Wet clothes drying indoors

### Occupant Preexisting or Potential Health Conditions

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.



<p><b>Concur with WPN 11-6</b></p> <p>X-TDHCA refined guidance</p>	<p><b>When a person’s health may be at risk and/or the work activities could constitute a health or safety hazard, the occupant at risk will be required to take appropriate action based on severity of risk. When relocation of a client is needed the client shall make all reasonable attempts to relocate; if the client is unable to make such arrangements, then the agency should request authorization from the Department for relocation. Failure or the inability to take appropriate actions must result in a deferral.</b></p>
<p><b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>	
<p>DOE funds may not be used as stipulated above.</p>	
<p><b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.</p>	
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>	
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>	
<p>Texas WAP is incorporating a brief client health survey to be taken during the application process (this may be done in person, mail, or by phone) and verified during the energy audit. That survey information shall be given to the auditor prior to the audit visit. The auditor will at the time of audit interview the client in more depth regarding any occupant pre-existing or potential health conditions or concerns (such as allergies).</p>	
<p>Occupant pre-existing or potential health conditions shall be documented in the client file. Crews/contractors will advise client of the above policy and take the appropriate actions. If client refuses relocation, proper referral and deferral protocols shall be followed and documented.</p>	
<p><b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.</p>	
<p>The failure or inability of at-risk occupants to take appropriate actions must result in deferral.</p>	
<p><b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>	
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such health risks to workers, or high CO levels or exposure to VOCs or mold-like substances. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>	
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>	
<p>A Health &amp; Safety Questionnaire/ Checklist for use by Subgrantees can be found under Client and Field Assessment Forms on the Department Website: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a></p>	
<p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p>	
<p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p>	
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>	
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>	

Provide client information of any known risks. Provide worker contact information so client can inform of any issues.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### **Occupational Safety and Health Administration (OSHA) and Crew Safety**

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Workers must follow OSHA standards and Material Safety Data Sheets (MSDS) and take precautions to ensure the health and safety of themselves and other workers. MSDS must be posted wherever workers may be exposed to hazardous materials.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

OSHA 10-hour training for all crew level WAP employees

OSHA 30-hour training for all crew leaders

All OSHA training shall be updated as required and kept current. MSDS must be present at the work sites.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Weatherization work may be deferred if doing the work would put crews/contractors at undue health and safety risk.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations, or conditions that pose a health or safety risk to crews/contractors and/or clients. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
N/A
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
Follow MSDS guidelines and all state and local codes.
<b>OSHA and MSDS Compliance:</b> Provide a narrative describing procedures for implementation of OSHA and MSDS requirements related to crew and worker safety, how the 10 and 30 hour training requirements will be met, and what the process is for determining if crews/contractors are utilizing good safe work practices according to all requirements (EPA, OSHA, etc.).
<p>OSHA 10-hour training for all crew level WAP employees</p> <p>OSHA 30-hour training for all crew leaders</p> <p>All OSHA training shall be updated as required and kept current</p> <p>Consistent posting of MSDS wherever crews/contractors may be exposed to hazardous materials</p> <p>Webinars will be explored as an additional training opportunity</p> <p>The process for determining whether crews/contractors are utilizing good safe work practices relies on visual assessment when monitoring crews/contractors on the job site. Lack of injury and incident reports is also a valuable indicator that crews/contractors are following safe work practices. Ask to see MSDS when monitoring at the job site if hazardous materials are being used. Check for posting of MSDS in WAP facilities when monitoring.</p>

<b>Pests</b>	
<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>Concur with WPN 11-6</b>	<b>Pest removal is allowed only where infestation would prevent weatherization or poses a health and safety concern for workers. Infestation of pests may be cause for deferral where it cannot be reasonably removed or poses health and safety concern for workers.</b>
<b>X-TDHCA refined guidance</b>	
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used as stipulated above.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.	
Initial assessment of presence and degree of infestation and risk to workers.	
Determine whether the pest infestation would prevent or hamper the weatherization work. If yes, and removal is a viable and cost-effective option, take the necessary steps to remove the pest infestation problem so that the weatherization work can proceed. If yes, and removal is not a viable and cost-effective option or significant health and safety risks exist, defer the weatherization work and provide client with appropriate referral information. If no, proceed as usual.	

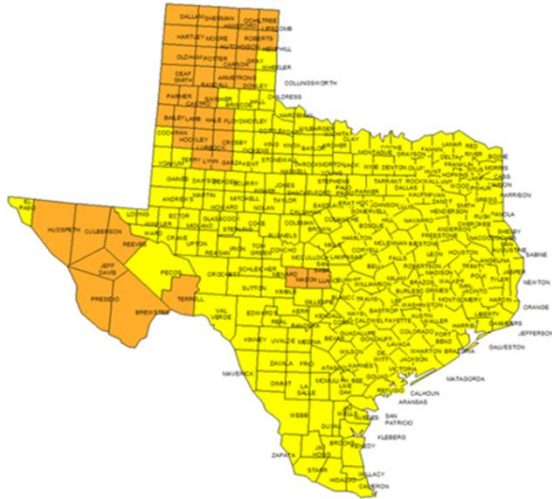
Inform client of observed pest condition and associated risks. Document in client file.
<b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.
Infestation of pests may be cause for deferral where it cannot be reasonably removed or poses health and safety risks for workers.
<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as infestations or hazardous pests (Texas has many poisonous snakes). Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
See “Pests” Best Practice posted to Department Website: <a href="http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm">http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm</a>
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Inform client of observed condition and associated risks.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedure and protocols.

<b>Radon</b>	
<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Whenever site conditions permit, exposed dirt must be covered with a vapor barrier except for mobile homes. In homes where radon may be present, precautions should be taken to reduce the likeliness of making radon issues worse.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety	

categories, like combustion gases, require testing.

Testing may be allowed in locations with high radon potential. Texas does NOT have any “high radon potential” areas. SEE map of Radon Zones for Texas below. This information may be located at: <http://www.epa.gov/radon/states/texas.html>

The purpose of this map is to assist National, State and local organizations to target their resources and to implement radon-resistant building codes.



What do the colors mean?

**Red** = zone 1 = highest potential = counties have a predicted average indoor radon screening level greater than 4pCi/L (picocuries per liter). A curie is a unit quantity of any radioactive nuclide in which  $3.7 \times 10^{10}$  disintegrations occur per second. A Pico equals one trillionth ( $10^{-12}$ ) part of; very small. Thus a picocurie is one trillionth of a curie. A picogram is one trillionth of a gram.

**Orange** = zone 2 = moderate potential = counties have a predicted average indoor radon screening level between 2 and 4 pCi/L.

**Yellow** = zone 3 = low potential = counties have a predicted average indoor radon screening level

Texas will ensure that all Subgrantee crews/contractors are trained regarding radon. The following remedies shall be followed:

In all instances where site conditions permit, exposed dirt must be covered with 6 mil plastic sheeting with seams well-taped and sealed to act as a vapor barrier against radon gases. This should not be done under mobile homes, however.

Precautions should always be taken to reduce the likeliness of making radon issues worse.

Seal cracks and other openings in the foundation. This limits the flow of radon into the home and can make other radon reduction techniques more effective and cost-efficient. This type of sealing can be done in all types of homes.

Further remedies may be added as additional guidance is provided by DOE.

Discounted test kits are available from the National Radon Program Services at Kansas State University. Go to: <http://sosradon.org/test-kits>

Some home improvement stores sell radon test kits. Follow directions on packaging for the proper placement of the device and where to send the device after the test to get the reading.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral policy.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

The EPA recommends fixing homes if the radon level is confirmed to be 4 pCi/L or higher. This is considered the action level. Radon levels less than 4 pCi/L still pose a risk, and in many cases may be reduced. Provide the EPA Consumers Guide to Radon Reduction booklet to clients living in homes with confirmed radon levels of 4 pCi/L or higher. This guide can be found at: <http://www.epa.gov/radon/pubs/consguid.html>

Texas State Radon Officer:

Kay Soper  
Texas Department of State Health Services  
P.O. Box 149347, Mail Code 1987  
Austin TX, 78714  
(800) 293-0753  
(512) 834-6787  
[kay.soper@dshs.state.tx.us](mailto:kay.soper@dshs.state.tx.us)

Additional referral resources: <http://www.epa.gov/radon/states/texas.html> or [www.epa.gov/region8](http://www.epa.gov/region8)  
Radon publications in print can be downloaded, most are in HTML and as PDF files. Go to:  
[www.epa.gov/radon/pubs](http://www.epa.gov/radon/pubs)

Radon Hotlines:

- National Radon Hotline at 1-800-SOS-RADON\* (can purchase test kits by phone);
- National Radon Helpline 1-800-55RADON (1-800-557-2366)\*;
- National Radon Fix-It Line 1-800-644-6999\* (general information on fixing or reducing the radon level in a home);
- Safe Drinking Water Hotline 1-800-426-4791 (operated under contract with EPA).

Visit [www.epa.gov/iaqtribal](http://www.epa.gov/iaqtribal) for information specifically presented for Tribal Partners.

\* = Operated by Kansas State University in partnership with EPA.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Provide client with EPA consumer's guide to radon, at minimum.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### Refrigerant

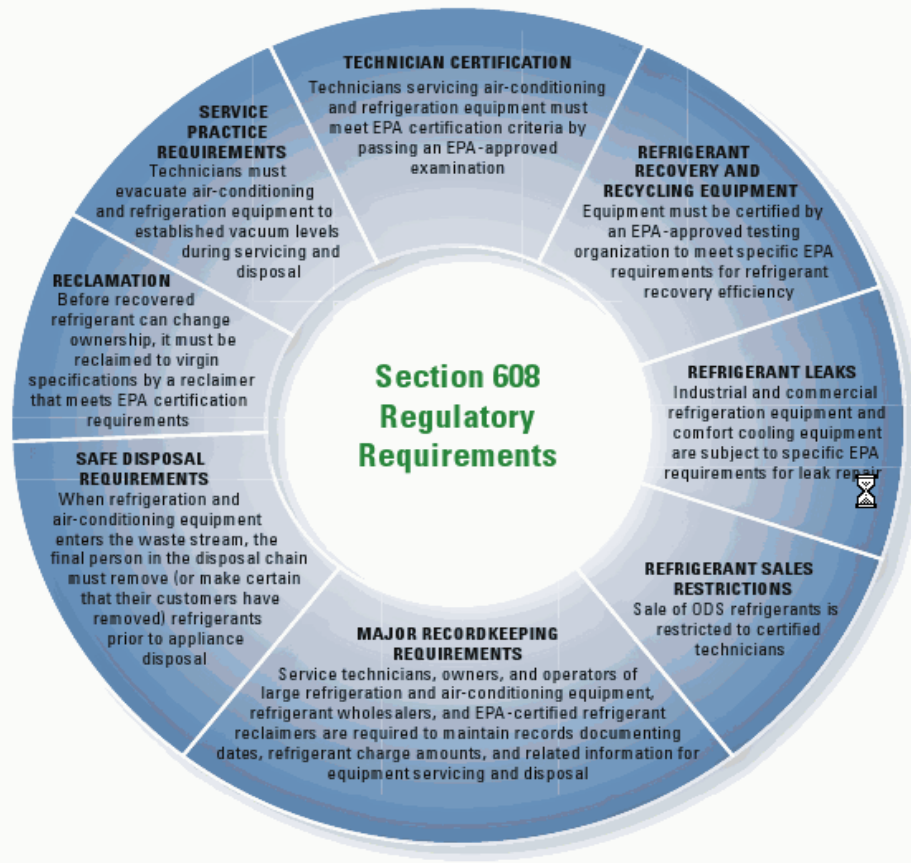
**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Reclaim refrigerant per Clean Air Act of 1990, section 608, as amended by 40 CFR 82, 5/14/93
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<p><b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>
<p>DOE funds may be used.</p>
<p><b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.</p>
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>
<p>Texas WAP Subgrantees shall ensure that sub-contractors who would be charged with refrigerant reclamation (e.g. removal of old refrigerators or air conditioning units) follow all EPA testing protocols; in accordance with the Clean Air Act of 1990, section 608, as amended by 10 CFR 21. Refrigerants shall be pumped into a recovery tank and disposed at an EPA approved site. Go to <a href="http://www.epa.gov">www.epa.gov</a> for details.</p>
<p>Clients should not disturb refrigerant.</p>
<p><b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.</p>
<p>N/A</p>
<p><b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p><a href="http://www.epa.gov">www.epa.gov</a> Clean Air Act of 1990, section 608, as amended by 40 CFR 82.</p>
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>
<p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p>
<p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p>
<p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>
<p>Clients should not disturb refrigerant.</p>
<p><b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>Follow all EPA, state and local regulations. Clean Air Act of 1990 section 608.</p>

## Section 608 Regulatory Requirements: Stationary Refrigeration and Air Conditioning



### Smoke, Carbon Monoxide Detectors, and Fire Extinguishers

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Installation of smoke/CO detectors is allowed where detectors are not present or are inoperable. Replacement of operable smoke/CO detectors is not an allowable cost. Providing fire extinguishers is allowed only when solid fuel (such as wood) is present
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used as stipulated above.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Check any existing smoke/CO detectors for functional/accurate operation.

Install smoke/CO detectors when accurately operating units do not already exist. Must follow all local codes

when installing smoke/CO detectors.

At minimum, all homes should have at least one smoke alarm on each level, including one near the combustion zone and at least one near the bedrooms. Ceiling-mounted smoke alarms must be mounted at least 6 inches from any wall. Wall-mounted smoke alarms must be installed at least 6 but less than 18 inches from the ceilings. They should always be installed according to applicable local codes or ordinances.

Don't install smoke alarms in these cases:

- In a home that already has a functioning smoke alarm
- Within 12 inches of exterior doors and windows
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A CO alarm should also be installed in accordance with SWS. CO alarms should be installed in all homes with unvented space heaters (all unvented space heaters must comply with ANSI Z21.11.2) and in all homes where backdrafting could occur in a furnace, space heater, wood stove, fireplace, or water heater. Always install CO alarms according to the manufacturer's instructions. Don't install CO alarms in these cases:

- In a room that may get too hot or cold for alarm to function properly
- Within 5 feet of a combustion appliance, vent, or chimney
- Within 5 feet of a storage area for vapor-producing chemicals
- Within 12 inches of exterior doors and windows
- Within a furnace closet or room
- With an electrical connection to a switched circuit
- With a connection to a ground-fault interrupter circuit (GFCI)

A fire extinguisher may be provided in homes whose primary heat source is wood. The fire extinguisher must be installed according to manufactures standards and local code in vicinity of the primary heating source.

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heat system/furnace that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

The client will be provided with the manufacturer's information sheet on use of smoke/CO detectors.

<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.	
State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.	
<b>Smoke/CO Detector Installation:</b> Provide a narrative describing smoke/CO Detector installation parameters and procedures.	
Check any existing smoke/CO detectors for functional/accurate operation.	
Install smoke/CO detectors when accurately operating units do not already exist.	
All homes should have at least one smoke alarm on each level, including one near the combustion zone and at least one near the bedrooms. Ceiling-mounted smoke alarms must be mounted at least 6 inches from any wall. Wall-mounted smoke alarms must be installed at least 6 but less than 18 inches from the ceilings. They should always be installed according to applicable local codes or ordinances.	
Don't install smoke alarms in these cases:	
<ul style="list-style-type: none"> <li>• In a home that already has a functioning smoke alarm</li> <li>• Within 12 inches of exterior doors and windows</li> <li>• With an electrical connection to a switched circuit</li> <li>• With a connection to a ground-fault interrupter circuit (GFCI)</li> </ul>	
A CO alarm should also be installed in accordance with SWS. CO alarms should be installed in all homes with unvented space heaters and in all homes where backdrafting could occur in a furnace, space heater, wood stove, fireplace, or water heater. Always install CO alarms according to the manufacturer's instructions. Don't install CO alarms in these cases:	
<ul style="list-style-type: none"> <li>• In a room that may get too hot or cold for alarm to function properly</li> <li>• Within 5 feet of a combustion appliance, vent, or chimney</li> <li>• Within 5 feet of a storage area for vapor-producing chemicals</li> <li>• Within 12 inches of exterior doors and windows</li> <li>• Within a furnace closet or room</li> <li>• With an electrical connection to a switched circuit</li> <li>• With a connection to a ground-fault interrupter circuit (GFCI)</li> </ul>	
Crews/contractors are required to provide the client with the manufacturer instructions.	
CO detectors must be installed in all homes when fuel-fired equipment or an attached garage exists (if functional CO detectors do not already exist). This includes: cook stoves, furnaces, water heaters, wood and coal burning stoves. Crew members must demonstrate to the client how the CO detectors work and what actions to take if the CO detector alarm sounds. The CO detector must be installed per manufacturers recommendation and be compliant with local codes.	

### Solid Fuel Heating (Wood Stoves, etc.)

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Maintenance, repair, and replacement of primary indoor heating units is allowed where occupant health and safety is a concern. Maintenance and repair of secondary heating units is allowed.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	

DOE funds may be used as stipulated above.
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.
When a fireplace inspection is required, Texas WAP crews/contractors shall in most instances, sub-contract chimney inspection, repair and/or replacement work to a qualified solid fuel heating system vendor. Crews/contractors may conduct minor maintenance activities where warranted as allowed.
Any judgments should be performed by a licensed professional. A cursory visual inspection by an assessor should be able to determine if a professional is needed. If a formal assessment is warranted, this would be a health and safety issue requiring photo documentation and receipt of services by the professional with a description of what services were performed.
If there is a traditional open masonry fireplace in the unit verify that it is operating safely. If so, then assess if a cleaning would increase efficiency. If it is not operating safely (as evidenced by backdrafting of smoke or complaints of itchy eyes or respiratory issues by the client) it should be first assessed for repair before considering replacement with a vented code-compliant heating system. An assessment by a licensed professional may be billed under <i>Health and Safety</i> , since it is being inspected for Health and Safety concerns. If maintenance or repair is determined then the maintenance or repair measures would fall under <i>Repairs</i> . If a replacement is determined then this would fall under <i>Health and Safety</i> reasons. Unless a wood burning stove/pellet stove has been maintained on a regular basis, along with annual chimney cleanings, it is unlikely that it is efficient and safety must be evaluated.
An unsafe, unrepairable open masonry fireplace would be treated similarly to that of an unvented space heater if it is the primary source of heat. The fireplace must be rendered inoperable and replaced with a vented heating unit. The type of existing fuel will dictate the replacement. If the client has a combustion fuel source (i.e. - gas, propane, etc) than seal up the fireplace and add a vented gas heater. Assess if an electric furnace would rank as a replacement for the wood burning stove by entering all the information and seeing if it ranks in MHEA/NEAT. If the furnace does not rank and the client only has electric, this may be a deferral situation since we cannot install electric space heaters as a replacement for the existing fireplace/stove. A vented stove would be handled the same as an unsafely operating furnace—you would need to assess for CO or replace, if it ranks, as an energy efficiency measure.
When replacing a wood stove in a mobile/manufactured home the new unit must be listed for use with manufactured homes and must be installed in accordance with their listings. Units that are not manufacturer approved, discovered during an initial assessment, should be replaced with an approved manufactured home appliance, under H&S.
All state and local codes must be followed.
<b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.
Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
<hr/> <p>The Texas Mechanical Systems Field Guides have been distributed to all Subgrantees and posted on the Department's website.</p> <p>Best Practices addressing worst case depressurization testing are posted on the website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm">http://www.tdhca.state.tx.us/community-affairs/wap/wap-best-practices.htm</a></p> <p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Provide safety information including how to recognize depressurization.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### Space Heaters, Stand Alone Electric

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.
<b>X-Concur with WPN 11-6</b>   Repair, replacement, or installation is <b>not</b> allowed. Removal is recommended.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.
DOE funds may not be used for repair, replacement or installation of these types of space heaters.
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety



categories, like combustion gases, require testing.
Removal is strongly recommended.
Inform client of hazards and collect a signed waiver if removal is not allowed.
<b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.
Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heating systems that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.
<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
Testing will be required to assure adequate supply of electricity is available for existing stand alone electric space heaters. This will be accomplished through the use of 3 wire circuit testers, GFI electrical outlet testers, and line voltage testers.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Inform client of hazards and collect a signed waiver if removal is not allowed.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### Space Heaters, Unvented Combustion

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>X-Concur with WPN 11-6</b>	Removal is required, except as secondary heat where the unit conforms to ANSI Z21.11.2. Units that do not meet ANSI Z21.11.2 must be removed prior to weatherization but may remain until a replacement heating system is in place.
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used for vented units.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	

<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>
<p>Check units for ANSI Z21.11.2 label</p> <p>Inform client of dangers of unvented space heaters – CO, moisture, NO<sup>2</sup>, CO can be dangerous even if the CO detection alarm does not sound.</p> <p>Removal is required if unit does not meet ANSI Z21.11.2. This must be done prior to weatherization work or in conjunction with weatherization work, however the old unit may be left in place until a replacement heating system has been installed.</p> <p>If client will not allow removal, provide client education, document client refusal, and defer the weatherization work to the home.</p>
<p><b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.</p>
<p>If client will not allow removal Subgrantee must defer the weatherization work to the home.</p>
<p><b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>
<p>Units that do not meet ANSI Z21.11.2 must be removed prior to weatherization but may remain until a replacement heating system is in place. Testing for air-free carbon monoxide (CO) is to be performed. All units must have an ANSI Z21.11.1 label, and meet IRC and IFGC codes. The client must be informed of the dangers of unvented space heaters – CO, Moisture, NO<sub>2</sub>, CO can be dangerous even if CO alarm does not sound.</p> <p>Assessors must calibrate the CO tester outside the home and test the ambient air in the home; following the standards in the Texas Mechanical Systems Field Guide:</p> <p>Perform an inspection of the heater. Any of the following conditions are grounds for repair or replacement.</p> <ul style="list-style-type: none"> <li>• Carbon monoxide (CO) test indicates CO levels above 25 PPM</li> <li>• Bad burners (missing, broken, or otherwise un-repair-able)</li> <li>• Crossfueled (between NG and LPG) and the orifices and/or pressure regulator have not been changed</li> <li>• Missing radiants</li> <li>• Open flame burners</li> <li>• Rubber supply lines</li> <li>• Charring or scorching</li> </ul> <p>If cause cannot be determined, calibrate equipment and re-test. If still indeterminable, refer to local gas company.</p> <p>Any time replacement is deemed necessary, first consider performing the replacement as an EMC (energy saving measure) before replacing as a Health &amp; Safety measure.</p> <p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p>

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Inform client of removal requirement prior to completing any weatherization work.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### Space Heaters, Vented Combustion

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

**X-Concur with WPN 11-6** | Shall be treated as furnaces.

**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

A complete mechanical systems audit is required to be completed on every home. All relevant information must be recorded on the Heating/cooling systems and Appliance Worksheet. The procedure includes collecting general information; collecting and recording mechanical systems information; visual and diagnostic inspection of the venting and distribution system; and, combustion analysis and diagnostic testing of gas/propane fired equipment, and post-installation safety tests for CO.

Combustion safety testing is required when combustion appliances are present. The combustion appliance safety inspection includes all of the following: carbon monoxide testing, draft measurement, spillage evaluation, and worst case depressurization of the combustion appliance zone (CAZ) if applicable. Combustion safety test results must be acted upon appropriately according to the combustion safety tables. Testing protocols can be found in Chapter 2 and 3 of the Texas Mechanical Systems Field Guide which has been distributed to the entire weatherization network and is located on the Department's website <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

As applicable, every combustion appliance will be checked for a safe flue pipe, chimney or vent, adequate combustion air, and gas leakage.

Weatherization Assessors and Final Inspectors must test naturally drafting appliances for draft and spillage under

worst case conditions before and after air tightening is performed.

Weatherization Assessors and Final Inspectors must conduct CO testing and check flame quality.

Subgrantees must test for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before weatherization work can start. The Department has defined maximum acceptable CO readings as 100 parts per million for vented combustion appliance

Investigate and correct a steady state CO reading >100 ppm in the following appliances: vented space heater.

CO detectors should be installed in all homes when fuel-fired (combustion) appliances exist.

REFERENCE: "Combustion Safety & Efficiency Testing" in the Texas Mechanical Systems Field Guide

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the furnace system that are beyond the scope of the DOE WAP, such as certain electrical problems. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

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Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

N/A

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

### Spray Polyurethane Foam (SPF)

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is "required" or "not allowed" through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X-Concur with WPN 11-6</b>	Use EPA recommendations available online at: <a href="http://www.epa.gov/dfe/pubs/projects/spf/spray_polyurethane_foam.html">http://www.epa.gov/dfe/pubs/projects/spf/spray_polyurethane_foam.html</a> when working within the conditioned space or when SPF fumes become evident within conditioned space. When working outside the building envelope, isolate the area where foam will be applied, take precautions so that fumes will not transfer to inside conditioned space, and exhaust fumes outside the home.
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**Funding:** State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.

DOE funds may be used.

**Beyond Scope of DOE WAP:** Describe how the issue will be treated if beyond the scope of DOE WAP.

If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.

**Standards for Remedy:** Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. **Note:** Some health and safety categories, like combustion gases, require testing.

Check for penetrations in the building envelope.

Sensory inspection inside the home for fumes during foam application.

Follow guidelines on MSDS and post MSDS during use.

Spray polyurethane foam (SPF) is a highly-effective and widely used insulation and air sealant material. However, exposures to its key ingredient, isocyanates, and other SPF chemicals in vapors, aerosols, and dust during and after installation can cause:

- Asthma, a potentially life-threatening disease
- Sensitization, which can lead to asthma attacks if exposed again
- Lung damage
- Other respiratory and breathing problems
- Skin and eye irritation

Whether an applicator, helper, or building occupant where this product is applied, the following tips should be followed:

- Review label and product information for ingredients, hazards, directions, safe work practices, and precautions
- Ensure health and safety training is completed and safe work practices are followed to prevent eye, skin, and inhalation exposures during and after SPF installation
- Exercise caution when determining a safe re-entry time for unprotected occupants and workers based on the manufacturer recommendation

If a crew member experiences breathing problems or other adverse health effects from weatherizing with SPF, seek immediate medical attention.

Use the appropriate protection and best practices suited for each type of SPF product.

Only workers wearing appropriate personal protective equipment should be present during SPF application.

SPF is made by mixing and reacting chemicals to create foam. The mixing and reacting materials react very quickly, expanding on contact to create foam that insulates air seals and provides a moisture barrier. SPF insulation is known to resist heat transfer extremely well, and it offers a highly effective solution in reducing unwanted air infiltration through cracks, seams, and joints. There are different types of SPF. The two main types

that are typically installed by professional contractors, such as weatherization workers, include either high pressure foam and/or low pressure foam.

Refer to the MSDS for both the "A" and "B" side chemicals used in SPF. These should be posted whenever working with this product.

**SPF is Temperature sensitive.** Cold temperatures affect the chemistry that causes the foaming action. It's critical to keep spray foam cans or (with two-part foam) canisters within a specific temperature range for successful application. Review the manufacturer's directions for storage.

Wear appropriate protective equipment.

Discuss project scope and safety measures with occupants. A checklist is available at <http://www.spraypolyurethane.org/checklist>

Provide notification to the client of plans to use two-part foam and the precautions that may be necessary.

Consult with the product manufacturer to determine appropriate re-occupancy times for the particular job and SPF in use.

Employ EPA recommendations when working within the conditioned space or when SPF fumes become evident within conditioned space. When working outside the building envelope, isolate the area where foam will be applied, take precautions so that fumes will not transfer to inside conditioned space, and exhaust fumes outside the home.

The Department conducted 17 workshops across the state of Texas.

Review and understanding of how to read MSDS was provided by AEHS Inc. of San Antonio Texas License # 000068 issued by the Texas Department of State Health Service. The course covered the following MSDS information :

1. Chemical Product and Company Information
2. Composition and Information on Ingredients
3. Hazard Identification
4. First Aid Measures
5. Fire Fighting Measures
6. Accidental Release Measures
7. Exposure Controls and Personal Protection
8. Physical and Chemical Properties
9. Stability and Reactivity Data
10. Toxicological Information
11. Ecological Information
12. Disposal Considerations
13. Transport Information
14. Other Regularity Information and Pictograms

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the Heating/cooling systems that are beyond the scope of the DOE WAP, such as cost prohibitive electrical problems. For additional deferral criteria, see deferral section above.



<b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.
Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.
<b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.
On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a> .
Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.
<b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.
Provide notification to the client of plans to use two-part foam and the precautions that may be necessary.
<b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.
State and local codes as well as manufacturer and EPA guidelines shall be followed.

### Ventilation

<b>Concurrence or Alteration:</b> Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. <b>Note:</b> Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.	
<b>Concur with WPN11-6</b>	<b>ASHRAE 62.2-2013 is required to be met to the fullest extent possible, when performing weatherization activity. Implementing ASHRAE 62.2-2013 is not required where acceptable indoor air quality already exists as defined by ASHRAE 62.2-2013.</b>
<b>TDHCA refined guidance</b>	<b>Existing fans and blower systems should be updated if not adequate.</b>
<b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.	
DOE funds may be used.	
<b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.	
If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.	
<b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.	
The Department will implement ASHRAE 62.2-2013 for Program Year 2014. As of November 1, 2014 the State of Texas adopted WAP Memorandum 007, where additional mechanical ventilation is not required for existing buildings that require 15 CFM or less per the mechanical ventilation rate.	
Subgrantees are required to use the Alternative Compliance Path for Existing homes and obtaining and	

infiltration credit using the blower door. Subgrantees must use the blower door data captured on the Department's Blower Door data sheet item number 11 to perform an ASHRAE calculation through certified software such as RedCalc. Both the output of the software and a copy of the blower door data sheet must be placed in the client file. The Blower Door Data sheet is posted on the Department's website under Client and Field Assessment Forms at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>

The protocol for Measuring Ventilation Performance is as follows:

1. Identify the local inventory of existing exhaust fans (measure flow using a Exhaust fan flow meter device and a pressure gauge)
  - a. Requirement for local fans
    - i. Bathrooms (50 CFM on-demand, or 20 CFM continuous).
    - ii. Kitchen (100 CFM on-demand, or 5 ACH, based on kitchen volume).
2. Determine the maximum ventilation amount required
  - a. From simple equation or corresponding chart, plus
  - b. Alternative Compliance Supplement based on post-weatherization conditions.
3. Conduct as-is blower door test to find CFM<sub>50</sub> of dwelling.
4. Post-weatherization modeling
  - a. Estimate post-weatherization CFM<sub>50</sub>.
    - i. 10% of volume is ~ 6 ACH<sub>50</sub>.
    - ii. 15% of volume is ~ 10 ACH<sub>50</sub>.
  - b. Estimate post-weatherization depressurization.
    - i. Are existing combustion appliances affected under continuous operation? Intermittent operation? (Depressurization will be greater under intermittent operation.)
5. After weatherization is completed, measure actual CFM<sub>50</sub> and set required CFM of whole-building ventilation fan with variable-speed control to meet ASHRAE 62.2-2013.
6. Perform combustion safety testing.
7. Verify proper operation of all local and whole building ventilation equipment and controls (commissioning).
8. Job completed.
9. Measure airflows for all installed ventilation equipment.

#### Selection of Equipment

1. Select equipment with performance certified by AMCA or HVI

Very quiet: 1 sone or less

**Standards for Deferral:** Describe when deferral should take place for the specific health and safety category.

Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP, and/or when there are problems affecting the heating and cooling systems that are beyond the scope of the DOE WAP, such as certain cost prohibitive electrical problems. For additional deferral criteria, see deferral section above.

**Standards for Referral:** Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.

Referrals should be made when problems are identified that are beyond the scope of the DOE WAP, such as electrical or other code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.

**Training Provision:** Discuss how training will be provided for the specific health and safety category. **Note:** Some health and safety categories, like OSHA, require training.

On-going Health & Safety training will continue via regional training, Q&As, and postings of FAQs to Department Website. <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department’s website under Webinars and Workshops at <http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm>.

The Department will implement ASHRAE 62.2-2013 in its 2014 program year. Training for Subgrantees was provided via webinar on October 29, 2014 and included a refresher on ventilation requirements and instruction on changes from ASHRAE 2010 to 2013, including but not limited to:

1. Local exhaust exceptions
2. Flow measurement
3. Different air flow calculation: The Department will use the updated calculator provided by Residential Energy Dynamics at <http://www.residentialenergydynamics.com/REDCalcFree/Tools/ASHRAE6222013.aspx> . This tool has been updated to apply the changes in the air flow calculation from 2010 to 2013.
4. Infiltration credit
5. Newly added carbon monoxide alarm and pressure drop requirements
6. Use with Multifamily units

In addition, the new ASHRAE standards are incorporated into the Standard Work Specifications published by NREL, which the Department is currently incorporating. Additional training for Subgrantees will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc. Training for program monitors so that they can monitor for compliance with all requirements will be handled via the webinar and in-house on an as-needed basis. Training and Technical Assistance staff will ensure compliance with ASHRAE 62.2-2013 during technical assistance visits to Subgrantees, and Monitors will ensure compliance with ASHRAE 62.2-2013 when they review completed units.

**Client Education:** Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. **Note:** Some health and safety categories, like mold and moisture, require client education.

Subgrantees who install ventilation must educate the clients on effective use of the exhaust ventilation equipment by:

1. Leaving owner’s manual with client
2. Demonstrating how to use the exhaust fans.
3. Providing client education information on ventilation systems installed.
4. Providing client education on proper operation and maintenance.

**Disposal Procedures:** Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.

State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.

**ASHRAE 62.2 Compliance:** Provide a narrative describing implementation of ASHRAE 62.2, which will be required during the 2014 program year. Grantees must provide justification if making changes to ASHRAE 62.2 specific to their housing stock and local considerations.

Texas will update technical standards to meet ASHRAE 62.2-2013 requirements.

### Window and Door Replacement, Window Guards

**Concurrence or Alteration:** Check if you concur with existing guidance from WPN 11-6 or if you are using an alternative action/allowability. Include the guidance action/allowability from WPN 11-6 or alternative guidance in the space provided. Alternatives must be explained and comply with DOE guidance. **Note:** Where an Action/Allowability or Testing is “required” or “not allowed” through WPN 11-6, the grantee must concur or choose to defer all units where the specific issue is encountered. Allowable items under WPN 11-6 leave room for determining if the issue or testing will be addressed and in what circumstances.

<b>X Concur with WPN 11-6</b>	Replacement, repair, or installation is <b>not an allowable health and safety cost</b> but may be allowed as an incidental repair or an efficiency measure if cost justified.
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<p><b>Funding:</b> State that DOE funds are being used or indicate that alternate funding sources will be used to address this particular health and safety category.</p>
<p>DOE funds may be used per the above stipulations.</p>
<p><b>Beyond Scope of DOE WAP:</b> Describe how the issue will be treated if beyond the scope of DOE WAP.</p>
<p>If the issue is determined to be beyond the scope of DOE WAP, crews/contractors shall follow all Texas Referral and Deferral policies and protocols.</p>
<p><b>Standards for Remedy:</b> Describe the standards for remedy of the health and safety category, including testing protocols. Also include when partial weatherization would be appropriate. <b>Note:</b> Some health and safety categories, like combustion gases, require testing.</p>
<p>Windows may only be performed as an incidental repair or ECM. When working on windows <b>follow LSW requirements for pre-1978 homes.</b></p>
<p><b>Standards for Deferral:</b> Describe when deferral should take place for the specific health and safety category.</p>
<p>Deferral should be exercised when existing code violations are present and correcting them would be beyond the scope of the DOE WAP. For additional deferral criteria, see deferral section above.</p>
<p><b>Standards for Referral:</b> Describe when referral should take place for the specific health and safety category. If possible, include associated referral agencies.</p>
<p>Referral should be made when problems are identified that are beyond the scope of the DOE WAP, such as code violations. Examples of referral agencies include, but are not limited to, LIHEAP-WAP, CEAP, CSBG, HPG, Utility Companies, and other state or local resources.</p>
<p><b>Training Provision:</b> Discuss how training will be provided for the specific health and safety category. <b>Note:</b> Some health and safety categories, like OSHA, require training.</p>
<p>On-going Health &amp; Safety training will continue via regional training, Q&amp;As, and postings of FAQs to Department Website. <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>The updated Health and Safety Presentation (updated for PY 2014) is posted on the Department's website under Webinars and Workshops at <a href="http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm">http://www.tdhca.state.tx.us/community-affairs/wap/guidance.htm</a>.</p> <p>Additional training will be handled on an ongoing and as-needed basis as identified by new requirements, new staff hires, results of monitoring reports, requests by Subgrantees etc.</p>
<p><b>Client Education:</b> Discuss what specific steps will be taken to educate the client, if any, on the specific health and safety category if this is not explained elsewhere in the State Plan. <b>Note:</b> Some health and safety categories, like mold and moisture, require client education.</p>
<p>Provide information on lead risks.</p>
<p><b>Disposal Procedures:</b> Provide disposal procedures or indicate where these procedures can be found in the Plan or Field Standards.</p>
<p>State and local codes and regulations shall be followed to ensure proper disposal procedures and protocols.</p>

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**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Actions on: first, an order adopting the amendments to 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.620 (concerning Monitoring for Non-Profit Participation, HUB or CHDO Participation); second, an order adopting the repeal of §10.610 (concerning Tenant Selection Criteria); and, third, an order adopting new §10.610 (concerning Written Policies and Procedures) and directing that these be published in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, at the Board meeting of December 17, 2015, the Board approved proposed amendments to §10.620 (concerning Monitoring for Non-Profit Participation or HUB Participation) along with the proposed repeal of and adoption of new sections §10.610 (concerning Tenant Selection Criteria); and

**WHEREAS**, the public comment period has ended and staff has considered and responded to all comment.

**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 cause the amendments to §10.620 (concerning Monitoring for Non-Profit Participation, HUB, or CHDO Participation) in the form presented at 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; and

**FURTHER 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 cause the repeal of §10.610 (concerning Tenant Selection Criteria) and adoption of new §10.610 (concerning Written Policies and Procedures) in the form presented at 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 Board approved the proposed amendments to §10.620 (concerning Monitoring for Non-Profit Participation, HUB, or CHDO Participation); as well as the repeal, with concurrent proposed new, of §10.610 (concerning Written Policies and Procedures) and §10.614 (concerning Utility Allowances). The rulemaking was available for public comment from January 1, 2016, through February 1, 2016. In keeping with the requirements of the Administrative Procedures Act, staff has reviewed all comments received and provided a reasoned response to these comments.

**Attachment 1. Preamble and adoption of amendment to 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.620, concerning Monitoring for Non-Profit Participation or HUB Participation**

The Texas Department of Housing and Community Affairs (the “Department”) adopts amendments to 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.620, concerning Monitoring for Non-Profit Participation or HUB Participation, without changes to the proposed text as published in the January 1, 2016, issue of the *Texas Register* (41 Tex.Reg. 32).

**REASONED JUSTIFICATION.** The purpose of the amendment is to codify the new requirement in the HOME Final Rule, 24 CFR Part 92, as it relates to long term monitoring of a Community Housing and Development Organization (“CHDO”) for HOME Developments that were awarded funds from the CHDO set aside on or after August 23, 2013, into the Department’s Monitoring Rules.

**SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.**

The public comment period was from January 1, 2016, through February 1, 2016. No comment was received during this period.

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

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

§10.620 Monitoring for Non-Profit Participation, or HUB, or CHDO Participation

(a) If a Development's LURA requires the material participation of a non-profit or Historically Underutilized Business (HUB), the Department will confirm whether this requirement is being met throughout the development phase and ongoing operations of the Development. Owners are required to maintain sufficient documentation to evidence that a non-profit or HUB so participating is in good standing with the Texas Comptroller of Public Accounts, Texas Secretary of State and/or IRS as applicable and that it is actually materially participating in a manner that meets the requirements of the IRS. Documentation may be reviewed during onsite visits or must be submitted to the Department upon request.

(b) If the HOME funds were awarded from the Community Housing and Development Organization (“CHDO”) set aside on or after August 23, 2013, the Department will monitor that the Development remains controlled by a CHDO throughout the federal affordability period.

(c) If an Owner wishes to change the participating non-profit, HUB, or CHDO prior written approval from the Department is necessary. In addition, the IRS will be notified if the non-profit is not materially participating on a HTC Development during the Compliance Period.

(d) The Department does not enforce partnership agreements or other agreements between third parties or determine fund distributions of partnerships. These disputes are matters for a court of competent jurisdiction or other agreed resolution among the parties.

## **Attachment 2: Preamble and adoption of new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610 concerning Written Policies and Procedures**

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610, concerning Written Policies and Procedures. This new section is being proposed concurrently with the repeal of existing §10.610, concerning Tenant Selection Criteria with the changes made, in response to public comment, to the proposed text comment as published in the January 1, 2016, issue of the *Texas Register* (41 Tex.Reg. 32).

**REASONED JUSTIFICATION.** The purpose the new rule is to provide guidance and clarification related to required policies and procedures, through a restructuring of the rule, to effectuate compliance with federal civil rights laws.

### **SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.**

The public comment period was from January 1, 2016, through February 1, 2016. Comments were received from (1) Abby Allen, (2) Lori Erbst, (3) Luann Kolander, (4) Lucy Defendini, and (5) Patricia Hensley.

**COMMENT SUMMARY:** §10.610(b)(3) relating to households participating in a federal, state or local government rental assistance programs- Commenter (1) observes that the minimum income standard of 2.5 times the tenant portion of rent or, when the tenant portion of rent is \$50 or less, a minimum income standard of \$2500 annually for households that participate in a federal, state or local government rental assistance program does not mathematically harmonize. If the tenant’s portion of rent was \$50, \$50 multiplied 2.5 times is \$125 monthly and \$1500 annually, but the rule allows for the minimum income standard to be \$2500 annually instead of the \$1500 annually. Conversely, if the tenant portion of rent was \$51, the minimum income standard would be \$1530 annually ( $\$51 \times 2.5 \times 12$ ), which yields a lower minimum income standard than what is allowed for when the household tenant portion is less than \$50. The commenter suggests that this approach is illogical and could lead to Fair Housing discrimination complaints as owners could be accused of discriminating against those residents with lower than \$50 portion by requiring them to have a higher minimum income standard. The commenter supports the \$2500 annually standard as reasonable, but proposes that the threshold for when the \$2500 could be used be increased from \$50 to \$83.

**STAFF RESPONSE:** Staff agrees with the Commenter’s concerns but not the proposed resolution. Instead, the rule has been updated to read “The minimum income standard for households participating in a voucher program is limited to the greater of a monthly income of 2.5 times the household’s share of the total monthly rent amount or \$2,500 annually.”

**COMMENT SUMMARY:** §10.610(b)(1)(D)(iii) relating to assistance/service animals- Commenter (3) represents that she is committed to reasonably accommodating persons with disabilities who require an assistance/service animal, but expresses concern regarding the health and safety of all residents. The Commenter contends that, to mitigate the potential impact of assistance/service animals on other residents, that all animals, including assistance/service animals, be approved and registered before the assistance/service animal is allowed to live at the property. The Commenter outlines a registration process and proposes that rules are needed for assistance/service animals related to restraints/behavior, animal supervision, and sanitary standards.

**STAFF RESPONSE:** Staff recommends no change in response to the comment. Under the Fair Housing Act (“FHA”), to which all multifamily properties in the Department’s portfolio are subject, assistance animals are defined as animals that are not pets. While the ADA has refined the definition and specific requirements for service animals, HUD Notice FHEO-2013-01 concludes that the definition of “service animal” contained in ADA regulations does not limit housing providers’ obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHA or Section 504. In addition, under the FHA and Section 504, assistance animals are not considered pets. Neither the FHA nor Section 504 requires a service/assistance animal to be individually trained or certified. To determine if an animal is a service/assistance animal, the owner is prohibited from asking about the nature or extent of a person’s disability, but can make two (2) inquiries: 1) Is this a service/assistance animal that is required because of a disability? and 2) What work or task has the animal been trained to perform? An owner is further prohibited from requiring documentation, such as proof that the animal has been certified, trained or licensed as a service/assistance animal.

In response to the concerns regarding the behavior of a service/assistance animal, HUD Notice FHEO-2013-01 expands on an owner’s recourse options. Service/assistance animals must be permitted to accompany the individual with the disability to all areas of a Development where persons are normally allowed to go unless: 1) the specific animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation; or 2) the specific animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. This Notice states that under Section 504 and the FHA, if a property has extended a reasonable accommodation and a pet’s behavior rises to the level that HUD’s guidance has considered in the notice, the Development, on a case by case basis should meet with the tenant to discuss the issue where possible, submit a notice to the tenant regarding the service animal’s behavior, and may request modifications in behavior or assurances that behavior will not reoccur as a condition to retaining the accommodation for the service animal. The referenced notice also provides that a housing provider may require a tenant to cover the cost of housing repairs for damage the animal causes to the dwelling unit or common areas, reasonable wear and tear excepted, if it is the provider’s practice to assess tenants for any damage they cause to the premises. As a reminder, however, no deposits may be charged for a reasonable accommodation and no pet deposits may be charged for service animals.

**COMMENT SUMMARY:** §10.610(b)(1)(A)(i) and (ii) regarding inclusion of income and rent limits and student restrictions/exceptions in the Tenant Selection Criteria- Commenters (2), (4), and (5) all expressed that to list all income limits and rent limits in the Tenant Selection Criteria would be too confusing. Commenters (2) and (5) propose that only the highest tier of income and rent restrictions be required. As described by Commenter (5), when an applicant qualifies for a lower tier and none is available, it confuses and frustrates that applicant. Commenter (2) asserts that further clarification is needed, but does not express what needs clarifying or what the Department could do to further clarify. Commenter (4) was the only commenter who suggests that including student restrictions and exceptions to those restrictions in the Tenant Selection Criteria for combined properties would be confusing for the applicants and residents; but, offers no reason as to why it would be confusing, nor was any alternative proposed.

**STAFF RESPONSE:** Staff recommends no change in response to these comments. For a unit to be considered a program unit, the unit must meet three (3) conditions 1) that it is occupied with a household whose gross income is equal to/less than the income limit for that household size; 2) that the gross rent is equal to/less than the rent limit for that bedroom size; and 3) that the unit is suitable for occupancy. While these are the three (3) main tenets of multifamily programs administered by the Department, another provision that would immediately disqualify a household is the student status of each member in the household. All multifamily programs administered by the Department have income limits and most

programs have student restrictions. In some cases, a property could have multiple programs, each of which has their own income limits and/or student rules. When a property has multiple programs, in most cases, the qualifying income limits and applicable student rules are different under each program. An applicant would have no other way of understanding the expectation that they would need to have a gross income less than a specific predetermined limit; or, that, even if the household is income eligible, being a student could affect their ability to occupy a unit. Including income limits and student restrictions/exceptions in the Tenant Selection Criteria would eliminate applicants, who know they would not income qualify or that their household consists of ineligible students, from submitting application and paying an application fee, thus mitigating the administrative burden on staff and applicants.

**COMMENT SUMMARY:** §10.610(b) and (e)(4)(B) regarding record retention of Tenant Selection Criteria- The rule, as proposed, requires that the Tenant Selection Criteria under which an applicant was screened must be included in the household's file or, in the case an applicant is denied, be maintained with the denied application. Commenter (2) alleges that the Tenant Selection Criteria is 10+ pages and that it would be overkill to print those 10+ pages for every applicant's application. She describes their current process of maintaining a signature page only with the application and proposes that all revised Tenant Selection Criteria be kept in a binder in date order for easy reference.

**STAFF RESPONSE:** Staff recommends no change in response to the comment. Prior to the rule being presented today, the policies outlined in this proposed rule were required, but expected to be part of one larger policy referred to as the "Tenant Selection Criteria". The rule is being revised to allow for Owners to comply by maintaining each policy and/or procedure separately. Of all the policies required under the proposed rule, the only policy expected to be maintained in a tenant or denied applicant file is the Tenant Selection Criteria under which that household was considered. While the Department applauds the Commenter's diligence in maintaining a signature page, there is no current requirement that the Tenant Selection Criteria be signed. Further, beyond suggesting that this is "overkill" no other reason was offered for consideration.

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

The new section affect no other code, article, or statute.

#### **§10.610. Written Policies and Procedures**

(a) The purpose of this section is to outline policies and/or procedures that are required to have written documentation.

(1) Owners must inform applicants/tenants in writing, at the time of application or other action described in this section, that such policies/procedures are available, and that the Owner will provide copies upon request to applicants/tenants or their representatives.

(2) The Owner must have all policies and related documentation required by this section available in the leasing office or wherever applications are taken.

(3) All policies must have an effective date. Any changes require a new effective date.

(4) In general, policies cannot be applied retroactively. Tenants who already reside in the development or applicants on the wait list at the time new or revised tenant selection criteria are applied and who are otherwise in good standing under the lease or wait list, must not receive notices of termination or non-renewal based solely on their failure to meet the new or revised tenant selection criteria or be passed over on the waitlist. However, criteria related to program eligibility may be applied retroactively when a market development receives a new award of tax credits, federal or state funds and a household is not eligible under the new program requirements, or when prior criteria violate federal or state law.

(b) **Tenant Selection Criteria.** Owners must maintain written Tenant Selection Criteria. The criteria under which an applicant was screened must be included in the household's file.

(1) The criteria must include:

(A) Requirements that determine an applicant's basic eligibility for the property, including any preferences, restrictions, and any other tenancy requirements. The tenant selection criteria must specifically list:

(i) The income and rent limits;

(ii) When applicable, restrictions on student occupancy and any exceptions to those restrictions; and,

(iii) Fees and/or deposits required as part of the application process.

(B) Applicant screening criteria, including what is screened and what scores or findings would result in ineligibility.

(i) The screening criteria must avoid the use of vague terms such as "elderly," "bad credit," "negative rental history," "poor housekeeping," or "criminal history" unless terms are clearly defined within the criteria made available to applicants.

(ii) Applicants must be provided the names of any third party screening companies upon request.

(C) Occupancy Standards. If fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided.

(D) The following statements:

(i) The Development will comply with state and federal fair housing and antidiscrimination laws; including, but not limited to, consideration of reasonable accommodations requested to complete the application process. Chapter 1, Subchapter B of this title provides more detail about reasonable accommodations.

(ii) Screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and the Department's rules.

(iii) Specific animal, breed, number, weight restrictions, pet rules, and pet deposits will not apply to households having a qualified service/assistance animal(s).

(E) Notice to applicants and current residents about Violence Against Women Reauthorization Act of 2013 ("VAWA") protections.

(F) Specific age requirements if the Development is operating as Housing for Older Persons under the Housing for Older Persons Act of 1995 as amended (HOPA), or as required by federal funds to have an Elderly Preference, and in accordance with a LURA.

(2) The criteria must not:

(A) Include preferences for admission, unless such preference is:

(i) Allowed for under program rules; or,

(ii) The property receives Federal assistance and has received written approval from HUD, USDA, or VA for such preference.

(B) Exclude an individual or family from admission to the Development solely because the household participates in the HOME Tenant Based Rental Assistance Program, the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. §1-437), or other federal, state, or local government rental assistance program. The minimum income standard for households participating in a voucher program is limited to the greater of a monthly income of 2.5 times the household's share of the total monthly rent amount. ~~However, if a household's share of the rent is \$50 or less, Owners may require a minimum annual income of or \$2,500 annually;~~ or,

(C) In accordance with VAWA, deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(c) **Reasonable Accommodations Policy.** Owners must maintain a written Reasonable Accommodations policy. The policy must be maintained at the Development. Owners are responsible for



ensuring that their employees and contracted third party management companies are aware of and comply with the reasonable accommodation policy.

(1) The policy must provide:

(A) Information on how an applicant or current resident with a disability may request a reasonable accommodation; and,

(B) A timeframe in which the Owner will respond to a request.

(2) The policy must not:

(A) Require a household to make a reasonable accommodation request in writing;

(B) Require a household to provide specific medical or disability information other than the disability verification that may be requested to verify eligibility for reasonable accommodation or special needs set aside program;

(C) Exclude a household with person(s) with disabilities from admission to the Development because an accessible unit is not currently available; or,

(D) Require a household to rent a unit that has already been made accessible.

(d) **Wait List Policy.** Owners must maintain a written wait list policy, regardless of current unit availability. The policy must be maintained at the Development.

(1) The policy must include procedures the Development uses in:

(A) Opening, closing, and selecting applicants from the waitlist;

(B) How preferences are applied; and,

(C) Procedures for prioritizing applicants needing accessible units in accordance with 24 CFR 8.27 and Chapter 1, Subchapter B of this title.

(2) Developments with additional rent and occupancy restrictions must maintain a waiting list for their lower rent restricted units. Unless otherwise approved at application, underwriting and cost certification, all unit sizes must be available at the lower rent limits. The wait list policy for Developments with lower rent restricted units must address how the waiting list for their lower rent restricted units will be managed. The policy must not give a preference to prospective applicants over existing households. However, a Development may, but is not required to, prioritize existing households over prospective applicants.

(e) **Denied Application Policies.** Owners must maintain a written policy regarding procedures for denying applications.

(1) The policy must address the manner by which rejections of applications will be handled, including timeframes and appeal procedures, if any.

(2) Within seven (7) days after the determination is made to deny an application, the owner must provide any rejected or ineligible applicant that completed the application process a written notification of the grounds for rejection. The written notification must include:

(A) The specific reason for the denial and reference the specific leasing criteria upon which the denial is based; and,

(B) Contact information for any third parties that provided the information on which the rejection was based and information on the appeals process, if one is used by the property.

(3) The Development must keep a log of all denied applicants that completed the application process to include:

(A) Basic household demographic and rental assistance information, if requested during any part of the application process;

(B) The specific reason for which an applicant was denied, the date the decision was made; and,

(C) The date the denial notice was mailed or hand-delivered to the applicant.

(4) A file of all rejected applications must be maintained the length of time specified in the applicable program's recordkeeping requirements and include:

(A) A copy of the written notice of denial; and,

(B) The Tenant Selection Criteria policy under which an applicant was screened.

(f) **Non-renewal and/or Termination Notices.** Owners must maintain a written policy regarding procedures for providing households non-renewal and termination notices.

(1) The owner must provide in any non-renewal or termination notice, a specific reason for the termination or non-renewal.

(2) The notification must:

(A) Be delivered as required under applicable program rules;

(B) Include information on rights under VAWA;

(C) State how a person with a disability may request a reasonable accommodation in relation to such notice; and,

(D) Include information on the appeals process if one is used by the property.

| (g) **Unit Transfer Policies.** Owners must maintain a written policy regarding procedures for households to request a unit transfer. The policy must address the following:

(1) How security deposits will be handled for both the current unit and the new unit;

(2) How transfers related to a reasonable accommodation will be addressed; and,

(3) For HTC Developments, how transfers will be handled with regard to the multiple building project election on IRS Form(s) 8609 line 8(b) and accompanying statements in accordance with §10.616 of this subchapter, concerning Household Unit Transfer Requirements for All Programs.

**Attachment 3: Preamble and order adopting the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610 concerning Tenant Selection Criteria**

The Texas Department of Housing and Community Affairs (the “Department”) adopts the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.610, concerning Tenant Selection Criteria. The rule is adopted for repeal in connection with the adoption of new §10.610, concerning Written Policies and Procedures, which was published concurrently in the January 1, 2016, issue of the *Texas Register* (41 Tex.Reg. 32).

**REASONED JUSTIFICATION.** The repeal of §10.610 concerning Tenant Selection Criteria will allow for the concurrent adoption of new §10.610 concerning Written Policies and Procedures.

**SUMMARY OF PUBLIC COMMENT AND STAFF RECOMMENDATIONS.**

The public comment period was from January 1, 2016, through February 1, 2016. No comment was received during this period.

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

The repeal affects no other code, article, or statute.

§10.610. Tenant Selection Criteria

2a

## TDHCA Outreach Activities, February 2016

*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*

<b>Event</b>	<b>Location</b>	<b>Date</b>	<b>Division</b>	<b>Purpose</b>
Training/MF Direct Loan NOFA, Program Services	Austin	Feb 2	Single Family Operations	Training, Presentation
Lender Training/Georgetown Mortgage	Georgetown	Feb 2	Homeownership	Training
First Thursday Income Eligibility Training	Austin	Feb 4	Compliance	Training
Roundtable/ESG Program	College Station	Feb 8	Community Affairs	Roundtable Hearing
Texas Veterans Commission Summit	College Station	Feb 9	Community Affairs	Facilitator
HHSCC Housing and Services Partnership Academy	Austin	Feb 9-10	Housing Resource Center, HOME, Fair Housing/ Data Mgt/Reporting	Coordinator, Presentation, Participant
City of Austin/City Council Housing Committee Meeting	Austin	Feb 10	Multifamily Finance	Presentation
Realtor Training/Hispanic Real Estate Brokers Association	Fort Worth	Feb 16	Homeownership	Training
Section 811/Austin Resource Center for Independent Living	Austin	Feb 17	Fair Housing/Data Mgt/ Reporting	Training
Disability Advisory Workgroup	Austin	Feb 18	Housing Resource Center	Presentation, Participant
Homebuyer Fair	Dickinson	Feb 20	Homeownership	Exhibitor
TAAHP Executive Management Series/2017 QAP	Austin	Feb 24	Multifamily Finance	Presentation
Roundtable/2017 QAP, Aging in Place & Elderly Developments	Austin	Feb 24	Multifamily Finance	Roundtable Hearing
Innovation Accelerator Program – Supporting Housing Tenancy	Austin	Feb 24	Housing Resource Center	Participant
Intellectual and Developmental Disabilities System Redesign Advisory Council – Housing Subcommittee Meeting	Austin	Feb 25	Housing Resource Center	Participant
Texas Department of Agriculture/Fair Housing in Rural Communities Roundtable	Austin	Feb 25	Fair Housing/Data Mgt/ Reporting	Participant
Section 811/Service Providers & Coordinators Referrals Training	Dallas	Feb 25	Fair Housing/Data Mgt/ Reporting	Training
Section 811/Property Management Training	Dallas	Feb 25	Fair Housing/Data Mgt/ Reporting	Training
Supportive Housing = Healthcare Conference	Austin	Feb 29- March 2	Executive, Housing Resource Center, Fair Housing/ Data Mgt/ Reporting, Community Affairs	Participant

## Internet Postings of Note, February 2016

*A list of new or noteworthy documents posted to the Department's website*

**Section 811: Property Management Forms and Materials** — *providing general guidance from HUD for tenants with respect to how rents are determined:*

[www.tdhca.state.tx.us/section-811-pra/participating-agents.htm](http://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm)

**Section 811: Service Provider Application Packet** — *for use by service providers assisting eligible participants and includes application for assistance, client personal history, verification of disability, etc:*

[www.tdhca.state.tx.us/section-811-pra/referral-agents.htm](http://www.tdhca.state.tx.us/section-811-pra/referral-agents.htm)

**Section 811: Program Eligibility Criteria** — *defining certain disabilities and detailing requirements relating to tenant income, student status, and criminal history of program beneficiaries:*

[www.tdhca.state.tx.us/section-811-pra/index.htm](http://www.tdhca.state.tx.us/section-811-pra/index.htm); [www.tdhca.state.tx.us/section-811-pra/announcements.htm](http://www.tdhca.state.tx.us/section-811-pra/announcements.htm)

**2015 Texas Interagency Council for the Homeless Annual Report** — *reporting on progress made on agency tasks since the previous TICH report:*

[www.tdhca.state.tx.us/tich/pathways-home.htm](http://www.tdhca.state.tx.us/tich/pathways-home.htm)

**2016-2017 Housing Trust Fund Funding Plan: Amended January 28** — *detailing funding and uses for the Department's HTF activities for the biennium as approved by the TDHCA Governing Board:*

[www.tdhca.state.tx.us/hft/background.htm](http://www.tdhca.state.tx.us/hft/background.htm)

**Emergency Solutions Grant Program: Client Eligibility and Documentation** — *adding instructions in Spanish for determining income verification:*

[www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm](http://www.tdhca.state.tx.us/community-affairs/esgp/guidance-solutions.htm)

**2016 Emergency Solutions Grants: Notice of Funding Availability** — *for eligible entities interested in administering funds through the Department's ESG Program:*

[www.tdhca.state.tx.us/community-affairs/nofas.htm](http://www.tdhca.state.tx.us/community-affairs/nofas.htm)



2b

**REPORT ITEM**  
**HOUSING RESOURCE CENTER**  
**MARCH 31, 2016**

Report Regarding Progress on the Study on Homelessness among Veterans

**BACKGROUND**

Senate Bill 1580, authored by Senator Sylvia Garcia, was passed by the 84<sup>th</sup> Texas Legislature and signed into law on June 18, 2015. SB 1580 adds §2306.1101 to the Texas Government Code, which requires the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”), in conjunction with the Texas Veterans Commission (“TVC”) and the Texas Interagency Council for the Homeless (“TICH”), to conduct a study of Veterans experiencing homelessness. The study is due to the Legislature no later than December 1, 2016.

The TICH is a council created by the 74th Legislature to coordinate the state’s homeless resources. Per legislation, the TICH serves as an advisory committee to TDHCA, and TDHCA also provides clerical support to the TICH.

The study requires the following:

- I. A definition of homeless rused for the study
- II. The status of homeless Veterans in Texas
- III. Statewide and local entities providing services for homeless Veterans
- IV. Funding sources of services for homeless Veterans
- V. Recommendations to the State’s approach to address Veteran homelessness
- VI. Recommendations to State law to assist homeless Veterans.

In August 2015, the TICH created a Veterans Workgroup to contribute to the study. TDHCA leads the Veterans Workgroup, which has members from TVC, Health and Human Services Commission (“HHSC”), Department of Aging and Disability Services (“DADS”), Department of Assistive and Rehabilitative Services (“DARS”), Texas Homeless Network (“THN”), and Texas State Affordable Housing Corporation (“TSAHC”). The TICH Veteran Workgroup is given the opportunity to review working drafts of the study before the drafts are distributed to the TICH membership as a whole for review. The Veterans Workgroup met at least once between each quarterly TICH meeting, and will continue to meet until the study is complete.

To address the first study requirement (*i.e.* a definition of homeless Veteran used for the study), the draft currently refers to the definition that is used during the annual HUD-required point-in-time (“PIT”) count of persons experiencing homelessness. The study refers to the HUD PIT count guidance because the main source of data for Veterans experiencing homelessness is from the PIT counts.

To address the second study requirement (*i.e.*, the status of homeless Veterans in Texas), several factors are considered, including:

- the limitations of the PIT counts and the analysis of Veterans experiencing homelessness through the PIT counts, conducted by THN;
- statistics on Veterans in the general population, drafted by TVC;
- identified housing needs drafted by TDHCA;
- identified mental health needs and physical needs, drafted by HHSC;
- identified rehabilitative needs, drafted by DARS;
- a case study of Houston, which has announced it effectively ended Veteran homelessness in June, 2015, drafted by TDHCA; and
- a survey of the eight cities, including Houston, that took the national Mayors Challenge to end Veteran homelessness by 2015, conducted by HHSC's Center for Health Statistics.

To address the third and fourth requirement (*i.e.*, statewide and local entities providing services for homeless Veterans and funding sources for those services), TICH members are providing information on how their programs address the needs of homeless Veterans and HHSC is analyzing data purchased from OneStar Foundation on Texas nonprofits serving Veterans. A majority of the programs that serve homeless Veterans are administered by TDHCA or TVC. However, there are programs in almost every state agency that can assist Veterans experiencing homelessness. For example, HHSC has an Office of Veteran Services which serves a population that can cross into homelessness. TICH member agencies when possible will include information for programs that affect homeless Veterans and are funded federally. Regarding HHSC's analysis of nonprofits, the Center for Health Statistics is working on a map of the services to determine if any similarities or gaps can be identified. TDHCA originally purchased the data in the summer of 2015 and transferred the information to HHSC.

To address the fifth and sixth requirements (*i.e.*, recommendations to the state's approach to end Veteran homelessness and recommendations to State law to assist homeless Veterans), TDHCA and TVC hosted two roundtables to gather recommendations: one roundtable at the Texas Conference on Ending Homelessness on October 15, 2015; and one roundtable at the Texas Veterans Commission Summit on February 4, 2016.

Beyond the roundtables, staff also used conference opportunities to address the requirements. The Texas Conference on Ending Homelessness is an annual conference, which in 2015 was held in Corpus Christi and was presented by THN, Region 10 Education Service Center, and the Texas Homeless Education Office ("THEO"). TDHCA and TVC facilitated a discussion with approximately 75 attendees, though only 37 attendees signed into the event. The Texas Veterans Commission Summit was held in Bryan/College Station and hosted by Texas A&M University. Approximately 55 people attended and signed into the event. TDHCA and TVC asked the attendees to break into small groups which would then:

- Describe the Veterans who were experiencing homelessness in their communities;
- Think of success stories for effectively ending Veteran homelessness in their communities, and determine if their identified successes could be used Statewide; and
- Identify existing gaps or needs in programs or services that are preventing the ending of Veteran homelessness, and determine how those gaps or needs could be filled.

TDHCA and TVC are currently synthesizing the recommendations gathered from the roundtables.

In addition, TDHCA is seeking input through an online discussion forum to receive recommendations for the Study. The forum will be open from Wednesday, March 9, 2016, through Wednesday April 6, 2016. Recommendations from the online forum will be considered in the study.

Through collaboration with other state agencies and the TICH, TDHCA is on schedule to submit the Study on Homelessness among Veterans to the Texas Legislature by December 1, 2016.

2c

BOARD REPORT ITEM

BOND FINANCE DIVISION

MARCH 31, 2016

Report on the closing of the Department's 2016 Series A Single Family Mortgage Revenue Bonds and 2016 Series B Single Family Mortgage Revenue Refunding Bonds.

BACKGROUND

On November 12, 2015, the Board approved the issuance of the Department's Single Family Mortgage Revenue Bonds, 2016 Series A and Single Family Mortgage Revenue Refunding Bonds, 2016 Series B (Taxable). The bonds priced January 15, 2016, and closed February 24, 2016.

The financing team for this transaction included:

Financial Advisors: George K. Baum and Kipling Jones  
Bond Counsel: Bracewell LLP  
Disclosure Counsel: McCall, Parkhurst & Horton, L.L.P. and Mahomes Bolden  
Underwriters, Senior Manager: J.P. Morgan  
Underwriters, Co-Managers: Morgan Stanley, Ramirez, and RBC Capital Markets

PRICING SUMMARY

2016 Series A. The Department issued \$31,510,000 Single Family Mortgage Revenue Bonds, 2016 Series A maturing March 1, 2046, at a fixed tax-exempt interest rate of 3.00%. Proceeds of these bonds assisted 229 first-time homebuyers with the purchase of their first home, with the Department providing approximately \$1.7 million in down payment and closing cost assistance.

2016 Series B. The Department issued \$59,735,000 Single Family Mortgage Revenue Refunding Bonds, 2016 Series B (Taxable) maturing March 1, 2039, at a fixed taxable interest rate of 3.18%. Proceeds of these bonds refunded the Department's Single Family Mortgage Revenue Refunding Bonds, 2006 Series A, 2006 Series B, 2006 Series D, and 2006 Series E, and Single Family Mortgage Revenue Bonds, 2006 Series C. The present value of the net benefit of this refunding was approximately \$3.5 million which is retained in the trust estate for the single family indenture.

Summary. The underwriters for this transaction did an excellent job and, in spite of market volatility on the day of pricing, the bonds were repriced to reduce the interest rate from the initial pricing levels for additional benefit to the Department. The resulting yield levels compared quite favorably with similar pass-through housing bonds in the market, taking into account credit and structural differences.



2d

**BOARD REPORT ITEM**  
**HOME PROGRAM DIVISION**  
**MARCH 31, 2016**

Report on Reservation System Participant (“RSP”) Agreements issued under the HOME Investment Partnerships Program (“HOME”) Single Family (“SF”) Programs Reservation System.

**Report on HOME RSP Recipients**

On September 3, 2015, the Board authorized the release of the 2015 HOME Single Family Programs Reservation Notice of Funding Availability (“NOFA”) and on September 4, 2015, the Texas Department of Housing and Community Affairs (“TDHCA”) published the NOFA. The NOFA, as amended on November 12, 2015, provided for funding totaling \$10,078,781 distributed amongst the Reservation System’s four set-aside categories: Persons with Disabilities, Contract for Deed, Disaster Relief, and General. The NOFA also provided that funding remaining in the 2015 HOME Single Family Programs Competitive NOFA would be transferred to the 2015 Single Family Programs Reservation NOFA and made available on a first-come, first-served basis following the award process. Applications to access reservation funds will continue to be accepted by the Department on an on-going basis until 5:00 p.m. Austin local time, Thursday, June 30, 2016, unless the Department cancels this NOFA before that date.

In response to the NOFA, applicants request RSP Agreements. Once reviewed and meeting satisfactory criteria including threshold items, applicants are considered for their Previous Participation Review (“PPR”) and must obtain approval from the Executive Award and Review Advisory Committee (“EARAC”). Staff has committed that it will periodically provide the Board with a report of those entities with executed RSP Agreements.

The first table below reflects the status of RSP Agreements with entities that applied under the 2015 HOME Single Family Programs Reservation System NOFA. The Department received thirty-five (35) applications in response to the 2015 Reservation NOFA to date, of which twenty-five are fully executed. Each of these RSP applicants have completed both the PPR and EARAC review process. The second table below reflects active RSP Agreements with entities that applied to access the reservation system under previous HOME Single Family Programs Reservation System NOFAs.

**2015 HOME Single Family Programs Reservation NOFA Application Log**

<b>App #</b>	<b>HOME Applicant</b>	<b>Activity</b>	<b>Set-Aside</b>	<b>Region</b>	<b>Effective Date*</b>
2015-0026	Bee County	HRA	General, PWD, CFD	10	2/19/2016
2015-0105	Burke Center	TBRA	General	5	2/9/2016
2015-0117	CEN-TEX CDC	HBA	General	3, 4, 7	2/10/2016
2015-0106	Central Texas Opportunities	HRA	General, PWD	2	
2015-0022	City of Anson	HRA	General, PWD	2	2/5/2016
2015-0045	City of Belton	HRA	General, PWD	8	2/11/2016
2015-0021	City of Bronte	HRA	General, PWD	12	2/23/2016
2015-0047	City of Carrizo Springs	HRA	General, PWD	11	2/10/2016
2015-0114	City of Center	HRA	General, Disaster	5	
2015-0039	City of Eagle Lake	HRA	General, PWD	6	2/10/2016
2015-0043	City of Garrett	HRA	General, PWD	3	
2015-0103	City of Hearne	HRA	General, PWD	8	
2015-0035	City of Hempstead	HRA	General, PWD	6	2/9/2016
2015-0034	City of Josephine	HRA	General, PWD	3	2/19/2016
2015-0036	City of Navasota	HRA	General, PWD	8	2/8/2016
2015-0113	City of Ore City	HRA	General, Disaster	4	2/19/2016
2015-0032	City of Pilot Point	HRA	General, PWD	3	
2015-0041	City of Port Lavaca	HRA	General, PWD	10	2/9/2016
2015-0038	City of Somerville	HRA	General, PWD	8	2/19/2016
2015-0118	City of Sulphur Springs	HRA	General, PWD	4	
2015-0040	City of Trinity	HRA	General, PWD	5	2/5/2016
2015-0033	City of Wolfe City	HRA	General, PWD	3	2/9/2016
2015-0037	City of Yoakum	HRA	General, PWD	10	2/5/2016
2015-0115	Combined Community Action	TBRA	General, Disaster	6, 7	3/10/2016
2015-0104	Guadalupe County	HRA	General, PWD	9	
2015-0119	IBTS	HRA	General, PWD	6	
2015-0046	Jim Wells County	HRA	General, PWD	10	2/29/2016
2015-0044	Kleberg County	HRA	General, PWD	10	2/8/2016
2015-0111	Rockwall HDC	HRA, HBA	General, PWD	3	2/11/2016
2015-0116	Terra-Genesis of San Antonio	HRA	PWD	9	2/8/2016
2015-0112	Texas Neighborhood Services	TBRA	General	3	
2015-0042	Willacy County	HRA	General, PWD, CFD	11	
2015-0026	Bee County	HRA	General, PWD, CFD	10	2/19/2016
2015-0105	Burke Center	TBRA	General	5	2/9/2016
2015-0117	CEN-TEX CDC	HBA	General	3, 4, 7	2/10/2016
<b>TOTAL</b>					<b>35</b>

\* Entities with dates noted reflect those who have completed the RSP Agreement process and that is the effective date of the Agreement. Those without a date shown are still pending execution of the Agreement.

**Active RSP Agreements with Applications Received under Previous HOME RSP NOFAs**

App #	HOME Applicant	Activity	Set-Aside	Region	Effective Date*
2013-0057	Abilene MHMR	TBRA	PWD	2	11/18/2014
2013-0095	AYUDA	HRA	General, PWD, CFD	13	3/7/2015
2013-0020	Affordable Caring Housing	TBRA	General, PWD	3, 4, 6, 8	5/21/2014
2013-0074	ABC	HRA	General, PWD, CFD	13	12/16/2014
2013-0002	Andrews Center	TBRA	General, PWD	4	4/14/2014
2013-0087	Austin Habitat	HRA, HBA	General, PWD, Disaster	7	5/1/2015
2013-0060	Bee County	HRA	General, PWD, CFD	10	11/20/2014
2013-0022	Brazos Valley CIL	TBRA	PWD	8	7/10/2014
2013-0092	Buckner Family Place	TBRA	General	12, 5, 6	3/15/2015
2013-0016	Center for Health Care Services	TBRA	General, PWD	9	5/28/2014
2013-0026	Central Texas Opportunities	HBA, TBRA	General, Disaster	12, 2	6/12/2014
2013-0010	City of Abernathy	HRA	General	1	4/1/2014
2013-0038	City of Albany	HRA	General	2	9/2/2014
2013-0005	City of Andrews	HRA	General, PWD	12	4/17/2014
2013-0085	City of Arp	HRA	General, PWD	4	2/2/2015
2013-0041	City of Atlanta	HRA	General, PWD	4	10/8/2014
2015-0008	City of Bartlett	HRA	General, PWD, Disaster	7, 8	2/16/2016
2013-0088	City of Baytown	HRA	General, PWD	6	4/7/2015
2013-0059	City of Belton	HRA	General, PWD	8	10/30/2014
2013-0086	City of Blossom	HRA	General, PWD	4	1/23/2015
2013-0074	City of Breckenridge	HRA	General	2	3/12/2015
2013-0077	City of Chandler	HRA	General	4	11/23/2014
2013-0033	City of Charlotte	HRA	General, PWD	9	7/10/2014
2013-0082	City of Detroit	HRA	General, PWD	4	4/29/2015
2013-0027	City of Devine	HRA	General, PWD	9	6/3/2014
2013-0013	City of East Bernard	HRA	General, PWD	6	4/28/2014
2013-0003	City of Eastland	HRA	General	2	6/19/2014
2012-0034	City of Edgewood	HRA	General	4	3/14/2013
2013-0089	City of Electra	HRA	General	2	4/24/2015
2013-0084	City of Flatonina	HRA	General, PWD	7	1/30/2015
2013-0014	City of Fort Stockton	HRA	General, PWD	12	5/7/2014
2013-0018	City of Garrett	HRA	General, PWD	3	5/22/2014

2013-0015	City of George West	HRA	General, PWD	10	4/15/2014
2013-0028	City of Gilmer	HRA	General	4	6/2/2014
2013-0055	City of Hico	HRA	General, PWD	8	9/23/2014
2013-0042	City of Holliday	HRA	General	2	10/8/2014
2013-0019	City of Hughes Springs	HRA, HBA	General, PWD	4	5/22/2014
2013-0008	City of Italy	HRA	General, PWD	3	4/24/2014
2015-0009	City of La Feria	HRA, HBA	General, PWD, Disaster	11	2/3/2016
2013-0063	City of Linden	HRA	General, PWD	4	1/22/2015
2013-0080	City of McKinney	TBRA	General, PWD	3	1/22/2015
2013-0091	City of Midland	HBA	General	12	4/22/2015
2013-0076	City of Mineola	HRA	General	4	12/16/2014
2013-0060	City of Muleshoe	HRA	General	1	11/7/2014
2013-0011	City of Nacogdoches	HRA	General, PWD	5	6/17/2014
2013-0069	City of New Braunfels	HRA	General	9	12/1/2014
2013-0023	City of Ore City	HRA	General	4	6/12/2014
2013-0083	City of Pilot Point	HRA	General, PWD	3	1/23/2015
2013-0070	City of Plainview	HRA	General	1	11/7/2014
2013-0053	City of Primera	HRA, HBA	General	11	10/8/2014
2013-0066	City of Roaring Springs	HRA	General	1	2/6/2015
2015-0004	City of Roma	HRA	General, PWD	11	8/17/2015
2013-0075	City of Ropesville	HRA	General	1	2/6/2015
2013-0029	City of Rusk	HRA	General	4	11/14/2014
2013-0017	City of Sinton	HRA	General, PWD	10	6/17/2014
2013-0004	City of Slaton	HRA	General	1	3/28/2014
2015-0007	City of Smithville	HRA	General, PWD, Disaster	7	2/3/2016
2013-0021	City of Smyer	HRA	General	1	5/19/2014
2013-0056	City of Somerville	HRA	General, PWD, Disaster	8	9/25/2014
2013-0065	City of Stockdale	HRA	General, PWD	9	3/7/2015
2015-0010	City of Taylor	HRA	General, PWD, Disaster	7	2/3/2016
2013-0052	City of Tioga	HRA	General, PWD	3	1/22/2015
2013-0034	City of Troup	HRA	General	4	8/29/2014
2013-0009	City of Victoria	HRA	General, PWD	10	5/5/2014
2013-0049	City of Weimar	HRA	General, PWD	6	2/26/2015
2013-0025	City of Wolfe City	HRA	General, PWD	3	6/3/2014
2015-0012	Coastal Bend CIL	TBRA	PWD	10	2/3/2016

2013-0089	CC South Central Texas	HRA, HBA, TBRA	General, PWD, Disaster, CFD	10, 11, 9	1/29/2015
2013-0091	CDC Brownsville	HRA, HBA	General, PWD, CFD	11	4/22/2015
2013-0036	Green Doors	TBRA	General, PWD	7	10/1/2014
2013-0030	Crane County	HRA	General	12	7/10/2014
2013-0067	Dickens County	HRA	General	1	11/14/2014
2015-0007	Easter Seals-Central Texas, Inc.	HBA, TBRA	PWD	10, 3, 6, 7, 8, 9	10/20/2015
2013-0078	EOAC	TBRA	General, PWD, Disaster	8	3/15/2015
2015-0006	El Paso Collaborative	HRA	PWD, CFD	13	8/28/2015
2013-0044	Floyd County	HRA	General, PWD	1	9/22/2014
2013-0062	Garza County	HRA	General	1	1/22/2015
2013-0046	Guadalupe County	HRA	General, PWD	9	10/8/2014
2013-0069	Smith Co. Habitat	HRA	General, PWD	4	12/15/2014
2013-0081	Lamar County	HRA	General, PWD	4	1/22/2015
2013-0006	Meals on Wheels and More	HRA	General, PWD	7	7/21/2014
2015-0002	MHMR of Tarrant County	TBRA	General, PWD	3	8/28/2015
2013-0012	Morris County	HRA	General, PWD	4	4/15/2014
2013-0065	Motley County	HRA	General	1	11/20/2014
2013-0002	NBCR	TBRA	General, PWD	9	3/24/2014
2013-0040	Nueces County MHMR	TBRA	General, PWD	10	1/12/2015
2013-0097	Panhandle Community Services	HRA	General, PWD	1	5/11/2015
2013-0042	Permian Basin Community	TBRA	General, PWD	12, 13	10/8/2014
2013-0037	Project Vida CDC	HRA	General, PWD	13	9/23/2014
2013-0057	Red River County	HRA	General, PWD	4	11/18/2014
2013-0031	Rolling Plains MC	HRA, TBRA	General, PWD	2	8/27/2014
2013-0093	Runnels County	HRA	General, PWD, Disaster	2	3/10/2015
2013-0036	Sabine Community Healthcare	TBRA	PWD	4	8/29/2014
2015-0004	Spindletop Center	TBRA	PWD	5, 6	10/5/2015
2013-0047	Starr County	HRA, HBA	General, PWD	11	6/12/2015
2015-0014	Tarrant County Housing	HRA, HBA	General, PWD	3	2/9/2016
2013-0024	Temple Housing Authority	HBA	General	8	7/18/2014
2013-0044	Tri-County Services	TBRA	PWD	6	10/8/2014
2013-0007	Tropical Tx Behavioral Health	TBRA	General, PWD	11	4/24/2014
2015-0013	Village Of Vinton	HRA, TBRA	General, PWD, Disaster	13	1/29/2016
<b>TOTAL</b>					<b>100</b>

\* Several RSP applications received prior to the release of the 2015 HOME RSP NOFA became effective in 2016.



# **ACTION ITEMS**

3a

**BOARD REPORT ITEM**

**FAIR HOUSING, DATA MANAGEMENT, & REPORTING**

**MARCH 31, 2016**

**Report on Department's Fair Housing Activities**

The Fair Housing, Data Management & Reporting (“FHDMR”) Team actively works on a variety of fair housing related projects. Reflected below is a summary of the major fair housing related projects and activities planned for the next six months in various stages of research, planning, and implementation including the ongoing implementation and documentation of efforts by the Texas Department of Housing and Community Affairs (“TDHCA”) to affirmatively further fair housing. Attached is an annual detailed report on all fair housing activities implemented or completed by TDHCA staff.

*Fair Housing Month, April*

TDHCA has a number of events planned to mark April as Fair Housing Month. Staff is conducting a Fair Housing Webinar series in coordination with the Texas Workforce Commission. The series features training sessions designed to introduce, add to, or refresh general fair housing knowledge. Trainings will provide an overview of fair housing in Texas, information on reasonable accommodations, and best practices for multifamily developments in tenant selection criteria and wait list management. There will also be internal brown bag trainings for TDHCA staff covering fair housing updates, the new Affirmatively Furthering Fair Housing rule, affirmative marketing, and the language access plan.

*Fair Housing Workgroup, Preparations to Comply with AFFH Rule*

TDHCA, Texas Department of Agriculture, Texas General Land Office, and Texas Department of State Health Services each have responsibility for affirmatively furthering fair housing. This group of agencies, and the Texas Workforce Commission continue to meet on a regular basis to discuss fair housing issues, rule and policy changes, and brainstorm new ideas to improve agency coordination and resource sharing. The agencies are also coordinating as they prepare to comply with the new Affirmatively Furthering Fair Housing (“AFFH”) rule using the state Analysis of Fair Housing (“AFH”) tool. The rule includes significant changes to the Citizen Participation Plan; FHDMR staff is preparing a timeline to comply with the new plan and is identifying how it will roll out changes. If passed as a final version by HUD, the AFH tool will be in effective for the 2020-2025 Consolidated Plan and its Public Housing Authority Plan.

*QAP Scoring Incentives and Alignment with Fair Housing*

Staff participates in monthly Qualified Allocation Plan (“QAP”) 2017 planning roundtable discussions and conducts significant research on potential scoring items. Research includes analyzing the statewide impact of items and considering their alignment with fair housing through mapping and analyzing census data related to income and poverty levels, and researching and mapping changes in Texas Education Agency education standards and ratings.

*Assess Internal Process to Handle Fair Housing/ 504 Related Complaints*

It is not uncommon that TDHCA, through its Compliance Division and Housing Resource Center, receives complaints from households, and staff is developing protocols to more clearly identify those complaints with possible fair housing elements so that FHDMR staff can be appropriately involved. Managing fair housing related complaints is a lengthy process and frequently involves working across divisions with compliance and legal staff. The majority of fair housing related complaints are related to reasonable

accommodations; when these arise staff works with tenants and properties to navigate the lawful application of the reasonable accommodation process. Where appropriate and according to a Memorandum of Understanding, TDHCA makes referrals to Texas Workforce Commission, the fair housing enforcement agency in Texas.

#### *Develop Single Family Affirmative Marketing Training*

On December 6, 2015, the Single Family Umbrella rules that govern TDHCA's single family programs were revised to require an Affirmative Marketing Plan – HUD form 935.2B or equivalent plan - of its single family subrecipients that will direct specific marketing and outreach to potential tenants and homebuyers who are considered “least likely” to know about or apply for housing based on an evaluation of market area data. Staff is planning training to assist subrecipients in complying with this rule for the HOME, NSP, CDBG, programs and may undergo a rulemaking for ESG.

#### *Analyzing Program Design and Eligibility Criteria*

FHDNR staff serve as a resource to program areas and has been assisting in helping areas quantitatively evaluate the impact of possible program design considerations, in terms of how such possible changes would align with fair housing goals. One example includes staff evaluating the demographics associated with possible expanded eligibility criteria in the Homeless Housing and Services Program (“HHSP”). FHDNR staff has also served as a resource in the drafting of program scoring items such as points for fair housing training in the HOME Program.

#### *Develop Renters Resources Webpage Covering Fair Housing Issues*

TDHCA administers numerous rental assistance programs. Staff is in the process of developing a resource webpage addressing fair housing aimed specifically at administrators and their tenant clients for TDHCA's multiple renter programs: Section 8, HOME Tenant Based Rental Assistance, Emergency Solutions Grant rental assistance, 811, and Homeless Housing and Services Program.

#### *Develop Violence Against Women Act (“VAWA”) Reauthorization of 2013 Webpage*

VAWA maintains protections for public housing, Section 8 vouchers, and project based Section 8 and in the 2013 reauthorization expanded such housing protections to numerous programs including HOME, 811, Community Development Block Grant (“CDBG”), Housing Opportunities for Persons with AIDS (“HOPWA”), and Low-Income Housing Tax Credits (“LIHTC”). Staff will develop a robust webpage with resources for properties and administrators to comply with VAWA. This includes significant changes and notifications in notices, applications, and any adverse action against the tenant.

## **Exhibit A**

Following is the TDHCA report on Fair Housing Action Steps.



## Summary Report

### TDHCA Fair Housing Activities

**This report provides a summary of efforts (“Action Steps”) that the Department is currently planning, implementing, or that have already been incorporated into the rules and processes of the housing and/or community affairs programs that the Department administers.**



## Understanding this report

The report lists the Department’s fair housing Action Steps. Action Steps reduce the barriers to Fair Housing Choice. Action Steps may be associated with one or more of six (6) Impediments identified in the 2013 Analysis of Impediments to Fair Housing Choice for the State of Texas. This report includes all fair housing Action Steps for both HUD and non-HUD funded activities.

The report is generated from a database maintained by the Fair Housing, Data Management, and Reporting Division. Some elements of the database and report may change in the future as staff works to improve reporting and document the Department’s efforts to affirmatively further fair housing.

Action Step ID Number	Action Step Title		
<b>TDHCA Fair Housing Action Steps</b>			
Action Step ID	<b>1</b>	<b>Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule</b>	
Begin Date:	6/6/2014	COMPLETED - 4/1/2015	Multifamily <b>H</b>
Summary	Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area". The Department hosted roundtables for feedback and create a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data.		

The report lists a begin date and status for each entered Action Step. The status will reflect “Implemented” or “Completed.” Items showing a status of “Implemented” that have no begin date reflect items that were begun prior to the beginning of the tracking database and Fair Housing Team and are ongoing at the Department. Items showing a status of “Implemented” that have a begin date are currently in progress and have not been completed. Items showing a status of “Completed” began and were completed after the creation of the Fair Housing Team. For any completed status, a date of completion will be entered.

Begin date	Status	End date	H: Includes HUD Funded Programs
<b>TDHCA Fair Housing Action Steps</b>			
Action Step ID	<b>1</b>	<b>Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule</b>	
Begin Date:	6/6/2014	COMPLETED - 4/1/2015	Multifamily <b>H</b>
Summary	Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area". The Department hosted roundtables for feedback and create a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data.		

Included in the report is a summary of each Action Step and the overhead category describing the activity. Categories include Agency Wide, Single Family, and Multifamily. Community Affairs items, which include the Emergency Solutions Grant Program, are included in the Single Family category. Action Steps are tied to specific TDHCA program areas. The “H” indicates the program area includes HUD funded programs. This report tracks all fair housing activity, including activities on non-HUD funded programs.

# TDHCA Fair Housing Action Steps

Action Step ID	<b>1 Development of a Revised Multifamily Affirmative Fair Housing Marketing Rule</b>		
Begin Date:	6/6/2014 COMPLETED - 4/1/2015	Multifamily	<b>H</b>
Summary	Development of a revised rule for Multifamily Affirmative Fair Housing Marketing through Subchapter F of the Uniform Multifamily Rules. The new rule will guide owners and managers in identifying "least likely to apply" populations using HUD's definition of minority concentration and seek to clarify and expand on HUD's definition of a "market area." The Department hosted roundtables for feedback and created a tool to assist in comparing tenant pool data (or in the case of new construction developments, census tract demographic data) to MSA or County demographic census data. The tool is web based and has been effective in helping properties better strategize in affirmative marketing and continues to be an ongoing action step.		

Action Step ID	<b>2 Internal Program Area and Monitoring Area Reviews</b>		
Begin Date:	4/22/2014 COMPLETED - 6/12/2014	Agency Wide	<b>H</b>
Summary	TDHCA program and monitoring areas were reviewed for developments in Fair Housing. Meetings were held with Division Directors to discuss current efforts and potential goals of program areas. Guiding documents of the program area were reviewed, collected demographic data was discussed, and initial action steps were identified. This type of review is ongoing and all guiding documents, rules, and plans are reviewed from this perspective.		

Action Step ID	<b>3 Development of a Fair Housing Tracking Database</b>		
Begin Date:	4/22/2014 COMPLETED - 7/31/2014	Agency Wide	<b>H</b>
Summary	The Fair Housing Tracking database was created to track agency goals, efforts, and progress made under the Phase 2 Analysis of Impediments ("AI"). The Fair Housing Tracking database provides the Department with an ability to pull basic metrics and provide reports by AI Goals, Impediments, Action Items, and other meaningful search criteria. Such abilities assist the state in identifying areas of improvement and success under its HUD-related obligation to affirmatively further fair housing choice. The design of the database was completed in 2014; however, the content of the database is maintained on an ongoing basis.		

Action Step ID	<b>4 Redevelopment of TDHCA Fair Housing Website Section</b>		
Begin Date:	6/11/2014 COMPLETED - 10/9/2014	Agency Wide	<b>H</b>
Summary	<p>This step involved the redevelopment of the TDHCA Fair Housing website to improve fair housing complaint direction, increase fair housing training and knowledge across the state, and provide toolkits and information resources specific to renters, homebuyers, development owners and administrators, real estate professionals, local governments, and elected officials. New website sections were created (additional sections were implemented into the website plan such as a survey, news corner, and TX Fair Housing events and training calendar). Renter and homebuyer information includes fair housing and reasonable accommodations rights information, unbanked resident toolkits for building credit, information on how to find affordable rental housing, and landlord-tenant toolkits and brochures. Development owners, administrators, and real estate professionals will find best policy guidance, rules information, and sample forms and documents. Local governments and elected officials will find information on zoning best practices as suggested in the Phase 2 Analysis of Impediments (AI). The site continues to be updated and augmented.</p>		

Action Step ID	<b>6 Austin Area Meeting on the Adoption of a City Ordinance: Source of Income as a Protected Class</b>		
Begin Date:	6/4/2014 COMPLETED - 6/4/2014	Agency Wide	<b>H</b>
Summary	<p>Fair Housing Team networking and attendance at a City of Austin meeting discussing a proposed ordinance to include source of income as a protected class. The ordinance would extend City of Austin fair housing protections to Section 8 Housing Choice voucher holders and other subsidy program recipients.</p>		

Action Step ID	<b>7 Development of QAP Scoring Incentives for Development in High Opportunity Areas</b>		
Begin Date:	COMPLETED - 1/1/2013	Multifamily	
Summary	<p>In 2013, TDHCA implemented a series of scoring items to facilitate the development of tax credit properties in high opportunity areas. The scoring items included an opportunity index with the highest scoring options for locating developments in census tracts with low poverty rates (&lt;15%), high household incomes, and high elementary school performance ratings (as reported by the Texas Education Agency). A second scoring item known as "Educational Excellence" provides additional points for locating developments in areas that also have high quality middle and high schools. These items were updated in each subsequent QAP and continuing to refine the scoring in the QAP through a fair housing perspective occurs annually. Staff are currently participating in monthly QAP 2017 roundtable discussions. Staff researched potential scoring items, changes in TEA educational standards, regional scores, updated poverty and income census data, and mapped data to determine eligible tracks and potential patterns.</p>		

Action Step ID **8 Expansion of Ineligible Adverse Site and Area Characteristics**

Begin Date: 7/1/2013 COMPLETED - 11/15/2013 Multifamily **H**

Summary In 2013, existing site ineligibility characteristics were expanded. The rule now covers up to a 1,000 foot radius and ineligible features include blight, high crime, heavy industrial facilities, and other characteristics which may not be appropriate for residential development. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions or appropriate mitigation measures for tenants. These criteria are evaluated annually and updated as needed.

Action Step ID **9 Review and revision of TDHCA's Language Assistance Plan**

Begin Date: 4/22/2014 COMPLETED - 8/1/2014 Agency Wide **H**

Summary The Language Assistance Plan was completed will be revisited as staff work to comply with the new AFFH rule and robust Citizen Participation Plan. In February 2015 TDHCA secured two contracts for third party interpretation and translation services, one for the Spanish language, one for other languages. The agency will roll out translated documents and resources as deemed necessary in the language access plan.

Action Step ID **10 HHSCC and TDHCA Partnership and Creation of Rental Assistance Video Series**

Begin Date: COMPLETED - 9/26/2014 Agency Wide **H**

Summary HHSCC and TDHCA collaborated on a short video series to educate the public on fair housing (including reasonable accommodations), homebuyer assistance, rental assistance, energy assistance, home repair, emergency assistance, and service enriched housing. The short video series is available on TDHCA's website and is used to engage and inform the public. Since March 2015 there were 506 page views on TDHCA's webpage with the video series.

Action Step ID **11 University of Houston Contract for Multifamily Primer**

Begin Date: COMPLETED - 10/14/2014 Multifamily

Summary To better address opportunities for meaningful and substantive input regarding the development of affordable housing and to meet the needs of the public, advocacy groups, elected officials, and local governments in understanding Multifamily programs offered by the Department (particularly the Housing Tax Credit program), TDHCA contracted with the University of Houston to develop a lay person's guide to Multifamily housing and local community involvement.

Action Step ID **12 Development of a Demographic Collection Database**

Begin Date: 4/16/2014 COMPLETED - 4/30/2015 Agency Wide **H**

Summary Because of the wide array of service provision systems used by TDHCA staff, the mechanism for capturing the demographic data of all multifamily households served by various program areas was created. The database serves Multifamily programs for purposes of better program planning and policy provision and to evaluate progress towards the goals identified in the AI. Staff continues to look at demographics during program design across all of its programs. Staff continue to update the database, adding Census tract information into multifamily properties in the Compliance Monitoring and Tracking System ("CMTS").

Action Step ID **13 ConPlan Review and Contributions**

Begin Date: 5/2/2014 IMPLEMENTED Agency Wide **H**

Summary The Fair Housing Team assists the Housing Resource Center each year in reviewing and drafting sections of the Consolidated Plan in accordance with recommendations made during the Analysis of Impediments process. The Team contributes information and feedback on goals and steps to be taken as a result of identified needs and barriers.

Action Step ID **14 PRA 811 Round 2 Application**

Begin Date: 5/6/2014 COMPLETED - 6/1/2014 Single Family **H**

Summary The PRA 811 group applied for Round 2 PRA 811 funds in an effort to acquire additional funds to support initiatives to increase housing options for persons with disabilities in the existing TDHCA multifamily portfolio. The second 811 grant was awarded for an additional \$12 million for the program.

Action Step ID **15 Creation of a State Agency Fair Housing Workgroup**

Begin Date: 5/6/2014 COMPLETED - 6/27/2014 Agency Wide **H**

Summary A routine meeting schedule was established for TDA, TDHCA, TWC, GLO, and DSHS to assist state agencies in aligning fair housing efforts including efforts associated with the AI, consider ways to improve fair housing education and outreach across the state, and develop consistency in complaint direction, training, and resource provision. The workgroup will also work jointly on the implementation of the news AFFH rule and state tool.

Action Step ID **16 Texas Workforce Commission MOU Revisions**

Begin Date: 5/13/2014 COMPLETED - 10/1/2014 Agency Wide H

Summary The current MOU with TWC was reviewed and revised to add the opportunity for improved training collaboration and complaint direction. MOU requirements for mandated reporting in the event of uncorrected fair housing violations were strengthened and the expectation for information on reported violations and settlements was clarified. TDHCA and TWC continue to work closely together, sharing information and referrals as outlined in the MOU.

Action Step ID **17 Creation of External Outreach Tools: Fair Housing Listserv**

Begin Date: 5/6/2014 COMPLETED - 7/9/2014 Agency Wide H

Summary A new Fair Housing listserv group was implemented. The new listserv will assist TDHCA in reaching external fair housing advocacy and special interest groups that would not ordinarily be part of the Department's listservs.

Action Step ID **18 Development of a Revised Tenant Selection Rule**

Begin Date: 5/22/2014 COMPLETED - 4/1/2015 Multifamily H

Summary Tenant Selection Criteria can greatly affect the demographic mix of a property and the fair housing choice of protected classes. The current rule in Subchapter F of the Uniform Multifamily Rules was reviewed, feedback was collected from the property community, advocacy groups were consulted, a large scale review of plans collected during onsite monitoring were analyzed, and other State HFA policies were researched. The new rule clarifies fair housing and reasonable accommodation provisions.

Action Step ID **19 Creation of an Internal and External Email and Marketing Statement**

Begin Date: 5/28/2014 COMPLETED - 7/14/2014 Agency Wide H

Summary FH Team and DPPA met with Executive and developed a new mission statement and byline that highlight fair housing. The mission statement is used with external marketing publications and communications.

Action Step ID **20 TDHCA Fair Housing Accessibility First Construction and Compliance Training**

Begin Date: 5/29/2014 COMPLETED - 5/29/2014 Agency Wide H

Summary In coordination with the Texas Affiliation Of Affordable Housing Providers (TAAHP) and other State agencies who receive Federal funds, TDHCA coordinated the Fair Housing Accessibility First Construction and Compliance training offered by Jack Catlin (HUD approved trainer) and industry expert, LCM Architects.



Action Step ID **21 TDHCA 2010 ADA Standards Training**

Begin Date: 5/30/2014 COMPLETED - 5/30/2014

Agency Wide

H

Summary In January 2014 following Department of Justice guidance, TDHCA adopted 2010 ADA construction standards for Section 504 compliance. TDHCA's Compliance Division hosted a 2010 ADA training and invited property management, owners, engineers, architects, and the general public. Site plan reviews are conducted on HOME multifamily properties.

Action Step ID **22 QCT Data and the HTC Portfolio: Research**

Begin Date: 4/25/2014 COMPLETED - 6/3/2014

Multifamily

Summary In addition to gathering data on how many portfolio properties were funded in a Qualified Census Tract (QCT) in past allocation cycles, additional data was collected on any other noted trends, such as non-profit developers receiving property tax exemptions, at risk set aside developments, and large amounts of MF HOME funds. Staff assisted in trying to determine identifiable patterns that may have accounted for higher scoring items associated with funding developments not located in QCTs. This type of research continues annually.

Action Step ID **23 Creation of TDHCA Fair Housing Marketing Guidelines**

Begin Date: IMPLEMENTED

Agency Wide

H

Summary DPPA creation of a TDHCA Fair Housing Marketing Guidelines booklet concerning items such as: Inclusion of information on how to request reasonable accommodations on all publicly distributed event notices (including for persons with limited English proficiency), acceptable terminology, fair housing logo use, and appropriate use of photographs and images in advertising.

Action Step ID **24 Creation of a Fair Housing ad in TAAHP publication**

Begin Date: 5/28/2014 COMPLETED - 6/5/2014

Agency Wide

H

Summary DPPA received an opportunity to post a TDHCA ad in an upcoming TAAHP publication. The Fair Housing Team researched statistics and created a fair housing tagline to be used to draw attention to the Department's commitment to fair housing efforts and raise public awareness about the importance of fair housing choice. Additionally, TDHCA ran an ad in the 2015 TAAHP annual conference program.

Action Step ID **25 Development of a New Single Family Affirmative Fair Housing Marketing Rule**  
Begin Date: 6/10/2014 COMPLETED - 12/6/2015 Single Family **H**  
Summary A new Single Family Affirmative Marketing Rule was drafted for inclusion in the Single Family Umbrella Rule. The new Rule assists the Department in clarifying expectations and monitoring for compliance with HUD's affirmative marketing requirements. State HTF programs are also subject to the provision to create consistency within the Department. A training to compliment this is underway.

Action Step ID **27 Creation of an Internal Fair Housing Training Initiative**  
Begin Date: 6/16/2014 IMPLEMENTED Agency Wide **H**  
Summary An internal fair housing training initiative was created to provide more education and training to internal staff. The initiative began with poster display and blogging on the water cooler page and culminated in brown bag sessions for internal staff and mini power point presentations at program area staff meetings.

Action Step ID **28 TDHCA Speakership: TxAPA Conference - Zoning Laws and Best Practices for Fair Housing**  
Begin Date: COMPLETED - 10/16/2014 Agency Wide **H**  
Summary TDHCA appeared as a speaker along with representatives from Coats Rose and the City of Buda at the Texas American Planning Association ("TxAPA") Conference in Frisco, TX on October 16, 2014. The panel discussion included topics such as recent legal actions related to zoning, a city representative's perspective on the HTC program and how to engage with the public, and a general discussion of zoning best practices.

Action Step ID **29 Research and Identification of Translation Services for Limited English Proficiency clients**  
Begin Date: 6/20/2014 COMPLETED - 2/12/2015 Agency Wide **H**  
Summary The Fair Housing Team led the efforts to address the need for agency third party translation services. Funding was discussed as well as developing an MOU with another state agency currently contracting (DSHS, HHSC) for services. DSHS and HHSC were contacted for more information and in preparation of a TDHCA proposal for services. An internal agency survey was conducted through program Division Directors to acquire feedback on prospective use of written and oral translation services. Results of the survey were used to assist the agency in estimating efficacy and cost. Translation services were subsequently procured on a standing as-needed basis, and are used across the agency.

Action Step ID **30 Revisions to CMTS Demographic Data Collection Fields**

Begin Date: 6/27/2014 IMPLEMENTED Multifamily H

Summary The FH Team and Compliance Division are guiding CMTS system changes to report demographic information by household member rather than on a cumulative household basis. These corrections in the CMTS system will assist the Department in being able to better evaluate and streamline demographic reporting, deliver data to HUD for inclusion in the HFA report, and analyze the demographic composition of its portfolio. The revised screen will include information on household members' race, ethnicity, age, and disability status. As discussed at the Department's IS steering committee this is designated as a high priority project (March 2016).

Action Step ID **31 Creation of a Fair Housing Article for the Texas Municipal League**

Begin Date: 7/1/2014 COMPLETED - 9/15/2014 Multifamily H

Summary In order to support local elected official and government needs for information related to affordable housing development, TDHCA's Executive Director drafted an article for consideration in the publication of the Texas Municipal League's newsletter. This article provided local governments with important information about affordable housing developments. The article was published on September 14, 2014.

Action Step ID **32 Revisions to CMTS: Fixing and Populating Census Tract Entry**

Begin Date: 7/8/2014 COMPLETED - 8/1/2015 Multifamily H

Summary The FH Team led the initiative to improve and populate census tract entry field to prepare for creating a website mapping tool that will show service delivery areas and demographic populations served. This kind of tool is heavily dependent on address entry being accurate and the ability to easily pull census data. GIS Lat/Long Verification tools will also be researched for integration. This tool is currently in use.

Action Step ID **33 Expansion of Undesirable Site and Area Features Rules in the 2015 Multifamily Rules**

Begin Date: 7/15/2014 COMPLETED - 1/1/2015 Multifamily H

Summary Elements related to Environmental Justice were researched for inclusion in the 2015 Undesirable Site and Area Features Rules to be incorporated in the Uniform Multifamily Rules in Subchapter B. The rule revisions consider the incorporation of additional undesirable site features such as large refineries and highly volatile pipelines and suggest a basic criteria to be used in determining whether additional staff review of a site is necessary (criteria suggested considered poverty rates, crime index ratings, and proximity to facilities that raise environmental justice concerns). The rule change was adopted.

Action Step ID **34 Increase of Project Access Voucher Allocations**

Begin Date: IMPLEMENTED Single Family **H**

Summary Project Access vouchers were increased from 100 in 2012 to 140 in 2014 to maximize the amount of assistance provided to low income households with an individual with a disability. Project Access serves individuals exiting nursing facilities, intensive care facilities, and board and care facilities statewide. In February 2016 the wait list was served completely, but consistently fills then is served. The list fluctuates in size and continues to assist persons transitioning out of facilities into community based settings.

Action Step ID **35 Creation of a Project Access Pilot Program with DADS and DSHS**

Begin Date: IMPLEMENTED Single Family **H**

Summary In working with local stakeholders and examining the needs of tenants with disabilities across the state, the Section 8 Program Area created the Project Access Pilot, in which 10 of 140 vouchers offered through Project Access are made available in partnership with TX DSHS and DADS to specifically assist persons exiting state psychiatric hospitals. All 10 pilot vouchers are in use as of March 2016.

Action Step ID **36 Section 8 Technical Assistance for Relocation Contracts and the HOME TBRA Bridge**

Begin Date: IMPLEMENTED Single Family **H**

Summary In 2014, Section 8 created new program policy to encourage the use of HOME TBRA as a bridge to the Project Access program to better assist persons with disabilities and facilitate access to vouchers, including allowing TBRA HOME Administrators to amend their program designs to prioritize individuals residing in institutions and on the Project Access waitlist where a Project Access voucher was not yet available. Technical Assistance for Relocation Contractors was also provided so TBRA Administrators could assist in identifying opportunities for transitioning eligible HOME TBRA participants to the Project Access program (which unlike TBRA does not have a time limit on assistance). This program continues and its use fluctuates as the Project Access waiting list fluctuates.

Action Step ID **37 TDHCA sets aside 5% of HOME funds for use in PWD (Persons with Disabilities) programs**

Begin Date: IMPLEMENTED Single Family **H**

Summary Out of the state's HOME allocation, TDHCA reserves 5% for use in PWD activities to encourage better service provision to households with an individual who has a disability across the state and in Participating Jurisdictions. The remaining 95% of HOME funds are used for all populations in rural places, including persons with disabilities.

Action Step ID **39 TDHCA and Local Operator provision of Fair Housing and Educational Materials for Section 8 Recipients**

Begin Date: IMPLEMENTED Single Family **H**

Summary As part of its Administrative Plan and to aid in the effective implementation of its program, the Section 8 Division provides HUD Fair Housing guidance to both prospective tenants and property Owners/landlords in the form of Fair Housing information packets and tenant and landlord briefings. The Housing Resources Center provides additional information for the briefing packet that includes information on schools, employment availabilities, hospitals, and other amenities by location/area.

Action Step ID **40 Section 8 Reasonable Accommodations Policies and Requirements**

Begin Date: IMPLEMENTED Single Family **H**

Summary TDHCA's Section 8 program tracks requests and responses made on behalf of subrecipient reasonable accommodation requests and requires reasonable accommodations statements be included in the intake application and in client briefing packets. Local Operators and TDHCA inspect for equal opportunity posters, complaint information, and reasonable accommodation policy provision during annual onsite Section 8 Management Assessment Program ("SEMAP") inspections. Sample Forms for reasonable accommodation requests are also handed out in briefing packets and discussed during Section 8 briefings.

Action Step ID **42 Section 8 Streamlining of Criminal Screening Standards**

Begin Date: IMPLEMENTED Single Family **H**

Summary Prior to 2012, Local Operators were allowed to separately screen Section 8 participants. However, in an effort to ensure that screened and accepted Section 8 households were not subject to additional or higher standards at the Local Operator level, this was subsequently disallowed and only TDHCA was allowed to conduct the screening for the applicant household.

Action Step ID **43 Update of TDHCA's Section 8 Administrative Plan & Website Section**

Begin Date: 5/1/2014 IMPLEMENTED Single Family **H**

Summary The Section 8 Administrative Plan is being reviewed and revised to better align with overall Department goals to affirmatively further fair housing. The advent of the revised plan will coincide with a new Section 8 website section on fair housing and resources for renters.

Action Step ID **44 Revision of the Single Family Umbrella Rule to Allow HTF Amy Young Barrier Removal Funds to be used for Mobile Home Modifications**

Begin Date: COMPLETED - 11/1/2014 Single Family

Summary The revision of the Single Family Umbrella Rule for the 2014 Rules Cycle included revised language concerning the use of Federal funds in mobile home modifications. The Rule was specifically modified to allow the use of State funded HTF funds in the Amy Young Barrier Removal Program to be used to modify existing mobile homes where accessibility features are required to meet the needs of individuals with disabilities. Feedback on this Rule was generated through TDHCA's work with the Housing and Health Services Coordination (HHSC) Council and the Disability Advocacy Workgroup (DAW).

Action Step ID **45 Fair Housing Training Requirement Changes**

Begin Date: 4/22/2014 COMPLETED - 12/1/2014 Agency Wide H

Summary The Fair Housing Training RFQ was reviewed. Small changes were discussed with Asset Management and recommended during the rule-making process in Subchapter E (fair housing training certifications must demonstrate training within the last year and expectations for separate trainings for engineers and architects and Owners and managers were clarified). TDHCA requires five hours of TDHCA approved fair housing training for Development Owners, management companies, and Development architects or engineers responsible for fair housing compliance. Training Certifications must be submitted as part of post bond closing documentation (for Multifamily Bond transactions) and documentation submitted for the 10 Percent Test (for Housing Tax Credits). Additional changes to the Fair Housing Training RFQ and the potential for a free online training course promulgated by TWC or TDHCA will be reviewed.

Action Step ID **46 Revision of the Fair Housing Training Component for the ESG Implementation Workshop**

Begin Date: 8/5/2014 COMPLETED - 9/16/2014 Single Family H

Summary The ESG group, with the help of the Fair Housing Team and Legal, drafted a comprehensive Fair Housing training component to be presented during the ESG Implementation Workshop each year. Training components included detailed discussions of all Civil Rights laws related to ESG, ADA requirements for shelters, reasonable accommodation requirements, equal access guidance, LEP guidance, and information on affirmative outreach provisions. This is updated and provided annually.



Action Step ID **47 Creation of a brochure regarding tenant's programmatic rights**  
Begin Date: 8/8/2014 COMPLETED - 1/1/2015 Multifamily H  
Summary A tenant rights and resources brochure was created by the Fair Housing and Compliance team with the intent of: 1) Increasing education about fair housing rights and reasonable accommodations, 2) Increasing education about the rights of Section 8 renters in TDHCA funded multifamily rental properties, 3) Creating a more meaningful fair housing disclosure notice, and 4) Ensuring properties are adequately advertising their available amenities and services. Brochures are posted in multifamily properties and given to tenants at move in. The Uniform Multifamily Rules, under Subchapter F, Section 10.612(a)(4) require that a Fair Housing Disclosure Notice form be presented to the household at the time of application for occupancy and must be executed 120 days prior to the leasing effective date. The form provides the household with notification of their rights to choose among available housing options.

Action Step ID **48 Expansion of Universal Design Elements to HOME HRA Minimum Construction Standards**  
Begin Date: 9/4/2014 COMPLETED - 11/1/2014 Single Family H  
Summary Single Family programs implemented Minimum Construction Standards to be effective in January of 2015 to identify universal design concepts such as accessible doorway considerations when the home is rehabilitation with federal funds. These programs increase the stock of housing that is available for persons with disabilities.

Action Step ID **49 Revamp of the Research Database used by HRC and DPPA when answering the Auto-Call Distribution (ACD) Phone Line**  
Begin Date: 8/21/2014 COMPLETED - 4/1/2015 Agency Wide H  
Summary The research database, which provides the content for the Help for Texans center of the TDHCA webpage, was revamped at HRC's request to include fair housing related calls which can now be included in reporting and tracking of fair housing-related information calls through the ACD line. HRC also follows up fair housing related ACD calls with an informational letter directing callers to TWC for complaints and to the Fair Housing Team and new website section for fair housing-related information.

Action Step ID **50 Creation of a marketing giveaway (letter openers) with references to Fair Housing commitment**  
Begin Date: 8/21/2014 COMPLETED - 9/1/2014 Single Family  
Summary Homebuyer and Mortgage Credit Certification ("MCC") programs requested a marketing giveaway in the form of letter openers with references to the new Fair Housing commitment tagline, "Expanding Fair Housing Choice and Opportunities for all Texans" to increase the visibility of Fair Housing in the State. The letter openers were given out during the Texas Municipal League conference.

Action Step ID **51 Rule provisions and statute require all Multifamily properties to be subject to Section 504 as specified under 24 CFR part 8, Subpart C**

Begin Date: Completed Date Unavailable Multifamily **H**

Summary The State of Texas regulations and TDHCA Rules require all Multifamily TDHCA monitored rental properties to follow Section 504 requirements. Rule provisions are included in statute, the Uniform Multifamily Rules, Chapter 10, Subchapter B, Section 10.101(a)(8), and are reiterated in additional program area rules, NOFAs, and in the Compliance Monitoring Rules in Subchapter F.

Action Step ID **52 Creation of an Agency Wide Reasonable Accommodation Rule in 10 TAC Section 1.204**

Begin Date: 12/1/2013 Completed Date Unavailable Agency Wide **H**

Summary The Reasonable Accommodation Rule was created in 10 TAC Section 1.204 to better align 504 mandates with monitoring goals and provide guidance to SF, MF, and CA stakeholders regarding laws and implementation of reasonable accommodation practices.

Action Step ID **53 Expansion of Affirmative Marketing requirements to HTF, MRB, and HTC properties**

Begin Date: IMPLEMENTED Multifamily

Summary Affirmative Marketing requirements are extended to the HTC and HTF programs through the Uniform Multifamily Rules in Subchapter F to ensure state goals of affirmatively furthering fair housing across its affordable housing portfolio. As a result of including these additional programs, all multifamily TDHCA monitored properties are required to affirmatively market.

Action Step ID **54 Qualified Allocation Plan and Statute Housing De-Concentration Factors**

Begin Date: IMPLEMENTED Multifamily

Summary In an effort to ensure that affordable, low income properties monitored by TDHCA are not clustered in concentrated areas that will create a lack of fair housing choice, TDHCA maintains four deconcentration factors for threshold selection. These are listed in Section 11.3 of the QAP and include the Two Mile Same Year Rule, the Twice the State Average Per Capita Rule, the One Mile Three Year Rule, and Limitations on Developments in Certain Census Tracts Rule. This rule is revisited annually.

Action Step ID **55 Qualified Allocation Plan limitation on qualified non-rural elderly developments**

Begin Date: COMPLETED - 1/1/2014 Multifamily

Summary The 2014 QAP provided a limitation on qualified non-rural elderly developments in the counties of Collin, Denton, Ellis, Johnson, Hays, and Guadalupe as well as non-rural developments in Regions 5, 6, and 8. This limitation was created to balance TDHCA's portfolio, which showed a percentage of qualified elderly households exceeding percentages of the total qualified elderly eligible populations for the area. As result, developers were incentivized to pursue general family developments in these areas and increase housing stock for non-elderly families.

Action Step ID **56 Expansion of accessibility requirements and 20% minimum construction standard for Multifamily properties**

Begin Date: IMPLEMENTED Multifamily

Summary The Uniform Multifamily Rules Subchapter B, Section 10.101(8)(B), expand accessibility requirements to multifamily developments not normally subject to Fair Housing requirements and require a minimum of 20% of each unit type to provide accessible entry levels, including a minimum of one bedroom and bathroom or powder room at entry level, and provision of all common use facilities in compliance with Fair Housing guidelines. This rule ensures that even small size developments will be subject to Department and Fair Housing accessibility rules.

Action Step ID **57 Qualified Allocation Plan Tie Breaker Factor based on High Opportunity area provisions**

Begin Date: COMPLETED - 1/1/2014 Multifamily

Summary The 2014 QAP included applications scoring higher on the Opportunity Index as its first tie breaker factor in the event that Competitive HTC applications should tie with another application with the same score at the time of HTC award. This further served to incentivize development in High Opportunity areas as specified in the 2014 QAP under Chapter 11. This continues to be used as the highest tie breaker since 2014.

Action Step ID **58 Qualified Allocation Plan Criteria to serve and support Texans most in need**

Begin Date: IMPLEMENTED Multifamily

Summary Criteria included in the QAP to ensure that Texans most in need are supported and served by the HTC program include point elections to incentivize development of additional units to serve 30% AMI (extremely low income) tenants and development of supportive housing developments. The criteria awards additional points in the event that 20% of units will be made available to tenants at 30% AMI for supportive housing or at least 10% of all units in urban or 7.5% of all units in rural will be made available to tenants at 30% AMI

Action Step ID **59 Qualified Allocation Plan Criteria for Tenant Populations with Special Housing Needs**

Begin Date: IMPLEMENTED Multifamily

Summary Criteria included for Tenant Populations with Special Housing Needs includes point elections for developments for which at least 5% of units are set aside for persons with special needs (such as individuals with alcohol and drug addictions, colonia residents, persons with disabilities, persons protected by VAWA, persons with HIV/AIDS, homeless populations, veterans, wounded warriors, and migrant farm workers). Such units must be affirmatively marketed to persons with special needs and units must be held vacant for occupancy by a person meeting special needs criteria for a 12 month period at the time of lease up. If a property is located in an MSA which serves the 811 program, the application must agree to participate in the 811 program to receive these points.

Action Step ID **60 Qualified Allocation Plan provisions to ensure incentives for local community support or opposition are consistent with Fair Housing objectives**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary Provisions were added in Section 11.9(d), relating to community engagement, to advise community organizations and local governments to consider Fair Housing laws, FFAST forms, current Analysis of Impediment documents in local jurisdictions, one year action plans, and five year consolidated plans when generating opposition or support documents.

Action Step ID **61 Uniform Multifamily rule provision to treat all rehabilitation as substantial alteration**

Begin Date: IMPLEMENTED Multifamily **H**

Summary The rule provision in 10 TAC 1.209 requires that all applications proposing rehabilitation (including reconstruction) be treated as substantial alteration. The inclusion of this provision requires any developer to make 2% of units accessible to persons with vision and hearing impairments and 5% of units accessible to persons with mobility impairments as part of the development's improvements.

Action Step ID **62 Uniform Multifamily Rule provision related to Owner certification of Fair Housing education**

Begin Date: IMPLEMENTED Multifamily **H**

Summary The Uniform Multifamily rule provision in Subchapter C, Section 10.204(1)(D) requires the Development Owner to certify to the reading and understanding of the Department's fair housing educational materials posted on the website as of the beginning of the application acceptance period. The inclusion of this provision is intended to assist in reminding Owners of their duties and obligations under Fair Housing law and in aligning with TDHCA's certification to affirmatively further fair housing.

Action Step ID **63 Uniform Multifamily Rule provisions requiring Fair Housing training certification for Owners, Management Agents, Engineers, and Architects**

Begin Date: IMPLEMENTED Multifamily H

Summary The Uniform Multifamily rule provisions in 10.402(e) and (g) of Subchapter E require 4% HTC and MRB and 9% Competitive HTC awarded developments to demonstrate five hours of Fair Housing Training for Owners or Management Agents and either Engineers or Architects at the time of Post Bond Closing and the HTC 10% Test. Demonstration of training must be provided in the form of a training certification provided within the last 2 years. HOME MF Developments are required to share training methods at the time of application when they submit a development's Affirmative Marketing Plan.

Action Step ID **64 Uniform Multifamily Rules and statute provision for Tenant Selection Criteria**

Begin Date: IMPLEMENTED Multifamily H

Summary The Uniform Multifamily rules provision requires the creation and use of Tenant Selection Criteria in Subchapter F, Section 10.610, that prohibit refusal to rent to Section 8 tenants or tenants of other federal subsidy programs, create a minimum income standard for voucher holders to decrease impediments to low income access, and prohibit owners from denying prospective tenants on the basis of provision protected under the Violence Against Women Reauthorization Act of 2013.

Action Step ID **66 Uniform Multifamily Rule provision related to notice of amenities and services**

Begin Date: IMPLEMENTED Multifamily H

Summary The Uniform Multifamily rule provision included in Subchapter F, Section 10.613(k), Leasing Provisions, requires that the development owner provide each household at the time of execution of an initial lease a notice describing fair housing and tenant choice and common amenities, unit amenities, or required services. The provision assists the Department in expanding choice to low income and households with an individual with a disability who might desire particular amenities or services.

Action Step ID **67 Bond/4% HTC Rules Tie Breaker Factor based on Housing De-Concentration Factors**

Begin Date: COMPLETED - 1/1/2014 Multifamily H

Summary The Multifamily Housing Revenue Bond Rules in Section 12.4 (c) Scoring and Ranking, include tie breaker factors for 4% HTC and MRB deals in the following order: 1) Applications that meet any of the criteria under serving and supporting Texans most in need (related to offering more units at a lower AMI range to create more affordable housing options for low income families, offering tenant services or supportive housing or housing to tenants with special housing needs, or qualifying under the opportunity index), or 2) Applications that are the greatest linear distance from the nearest HTC assisted development (in the interest of ensuring maximum fair housing choice).

Action Step ID **68 TX Interagency Council for the Homeless**

Begin Date: IMPLEMENTED Agency Wide H

Summary Provisions in statute for the TX Interagency Council for the Homeless provide that TDHCA will provide members from the Community Affairs and MF Finance areas tasked to assist in Council work. Legislation requires TICH to coordinate the state's resources and services to address homelessness.

Action Step ID **69 Qualified Allocation Plan At Risk Set Aside provisions**

Begin Date: COMPLETED - 1/1/2014 Multifamily

Summary The QAP includes At Risk Set Aside criteria that allowed relocation of existing units qualifying as at risk if the affordable restrictions and subsidies were approved for transfer to a new site prior to the tax credit commitment deadline, the same number of restricted units was proposed, and the new development site would qualify for points under the Opportunity Index. This new provision assisted TDHCA in guiding new policies concerning demolition and replacement of at risk units in areas better suited to fair housing choice and opportunity than their original locations while also seeking to preserve affordable housing units. Subsequent QAPs have continued this criteria.

Action Step ID **70 Provision of awards based on the TX State Regional Allocation Formula (RAF)**

Begin Date: IMPLEMENTED Multifamily H

Summary The Regional Allocation Formula was developed in compliance with Texas Government Code Section 2306.1115 to award available funds within rural and urban sub-regions and to ensure equitable and consistent provision of credits, HOME, and HTF funds based on statistical data that measures affordable housing needs and resources in 13 State Service Regions. The RAF is revised annually to reflect changes in data, public comment, and assess available resources.

Action Step ID **71 Qualified Allocation Plan Quantifiable Community Participation provisions**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary The QAP includes Quantifiable Community Participation provisions in Section 11.9(4)(D) that include highest point incentives for explicit support or neutrality from a Neighborhood Organization that during at least one of three prior Application Rounds provided a written statement that qualified as Quantifiable Community Participation opposing any Competitive Housing Tax Credit Application and whose boundaries remain unchanged. These provisions assist TDHCA in incentivizing development in communities which have been historically opposed to affordable housing but have changed their views.



Action Step ID **72 Qualified Allocation Plan Community Revitalization Provisions**

Begin Date: COMPLETED - 1/1/2013 Multifamily

Summary The QAP includes Community Revitalization Plan provisions in Section 11.9(d)(7) that serve as an incentive for communities outside of the Opportunity Index to invest in community revitalization to address adverse environmental conditions, presence of blight, inadequate transportation and infrastructure, lack of accessibility and/or inadequate public facilities, presence of significant crime, lack of poor condition and/or performance of public education, lack of local business providing employment opportunities, or lack of planning efforts to promote diversity. As a result of this investment, communities with concerted revitalization efforts that include affordable housing development can still enter competitive applications for consideration.

Action Step ID **73 Combination of MCC and down payment assistance through the Homebuyer Program**

Begin Date: 1/1/2012 IMPLEMENTED Single Family

Summary Program rules allow homebuyers to receive both down payment assistance and access to the MCC program to claim tax credits for a portion of their mortgage paid each year, thereby extending greater levels of assistance to low income homebuyers across the state of Texas.

Action Step ID **75 Prohibited discrimination provisions in Master Mortgage Origination Agreements (Section 4.15)**

Begin Date: IMPLEMENTED Single Family

Summary Master Mortgage Origination Agreements promulgated by the Department (Section 4.15) include prohibitions of discrimination and give TDHCA the right to request periodic reports on applicant data at any time to ensure that the master mortgage originator is not engaging in discriminatory practices.

Action Step ID **76 Prohibited discrimination provisions in Participating Lender Agreements**

Begin Date: IMPLEMENTED Single Family

Summary Participating Lender Agreements promulgated by TDHCA include nondiscrimination provisions based on protected class status. Such nondiscrimination provisions also protect the exercising of rights under the Federal Consumer Credit Protection Act and other antidiscrimination laws or laws based on any other characteristic of a person defined as a prohibited basis for credit discrimination under state, federal, or local laws.

Action Step ID **77 Homebuyer program website provision of Credit Rating information**

Begin Date: IMPLEMENTED Single Family

Summary TDHCA's Homebuyer programs maintain a separate website interface that includes consumer information such as information on where to request a free credit report and referrals to agencies in a searchable area through the Help for Texans page that provide consumer credit counseling.

Action Step ID **78 Homebuyer programs currently provide marketing materials in both English and Spanish**

Begin Date: IMPLEMENTED Single Family

Summary TDHCA's Homebuyer programs engage with LEP populations as a normal course of marketing. Marketing materials are available in both English and Spanish for these homebuyer programs. Materials in both languages are taken to presentations and made available to participating lenders through the My First Texas Home website.

Action Step ID **79 NSP3 application point incentives encouraging high opportunity area investments**

Begin Date: Completed Date Unavailable Single Family **H**

Summary In the release of NSP3 funds, application point incentives were created to encourage: 1) Housing for households at or below 50% AMI (5 pts), 2) Development in low poverty areas (census tracts with no greater than 10% poverty thresholds according to the census) (1 pt), 3) Development in mixed-use residential/community areas located within a 1/4 mile radius of existing or proposed bus stops (1 pt), 4) Development in attendance zones of exemplary or recognized elementary schools (1 pt), and 5) Development of units designed to serve special needs or hard to serve populations (2 pts were possible if 51% of units were reserved for this purpose).

Action Step ID **80 NSP training included elements of Fair Housing, Affirmative Marketing, and LEP**

Begin Date: Completed Date Unavailable Single Family **H**

Summary TDHCA working with the Texas Apartment Association administered NSP training during NSP1. A full day training was offered on Affirmative Marketing and training was delivered by TAA in four locations of the state to ensure that subrecipients were aware of Fair Housing, Affirmative Marketing, and LEP requirements.

Action Step ID **81 NSP options for households with limited or no credit and limited funds for initial investment**

Begin Date: IMPLEMENTED Single Family **H**

Summary NSP training and rules adoption allowed for alternative means of demonstrating credit in the event that a single family household had limited or no credit available at application. Alternative means of demonstration included references from rental housing, utility companies, and landline phones. In addition, though homebuyers were required to demonstrate an initial \$500 investment, the program allowed sweat equity in exchange of the financial investment (which could be performed by the homebuyer or a related party on the homebuyer's behalf). This flexibility is intended to provide less barriers in program access for low income persons and persons with disabilities.

Action Step ID **82 NSP pairing of homebuyer assistance with zero interest loans for 50% AMI families**

Begin Date: IMPLEMENTED Single Family **H**

Summary The NSP program allowed subrecipients to apply to acquire foreclosed, abandoned, or vacant properties with permanent loans with deferred, forgivable terms. The NSP1 NOFA required that subrecipients use at least 35% of their non-admin funds to serve households at or below 50% AMI and NSP3 awarded points to incentivize applications seeking to serve households at or below 50% AMI. Households at or below 50% AMI were eligible for 0% interest mortgages plus deferred forgivable homebuyer assistance.

Action Step ID **83 ESG Request for HUD waiver to Exceed Fair Market Rents**

Begin Date: 10/13/2014 COMPLETED - 10/13/2014 Single Family **H**

Summary TDHCA requested a waiver from HUD on October 13, 2014, under 24 CFR Section 576.106(d) of the ESG Interim Rule for permission to exceed the HUD FMR for ESG rapid re-housing and homelessness prevention programs and expand tenant fair housing choice to high opportunity neighborhoods in higher cost rental markets that have recently experienced rent increases due to rapid economic and population growth. As part of this waiver, the Department requested approval to: 1) Assist participants with rents at 110% of the HUD published FMR in all Texas areas except Dallas-Fort Worth-Arlington and Laredo MSAs, 2) Assist participants in Dallas-Fort Worth-Arlington and Laredo MSAs with rents up to HUD's Small Market FMRs, and 3) Assist participants with disabilities who require reasonable accommodations to rent units up to 120% of the HUD published FMR. HUD guidance indicated that this request was too broad. Staff revised and resubmitted, see action step #141.

Action Step ID **84 ESG Adoption of Outcome Analysis and CoC Award Models**

Begin Date: IMPLEMENTED Single Family **H**

Summary ESG, as part of a Federal initiative, is moving funding awards to Continuum of Care recipients rather than individual providers. The result will be awards moving through local jurisdictions rather than individual providers and should achieve a better mechanism for data capture, needs assessment, and determining efficiency and accountability. As part of moving to this new model, the ESG application, its NOFAs, and elements of competitive scoring have been revised to consider elements such as past performance and future target outcomes. This model will assist the program area in better evaluating barriers, impediments, and program metrics by leveraging the CoC local capacity and expertise. Pilot, local competitions were run in 2014 and 2015 resulting in more local connections and coordination. In 2016 TDHCA expanded the pilot program for local competitions from two CoC Lead Agencies to five CoC Lead Agencies.

Action Step ID **85 ESG Spanish Language Contract Requirements**

Begin Date: IMPLEMENTED Single Family **H**

Summary The ESG contract currently requires that subrecipients provide program applications, forms, and educational materials in both English and Spanish and other languages as appropriate for the service area. ESG staff is working on providing additional guidance for LEP provisions. The forms used by program participants are now translated into Spanish and are posted online (Income Screening Tool, Income Certification, Request for Unit Approval, Rental Assistance Agreement). A Language Access Plan will be required of all Subrecipients starting with FY 2016 funding and Spanish is a mandatory language in the LAP.

Action Step ID **86 TDHCA Establishment of the Disability Advocates Workgroup (DAW)**

Begin Date: IMPLEMENTED Single Family **H**

Summary For more than fifteen years the Department has created and maintained a Disability Advisory Workgroup ("DAW") to provide policy guidance. The DAW is organized by HRC staff in coordination with Executive guidance. Representatives from TDHCA's HOME, PRA 811, HRC, HTF, Colonia, and other Divisions attend the Disability Advocates Workgroup to discuss relevant issues and gather feedback on policies and rulemaking that may create barriers in housing placement for persons with disabilities.

Action Step ID **87 SF HOME Homeowner Rehabilitation Assistance (HRA) allowance of additional funds for accessible features**

Begin Date: IMPLEMENTED Single Family **H**

Summary The HRA section of the SF HOME Rules allows \$5,000 in direct costs in excess of the program maximum to be requested for homeowners requesting accessible features in their homes.

Action Step ID	<b>88 SF HOME Homebuyer Assistance Program (HBA) additional assistance for homebuyers needing accessible features</b>		
Begin Date:	IMPLEMENTED	Single Family	<b>H</b>
Summary	The SF HOME Homebuyer Assistance Program (HBA) rules allow expanded use for acquisition and rehab for homebuyers needing accessible features in their single family homes. Persons with disabilities are eligible for up to \$20,000 in Hard Costs and \$5,000 in Soft Costs to meet these needs.		
Action Step ID	<b>89 SF HOME Contract For Deed (CFD) and Single Family Development (SFD) allow additional assistance for persons requesting accessible features</b>		
Begin Date:	IMPLEMENTED	Single Family	<b>H</b>
Summary	The SF HOME CFD and SFD rules allow for an additional \$5,000 in direct cost funds requested for recipients if the household requests accessibility features. Homebuyer activities allow for an additional \$20,000 in direct cost funds if the household requests accessibility features.		
Action Step ID	<b>90 SF HOME TBRA extended terms for tenants applying for vouchers or other subsidized housing programs</b>		
Begin Date:	IMPLEMENTED	Single Family	<b>H</b>
Summary	Under the SF HOME TBRA rules, the 24 month term of TBRA was extended an additional 24 months (not to exceed 60) if a tenant has applied for a Housing Choice Voucher through a housing authority, if a tenant has applied to a project based unit in the 811 or 202 programs, or has entered an application for a Project Access voucher during their TBRA tenure. This extension for TBRA assistance allows subrecipients to guide participants towards permanent housing options that will best meet their household's needs and helps to avoid unnecessary gaps in housing assistance for low income families and persons with disabilities.		
Action Step ID	<b>91 SF HOME Application Changes</b>		
Begin Date:	7/1/2014 IMPLEMENTED	Single Family	<b>H</b>
Summary	The draft 2016 HOME SF NOFA and application required new SF Affirmative Marketing and LEP requirements as finalized under the revised SF Umbrella Rule.		

Action Step ID **92 Single Family Accessibility Requirements and Incorporation in Program Area Rules**

Begin Date: IMPLEMENTED Single Family **H**

Summary To ensure compliance with Single Family accessibility requirements, changes in program rules were implemented to require either approved verification of accessibility requirements based on a review of plans and specs or written verification of accessibility requirements at final inspection. Stronger compliance and enforcement will assist the state in ensuring new single family development units are constructed in compliance with the SF accessibility standards mandated by TDHCA and statute.

Action Step ID **94 Creation of an affordable housing presentation for HTC public forums**

Begin Date: IMPLEMENTED Multifamily

Summary Multifamily created a short video to show at the beginning of HTC public forums during the Tax Credit cycle that could be used to address common questions and concerns about affordable housing. The video premiered during the 2014 cycle and is available on the MFMU website as a tool that can be used and viewed by local government officials, communities, and developers in addressing common questions and concerns.

Action Step ID **95 HTF Bootstrap Rule Provision Considerations of Credit Eligibility Factors Impacting Low Income Households**

Begin Date: IMPLEMENTED Single Family

Summary The TDHCA HTF Bootstrap Rule provisions in Section 24.9 widen credit eligibility to include households engaged in remediation such as payment plans that are intended to assist the household in re-establishing credit. The provisions allow for alternative underwriting criteria.

Action Step ID **96 HTF Bootstrap Rule Provision Allows for Alternative Means of Providing Self Help Labor**

Begin Date: IMPLEMENTED Single Family

Summary TDHCA's HTF Bootstrap Rule provision in Section 24.10 considers persons with disabilities in allowing for an alternative means of providing self help labor to qualify under owner-builder requirements in the event of a documented disability. This flexibility provision assists in extending this lending program to persons with disabilities.



Action Step ID **97 HTF Bootstrap Rule Requirement for Owner-Builder Homeownership Education Classes**

Begin Date: IMPLEMENTED Single Family

Summary Section 24.10 of the HTF Bootstrap Rules require Owner-Builders to complete homeownership classes prior to loan funding. These classes are offered in Spanish and English and include sections on credit to assist in helping unbanked residents to understand and build credit.

Action Step ID **98 HTF Amy Young Barrier Removal Program Marketing Materials in Spanish and English**

Begin Date: IMPLEMENTED Single Family

Summary The HTF Amy Young Barrier Removal Program markets program materials to households in both Spanish and English to assist in fully reaching persons with disabilities in underserved areas of the state and avoid barriers created by Limited English Proficiency (LEP).

Action Step ID **99 Housing Trust Fund (HTF) establishment of funds for the Amy Young Barrier Removal Program**

Begin Date: IMPLEMENTED Single Family

Summary Beginning in 2010, TDHCA established the Amy Young Barrier Removal Program to specifically serve persons with disabilities and allow additional options for persons seeking to modify their homes to meet their accessibility needs. Nonprofit and local governments process intake applications, determine eligibility, and oversee construction for program participants across the state. Funds are offered in the form of grants up to \$20,000 and assists both renters and homeowners under 80% AMI.

Action Step ID **100 Housing Trust Fund (HTF) establishment of funds for Contract for Deed**

Begin Date: IMPLEMENTED Single Family

Summary In addition to HOME CFD activities, the Department also offers a Housing Trust Fund program for Conversion. Contract for Deed allows households located in Colonia areas to convert contracts for deed into warranty deeds and thereby attain ownership and property rights. House Bill 311 from the 84th Texas Legislature greatly simplifies the title conversion process through which a borrower converts their Contract for Deed (or "executory contract") into a deed, by filing the Contract for Deed in the Real Properties records in the county where the property is located which declares title ownership. However, many Contract for Deeds remain unrecorded in the colonias and therefore need to be recorded in the Real Property records to convey title. In addition to HOME CFD activities, the Department also offers the Housing Trust Fund Contract for Deed Program to assist local organizations (nonprofits) identify households with unrecorded Contracts for Deed and addressing clouded titles.

Action Step ID **101 TX State CDBG Grant Allocation for use in Colonia Self Help Centers**

Begin Date: IMPLEMENTED Single Family **H**

Summary The Legislature provided for use of TX State CDBG grant allocations for the express purpose of providing Colonia Self Help Centers in 1995. Self Help Centers in five Colonia areas currently provide a range of assistance to Colonia residents and assist the Department in reducing barriers for Colonia residents seeking to apply for funds under other TDHCA low income and disability programs. Materials provided at the centers are provided in English and Spanish.

Action Step ID **102 Colonia Rule Provision Allowing for Grant and Loan Use for Suitable Housing Outside of a Colonia**

Begin Date: IMPLEMENTED Single Family **H**

Summary Colonia Self-Help Center rule provisions in Section 25.3(9) and Statute allow for the use of Colonia grant and loan funds for suitable housing outside colonias as well as within colonia areas as a way to improve and provide existing colonia housing. The flexibility of the rule is intended to protect fair housing choice and allow the relocation of households to areas that may offer more opportunity and infrastructure.

Action Step ID **103 Colonia Rule Provision Allowing Funds for Credit and Debt Counseling and Finance**

Begin Date: IMPLEMENTED Single Family **H**

Summary TDHCA's Colonia (CDBG) rule provision 25.3(7) allows the use of funds for providing credit and debt counseling related to home purchase and finance. This provision assists TDHCA in providing funds to assist unbanked residents in building credit and providing information to help access homeownership and other assistance program. Colonia Self Help Centers play an integral role in providing information to persons with Limited English Proficiency along the border.

Action Step ID **104 Colonia Rule Provision Allowing Funds for Provision of Assistance to Access Loans or Grants Offered by TDHCA**

Begin Date: IMPLEMENTED Single Family **H**

Summary Colonia Rule provision Section 25.3(11) through statute allows funds to be used by Colonia Self Help Centers to provide assistance to households eligible for loan or grant programs offered by TDHCA. In this way, Colonia CDBG funds assist the Department in reaching "least likely to apply" populations along the border in the five designated Colonia Self Help Center areas and decrease barriers due to Limited English Proficiency (LEP).

Action Step ID **105 Creation of Colonia Resident Advisory Councils by Statute and Rule**

Begin Date: IMPLEMENTED Single Family **H**

Summary TDHCA Rule provision 25.6(a) requires through statute the appointment of five residents of a Colonia to serve on a Colonia Resident Advisory Council ("C-RAC") within any area in which a Colonia Self Help Center is located to advise the Board on the Colonia's housing needs, the effectiveness of its proposed programs, and the award of contracts. Nonprofits submit suggested appointments to the County and the County submits nominations to the TDHCA Board, which makes nominations to the C-RAC. In this way, the State of TX and TDHCA obtain public participation and ensure that resident feedback is heard and considered in seeking to improve housing opportunities for protected classes and low income populations in Colonia areas.

Action Step ID **106 Colonia Self Help TDHCA Rule Provision Related to Access to Activities**

Begin Date: IMPLEMENTED Single Family **H**

Summary The Colonia Self Center Program rule in 10 TAC§25.7 (j) requires that Self Help Center administrators allow access to all public service activities identified in their contracts on at least one Saturday a month and at least one day during the work week after normal working hours to limit barriers to access for Colonia residents and families.

Action Step ID **107 Provision of Three Border Field Offices**

Begin Date: IMPLEMENTED Single Family **H**

Summary TDHCA Rules and Statute support the administration of three border field offices funded by General Revenue, Appropriated Receipts, and CDBG. These offices provide technical assistance to Colonia residents, nonprofits, for-profits, units of local government, and other community organizations along the Texas-Mexico border. Technical assistance and language services are provided for TDHCA programs. The Border Field Offices also provide help with applications, procurement, spec writing, and other items as needed. Like Self Help Centers, the Border Field Office offer additional support and language services to residents in underserved areas within the Colonias.

Action Step ID **108 Revision of the Fair Housing Training Component for the Amy Young Barrier Removal Program Administrator's Training Workshop**

Begin Date: 10/10/2014 COMPLETED - 10/22/2014 Single Family

Summary The Amy Young Barrier Removal Program Administrator's Training Workshop slides for Fair Housing and Section 504 requirements were reviewed with Amy Young Barrier Removal program staff. Slides were revised with the help of the Fair Housing Team. The Fair Housing Team Lead attended the workshop presentation on Fair Housing and was available for questions.

Action Step ID **109 Presentation of Fair Housing Team and Website Release at HHSCC Meeting**

Begin Date: 10/8/2014 COMPLETED - 10/8/2014 Agency Wide **H**

Summary On October 8, 2014, the Fair Housing Team Lead attended the Health and Human Services Coordination Council Meeting with Executive to share information related to the creation of the new Team and its efforts and to provide information on the release of its new fair housing website section and promote HHSCC members and agencies joining the TDHCA Fair Housing listserv. The website section launch was also announced via email to HHSCC members and County government email lists. In April 2015 fair housing staff will attend the HHSC Council meeting and provide updates on the new AFFH rule and AFH tool for states.

Action Step ID **110 TDHCA Attendance at the Congress for the New Urbanism Central Texas Chapter Luncheon "Great Places and Healthy People"**

Begin Date: 10/22/2014 COMPLETED - 10/29/2014 Agency Wide **H**

Summary TDHCA attended the CNU luncheon on "Great Places and Healthy People" that hosted keynote speaker Dr. Richard Jackson, Pediatrician and Public Health Leader. The lecture examined the connection between poor community design and burgeoning health issues, such as obesity, diabetes, heart, asthma, cancer and depression. These issues are highlighted in the 4-part PBS series "Designing Healthy Communities."

Action Step ID **111 TDHCA Attendance at the Opportunity Forum presented by the UT School of Law: Advancing Homeownership After the Crisis: Opportunities and Challenges in Texas**

Begin Date: 10/22/2014 IMPLEMENTED Single Family **H**

Summary TDHCA attended the Opportunity Forum on Advancing Homeownership After the Crisis, featuring Julia Gordon, Director of Housing Finance and Policy at the Center for American Progress ("CAP"). Dr. Gordon spoke on stabilizing the housing market and the future of housing finance, with an emphasis on Texas. In her role at CAP, and before that at the Federal Housing Finance Agency and the Center for Responsible Lending, Ms. Gordon has worked on a broad range of housing finance issues, including foreclosure prevention, predatory lending, Fannie Mae and Freddie Mac, and consumer financial protection.

Action Step ID **112 TDHCA Attendance at the Opportunity Forum presented by the UT School of Law: Fair Chance Hiring - Reducing Criminal Record Barriers to Employment**

Begin Date: 10/22/2014 COMPLETED - 11/14/2014 Agency Wide H

Summary TDHCA attended the Opportunity Forum on Fair Chance Hiring and Criminal Record Barriers to Employment in an effort to gain more insight on what others are identifying and doing in response to criminal record barriers which is a common housing challenge. The presentation was directed by Maurice Emsellem, Program Director at the National Employment Law Project, and David Kirk, sociology professor at The University of Texas at Austin, and included discussions on the significant role criminal records play in creating barriers to employment. The opening presentations were followed by a panel discussion with local experts to consider the implications for Texas and strategies being used at state and local levels.

Action Step ID **113 Attendance on HUD's State of Fair Housing in America Call**

Begin Date: 11/17/2014 COMPLETED - 11/17/2014 Agency Wide H

Summary Reviewed HUD's Annual Fair Housing Report and attended HUD's State of Fair Housing in America conference call addressing its current activities, landmark cases, and upcoming goals.

Action Step ID **114 Tenant Selection Criteria Training**

Begin Date: 1/5/2015 COMPLETED - 2/17/2015 Multifamily H

Summary A webinar training on the revised Tenant Selection Criteria rule in Subchapter F, Section 10.610 was created by the Fair Housing Team and presented in coordination with the Multifamily Compliance Division. The training focuses on highlights of the new rule, best practices for achieving compliance, how monitoring will be affected, and answer questions related to implementation.

Action Step ID **115 Affirmative Marketing Training**

Begin Date: 1/5/2015 COMPLETED - 2/23/2015 Multifamily H

Summary A webinar training on the revised Affirmative Marketing Requirements rule in Subchapter F, Section 10.617 was created by the Fair Housing Team and presented in coordination with the Multifamily Compliance Division. The training focuses on highlights of the new rule, best practices for achieving compliance, how monitoring will be affected, and answer questions related to implementation.

Action Step ID **116 Affirmative Marketing Training (Part 2 - The AFHM Database Tool)**

Begin Date: 1/5/2015 IMPLEMENTED Multifamily H

Summary A webinar training on the Affirmative Marketing Database Tool was created by the Fair Housing Team and presented in coordination with the Multifamily Compliance Division. The training focuses on how to access the tool, basic troubleshooting guidance, and how to incorporate the tool's results in the development's Affirmative Fair Housing Marketing Plan.

Action Step ID **117 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar One - Fair Housing Training**

Begin Date: 4/7/2015 COMPLETED - 4/7/2015 Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas Rio Grande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the FH listserv.

Action Step ID **118 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar Two - The Investigative Role of TWCCRD**

Begin Date: 4/14/2015 COMPLETED - 4/14/2015 Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas RioGrande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the FH listserv.

Action Step ID **119 Fair Housing Webinar Series to Celebrate Fair Housing Month 2015: Webinar Three - Reasonable Accommodations**

Begin Date: 4/20/2015 COMPLETED - 4/20/2015 Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission, Greater San Antonio Fair Housing Council, and Texas RioGrande Legal Aid. Invitations were sent out via TDHCA's entire listserv, including the FH listserv.

Action Step ID **120 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar One - Fair Housing Overview**

Begin Date: 2/3/2016 IMPLEMENTED Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. Trainings are geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's FH listserv. This presentation will provide general information about Fair Housing, including an overview of HUD's new Affirmatively Furthering Fair Housing rule.



Action Step ID **121 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar Two - Reasonable Accommodations**

Begin Date: 2/3/2016 IMPLEMENTED Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. Trainings are geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's FH listserv. This presentation will cover reasonable accommodations and how properties should respond.

Action Step ID **122 Fair Housing Webinar Series to Celebrate Fair Housing Month 2016: Webinar Three – Fair Housing Best Practices for Multifamily Developments**

Begin Date: 2/3/2016 IMPLEMENTED Agency Wide H

Summary Implementation of a three part webinar series in coordination with the Texas Workforce Commission. Trainings are geared towards city, county, and local governments, housing providers, housing consumers and other fair housing partners. Invitations were sent out via TDHCA's FH listserv. This presentation will cover fair housing considerations for tenant selection criteria, wait list management, and affirmative marketing. The presentation will include information on House Bill 1510 and the potential impact on landlord liability considerations when renting to persons with a criminal background.

Action Step ID **123 Implementation of internal TDHCA training on fair housing for April's fair housing month (2016)**

Begin Date: 2/4/2016 IMPLEMENTED Agency Wide H

Summary Conduct fair housing training for TDHCA staff. Training will give an overview of fair housing, reasonable accommodation, and outreach to persons with Limited English Proficiency.

Action Step ID **124 Develop checklist and example Language Access Plan ("LAP") for Emergency Solutions Grant Program subrecipients to further comply with requirements**

Begin Date: 1/1/2016 COMPLETED - 3/1/2016 Single Family H

Summary The LAP checklist for ESG subrecipients outlines sections needed to further comply with HUD guidance on Limited English Proficient ("LEP") populations. The checklist will help subrecipients comply with the guidance and provide necessary language access, including prioritizing types of assistance and interactions with LEP persons. Language access plans assist with fair housing barriers based on national origin.

Action Step ID **126 Strengthen process to identify and handle complaints with possible fair housing concerns.**  
Begin Date: 2/1/2016 IMPLEMENTED Agency Wide **H**  
Summary Staff have identified the need to increase technical assistance surrounding possible fair housing concerns and questions in complaints received by TDHCA. FHDMMR staff are surveying current complaints and creating a streamlined process to handle. An SOP will be developed for use by the Housing Resource Center, Compliance, and Fair Housing, Data Management, and Reporting.

Action Step ID **128 Analyze Homeless Housing and Services Program (HHSP) program design, consider expanding program eligibility**  
Begin Date: 1/8/2016 IMPLEMENTED Single Family **H**  
Summary Researched possible impact on protected classes in expanding program eligibility from extremely low income to very low income, area median income. The program provides funding to the eight largest cities in Texas and can fund a range of activities including construction, development, or procurement of housing for homeless persons; rehabilitation of structures targeted to serving homeless persons or persons at-risk of homelessness; provision of direct services and case management to homeless persons or persons at-risk of homelessness; or other homelessness-related activity as approved by the Department.

Action Step ID **129 Analyze TDHCA programs assisting PWD households, data reported and need in Texas**  
Begin Date: 2/22/2016 IMPLEMENTED Multifamily **H**  
Summary Analyze households served and funds provided to persons with disabilities through TDHCA's rental assistance, homebuyer assistance, and homeowner repair programs. Data provided will aid staff in determining appropriate outreach strategies and changes in program design to meet the needs of households with a disability.

Action Step ID **130 TDHCA attendance at TDA roundtable, Fair Housing within the TxCDBG program**  
Begin Date: 2/25/2016 COMPLETED - 2/25/2016 Agency Wide **H**  
Summary TDHCA attended the Texas Department of Agriculture roundtable, discussing fair housing in rural communities utilizing Texas CDBG program funds. Participants discussed issues specific to rural and small communities such as addressing disparities in poverty and access to opportunity.

Action Step ID **131 TDHCA attendance at Austin Fair Housing Conference**

Begin Date: 2/19/2016 IMPLEMENTED

Agency Wide

**H**

Summary TDHCA will attend the 2016 Fair Housing Conference on April 20, 2016, hosted by the City of Austin and Texas Workforce Commission. TDHCA staff will speak at a roundtable discussion on the new AFFH rule from HUD. The conference will cover disparate impact, analysis of impediments to fair housing choice, fair housing testing, and case law.

Action Step ID **132 HHSC Council Conducted Housing and Services Partnership Academy**

Begin Date: 8/1/2014 COMPLETED - 2/10/2016

Agency Wide

**H**

Summary HHSC Council staff coordinated the Housing and Services Partnership Academy to promote Service Enriched Housing ("SEH") in Texas. SEH is defined as integrated, affordable, and accessible housing that provides residents with the opportunity to receive on-site or off-site health-related and other services and supports that foster independence in living and decision-making for individuals with disabilities and persons who are elderly. The academy consisted of teams throughout the state including persons with disabilities, public housing authorities, local governments, developers, centers for independent living, and faith based organizations. The topics included a tenant/consumer panel; an overview of new construction and rehabilitation development processes; identifying and securing existing units for SEH; round table sessions on housing and services programs; peer presentations; and team planning sessions.

Action Step ID **133 Analyze and Increase Section 8 Fair Market Rents**

Begin Date: 11/3/2015 IMPLEMENTED

Single Family

**H**

Summary Staff is examining small area fair market rents (FMRs) and hypothetical small area fair market rents to determine if FMRs in the Section 8 service area should increase to expand tenant housing choice. The establishment of the standard is important because it essentially determines whether a household will be able to find a unit they can afford with the voucher. In areas where market rents are high and there is high demand for rental units it can be challenging for a voucher holder to find a unit. Increased FMRs will aid in areas where voucher holders have had difficulty in finding acceptable units or affording units in more desirable areas. Higher FMRs provide additional choices and opportunities to tenants in highly competitive rental markets.

Action Step ID **134 Development of “Becoming a Homeowner” online homebuyer education tool**  
 Begin Date: 9/1/2014 IMPLEMENTED Single Family  
 Summary The Texas Homeownership division developed a free online homebuyer education module, “Becoming a Homeowner.” The tool is available in both English and Spanish. This provides buyers with a greater understanding of what to expect when purchasing a home, including information on the Mortgage Credit Certificate program, down payment assistance, and lending rates. The convenient, self-paced course offers a pre- and post-purchase tutorial on the ins and outs of buying a home. The online course is available 24/7.

Action Step ID **135 Points Awarded in NOFA for Fair Housing Training for HOME SF Subrecipients**  
 Begin Date: 8/3/2015 IMPLEMENTED Single Family **H**  
 Summary In the 2015 HOME competitive funding round (NOFA of approximately \$10,006,619 in HOME SF funding), points were given to Administrators that provided evidence that Fair Housing responsibilities are included in the job description of at least one employee of the Applicant, or if at least one employee of the Applicant is documented as having attended Fair Housing training no earlier than September 4, 2014. One additional point was given if both items were met, meaning that the applicant’s staff took fair housing training and will also be the point person for all fair housing related matters. The overwhelming majority of applications, 58 of 60, requested points under the Fair Housing Training criteria in the NOFA. By making this a scoring item, TDHCA effectively ensured a broader awareness of fair housing requirements and how best to assist disabled households with their housing needs.

Action Step ID **136 Development of Robust Internal Site and Neighborhood Review**  
 Begin Date: 11/2/2015 IMPLEMENTED Multifamily **H**  
 Summary In the fall of 2015 the HUD Fort Worth office transitioned site and neighborhood review of HOME MF new construction projects to TDHCA. The participating jurisdiction is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.57(e)(2) and (3). TDHCA staff developed an internal checklist with two reviewers. Applications in areas of minority concentration will receive additional review from the Fair Housing Team as staff complete the checklist and analyze comparable opportunities.

Action Step ID **137 Conduct SF affirmative marketing training**  
 Begin Date: 1/7/2016 IMPLEMENTED Single Family **H**  
 Summary In December 2015 TDHCA’s board approved the new SF affirmative marketing rule requiring an Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan. Staff is developing a training to assist SF administrators in complying with the rule to affirmatively marking and promote choice and opportunity for those considered "least likely" to know about or apply for housing based on an evaluation of market area data. This will affect CDBG, NSP, HOME, and ESG program (see also step 25).

Action Step ID **138 Section 811 PRA Grant, providing tenant choice and assisting persons with disabilities**

Begin Date: 8/1/2015 IMPLEMENTED Single Family **H**

Summary TDHCA was awarded \$24,342,000 to administer the Section 811 Project Rental Assistance Program, which provides project-based rental assistance for extremely low-income persons with disabilities linked with long term services. The program is targeted towards people with disabilities living in institutions, people with serious mental illness, and youth with disabilities existing foster care. To maximize tenant choice, while still ensuring the units are fully-integrated into the community, the Department is recruiting properties to participate by creating incentives for multifamily developers that are participating in TDHCA's Multifamily Housing Programs and qualified properties outside the TDHCA portfolio.

Action Step ID **139 Translate HOME SF application materials into Spanish language**

Begin Date: 1/1/2016 IMPLEMENTED Single Family **H**

Summary Staff are working to translate HOME SF client application materials into the Spanish language. This includes applications for Homebuyer Assistance, Single Family Development, Tenant Based Rental Assistance, Contract for Deed, and Homeowner Rehabilitation Assistance. Application materials may be available in other languages, as needed and requested.

Action Step ID **140 Creation of accessible electronic and information resources**

Begin Date: 1/1/2010 IMPLEMENTED Agency Wide **H**

Summary TDHCA's Information Systems Division ("ISD") assists the agency in the creation and procurement of electronic and information resources ("EIR") that are accessible for persons with disabilities. TDHCA's Website Administrator serves as EIR Accessibility Coordinator, and in this role leads the agency's efforts to maintain an accessible website and track accessibility status of other EIR.

Action Step ID **141 ESG requested HUD waiver to increase fair market rents and expand tenant choice**

Begin Date: 10/9/2015 IMPLEMENTED Single Family **H**

Summary TDHCA requested a waiver to HUD for the flexibility to exceed the FMR, to ensure ESG program participants can rapidly find habitable units in a wider arrange of neighborhoods, especially in markets where the costs of rents are rising and where vacancy of rental units is low. Exceeding the FMR will allow the Department to affirmatively promote fair housing choice by expanding participants' ability to move or remain in higher opportunity neighborhoods that may have a more expensive rental market. TDHCA requested an FMR waiver in areas in which the PHA had an approved payment standard that was higher than the FMR and 120% FMR for persons with disabilities. HUD considers waiver requests annually, data will be submitted in September 2016 with information from applications regarding whether local PHAs have a higher approved payment standard than the region's FMR. The waiver request for persons with disabilities is still under discussion with HUD.

Action Step ID **142 HOME Program Homebuyer assistance for low-income Texans**

Begin Date: IMPLEMENTED Single Family **H**

Summary The HOME Program makes available funding for downpayment assistance programs to offer deferred-forgivable 0% interest rate loans for low-income Texans. This facilitates home mortgage loans for households that may have been denied a traditional mortgage loan or that may otherwise be offered a high cost loan.

Action Step ID **143 HOME NOFA, points awarded for supportive services**

Begin Date: 11/20/2015 IMPLEMENTED Single Family **H**

Summary In 2015 HOME program points were provided to TBRA applicants with supportive services in the categories of child care, nutrition, job training, health, and human services activities. TBRA administrators that provide more holistic approach to assisting families help to remove barriers to mobility and provides more housing choice through their knowledge of housing stock in the community.

Action Step ID **144 Loan Services outreach to educate borrowers on homestead exemptions, lower tax payments, and increase affordability**

Begin Date: 7/1/2015 IMPLEMENTED Single Family **H**

Summary Loan Services staff process tax payments for TDHCA loans. Staff contacts homeowners with loans that do not show a homestead exemption and provide information on applying for a homestead exemption to lower tax payments and increase affordability through lower monthly mortgage payments. Loan Servicing staff also provide information related to other exemptions for households over 65 years old and people with disabilities, for which borrowers may be eligible.

Action Step ID **145 Increase homeownership opportunities**

Begin Date: 9/1/2015 IMPLEMENTED Single Family

Summary In the fall of 2015 TDHCA's master servicer for Texas Homeownership programs put new overlays in place, increasing credit score requirements, increasing debt to income ratio, and eliminating manual underwriting. TDHCA staff worked to counter the impact of this and increase lending options for households at risk for predatory and high cost loans. The Department continues to offer this lending product and worked to finance this option to expand housing choice and opportunity for those most in need of assistance with homeownership. This approach may be revised as the program continues based on financial feasibility and changes including those mandated by the servicer.

Action Step ID **148 Conduct fair housing training for MF NOFA**

Begin Date: 12/11/2015 COMPLETED - 2/2/2016

Multifamily

H

Summary Staff conducted a fair housing training for the multifamily NOFA. The training included a fair housing update on the new affirmatively furthering fair housing rule as well as an overview of affirmative marketing and wait list management.

Action Step ID **149 TDHCA Attendance at the Opportunity Forum presented by UT LBJ Schools of Public Affairs**

Begin Date: 2/19/2016 COMPLETED - 2/19/2016

Agency Wide

H

Summary TDHCA attended the Opportunity Forum on racial and ethnic divides in education in an effort to gain more insight into educational access. Presentations discussed racial, ethnic, and economic disparities in education in the Austin metropolitan area. Panelists included an Austin ISD school board member, researchers within the College of Education, and the Executive Director from Austin Voices for Education and Youth.

Action Step ID **150 Undesirable Neighborhood Characteristics in the 2016 Multifamily Rules**

Begin Date: 7/1/2015 IMPLEMENTED

Multifamily

H

Summary Undesirable neighborhood characteristics include census tracts with a poverty rate above 40%, violent crime rates above 18 per 1,000 persons as reported on neighborhoodscout.com, multiple vacant structures, development site within attendance zones of elementary, middle, and a high school that does not have a Met Standard rating by the Texas Education Agency. The rule requires disclosure of such features for any multifamily applications for funding rehabilitation of an existing property or new construction. The rule results in improved neighborhood conditions for tenants.

Action Step ID **151 Fair Housing Training, ESG Implementation Workshop**

Begin Date: 9/1/2015 COMPLETED - 9/22/2015

Single Family

H

Summary Staff made a fair housing presentation during the ESG Implementation Workshop. Materials covered a variety of topics including civil rights laws, reasonable accommodations, affirmative outreach, limited English proficiency, and equal access and non-discrimination policies for protected classes.



Action Step ID **152 Conduct Coordinated Access and Fair Housing Training Webinar for ESG Program**

Begin Date: 11/13/2015 COMPLETED - 1/6/2016 Single Family **H**

Summary ESG, Fair Housing, and Legal staff collaborated to present materials on the intersection of coordinated access and fair housing during the monthly ESG learning opportunity webinar. Training components included information on screening for diversion and homelessness prevention and applying criteria evening across protected classes as well as referrals to eligible resources, promoting choice.

Action Step ID **153 Implementation of House Bill 3311, Cap on Credits to Elderly Developments**

Begin Date: 6/1/2015 COMPLETED - 11/1/2015 Multifamily **H**

Summary Staff implemented House Bill 3311, in regions containing a county that has a population in excess of one million; the Board cannot allocate more than the maximum percentage of credits available for elderly developments, unless there are no other qualified applications in the subregion. Staff utilized data which breaks households down by income, size, tenure and broad age groups, also known as HISTA data. The Department published maximum percentages for each affected area in the Site Demographics Characteristics Report on its website.

Action Step ID **155 Implementation of National Housing Trust Fund, Development of Units to Serve Extremely Low-Income Households**

Begin Date: 11/2/2015 Multifamily **H**

Summary The National Housing Trust Fund (HTF) is a new affordable housing production program that will complement existing Federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families. HTF funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities. Funds will be allocation through the Regional Allocation Formula and subject to affirmative marketing requirements. All HTF-assisted units will be required to have a minimum affordability period of 30 years. HUD anticipates grantees will receive HTF allocations by summer 2016.

Action Step ID **156 Multifamily Direct Loan Program, Set-Aside for Supportive Housing or Units for Very Low-Income Households**

Begin Date: IMPLEMENTED

Multifamily

**H**

Summary The Multifamily Direct Loan Program provides funding to nonprofit and for-profit entities for the new construction or rehabilitation of affordable multifamily rental developments. The 2016 Notice of Funding Availability (“NOFA”) includes a \$3 million set-aside for deferred forgivable loan. Developments may qualify by meeting TDHCA’s Support Housing definitions or by creating units for households at 30% Area Median Income (“AMI”). Funds under this set-aside are intended to increase the number of 30% rent-restricted units and occupy them with households with an annual income of 30% AMI or less who are not currently receiving any type of rental assistance.

3b

**BOARD REPORT ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 31, 2016**

Report on the proposed National Housing Trust Fund roundtables.

**BACKGROUND**

The National Housing Trust Fund ("NHTF") is a federal program created under the Housing and Economic Recovery of 2008. For several years after it was created, funding for the program was underfunded as the two sources of funding, Fannie Mae and Freddie Mac, were rebuilding after the economic collapse. Last year, the Federal Housing Finance Agency announced that resources were available to fund the program in 2016. On January 30, 2015, HUD published an interim program rule, providing the guidelines for states to implement the NHTF. On March 12, 2015, Governor Abbott designated TDHCA as the state agency responsible for the administration of funds provided through NHTF. The annual allocation amount for Texas should be published next month with the grant agreement available for execution later this summer.

NHTF is a formula grant program designed exclusively for states, with all funds targeting extremely low income (30% of Area Median Income or less) households. Grantees must use at least 80% of its annual grant for rental housing. Up to 10 percent of the funds may be used for homeownership programs, but due to the very small amount available, staff is recommending all NHTF funds to multifamily development. Rental housing must meet a 30-year affordability period. TDHCA may use up to 10% of the grant amount for administrative costs.

In accordance with 24 CFR §91.320, TDHCA must submit an allocation plan for NHTF as part of its annual action plan submission, describing how funds will be used to address priority housing needs, what activities may be undertaken with those funds, and how recipients and projects will be selected to receive those funds. The allocation plan cannot be submitted to HUD until the formula allocation is provided to the Department. Furthermore, HUD guidance regarding the plan requirements has been published.

In an effort to ensure that the allocation plan addresses the needs and concerns of stakeholders throughout the state, TDCHA plans to hold roundtables in cities in April and May of this year, with a goal to bring the draft NHTF Allocation plan to the Board for approval at the meeting of May 26, 2016. The draft Allocation Plan will be published for public comment and brought back to the Board for final approval in July 2016, prior to submission to HUD as a Substantial Amendment to the 2016 Action Plan. It is anticipated that further discussion of NHTF will be included in roundtables on the 2017 Direct Loan NOFA, prior to publication of the NOFA in December 2016.

3c

**BOARD REPORT ITEM**  
**MULTIFAMILY FINANCE DIVISION**  
**MARCH 31, 2016**

Report on 2017 Qualified Allocation Plan ("QAP") Project

The second 2017 QAP meeting was held on February 24, 2016. The topic for the meeting was Aging in Place and Elderly development. The Agenda included discussion of Elderly Limitation and Elderly Preference requirements, limitations on elderly development in statute, and the scoring structure for elderly developments. Additionally, Aging in Place, which was removed from the 2016 QAP due to statutory requirements, was discussed.

The group requested that staff consider combining Aging in Place measures with other measures such as Educational Excellence, so that elderly and general developments are able to score balancing points under the item with a variety of options of value to different types of development. There was a good deal of conversation regarding the difficulties of finding sites that will score well on Educational Excellence as well as and a request that this item not apply to Elderly development.

In addition to the balancing of scoring items, another potential approach discussed was a menu option that allows points for multiple facets of a site in order to reach higher Opportunity Index scores, rather than the current structure.

The group requested additional meetings to discuss At-Risk development, and another to discuss Educational Excellence, staff will work to schedule those meetings.

The third 2017 QAP meeting agenda for March 30, discusses high opportunity location issues including Rural and Urban differences, geographic measures, gentrification and changing neighborhoods, access, and public resources. The April 27 meeting agenda includes high opportunity population issues, such as employment, NIMBY, poverty levels, and schools,

3d



## BOARD REPORT ITEM

### TEXAS HOMEOWNERSHIP DIVISION

MARCH 31, 2016

Quarterly Report on Texas Homeownership Division Activity

#### Background

The Texas Homeownership Division is primarily responsible for the creation, oversight and administration of the Department's non-federal homeownership programs, which are designed to assist low-to-moderate income first time homebuyers. The program does this through both bond proceeds, as well as through a TBA program in which funds are generated through private investors. The Department currently offers homeownership options through the following programs:

- My First Texas Home ("TMP 79") Program offers expanded mortgage-loan opportunities to qualifying first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options that include downpayment and/or closing cost assistance.
- Texas Mortgage Credit Certificate ("MCC") Program assists in making homeownership more affordable by providing first-time homebuyers a federal income tax credit, reducing the homebuyer's potential federal income tax liability. By having an MCC, the homebuyer has the ability to convert a portion (currently 40%) of their annual mortgage interest into a direct income tax credit of up to \$2,000 on their U.S. individual income tax return. The credit may be applied for the life of the loan, as long as it continues to be the borrower's primary residence. The Texas MCC Stand-alone option can be used with a conventional or government first mortgage loan.
- "Combo" option – to further expand the opportunity for affordable homeownership, first-time homebuyers can maximize their home-purchase benefits by combining a Texas Mortgage Credit Certificate with a My First Texas Home-TMP 79 mortgage loan. This "Combo" option is available at a minimal additional cost to the homebuyer.

All loans and MCCs – whether generated through bonds or the TBA resources - must comply with the traditional requirements associated with tax-exempt bond funded programs, such as the first-time homebuyer requirement and purchase price and income limits. Additionally, loans must meet credit and underwriting requirements such as a minimum FICO score and maximum debt-to-income ratios as required by FHA, VA, USDA-RD, Fannie Mae, and U.S. Bank, the Master Servicer for these programs.

Currently, the Department offers four down payment assistance options to first-time homebuyers. Note that rates vary daily by program. The rates reflected in the table below are the rates on the day prior to the posting of these Board materials:

	<b>Loan With No MCC</b>	<b>Combo - Loan With MCC</b>
4% Downpayment Assistance (no origination fee) – Government Loans (FHA, VA, USDA)	4.375%	4.375%
5% Downpayment Assistance (2% origination fee) – Conventional Loan (Fannie Mae)	N/A	4.875%
5% Assistance (no origination fee) – Conventional Loan (Fannie Mae)	N/A	4.500%
Stand-Alone Mortgage Credit Certificate –Private Sector Loan, TDHCA issues MCC	N/A	N/A

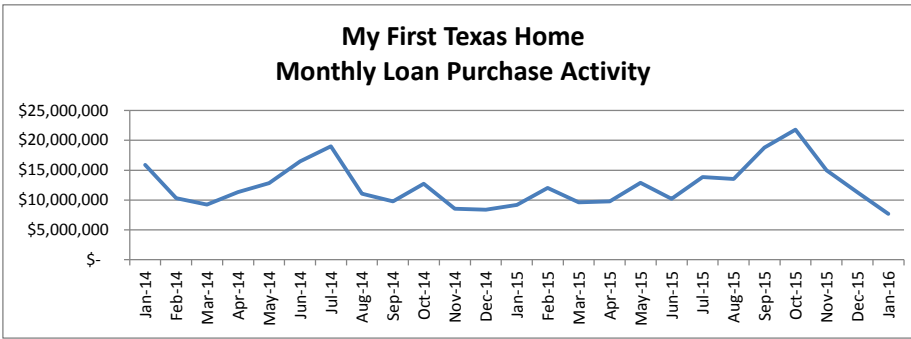
<b>Government Loans (FHA, VA, USDA-RHS)</b>				
	<b>Loan With No MCC</b>	<b>Combo Loan With MCC</b>	<b>DPA Provided</b>	<b>Origination Points</b>
4 Points of Net Assistance	<b>4.375%</b>	<b>4.375%</b>	4%	0%
<b>Conventional Loans – (FNMA HFA Preferred Loans)</b>				
	<b>Conventional Loans</b>		<b>DPA Provided</b>	<b>Origination Points</b>
5 Points of Net Assistance	<b>4.875%</b>		5%	0%
3 Points of Net Assistance	<b>4.500%</b>		5%	2%

The following reports reflect program activity over the prior two years for each of the three available options described above (Loan Only, MCC Only, Combo). The reports provide monthly loan purchase trends, average interest rates, top originating counties, average mortgage credit certificate amount, and average FICO score. Additional information is provided.

# Texas Department of Housing and Community Affairs

## My First Texas Home - Program 79

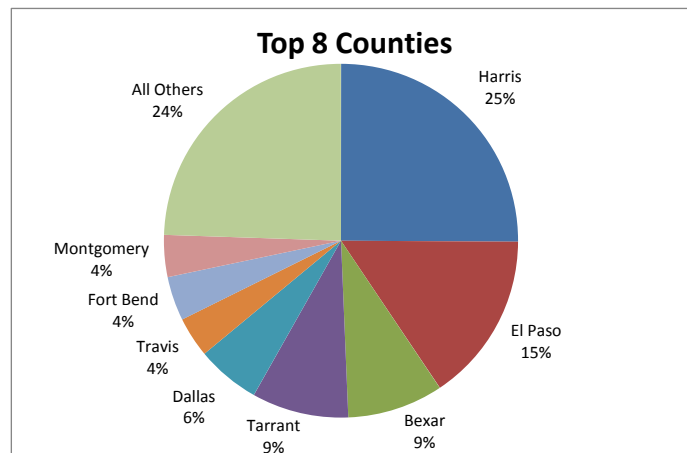
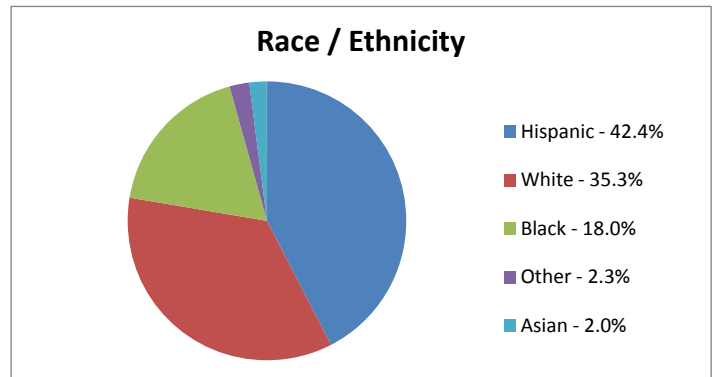
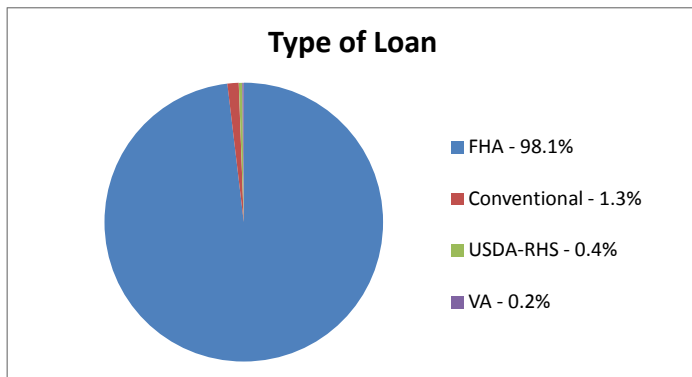
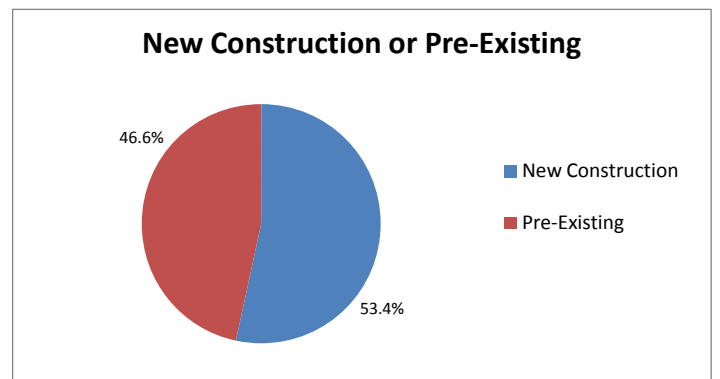
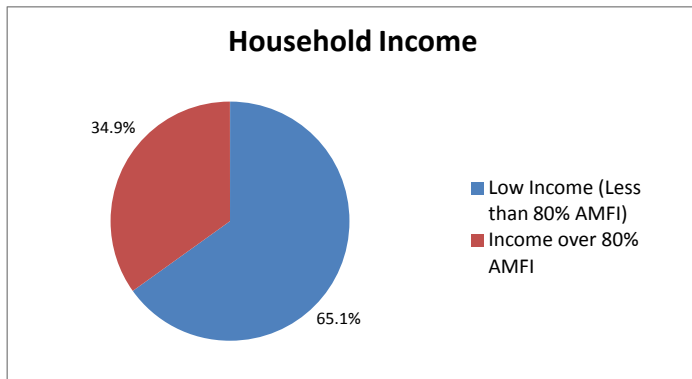
As of January 31, 2016



At a Glance (For the Past 2 Year Period)	
Number of Loans	2,246
Average Loan Amount	\$ 138,492
Average Down Payment Assistance	\$ 7,088
Average Purchase Price	\$ 141,315
Average Annual Income	\$ 49,035
Average Household Size	2.5
Average FICO Score	681

Interest Rates (For the Past 2 Year Period)	
2 Year Average	4.69%
Last 12 Month Average	4.71%
Last 30 Day Average	4.73%

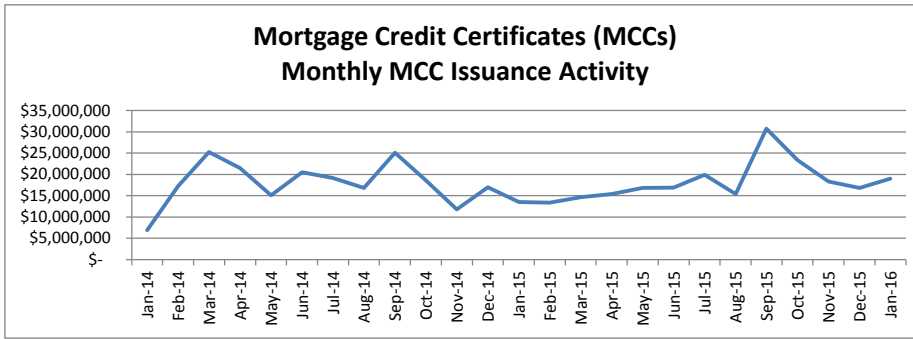
Reflects loans purchased by the Master Servicer in the month the loan was purchased. A seasonal reduction in new loan origination typically occurs December through February and is reflected on a delayed basis to take into account the time from loan origination to closing and purchase by the Master Servicer.



# Texas Department of Housing and Community Affairs

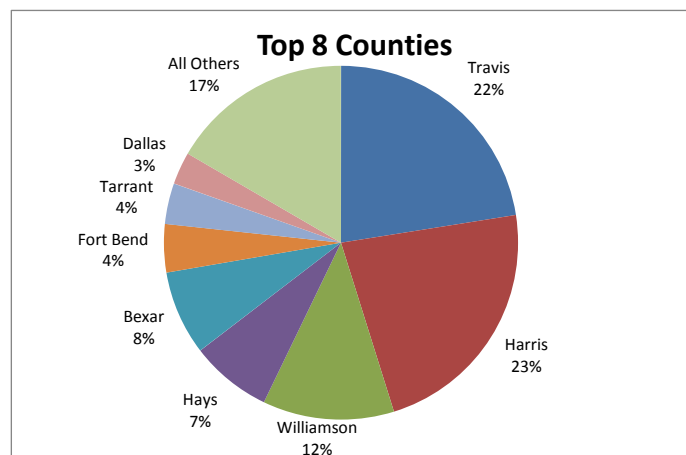
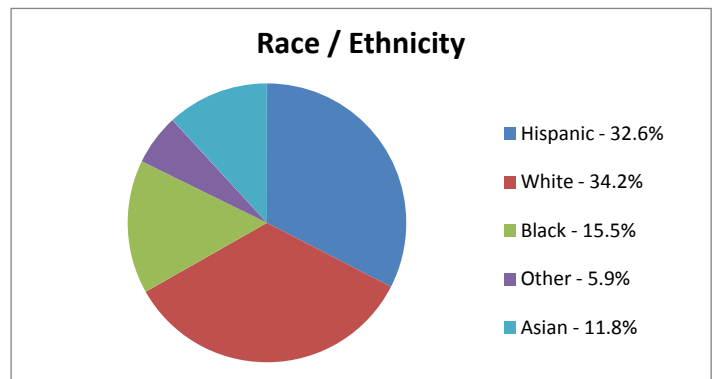
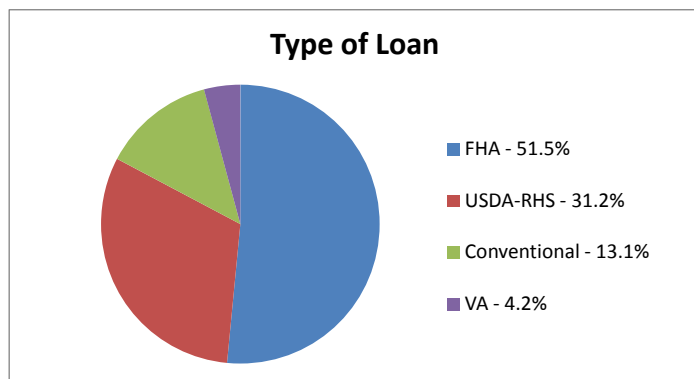
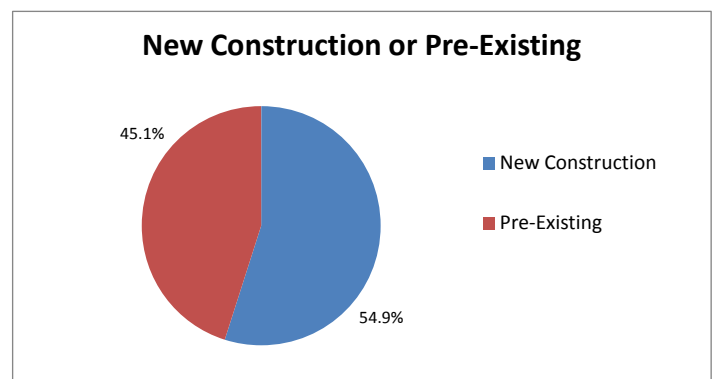
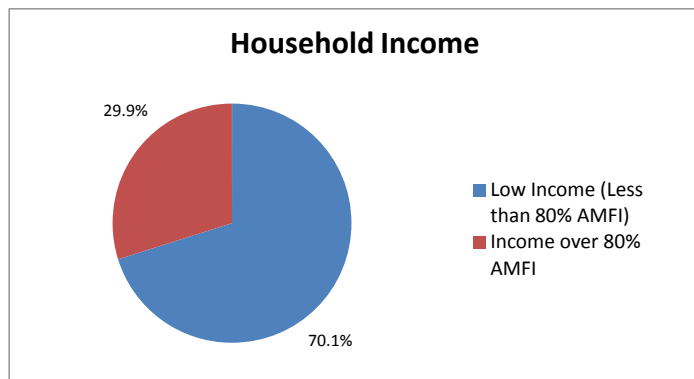
## Mortgage Credit Certificates (MCCs)

As of January 31, 2016



At a Glance (For the Past 2 Year Period)	
Number of MCCs	2,911
Average Loan Amount	\$ 154,339
Average MCC Amount	\$ 61,535
Current MCC Credit Rate	40%
Average Purchase Price	\$ 159,868
Average Annual Income	\$ 50,495
Average Household Size	2.2
Average FICO Score	694

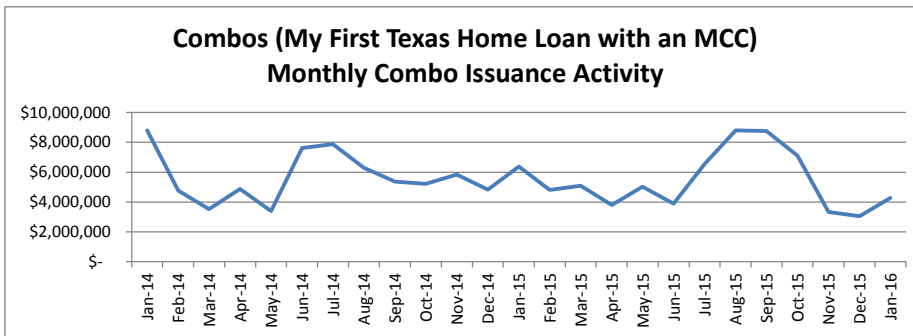
Reflects MCCs issued over a two-year period. A seasonal reduction in MCC issuances typically occurs September through December.



# Texas Department of Housing and Community Affairs

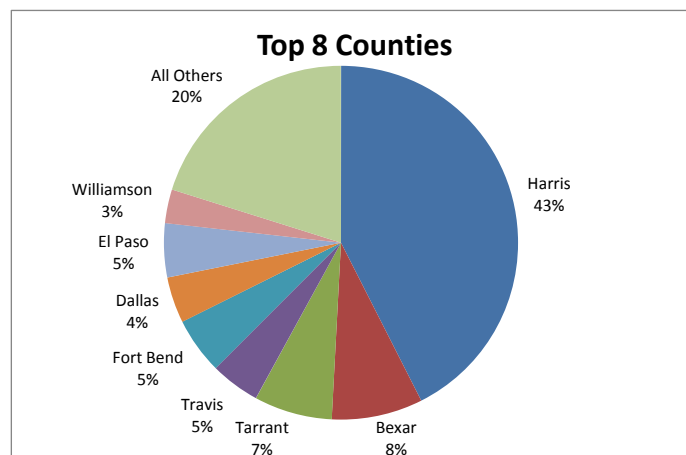
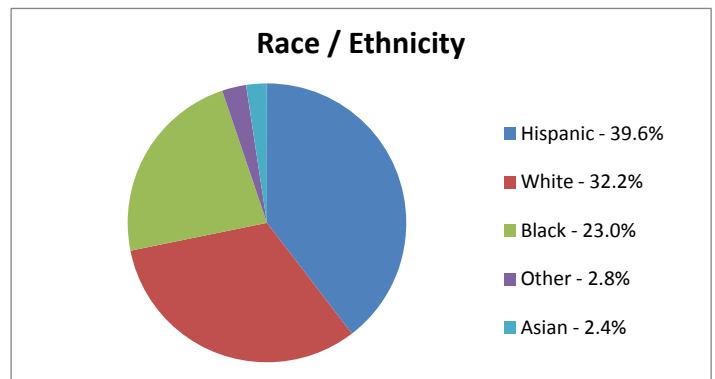
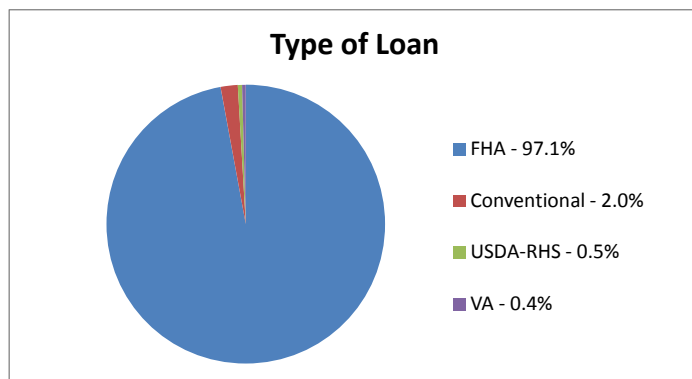
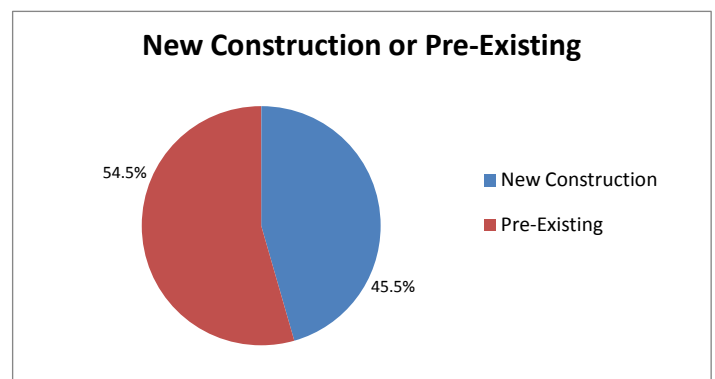
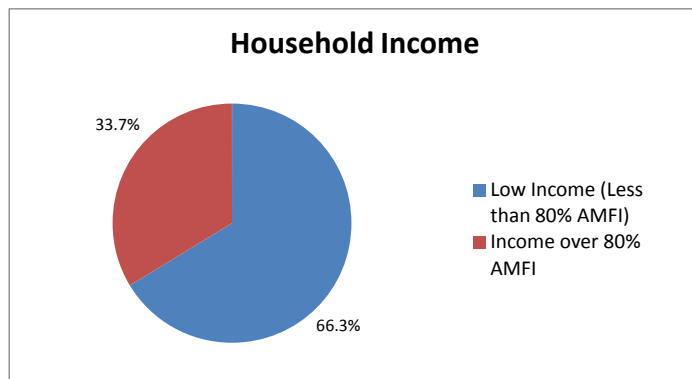
## Combos (My First Texas Home Loan with an MCC)

As of January 31, 2016



At a Glance (For the Past 2 Year Period)	
Number of Combos	1,031
Average Loan Amount	\$ 135,058
Average MCC Amount	\$ 54,023
Average Down Payment Assistance	\$ 6,895
Current MCC Credit Rate	40%
Average Purchase Price	\$ 138,369
Average Annual Income	\$ 48,714
Average Household Size	2.5
Average FICO Score	681

Reflects Combos issued over a two-year period. A seasonal reduction in Combos typically occurs September through December.



4

BOARD ACTION REQUEST

BOND FINANCE DIVISION

MARCH 31, 2016

Presentation, Discussion, and Possible Action on Resolution No. 16-013 Authorizing Substitute Liquidity Facilities and Reoffering Circulars for the Department's Single Family Variable Rate Bonds; Approving Amendments to the Remarketing Agreements; Authorizing the Execution and Delivery of Documents and Instruments Relating to the Foregoing; Making Certain Findings and Determinations in Connection Therewith; and Containing Other Provisions Relating to the Subject.

RECOMMENDED ACTION

See attached resolution.

BACKGROUND

The Texas Department of Housing and Community Affairs (the "Department") has six series of variable rate bonds outstanding. The variable rate series are Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B (the "2004 Series B Bonds"), Taxable Junior Lien Single Family Variable Rate Mortgage Revenue Bonds, Series 2004A (the "Series 2004A Junior Lien Bonds"), Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D (the "2004 Series D Bonds"), Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series A (the "2005 Series A Bonds"), Taxable Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series C (the "2005 Series C Bonds"), and Single Family Variable Rate Mortgage Revenue Bonds, 2007 Series A (the "2007 Series A Bonds"), (collectively, the "Variable Rate Bonds").

The Texas Comptroller of Public Accounts (the "Comptroller") is the liquidity provider for the Variable Rate Bonds and has drafted amended and restated liquidity agreements (the "New Liquidity Agreements") to replace the existing agreements. The Comptroller will continue to provide liquidity for the Variable Rate Bonds and the fees paid to the Comptroller remain the same. The New Liquidity Agreements modernize the prior documents and, through the addition of specific covenants, add clarity to the roles and responsibilities of the Comptroller and the Department, particularly with respect to notice and default provisions. The replacement of the existing liquidity agreements with the New Liquidity Agreements will be treated as a substitution of liquidity under the relevant transaction documents, which will result in a mandatory tender and remarketing of the Variable Rate Bonds with the New Liquidity Agreements as the controlling liquidity documents.

Disclosure counsel has drafted reoffering circulars to be used to remarket the Variable Rate Bonds that disclose the relevant terms of the New Liquidity Agreements. J.P. Morgan Securities LLC and Piper Jaffray & Co., the remarketing agents for the Variable Rate Bonds, have requested amended remarketing agreements to update for compliance with various accounting principles and practices and regulatory requirements that have changed since the original remarketing agreements were executed, as well as some clean-up and updates to conform the remarketing agreements to industry standards.



After Board approval, the New Liquidity Agreements will be submitted to the Attorney General for approval. A mandatory tender notice for the variable rate bonds will be delivered, the reoffering circulars will be made available to investors, and after receiving approval of the Attorney General, the mandatory tender and subsequent remarketing of the Variable Rate Bonds will occur. Approximately a week later, the prior liquidity facility will be cancelled.

In connection with the substitution of the New Liquidity Agreements, the Department expects to obtain the consent of the holders of the Variable Rate Bonds to amendments to the Department's Single Family Mortgage Revenue Bond Indenture that were approved by the Board in December 2015 through adoption of Resolution 16-008.

## **Resolution No. 16-013**

RESOLUTION APPROVING SUBSTITUTE LIQUIDITY FACILITIES AND REOFFERING CIRCULARS FOR THE DEPARTMENT'S SINGLE FAMILY VARIABLE RATE BONDS; APPROVING AMENDMENTS TO REMARKETING AGREEMENTS; AUTHORIZING THE EXECUTION AND DELIVERY 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, 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 sanitary housing for individuals and families of low and very low income and families of moderate income (as described in the Act and 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 acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas; (b) to issue its bonds for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; (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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds; and (d) to issue its revenue bonds for the purpose of refunding any bonds theretofore issued by the Department or the Texas Housing Agency, its predecessor (the "Agency"), under such terms, conditions and details as shall be determined by the Governing Board; and

WHEREAS, the Department has previously issued its (i) Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2004 Series B (the "2004 Series B Bonds") pursuant to the certain Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 1980 between the Department, as successor to the Agency, and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "Trustee"), as supplemented and amended (collectively, the "Single Family Indenture"), and the Thirty-Seventh Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of April 1, 2004, as amended by the First Amendment to Thirty-Seventh Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated June 30, 2009 and the Second Amendment to Thirty-Seventh Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated April 22, 2014, each between the Department and the Trustee (collectively, the "Thirty-Seventh Supplemental Indenture"); (ii) Taxable Junior Lien Single Family Variable Rate Mortgage Revenue Bonds, Series 2004A (the "Series 2004A Junior Lien Bonds") pursuant to that certain Junior Lien Trust Indenture dated as of May 1, 1994 between the Department and the Trustee, as amended and supplemented, and the Fourth Supplemental Junior Lien Trust Indenture (Series Supplement 2004A), as amended by the First Amendment to Fourth Supplemental Junior Lien Trust Indenture (Series Supplement 2004A) dated June 30, 2009, each between the Department and the Trustee (collectively, the "Fourth Supplemental Junior Lien Indenture"); (iii) Single Family Variable Rate Mortgage Revenue Bonds, 2004 Series D (the "2004 Series D Bonds") pursuant to the Single Family Indenture and the Thirty-Ninth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of October 1, 2004, as amended by the First Amendment to Thirty-Ninth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated

June 30, 2009, each between the Department and the Trustee (collectively, the “Thirty-Ninth Supplemental Indenture”); (iv) Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series A (the “2005 Series A Bonds”) pursuant to the Single Family Indenture and the Forty-Second Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of April 1, 2005, as amended by the First Amendment to Forty-Second Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated June 30, 2009, each between the Department and the Trustee (collectively, the “Forty-Second Supplemental Indenture”); (v) Taxable Single Family Variable Rate Mortgage Revenue Refunding Bonds, 2005 Series C (the “2005 Series C Bonds”) pursuant to the Single Family Indenture and the Forty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of December 1, 2005, as amended by the First Amendment to Forty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated June 30, 2009, each between the Department and the Trustee (collectively, the “Forty-Fourth Supplemental Indenture”); and (vi) Single Family Variable Rate Mortgage Revenue Bonds, 2007 Series A (the “2007 Series A Bonds”) pursuant to the Single Family Indenture and the Fifty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated as of June 1, 2007, as amended by the First Amendment to Fifty-Fourth Supplemental Single Family Mortgage Revenue Bond Trust Indenture dated March 26, 2009, each between the Department and the Trustee (collectively, the “Fifty-Fourth Supplemental Indenture”); and

WHEREAS, the 2004 Series B Bonds, the Series 2004A Junior Lien Bonds, the 2004 Series D Bonds, the 2005 Series A Bonds, the 2005 Series C Bonds and the 2007 Series A Bonds are hereinafter collectively referred to as the “Variable Rate Bonds” and the Thirty-Seventh Supplemental Indenture, the Fourth Supplemental Junior Lien Indenture, the Thirty-Ninth Supplemental Indenture, the Forty-Second Supplemental Indenture, the Forty-Fourth Supplemental Indenture and the Fifty-Fourth Supplemental Indenture pursuant to which such Variable Rate Bonds were issued are hereinafter collectively referred to as the “Variable Rate Supplemental Indentures”; and

WHEREAS, the Department has entered into separate liquidity agreements (the “Existing Liquidity Facilities”), with the Texas Comptroller of Public Accounts (the “Comptroller”); and

WHEREAS, in accordance with the respective Variable Rate Supplemental Indentures, the Act and Chapter 1371, Texas Government Code, the Governing Board now desires to authorize the replacement of the Existing Liquidity Facilities with amended and restated liquidity agreements provided by the Comptroller for each series of the Variable Rate Bonds in substantially the forms attached hereto (collectively, the “New Liquidity Agreements”); and

WHEREAS, the Governing Board has been presented with drafts of separate reoffering circulars to be used in the remarketing of the Variable Rate Bonds in connection with the substitution of the Existing Liquidity Facilities (collectively, the “Reoffering Circulars”); and

WHEREAS, in accordance with the Variable Rate Supplemental Indentures, the Department has appointed “Remarketing Agents” to perform various duties with respect to the Variable Rate Bonds; and

WHEREAS, the Governing Board further desires to authorize the execution and delivery of (i) an amendment to the remarketing agreement with Piper Jaffray & Co. with respect to the 2004 Series D Bonds and (ii) separate amendments to the remarketing agreements with J.P. Morgan Securities LLC with respect to the 2004 Series B Bonds, the Series 2004A Junior Lien Bonds, the 2005 Series A Bonds, the 2005 Series C Bonds, and the 2007 Series A Bonds (collectively, the “Remarketing Agreement Amendments”); and

WHEREAS, the Governing Board further desires to approve the forms of the New Liquidity Agreements and the Remarketing Agreement Amendments, the execution and delivery of such documents

and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution and to approve the Reoffering Circulars; NOW, THEREFORE,

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

## ARTICLE I

### APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1--Approval, Execution and Delivery of New Liquidity Agreements. The form and substance of the New Liquidity Agreements are hereby authorized and approved, and the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute the New Liquidity Agreements and to deliver the New Liquidity Agreements to the Comptroller.

Section 1.2--Approval of Reoffering Circulars. The Reoffering Circulars for use in the remarketing of the Variable Rate Bonds, in substantially the forms presented to the Governing Board, are hereby approved; the Authorized Representatives, acting for and on behalf of the Governing Board, are each hereby authorized and directed to finalize the Reoffering Circulars for distribution by the respective Remarketing Agents to prospective purchasers of the Variable Rate Bonds, with such changes therein as the Authorized Representatives may approve, such approval to be conclusively evidenced by the distribution of such Reoffering Circulars.

Section 1.3--Approval, Execution and Delivery of Remarketing Agreement Amendments. The form and substance of the Remarketing Agreement Amendments are hereby authorized and approved, and the Authorized Representatives are each hereby authorized to execute the Remarketing Agreements and to deliver the Remarketing Agreement Amendments to the respective Remarketing Agent.

Section 1.4--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 of instruction, 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 1.5--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 1.6--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 | - | New Liquidity Agreements         |
| Exhibit B | - | Reoffering Circulars             |
| Exhibit C | - | Remarketing Agreement Amendments |

Section 1.7--Authorized Representatives. The following persons and each of them 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 Chief Financial Officer of the Department, the Director of Bond Finance of the Department, the Director of Texas Homeownership 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 Persons is authorized to act individually as set forth in this Resolution.

Section 1.8--Submission to the Attorney General of Texas. The Governing Board hereby ratifies the submission by Bracewell LLP, the Department's Bond Counsel, to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the authorization of the Liquidity Agreements.

Section 1.9--Ratifying Other Actions. All other actions taken or to be taken by the Executive Director and the Department's staff in connection with the Liquidity Agreements and the Remarketing Agreement Amendments are hereby ratified and confirmed.

## ARTICLE II

### 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. That this Resolution shall be in full force and effect from and upon its adoption.

*[Execution page follows]*

PASSED AND APPROVED this 31st day of March, 2016.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

5



**BOARD ACTION REQUEST**

**ASSET MANAGEMENT**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Action regarding a material amendment to the Housing Tax Credit (“HTC”)/HOME Application for Merritt Leisure (#15234)

**RECOMMENDED ACTION**

**WHEREAS**, in 2015 Merritt Leisure received a \$2,000,000 Direct HOME loan award and an award of 9% Housing Tax Credits (HTC) to construct 194 new multifamily units, including 97 HTC and HOME restricted units in the city of Midland;

**WHEREAS**, the Development Owner is now proposing significant changes to the Development plan (including elimination of two buildings, reduction of 54 market rate units, and reduction in one and two bedroom units in favor of efficiency units) and financing structure that are, according to the Development Owner, due to changes in local market conditions as a result of energy production volatility;

**WHEREAS**, several of the changes proposed constitute material alterations requiring Board approval as described in Texas Government Code §2306.6712(d) and 10 TAC §10.405(a)(3);

**WHEREAS**, the changes reflected in the amendment request would not have changed the selection outcome;

**WHEREAS**, after execution of carryover, the City of Midland has withdrawn its commitment for a \$1.6 million loan, which commitment enabled the Applicant to receive 14 points; and

**WHEREAS**, this Board has, prior to taking action on the amendment request, considered whether as a matter of policy it is appropriate to permit material amendments of a significant nature because they do not involve changes that would have affected scoring outcomes or the number of affordable units provided;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested application amendment is approved subject to underwriting and the Executive Director and his designees are each authorized, empowered, and directed to take all necessary action to effectuate the foregoing.

**BACKGROUND**

Merritt Leisure applied for Competitive Housing Tax Credits and HOME funding during the 2015 cycle. The Applicant was awarded an annual allocation of 9% tax credits in the amount of \$786,147 as well as a \$2M Direct HOME loan at 3% interest rate, 18-year term and 30-year amortization. The Applicant satisfied the Carryover requirements and a fully executed Carryover Allocation Agreement for the tax credits was signed by the Department on December 17, 2015. In a letter dated December 21, 2015 the Applicant requested to amend the application for Merritt Leisure as described below.

Merritt Leisure proposed and was approved as a mixed-income rental community with a total of 194 units, half of those (97 units) set aside for seniors with incomes at or below 60% AMGI and the remaining half unrestricted and/or at market rate. The development plan called for a total of nine residential buildings and a bedroom mix consisting of one bedroom/one-bath and two-bedroom/two-bath units. The proposed amended plan provides 54 fewer market rate units (moving from 50% market to 31% market rate units), reduced the buildings from nine to seven, and a reduction in the number of one and two bedroom units in favor of the inclusion of efficiency units. According to the owner's amendment request, the reason for the change is attributed to the decline in economic activity in Midland as a result of the decline in oil and gas production. The owner's letter states that this decline in Midland was unforeseeable and that the proposed investor and lender have guided the owner to this revised transaction based on the debt load and leverage existent in the original Application. It is noted that at the time of application oil prices were in the range of \$49 per barrel and had been on a generally downward trend since late 2014. However, the lag effect on economic conditions, chiefly rent levels and market demand for rental units in the area has only recently begun to materialize and the trends are expected to continue to in the near term and will likely accelerate in the summer of 2016 as the school year ends.

A summary of the material alterations as defined by rule and statute, and for which Board approval is required follows:

<b>Material Alteration as defined in 2306.6712(d) and 10 TAC §10.405(a)(3)</b>	<b>Requested Change</b>
Significant modification of the site plan	New site plan shows a reduction in the number of residential buildings from nine to seven; number of total parking spaces appears to have been reduced; and average unit size has decreased.

<b>Material Alteration as defined in 2306.6712(d) and 10 TAC §10.405(a)(3)</b>	<b>Requested Change</b>																		
Modification of the number of units or bedroom mix of units	Total number of units reduced from 194 to 140 and bedroom mix has changed as follows: <table border="1" data-bbox="857 380 1357 617"> <thead> <tr> <th>Unit Type</th> <th># Units @ Application</th> <th># Units @ Amendment</th> </tr> </thead> <tbody> <tr> <td>Eff</td> <td>0</td> <td>13</td> </tr> <tr> <td>1BR/1BA</td> <td>66</td> <td>56</td> </tr> <tr> <td>2BR/1BA</td> <td>64</td> <td>57</td> </tr> <tr> <td>2BR/2BA</td> <td>64</td> <td>14</td> </tr> <tr> <td><b>Total</b></td> <td><b>194</b></td> <td><b>140</b></td> </tr> </tbody> </table>	Unit Type	# Units @ Application	# Units @ Amendment	Eff	0	13	1BR/1BA	66	56	2BR/1BA	64	57	2BR/2BA	64	14	<b>Total</b>	<b>194</b>	<b>140</b>
Unit Type	# Units @ Application	# Units @ Amendment																	
Eff	0	13																	
1BR/1BA	66	56																	
2BR/1BA	64	57																	
2BR/2BA	64	14																	
<b>Total</b>	<b>194</b>	<b>140</b>																	
Reduction of three percent or more in the square footage of the units or common areas	Total net rentable square footage decreases from 169,420sf to 109,211sf (a 35% reduction)																		
Significant modification of residential density of the development of at least five percent	At the same acreage (9.10 acres) the reduced number of total units modifies density from 21.3 units/acre to 15.5 units/acre (a 28.4% reduction).																		

<b>Additional Financing Changes Identified Since Application</b>	
Local Political Subdivision financing	\$1.6M in local financing committed at Application, but is no longer included in the financing structure (see attached resolution from the City of Midland).
Conventional debt	Reduced from \$16.4M to \$10M
Syndication price	Increased from \$0.96 to \$1.05 (9%)
Total Cost per Unit	Increased from \$145,457 to \$153,276 (5%)
Total Cost per Square Foot	Increased from \$166.56 to \$196.49 (18%)

The proposed amendment would allow the utilization of HTC and HOME funds without possible delays that could occur if the HTC and HOME funds were reallocated. As amended the Development would provide the same number of affordable units and would broaden the proportion of smaller units to allow lower income seniors to take advantage of reduced rent units. The Applicant has represented that the Development continues to enjoy support by local government and the state representative.

It is noted that in re-underwriting the transaction (including the HOME award) in light of the proposed changes (see attached underwriting addendum report), Real Estate Analysis has concluded that the Development, even after these changes, supports the \$2M in HOME funds, but this involves pro forma assumptions regarding rent levels which allow limited latitude for further decline in rent levels and, as a result, cash flow. The HOME loan would be structured as subordinate debt. It also assumes that the other components of the financing structure will close as presently proposed, but these other financing sources are yet to undergo underwriting and approval.

December 21, 2015

Laura Debellas  
 TDHCA  
 RE: Amendment Request for Merritt Leisure (TDHCA #15234)

Hello Laura,

We hereby request an amendment to our original 9% LIHTC Application and propose the following changes:

- A) Reduction in overall unit count and average unit size;
- B) Significant increase in the percentage of affordable units while not changing the absolute QTY;
- C) Addition of efficiency units and subsequent change in the unit mix;
- D) Reduction in the number and percentage of 2 bedroom units;
- E) Decrease in assumed rent of Market Rate Units;
- F) Updated Debt and Equity Terms;
- G) Uncovered Parking meets parking requirement: rent can be charged on garages and carports;
- H) Improvement in the green space available to the residents due to the elimination of buildings;
- I) No change to the amenities offered to the residents – common or unit;

**General Unit Mix Change:**

**Amendment**

Type	Number	Bedrooms	Baths
30%	1	0	1
50%	1	0	1
60%	6	0	1
MKT	5	0	1
30%	4	1	1
50%	8	1	1
60%	28	1	1
MKT	16	1	1
30%	4	2	1
50%	9	2	1
60%	26	2	1
MKT	18	2	1
30%	1	2	2
50%	2	2	2
60%	7	2	2
MKT	4	2	2
<b>TOTAL:</b>	<b>140</b>		<b>AVG</b>

**Original Application**

Type	Number	Bedrooms	Baths
30%	3	1	1
50%	8	1	1
60%	23	1	1
MKT	32	1	1
30%	3	2	1
50%	6	2	1
60%	22	2	1
MKT	33	2	1
30%	4	2	2
50%	6	2	2
60%	22	2	2
MKT	32	2	2
<b>TOTAL:</b>	<b>194</b>		<b>AVG</b>

Highlighted Changes:

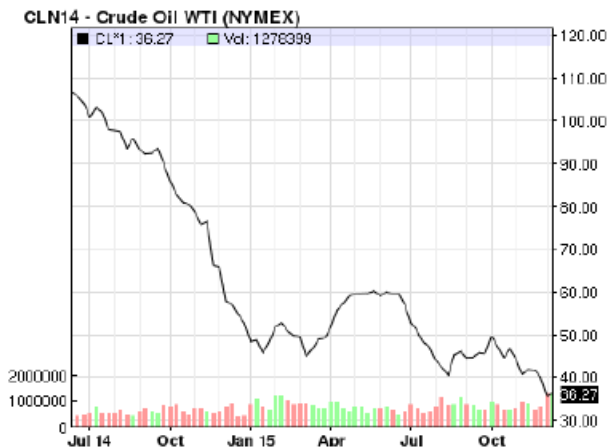
- We have not made changes to the number of **LIHTC** units they remain at 97 units.
- We have decreased the number of **Market Rate Units** from 97 to 43.
- We added efficiency units.

**General Unit Mix Change:**

Summary	Original App	Amend	Change
<b>0 BR%</b>	0%	9%	9%
<b>1 BR%</b>	34%	40%	6%
<b>2 BR%</b>	66%	51%	-15%

**Reason for Request:**

As is quite evident in the Texas and US news, oil prices have collapsed since the time of Application making drilling new wells uneconomical. The Economy in Midland is based primarily on the Oil & Gas Industry and horizontal drilling. In recent months, the economic climate in Midland has changed drastically. The 3<sup>rd</sup> quarter economic indicators for 2015 show that the decline will continue and the unemployment rate will rise. Please see attached Midland Economy report dated 11.10.2015 and Midland Graph from IndexMundi for past 5 months. The decline in economic activity in Midland was unforeseeable.



RBC and Citibank are the proposed investor and lender to this project, and they have guided us to this decision based on the immense debt load and leverage existent in the original Application. Given the size of the TDHCA HOME fund allocation, these changes will improve the risk profile for TDHCA as well.

Based on this information, we are proposing this amendment to better address the senior housing demand going forward in Midland, and to de-risk the proposed development. We have reduced the number of market rate units given the huge amount of new market rate units that have been built in the

last 2 years, reduced the concentration of 2 bedroom (high rent) units in the deal, and added efficiency units to serve lower income seniors who demand this type of home.

Please find attached here:

- Revised Site Plan and corresponding certified cost schedule (onsite and offsite)
- Revised Architectural Plans and square footage matrix.
- Financial Exhibits and New Debt and Equity Letters
- Relevant economic information

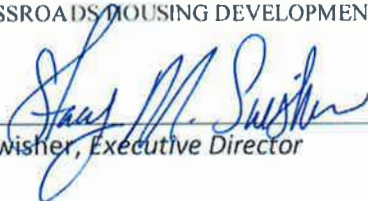
We believe that the enclosed documentation supports the need for this request, and respectfully request TDHCA approval. If you have questions or require additional information, please contact me at (512) 732 1226.

Sincerely,

**DDC MERRITT LEISURE, LTD**, a Texas limited partnership

By: DDC MERRITT LEISURE GP, LLC, a Texas limited liability company, its general partner

By: CROSSROADS HOUSING DEVELOPMENT CORPORATION, a Texas nonprofit corporation, its sole member



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Stacy Swisher, Executive Director



# City Council Agenda

Approved for Agenda:  
fsalvato  
City Manager's Office

**MEETING DATE:** 1/12/2016

**TO:** City Council / City Manager

**FROM:** Charles Harrington,

**SUBJECT:** Consider a resolution authorizing the City Manager to negotiate and execute a public improvement development agreement with DDC Merritt Leisure, Ltd. under which the City will contribute one half and Developer will contribute one half of the costs of Streets, Curb and Gutter, Sidewalks, and Traffic Control Improvements located in and along Beal Parkway and Leisure Drive; and providing that this resolution supersedes resolution nos. 2014-072 and 2015-034.

## Purpose:

Consider a resolution authorizing the City Manager to negotiate and execute a public improvement development agreement with DDC Merritt Leisure, Ltd. under which the City will contribute one half and Developer will contribute one half of the costs of Streets, Curb and Gutter, Sidewalks, and Traffic Control Improvements located in and along Beal Parkway and Leisure Drive; and providing that this resolution supersedes resolution nos. 2014-072 and 2015-034.

## Recommended City Council Action

Approve  Deny  Directional / Informational

## Fiscal Impact:

N/A

## Discussion:

In 2014 and 2015, DDC Merritt applied for funding through the Texas Department of Housing and Community Affairs to construct affordable housing in Midland. As a part of that application, the City committed to a loan of 1,600,000 to assist in qualifying for TDHCA program.

DDC Merritt has since qualified for the program and no longer needs the loan that was established last year. This resolution will eliminate that commitment by the City.



In addition, the developer has agreed to pay for their half of street improvements required as the City moves forward on the Beal Street Project. Preliminary costs place that amount at \$271,020. This Resolution will authorize the City Manager to negotiate and enter into a Public Improvements Developer Agreement for their share of the costs.

### Addendum to Underwriting Report

TDHCA Application #: **15234** Program(s): **9% HTC/HOME**

**Merritt Leisure**

Address/Location: Northeast quadrant of Leisure Drive and TX Loop 250

City: Midland County: Midland Zip: 79703

APPLICATION HISTORY	
Report Date	PURPOSE
03/15/16	Amendment
10/15/15	Change in maturity of TDHCA HOME Loan
06/15/15	Original Underwriting Report

### ALLOCATION

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
HOME Activity Funds	\$2,000,000	3.00%	30	30	\$2,000,000	3.00%	30	30	2nd
HOME CHDO Expenses	\$50,000				\$50,000				
LIHTC (Annual)	\$786,147				\$786,147				

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

### CONDITIONS STATUS

- Receipt and acceptance by HOME Closing:
  - Approved variance for reduced parking or compliance with existing Code, with all required spaces available to tenants at no cost.

**Status:** Pending

  - Documentation clearing environmental issues contained in the ESA report, specifically:
    - Noise Assessment documentation and implementation consistent with current HUD guidelines evidencing that the average exterior Day/Night Noise Level ("DNL") at subject site is below 65 decibels and that the average interior DNL in all buildings is below 45 decibels.

**Status:** Pending
- Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

## DEAL SUMMARY

Applicant received a \$786K annual tax credit award and a \$2M HOME loan in the 2015 tax credit cycle as recommended in the prior Report dated June 15, 2015. Carryover documentation package was submitted on November 2, 2015 and the Carryover Agreement was executed by TDHCA on December 17, 2015. The Carryover documentation package contained representations that there were no material changes to the Application since Commitment.

On December 21, 2015, Applicant submitted an amendment request to materially change the design of the development and the capital structure.

The amendment request results from Applicant's concern over the feasibility of the Development as originally planned because of deteriorating market conditions in Midland due to the collapse of oil and gas production.

To reduce the feasibility risks, the Applicant requests to reduce the size of the overall Development from 197 units to 140 units by eliminating 54 of the original 97 market rate units (43 market-rate units would remain). This change would reduce the Development's market exposure.

To further reduce risk, the Applicant is eliminating 57 two bedroom units and adding 13 efficiency units in the unit mix. Because of this shift towards smaller bedroom sizes, the overall average unit size decreases from 873 square feet to 780 square feet. Total NRA decreases by 60,209 square feet. This shift lowers the overall price point (average rent) downward by \$233/unit which potentially reduces rental rate risk assuming sufficient demand for the smaller units.

The proposed capital structure has significantly changed with the exception of the TDHCA HOME loan.

While the amounts and terms on the primary debt and equity have changed, the most notable change is the elimination of the City of Midland's \$1.6M loan. The City indicated on January 12, 2016 that although they committed to a loan to assist in qualifying for the tax credits, the Applicant "...has since qualified for the program and no longer needs the loan that was established last year". Because the loan no longer exists and as it was being used to qualify as Match for the Department's HOME loan, the Applicant is now indicating that the anticipated property tax savings from the ad valorem tax exemption (50% exemption) will serve as Match.

As indicated in the original Report, REA identified significant risks associated with the Development as it contained 50% market rate units. The Underwriter identified declining rents and occupancies and overall general uncertainty in the Midland economy. The Underwriter at the time identified mitigating factors to some of these risks including the conservative nature of the underwriting and, in general, the risk profile of the Department's HOME loan. Many of the mitigating factors no longer exist such as the DCR, low unemployment and high market occupancies.

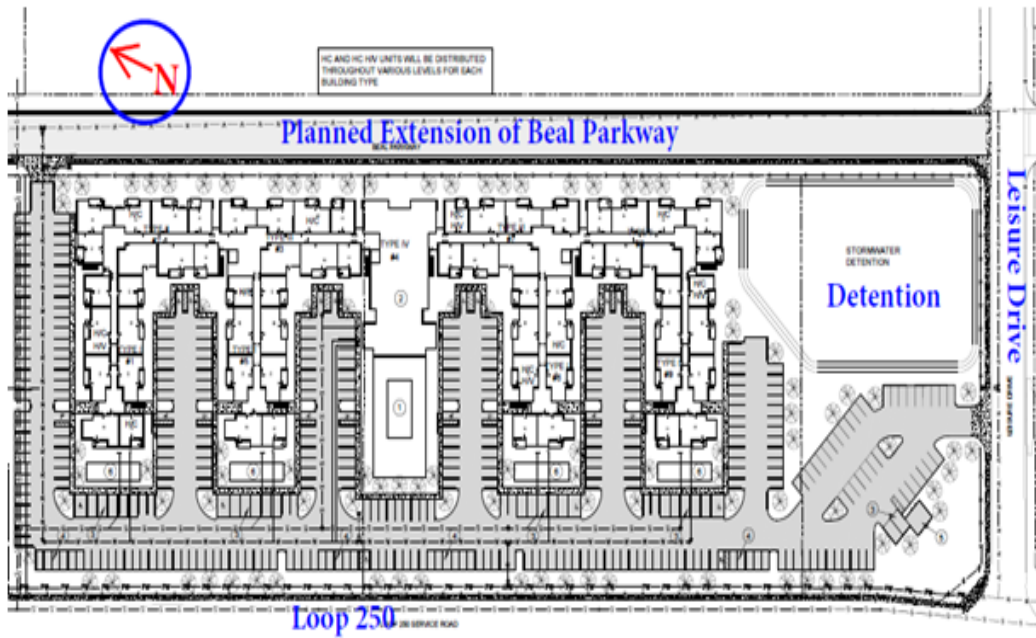
TDHCA#12507, The Azure (formally Champion Homes at Tahoe Lakes) is a 156-unit family property with 125 market rate units (20% HOME units). The property began leasing in February 2015 and is currently 65% occupied (8 units/month lease velocity). REA pro forma rents are similar to the market rents on this property. Most recent leases are \$995 and \$1,295 for one and two bedroom units (property also contains 3 bedroom units). Tenant incomes on this property are as high as \$142K/year.

Although the reduction of the number of market units decreases market risk, the overall risk profile on the Department's HOME loan increases with the amendment. Concerns over the Midland rental market remain as rental rates and occupancies continue to decline. The underwritten DCR on the HOME loan has decreased and both the loan amount per unit and loan to total cost increased.

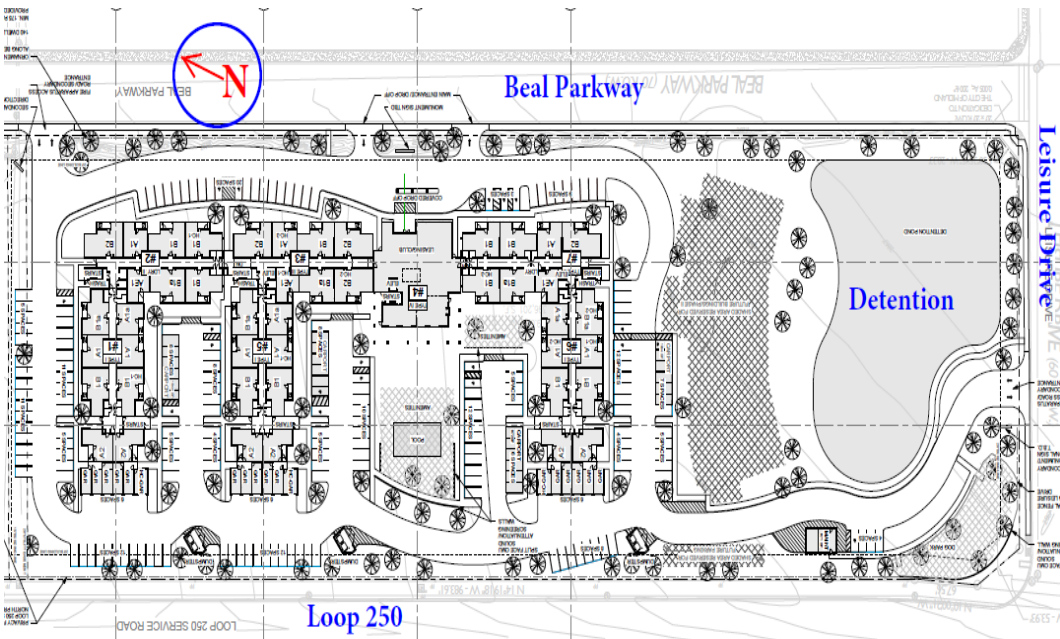
The proposed capital structure includes primary debt as a FHA 221(d)(4) with CitiBank as originator. Citibank has not started the due diligence process pending approval of the requested amendment. The formal concept meeting with HUD has not occurred. The Applicant provided a timeline for FHA processing and closing based on another transaction that would suggest a potential closing of the financing in July if approved. The Development must be placed in service by December of 2017.

**DESIGN CHANGES**

**ORIGINAL SITE PLAN**



**AMENDED SITE PLAN**



**Comments:**

Amended site plan provided in the request shows a hashed area labeled "future phase". No information was provided regarding a future phase and one is not contemplated in the amendment request.

ORIGINAL BUILDING CONFIGURATION													
Building Type	1	2	3	4	5	6	7	8	9				Total Buildings
Floors/Stories	3	3	3	3	3	3	3	3	3				
Number of Bldgs	1	1	1	1	1	1	1	1	1				9
Units per Bldg	24	24	21	8	24	24	21	24	24				
<b>Total Units</b>	24	24	21	8	24	24	21	24	24				194
									<b>Average Unit Size</b>			873 sf	
									<b>Net Rentable SF</b>			169,420	
									<b>Common Area SF</b>			8,977	

AMENDED BUILDING CONFIGURATION													
Building Type	1	2	3	4	5	6	7						Total Buildings
Floors/Stories	3	3	3	3	3	3	3						
Number of Bldgs	1	1	1	1	1	1	1						7
Units per Bldg	24	24	24	20	20	21	7						
<b>Total Units</b>	24	24	24	20	20	21	7						140
									<b>Average Unit Size</b>			780 sf	
									<b>Net Rentable SF</b>			109,211	
									<b>Common Area SF</b>			7,191	

Comments:

A single, three-story, elevator served structure sectioned into seven buildings (previously nine). Total NRA decreased 60,209 square feet (35% decrease). Average unit size decreased 93 square feet due to the shift to smaller bedroom sizes. Common area decreased 1,786 square feet because of the reduced corridors.

UNIT MIX DISTRIBUTION					
# Beds	APPLICATION		AMENDMENT		CHANGE
	# Units	% Total	# Units	% Total	# Units
Eff	0	0%	13	9%	13
1	66	34%	56	40%	-10
2	128	66%	71	51%	-57
Total	194	100%	140	100%	-54

INCOME DISTRIBUTION					
Income	APPLICATION		AMENDMENT		CHANGE
	# Units	% Total	# Units	% Total	# Units
30%	10	5%	10	7%	0
50%	20	10%	20	14%	0
60%	67	35%	67	48%	0
MR	97	50%	43	31%	-54
Total	194	100%	140	100%	-54

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA			
Income Limit	Rent Limit	Number of Units Original Application	Number of Units Amendment
30% of AMI	30% of AMI	10	<b>10</b>
50% of AMI	50% of AMI	20	<b>20</b>
60% of AMI	60% of AMI	67	<b>67</b>

TDHCA SET-ASIDES for TDHCA HOME LURA			
Income Limit	Rent Limit	Number of Units Original Application	Number of Units Amendment
30% of AMFI	30% of AMFI	8	<b>8</b>
50% of AMFI	Low HOME	20	<b>20</b>
60% of AMFI	High HOME	0	<b>0</b>
80% of AMFI	High HOME	0	<b>0</b>

\*HOME units will float.

## OPERATING PRO FORMA

SUMMARY - AS UNDERWRITTEN (TDHCA's Pro forma)					
NOI:	\$745,407	Avg. Rent:	\$834	Expense Ratio:	43.8%
Debt Service:	\$638,242	B/E Rent:	\$765	Controllable Expenses:	\$2,528
Net Cash Flow:	\$107,165	UW Occupancy:	92.5%	Property Taxes/Unit:	\$566
Aggregate DCR:	1.17	B/E Occupancy:	85.0%	Program Rent Year:	2015

Market rent conclusions from the original March 2015 Market Study averaged \$1,540/unit (\$1.79/SF). Market rents from the updated January 2016 Market Study averaged \$1,184/unit (\$1.69/SF), a decline of \$356/unit.

In addition to review of the Market Analyst's rents, REA contacted the comparable properties directly and found that rents and occupancies have continued to fall since January. Because of the high risk that rents will continue to erode, the underwritten rents were set at 5% and 10% below the current average market rents for the one and two bedroom units, respectively. There are no market comparable efficiency units.

TDHCA#13016 Westridge Seniors (located across the street from the subject) contains 96 units, of which 84 are restricted. According to CMTS records, the property is fully occupied and achieving the maximum LIHTC rents. The property is not, however, achieving any rent premiums on the market units over the 60% LIHTC rents. If the subject was to only achieve 60% rents, the DCR would fall to 1.02:1 times, the 15-year cash flow would be negative and the deal would be infeasible under REA rules.

Assuming that the underwritten rents are achievable, the overall feasibility indicators (expense ratio and breakevens) are positive. DCR on the HOME debt is down from 1.25:1 to 1.17:1. This evidences increased risk over the prior underwriting.

## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (Applicant's Costs)

Acquisition	\$216,141/ac	\$14,049/unit	<b>\$2,001,882</b>	Contractor Fee	<b>\$1,594,045</b>
Off-site + Site Work		\$17,836/unit	<b>\$2,497,063</b>	Soft Cost + Financing	<b>\$2,686,343</b>
Building Cost	\$81.39/sf	\$63,493/unit	<b>\$8,888,972</b>	Developer Fee	<b>\$2,332,314</b>
Contingency	5.00%	\$4,066/unit	<b>\$569,302</b>	Reserves	<b>\$888,700</b>
<b>Total Development Cost</b>	\$153,276/unit		<b>\$21,458,621</b>	<b>Rehabilitation Cost</b>	<b>N/A</b>

Building Cost per unit declined slightly. Due to the smaller average unit size and total reduction in NRA, the cost per foot increased from \$73.49 to \$81.39 (would have exceeded the \$75 per foot threshold used at application for scoring purposes).

Per unit land cost increased \$4K per unit. Applicant indicates that seller will not negotiate price. For a 2016 application, the Applicant has contracted for an adjacent parcel from the same seller for \$7,623/unit [104-unit, general population development].

Reserves higher than previously underwritten due to FHA finance requirements.

## UNDERWRITTEN CAPITALIZATION

### INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
TDHCA	HOME	\$2,000,000	3.00%	11%
CITIBANK	FHA 221 (d) (4)	\$10,200,000	4.25%	54%
Citi Bridge Loan	Conventional Loan	\$3,000,000	2.70%	16%
RBC	HTC	\$1,634,842	\$1.04	9%
DDC Investments, Ltd	Deferred Fee	\$2,183,882	0.00%	11%
		<b>\$19,018,724</b>	<b>Total Sources</b>	

### PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
CITIBANK/FHA 221 (d) (4)	\$10,200,000	4.25%	40	40	\$10,200,000	4.25%	40	40	48%
TDHCA	\$2,000,000	3.00%	30	30	\$2,000,000	3.00%	30	30	9%
<b>Total</b>	<b>\$12,200,000</b>				<b>\$12,200,000</b>				

Comments:

TDHCA's Home loan requires a match component provided by the Applicant. Previously, the below-market financing on the City of Midland loan was used as match. As the City is no longer providing financing, the Applicant is using the property tax exemption as match. The interest rate on the 221(d)(4) is 4% plus .25% MIP [pursuant to correspondence from the lender].

Debt per unit on the TDHCA HOME loan increased from \$10,309 (194 units) to \$14,286 (140 units). Debt coverage declined from 1.25:1 to 1.17:1. TDHCA loan to total cost increased from 7% to 9%.

Capital structure no longer includes a \$1.6M loan from the City of Midland. The City indicated on January 12, 2016 that although they committed to a loan to assist in qualifying for the tax credits, the Applicant "...has since qualified for the program and no longer needs the loan that was established last year". The loan qualified the Application for 14 points as development funding by a local political subdivision.

All else equal but with the \$1.6M city loan still in place, the senior debt ahead of the HOME loan would have been \$8.6M making the DCR on the HOME loan equal to 1.35:1 at the full loan amount.



Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
RBC	\$8,174,212	\$1.04		\$8,174,212	\$1.04	38%	
DDC Investments, Ltd	\$1,084,407		46%	\$1,084,409		5%	46%
<b>Total</b>	<b>\$9,258,619</b>			<b>\$9,258,621</b>			
				<b>\$21,458,621</b>	<b>Total Sources</b>		

Comments:

Although total costs decreased \$6.7M, eligible basis increased \$400K. The applicable fraction increased from 50% to 69% and total development costs per unit increased. As a result, equity increased from \$7.5M (at \$0.96) to \$8.2M (at \$1.04).

## CONCLUSIONS

### Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	\$21,458,621
Permanent Sources	\$12,200,000
Gap in Permanent Financing	\$9,258,621

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$9,770,191	\$939,639
Needed to Fill Gap in Financing	\$9,258,621	\$890,439
Requested by Applicant	\$8,174,212	\$786,147

	RECOMMENDATION				
	Equity Proceeds	Annual Credits			
<b>Tax Credit Allocation</b>	<b>\$8,174,212</b>	<b>\$786,147</b>			
	Amount	Interest Rate	Amort	Term	Lien
<b>TDHCA HOME Loan</b>	<b>\$2,000,000</b>	<b>3%</b>	<b>30</b>	<b>30</b>	<b>2nd</b>

<b>Deferred Developer Fee</b>	<b>\$1,084,409</b>	<b>( 46% deferred)</b>
<b>Repayable in</b>	<b>8 years</b>	

Comments:

As underwritten, the originally recommended credit allocation remains unchanged, as does the amount and terms of the HOME loan.

**UNIT MIX/RENT SCHEDULE**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

LOCATION DATA	
CITY:	Midland
COUNTY:	Midland
PROGRAM REGION:	12
PIS Date:	On or After 2/1/2014
IREM REGION:	NA

UNIT DISTRIBUTION		
# Beds	# Units	% Total
Eff	13	9.3%
1	56	40.0%
2	71	50.7%
3	-	0.0%
4	-	0.0%
<b>TOTAL</b>	<b>140</b>	<b>100.0%</b>

Applicable Programs
9% Housing Tax Credits
HOME

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	100%
Applicable Fraction	69.29%
APP % Acquisition	3.35%
APP % Construction	7.87%
Average Unit Size	780 sf

UNIT MIX / MONTHLY RENT SCHEDULE																						
HTC		HOME (Rent / Income)		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst		
TC 30%	\$380	30%/30%	\$633	1	0	1	556	\$380	\$57	\$323	\$0	\$0.58	\$323	\$323	\$323	\$323	\$323	\$0.58	\$0	\$814	\$1.46	\$915
TC 50%	\$633	LH/50%	\$633	1	0	1	556	\$633	\$57	\$576	\$0	\$1.04	\$576	\$576	\$576	\$576	\$576	\$1.04	\$0	\$814	\$1.46	\$915
TC 60%	\$760	0%		6	0	1	556	\$760	\$57	\$703	\$0	\$1.26	\$703	\$4,218	\$4,218	\$703	\$1.26	\$0	\$814	\$1.46	\$915	
MR		0%		5	0	1	556	\$0	\$57		NA	\$1.65	\$915	\$4,575	\$4,075	\$815	\$1.47	NA	\$814	\$1.46	\$915	
TC 30%	\$407	30%/30%	\$678	2	1	1	664	\$407	\$65	\$342	\$0	\$0.52	\$342	\$684	\$684	\$342	\$0.52	\$0	\$983	\$1.48	\$1,105	
TC 50%	\$678	LH/50%	\$678	1	1	1	664	\$678	\$65	\$613	\$0	\$0.92	\$613	\$613	\$613	\$613	\$0.92	\$0	\$983	\$1.48	\$1,105	
TC 60%	\$814	0%		3	1	1	664	\$814	\$65	\$749	\$0	\$1.13	\$749	\$2,247	\$2,247	\$749	\$1.13	\$0	\$983	\$1.48	\$1,105	
MR		0%		3	1	1	664	\$0	\$65		NA	\$1.66	\$1,105	\$3,315	\$2,850	\$950	\$1.43	NA	\$983	\$1.48	\$1,105	
TC 30%	\$407	30%/30%	\$678	1	1	1	686	\$407	\$65	\$342	\$0	\$0.50	\$342	\$342	\$342	\$342	\$0.50	\$0	\$998	\$1.45	\$1,121	
TC 50%	\$678	LH/50%	\$678	3	1	1	686	\$678	\$65	\$613	\$0	\$0.89	\$613	\$1,839	\$1,839	\$613	\$0.89	\$0	\$998	\$1.45	\$1,121	
TC 60%	\$814	0%		9	1	1	686	\$814	\$65	\$749	\$0	\$1.09	\$749	\$6,741	\$6,741	\$749	\$1.09	\$0	\$998	\$1.45	\$1,121	
MR		0%		5	1	1	686	\$0	\$65		NA	\$1.63	\$1,121	\$5,605	\$4,750	\$950	\$1.38	NA	\$998	\$1.45	\$1,121	
TC 30%	\$407	30%/30%	\$678	1	1	1	691	\$407	\$65	\$342	\$0	\$0.49	\$342	\$342	\$342	\$342	\$0.49	\$0	\$1,001	\$1.45	\$1,125	
TC 50%	\$678	LH/50%	\$678	4	1	1	691	\$678	\$65	\$613	\$0	\$0.89	\$613	\$2,452	\$2,452	\$613	\$0.89	\$0	\$1,001	\$1.45	\$1,125	
TC 60%	\$814	0%		16	1	1	691	\$814	\$65	\$749	\$0	\$1.08	\$749	\$11,984	\$11,984	\$749	\$1.08	\$0	\$1,001	\$1.45	\$1,125	
MR		0%		8	1	1	691	\$0	\$65		NA	\$1.63	\$1,125	\$9,000	\$7,600	\$950	\$1.37	NA	\$1,001	\$1.45	\$1,125	
TC 30%	\$488	30%/30%	\$813	1	2	1	850	\$488	\$85	\$403	\$0	\$0.47	\$403	\$403	\$403	\$403	\$0.47	\$0	\$1,093	\$1.29	\$1,228	
TC 50%	\$813	LH/50%	\$813	3	2	1	850	\$813	\$85	\$728	\$0	\$0.86	\$728	\$2,184	\$2,184	\$728	\$0.86	\$0	\$1,093	\$1.29	\$1,228	
TC 60%	\$976	0%		9	2	1	850	\$976	\$85	\$891	\$0	\$1.05	\$891	\$8,019	\$8,019	\$891	\$1.05	\$0	\$1,093	\$1.29	\$1,228	
MR		0%		5	2	1	850	\$0	\$85		NA	\$1.44	\$1,228	\$6,140	\$5,500	\$1,100	\$1.29	NA	\$1,093	\$1.29	\$1,228	
TC 30%	\$488	30%/30%	\$813	3	2	1	880	\$488	\$85	\$403	\$0	\$0.46	\$403	\$1,209	\$1,209	\$403	\$0.46	\$0	\$1,113	\$1.26	\$1,250	
TC 50%	\$813	LH/50%	\$813	6	2	1	880	\$813	\$85	\$728	\$0	\$0.83	\$728	\$4,368	\$4,368	\$728	\$0.83	\$0	\$1,113	\$1.26	\$1,250	
TC 60%	\$976	0%		17	2	1	880	\$976	\$85	\$891	\$0	\$1.01	\$891	\$15,147	\$15,147	\$891	\$1.01	\$0	\$1,113	\$1.26	\$1,250	
MR		0%		13	2	1	880	\$0	\$85		NA	\$1.42	\$1,250	\$16,250	\$14,950	\$1,150	\$1.31	NA	\$1,113	\$1.26	\$1,250	
TC 30%	\$488	30%/30%		1	2	2	1,000	\$488	\$85	\$403	\$0	\$0.40	\$403	\$403	\$403	\$403	\$0.40	\$0	\$1,291	\$1.29	\$1,450	
TC 50%	\$813	0%		1	2	2	1,000	\$813	\$85	\$728	\$0	\$0.73	\$728	\$728	\$728	\$728	\$0.73	\$0	\$1,291	\$1.29	\$1,450	
TC 50%	\$813	LH/50%	\$813	1	2	2	1,000	\$813	\$85	\$728	\$0	\$0.73	\$728	\$728	\$728	\$728	\$0.73	\$0	\$1,291	\$1.29	\$1,450	
TC 60%	\$976	0%		7	2	2	1,000	\$976	\$85	\$891	\$0	\$0.89	\$891	\$6,237	\$6,237	\$891	\$0.89	\$0	\$1,291	\$1.29	\$1,450	
MR		0%		4	2	2	1,000	\$0	\$85		NA	\$1.45	\$1,450	\$5,800	\$5,200	\$1,300	\$1.30	NA	\$1,291	\$1.29	\$1,450	
<b>TOTALS/AVERAGES:</b>				<b>140</b>				<b>109,211</b>				<b>\$0</b>	<b>\$1.12</b>	<b>\$875</b>	<b>\$122,472</b>	<b>\$116,712</b>	<b>\$834</b>	<b>\$1.07</b>	<b>\$0</b>	<b>\$1,054</b>	<b>\$1.35</b>	<b>\$1,184</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,469,664</b>	<b>\$1,400,544</b>
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**STABILIZED PRO FORMA**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

STABILIZED FIRST YEAR PRO FORMA															
COMPARABLES			APPLICANT				PRIOR REPORT			TDHCA				VARIANCE	
Database	Other		% EGI	Per SF	Per Unit	Amount	Amount	Amount	Amount	Per Unit	Per SF	% EGI	%	\$	
<b>POTENTIAL GROSS RENT</b>				\$1.12	\$875	\$1,469,664	\$2,540,556	\$2,483,898	\$1,400,544	\$834	\$1.07		4.9%	\$69,120	
App & Late Fees, Laundry, etc.						\$12.00	\$20,160	27,936							
Parking (Covered Spaces)						\$13.93	\$23,400	28,308							
Total Secondary Income						\$25.93			46,560	\$33,600	\$20.00		29.6%	\$9,960	
<b>POTENTIAL GROSS INCOME</b>							\$1,513,224	\$2,596,800	\$2,530,458	\$1,434,144			5.5%	\$79,080	
Vacancy & Collection Loss					7.5% PGI	(113,492)	(194,760)	(189,784)	(107,561)	7.5% PGI			5.5%	(5,931)	
Rental Concessions						-							0.0%	-	
<b>EFFECTIVE GROSS INCOME</b>							\$1,399,732	\$2,402,040	\$2,340,674	\$1,326,583			5.5%	\$73,149	

General & Administrative	\$39,312	\$281/Unit	\$36,402	\$260	3.36%	\$0.43	\$335	\$46,964	\$54,500	\$50,963	\$46,964	\$335	\$0.43	3.54%	0.0%	-
Management	\$48,050	5.3% EGI	\$51,111	\$365	5.00%	\$0.64	\$500	\$69,987	\$120,102	\$117,034	\$66,329	\$474	\$0.61	5.00%	5.5%	3,658
Payroll & Payroll Tax	\$146,319	\$1,045/Unit	\$156,825	\$1,120	11.02%	\$1.41	\$1,102	\$154,306	\$314,985	\$314,985	\$154,306	\$1,102	\$1.41	11.63%	0.0%	-
Repairs & Maintenance	\$77,746	\$555/Unit	\$79,427	\$567	5.50%	\$0.71	\$550	\$77,000	\$106,700	\$106,700	\$77,000	\$550	\$0.71	5.80%	0.0%	-
Electric/Gas	\$31,200	\$223/Unit	\$17,379	\$124	1.48%	\$0.19	\$148	\$20,711	\$37,085	\$24,330	\$20,711	\$148	\$0.19	1.56%	0.0%	-
Water, Sewer, & Trash	\$90,481	\$646/Unit	\$54,353	\$388	3.95%	\$0.51	\$395	\$55,309	\$61,386	\$76,095	\$54,914	\$392	\$0.50	4.14%	0.7%	395
Property Insurance	\$32,386	\$0.30 /sf	\$34,556	\$247	2.60%	\$0.33	\$260	\$36,400	\$53,350	\$48,411	\$34,556	\$247	\$0.32	2.60%	5.3%	1,844
Property Tax 1.9032	\$54,713	\$391/Unit	\$60,089	\$429	5.48%	\$0.70	\$548	\$76,668	\$140,290	\$121,660	\$79,239	\$566	\$0.73	5.97%	-3.2%	(2,571)
Reserve for Replacements	\$41,365	\$295/Unit	\$36,156	\$258	2.50%	\$0.32	\$250	\$35,000	\$48,500	\$48,500	\$35,000	\$250	\$0.32	2.64%	0.0%	-
Supportive Services			\$3,208	\$23	0.43%	\$0.05	\$43	\$6,000	\$25,000	\$25,000	\$6,000	\$43	\$0.05	0.45%	0.0%	-
TDHCA Compliance fees			\$4,007	\$29	0.35%	\$0.04	\$35	\$4,832	\$4,832	\$4,832	\$4,832	\$35	\$0.04	0.36%	0.0%	-
Security			\$4,516	\$32	0.09%	\$0.01	\$9	\$1,325	\$2,000	\$2,000	\$1,325	\$9	\$0.01	0.10%	0.0%	-
<b>TOTAL EXPENSES</b>			<b>\$ 590,513</b>		<b>41.76%</b>	<b>\$5.35</b>	<b>\$4,175</b>	<b>\$584,502</b>	<b>\$968,730</b>	<b>\$940,509</b>	<b>\$ 581,176</b>	<b>\$4,151</b>	<b>\$5.32</b>	<b>43.81%</b>	<b>0.6%</b>	<b>\$ 3,326</b>
<b>NET OPERATING INCOME ("NOI")</b>			<b>\$ -</b>		<b>58.24%</b>	<b>\$7.46</b>	<b>\$5,823</b>	<b>\$815,230</b>	<b>\$1,433,310</b>	<b>\$1,400,164</b>	<b>\$745,407</b>	<b>\$5,324</b>	<b>\$6.83</b>	<b>56.19%</b>	<b>9.4%</b>	<b>\$ 69,823</b>

CONTROLLABLE EXPENSES	\$2,531/Unit	\$2,962/Unit	\$2,954/Unit	\$2,528/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

DEBT / GRANT SOURCES																				
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE								
DEBT (Must Pay)	MIP	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative			
		UW	App							Applicant	TDHCA						DCR	LTC		
CITIBANK - FHA 221(d)(4)	0.25%	1.40	1.54	530,751	4.25%	40	40	\$10,200,000	\$16,400,000	\$16,400,000	\$10,200,000	40	40	4.00%	\$537,057	1.39	47.5%			
TDHCA		1.18	1.29	101,185	3.00%	30	30	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	30	30	3.00%	\$101,185	1.17	9.3%			
City of Midland		1.18	1.29	-	0.00%	0	0	\$0	\$1,076,772	\$1,600,000	\$0	0	0	0.00%		1.17	0.0%			
<b>CASH FLOW DEBT / GRANTS</b>																				
City of Midland MATCH funds (HOME)		1.18	1.29		0.00%	0	0	\$0	\$523,228	\$0	\$0	0	0	0.00%			1.17	0.0%		
				<b>\$631,936</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$12,200,000</b>	<b>\$20,000,000</b>	<b>\$20,000,000</b>	<b>\$12,200,000</b>	<b>TOTAL DEBT SERVICE</b>				<b>\$638,242</b>	<b>1.17</b>	<b>56.9%</b>		
<b>NET CASH FLOW</b>		\$113,471	\$183,294	<b>NET OPERATING INCOME</b>														\$745,407	\$107,165	<b>NET CASH FLOW</b>

EQUITY SOURCES															
APPLICANT'S PROPOSED EQUITY STRUCTURE						Prior Underwriting		AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Total Developer Fee		
						Applicant	TDHCA						Total Developer Fee	\$	
RBC	LIHTC Equity	38.1%	\$786,147	1.04	\$8,174,212	\$7,545,502	\$7,545,502	\$8,174,212	\$1.04	\$786,147	38.1%	\$5,615			
DDC Investments, Ltd	Deferred Developer Fees	5.1%	(46% Deferred)		\$1,084,407	\$673,071	\$673,070	\$1,084,409	(46% Deferred)		5.1%		<b>Total Developer Fee:</b>	<b>\$2,332,314</b>	
Additional (Excess) Funds Req'd		0.0%			\$2	\$0	\$0	\$0			0.0%				
<b>TOTAL EQUITY SOURCES</b>		<b>43.1%</b>			<b>\$9,258,621</b>	<b>\$8,218,572</b>	<b>\$8,218,572</b>	<b>\$9,258,621</b>			<b>43.1%</b>		<b>15-Year Cash Flow:</b>	<b>\$2,678,109</b>	
<b>TOTAL CAPITALIZATION</b>						<b>\$21,458,621</b>	<b>\$28,218,572</b>	<b>\$28,218,572</b>	<b>\$21,458,621</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>					<b>\$1,593,700</b>

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS						Prior Underwriting		TDHCA COST / BASIS ITEMS				COST VARIANCE		
Eligible Basis		Total Costs	Prior Underwriting		Total Costs	Eligible Basis		%	\$					
Acquisition	New Const. Rehab		Applicant	TDHCA		New Const. Rehab	Acquisition							
Land Acquisition		\$14,049 / Unit	\$1,966,882	\$1,966,882	\$1,966,882	\$14,049 / Unit		0.0%	\$0					
Building Acquisition	\$0	\$ / Unit	\$0	\$0	\$0	\$ / Unit	\$0	0.0%	\$0					
Closing costs & acq. legal fees		\$35,000	\$35,000	\$35,000	\$35,000				\$0					
Off-Sites	\$0	\$2,549 / Unit	\$356,875	\$519,920	\$519,920	\$2,549 / Unit	\$0	0.0%	\$0					
Site Work	\$1,627,788	\$11,627 / Unit	\$1,627,788	\$1,803,700	\$1,803,700	\$11,627 / Unit	\$1,627,788	0.0%	\$0					
Site Amenities	\$512,400	\$3,660 / Unit	\$512,400	\$665,544	\$665,544	\$3,660 / Unit	\$512,400	0.0%	\$0					
Building Cost	\$8,708,532	\$81.39 /sf	\$63,493/Unit	\$8,888,972	\$12,450,423	\$12,489,561	\$8,898,489	\$63.561/Unit	\$81.48 /sf	\$8,774,294	-0.1%	(\$9,517)		
Contingency	\$542,436	5.00%	5.00%	\$569,302	\$771,979	\$771,979	\$569,302	5.00%	4.97%	\$542,436	0.0%	\$0		
Contractor Fees	\$1,518,820	13.33%	13.33%	\$1,594,045	\$2,161,542	\$2,161,542	\$1,594,045	13.32%	13.26%	\$1,518,820	0.0%	\$0		
Soft Costs	0	\$1,004,736	\$7,320 / Unit	\$1,024,736	\$1,297,955	\$1,297,955	\$1,024,736	\$7,320 / Unit		\$1,004,736	\$0	0.0%	\$0	
Financing	0	\$1,069,870	\$11,869 / Unit	\$1,661,607	\$2,323,782	\$2,323,782	\$1,661,607	\$11,869 / Unit		\$1,069,870	\$0	0.0%	\$0	
Developer Fee	\$0	\$2,247,687	15.00%	15.00%	\$2,332,314	\$3,121,845	\$3,121,845	\$2,332,314	14.99%	14.93%	\$2,247,687	\$0	0.0%	\$0
Reserves		\$6,348 / Unit	\$888,700	\$1,100,000	\$1,085,683	\$609,709	\$4,355 / Unit				45.8%	\$278,991		
<b>UNADJUSTED DEVELOPMENT COST / ELIGIBLE BASIS</b>		<b>\$0</b>	<b>\$17,232,269</b>	<b>\$153,276 / Unit</b>	<b>\$21,458,621</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$21,189,147</b>	<b>\$151,351 / Unit</b>	<b>\$17,298,031</b>	<b>\$0</b>	<b>1.3%</b>	<b>\$269,474</b>	
Acquisition Cost	\$0			\$0										
Contingency				\$0										
Contractor's Fee				\$0										
Interim Interest				\$0										
Developer Fee	\$0			\$0										
Reserves				\$0										
<b>TOTAL HOUSING DEVELOPMENT COST / ELIGIBLE BASIS</b>		<b>\$0</b>	<b>\$17,232,269</b>	<b>\$153,276/unit</b>	<b>\$21,458,621</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$21,189,147</b>	<b>\$151,351/unit</b>	<b>\$17,298,031</b>	<b>\$0</b>	<b>1.3%</b>	<b>\$269,474</b>	
<b>TOTAL HOUSING DEVELOPMENT COST (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$21,458,621</b>								

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	ADJUSTED BASIS	\$0	\$17,232,269	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$17,232,269	\$0	\$17,298,031
High Cost Area Adjustment		100%		100%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$17,232,269	\$0	\$17,298,031
Applicable Fraction	69.29%	69.29%	69.29%	69.29%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$11,939,501	\$0	\$11,985,064
Applicable Percentage	3.35%	7.87%	3.35%	7.87%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$939,639	\$0	\$943,225
<b>CREDITS ON QUALIFIED BASIS</b>	\$939,639		\$943,225	

**ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS**

Method	Annual Credits	Proceeds	FINAL ANNUAL LIHTC ALLOCATION		
			Credit Price \$1.0398	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$939,639	\$9,770,191	----	----	----
Gap	\$890,439	\$9,258,621	----	----	----
<b>Applicant Request</b>	\$786,147	\$8,174,212	<b>\$786,147</b>	<b>\$0</b>	<b>\$0</b>

**BUILDING COST ESTIMATE**

CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Wrap Style (3 or 4-story)	109,211 SF	\$66.61	7,274,897
<b>Adjustments</b>				
Exterior Wall Finish	2.40%		1.60	\$174,598
Elderly	3.00%		2.00	218,247
g'	0.00%		0.00	0
Roofing			(0.25)	(27,303)
Subfloor			(0.12)	(12,741)
Floor Cover			3.57	389,916
Breezeways	\$0.00	0	0.00	0
Balconies	\$22.36	12,154	2.49	271,717
Plumbing Fixtures	\$970	42	0.37	40,740
Rough-ins	\$475	280	1.22	133,000
Built-In Appliances	\$1,790	140	2.29	250,600
Exterior Stairs	\$2,425	15	0.33	36,375
Heating/Cooling			2.11	230,435
Enclosed Corridors	\$50.40	36,168	16.69	1,822,984
Carports	\$11.82	3,132	0.34	37,020
Garaques	\$30.07	4,380	1.21	131,694
Comm &/or Aux Bldgs	\$75.26	7,191	4.96	541,209
Elevators	\$66,000	3	1.81	198,000
Other:	\$0.00	0	0.00	0
Fire Sprinklers	\$2.47	152,570	3.45	376,848
<b>SUBTOTAL</b>			<b>110.69</b>	<b>12,088,236</b>
Current Cost Multiplier	0.99		(1.44)	(157,147)
Local Multiplier	0.88		(13.61)	(1,486,853)
<b>TOTAL BUILDING COSTS</b>			<b>95.63</b>	<b>\$10,444,236</b>
Plans, specs, survey, bldg permits	3.30%		(3.16)	(\$344,660)
Contractor's OH & Profit	11.50%		(11.00)	(1,201,087)
<b>NET BUILDING COSTS</b>		\$63,561/unit	\$81.48/sf	\$8,898,489

**15234 Merritt Leisure**

9% LIHTC Senior Development in Midland, TX

**Market Rate Rent Comparable Analysis (Sorted by Adjusted Effective Rent)**

Efficiency Units													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
Meritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	5	Eff	556		\$815	\$1.47		\$0	\$815	\$1.47	TDHCA UW
Meritt Leisure - Applicant Concluded Rent	Pending	LIHTC	5	Eff	556		\$915	\$1.65		\$0	\$915	\$1.65	01/16 - Coe

Notes: No comparable units in market  
 UW assumes that achievable rent is on the lowest end of 1BR comparables (Westwood Villas has 575 SF 1-bedroom at \$925).

One Bedroom Units - Less than 800 SF													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
Westridge (LIHTC Senior Deal)	2015	LIHTC	56	1x1	709		\$738	\$1.04		\$0	\$738	\$1.04	12/31/15 Rent Roll
Westwood Villas	2014	Mkt Rate	1	1x1	575		\$925	\$1.61	(\$77)	(\$77)	\$848	\$1.47	01/16 Mkt Study
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	3	1x1	664		\$900	\$1.36		\$0	\$900	\$1.36	2016 - Coe
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	5	1x1	691		\$950	\$1.37		\$0	\$950	\$1.37	2016 - Coe
Meritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	3	1x1	664		\$950	\$1.43		\$0	\$950	\$1.43	TDHCA UW
Meritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	5	1x1	686		\$950	\$1.38		\$0	\$950	\$1.38	TDHCA UW
Meritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	8	1x1	691		\$950	\$1.37		\$0	\$950	\$1.37	TDHCA UW
Mesquite Terrace	2014	Mkt Rate	84	1x1	701		\$999	\$1.43		\$0	\$999	\$1.43	01/16 - Coe
Midway Station	2014	Mkt Rate	68	1x1	728		\$1,099	\$1.51	(\$92)	(\$92)	\$1,007	\$1.38	01/16 - Coe
Blue Ridge	2011	Mkt Rate	84	1x1	675		\$1,027	\$1.52		\$0	\$1,027	\$1.52	01/16 - Coe
Sandstone Ridge	2015	Mkt Rate	40	1x1	608		\$1,195	\$1.97	(\$100)	(\$100)	\$1,095	\$1.80	01/16 - Coe
Meritt Leisure - Applicant Concluded Rent	Pending	LIHTC	3	1x1	664		\$1,105	\$1.66		\$0	\$1,105	\$1.66	01/16 - Coe
Blue Ridge	2011	Mkt Rate	50	1x1	741		\$1,117	\$1.51		\$0	\$1,117	\$1.51	01/16 - Coe
Meritt Leisure - Applicant Concluded Rent	Pending	LIHTC	5	1x1	686		\$1,121	\$1.63		\$0	\$1,121	\$1.63	01/16 - Coe
Meritt Leisure - Applicant Concluded Rent	Pending	LIHTC	8	1x1	691		\$1,125	\$1.63		\$0	\$1,125	\$1.63	01/16 - Coe
Sandstone Ridge	2015	Mkt Rate	40	1x1	777		\$1,298	\$1.67	(\$108)	(\$108)	\$1,190	\$1.53	01/16 - Coe

Number of Market Comparables	423		
Minimum Rent / Delta to Average	\$738	-\$274	73%
Merritt Monument	\$931	-\$81	92%
Weighted TDHCA	\$950	-\$62	94%
Weighted Average Rent	\$1,012	\$0	100%
Weighted Applicant	\$1,120	\$108	111%
Maximum Rent / Delta to Average	\$1,190	\$178	118%

\*After concession

Notes: Westridge, in cost cert, across street, rents verified by rent roll, minimum rent in market at \$275 below average - there is no market premium on the 60% units  
 Midway Station, 835 SF unit is at weighted average for the below 800 SF units.

**15234 Merritt Leisure**

9% LIHTC Senior Development in Midland, TX

**Market Rate Rent Comparable Analysis (Sorted by Adjusted Effective Rent)**

One Bedroom Units - Greater than 800 SF													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
Midway Station	2014	Mkt Rate	52	1x1	835		\$1,199	\$1.44	(100)	(\$100)	\$1,099	\$1.32	01/16 - Coe
Blue Ridge	2011	Mkt Rate	11	1x1	831		\$1,447	\$1.74		\$0	\$1,447	\$1.74	01/16 - Coe
Blue Ridge	2011	Mkt Rate	2	1x1	854		\$1,457	\$1.71		\$0	\$1,457	\$1.71	01/16 - Coe
Blue Ridge	2011	Mkt Rate	1	1x1	910		\$1,477	\$1.62		\$0	\$1,477	\$1.62	01/16 - Coe

Notes: Midway Station's 835 SF unit rents are consistent with mid-point rents for units below 800 SF.

Two Bedroom Units - Less than 1,200 SF													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
Westridge (LIHTC Senior Deal)	2015	LIHTC	28	2x2	983		\$876	\$0.89		\$0	\$876	\$0.89	12/31/15 Rent Roll
Westridge (LIHTC Senior Deal)	2015	LIHTC	12	2x2	1,115		\$976	\$0.88		\$0	\$976	\$0.88	12/31/15 Rent Roll
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	2	2x1	850		\$1,050	\$1.24		\$0	\$1,050	\$1.24	2016 - Coe
Merritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	5	2x1	850		\$1,100	\$1.29		\$0	\$1,100	\$1.29	TDHCA UW
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	2	2x1	880		\$1,100	\$1.25		\$0	\$1,100	\$1.25	2016 - Coe
Merritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	13	2x1	880		\$1,150	\$1.31		\$0	\$1,150	\$1.31	TDHCA UW
Westwood Villas	2014	Mkt Rate	3	2x2	773		\$1,230	\$1.59	(103)	(\$103)	\$1,128	\$1.46	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	60	2x1	924		\$1,157	\$1.25		\$0	\$1,157	\$1.25	01/16 Mkt Study
Westwood Villas	2014	Mkt Rate	2	2x2	805		\$1,280	\$1.59	(107)	(\$107)	\$1,173	\$1.46	01/16 Mkt Study
Mesquite Terrace	2014	Mkt Rate	124	2x2	1,002		\$1,299	\$1.30	(108)	(\$108)	\$1,191	\$1.19	01/16 Mkt Study
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	3	2x2	1,000		\$1,200	\$1.20		\$0	\$1,200	\$1.20	2016 - Coe
Westwood Villas	2014	Mkt Rate	2	2x2	832		\$1,325	\$1.59	(110)	(\$110)	\$1,215	\$1.46	01/16 Mkt Study
Merritt Leisure - Applicant Concluded Rent	Pending	LIHTC	5	2x1	850		\$1,228	\$1.44		\$0	\$1,228	\$1.44	01/16 Mkt Study
Merritt Monument - Applicant Concluded Rent	Pending	LIHTC	2	2x2	1,016		\$1,250	\$1.23		\$0	\$1,250	\$1.23	2016 - Coe
Merritt Leisure - Applicant Concluded Rent	Pending	LIHTC	13	2x1	880		\$1,250	\$1.42		\$0	\$1,250	\$1.42	01/16 Mkt Study
Westwood Villas	2014	Mkt Rate	8	2x2	880		\$1,400	\$1.59	(117)	(\$117)	\$1,283	\$1.46	01/16 Mkt Study
Merritt Leisure - TDHCA Concluded Rent	Pending	LIHTC	4	2x2	1,000		\$1,300	\$1.30		\$0	\$1,300	\$1.30	TDHCA UW
Blue Ridge	2011	Mkt Rate	30	2x2	1,073		\$1,329	\$1.24		\$0	\$1,329	\$1.24	01/16 Mkt Study
Sandstone Ridge	2015	Mkt Rate	40	2x2	855		\$1,475	\$1.73	(123)	(\$123)	\$1,352	\$1.58	01/16 Mkt Study
Westwood Villas	2014	Mkt Rate	24	2x2	920		\$1,475	\$1.60	(123)	(\$123)	\$1,352	\$1.47	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	4	2x2	1,123		\$1,367	\$1.22		\$0	\$1,367	\$1.22	01/16 Mkt Study
Midway Station	2014	Mkt Rate	54	2x2	1,124		\$1,400	\$1.25		\$0	\$1,400	\$1.25	01/16 Mkt Study
Merritt Leisure - Applicant Concluded Rent	Pending	LIHTC	4	2x2	1,000		\$1,450	\$1.45		\$0	\$1,450	\$1.45	01/16 Mkt Study
Sandstone Ridge	2015	Mkt Rate	40	2x2	1,060		\$1,750	\$1.65	(146)	(\$146)	\$1,604	\$1.51	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	4	2x2	1,160		\$1,822	\$1.57		\$0	\$1,822	\$1.57	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	24	2x2	1,193		\$1,847	\$1.55		\$0	\$1,847	\$1.55	01/16 Mkt Study

Number of Market Comparables	459		
Minimum Rent / Delta to Average	\$876	-\$420	68%
Merritt Monument	\$1,156	-\$141	89%
Weighted TDHCA	\$1,166	-\$130	90%
Weighted Applicant	\$1,281	-\$15	99%
Weighted Average Rent	\$1,296	\$0	100%
Maximum Rent / Delta to Average	\$1,847	\$551	142%

\*After concession

Notes: Westridge, across street, rents verified by rent roll, minimum rent in market at \$420 below average - there is no market premium on the 60% units. Average SF of subject's 2BR units is 79 SF less than comparable average (910 SF vs. 989 SF). New market rents not adjusted for number of bathrooms (\$35/unit per Coe)



**15234 Merritt Leisure**

9% LIHTC Senior Development in Midland, TX

**Market Rate Rent Comparable Analysis (Sorted by Adjusted Effective Rent)**

Two Bedroom Units - Greater than 1,200 SF													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
Midway Station	2014	Mkt Rate	36	2x2	1,215		\$1,599	\$1.32		\$0	\$1,599	\$1.32	01/16 Mkt Study
Blue Ridge - 01/16 Mkt Study	2011	Mkt Rate	4	2x2	1,252		\$1,797	\$1.44		\$0	\$1,797	\$1.44	01/16 Mkt Study

Notes: Subject does not have any 2BR units greater than 1,200 SF..

Three Bedroom Units													
Community	Year Built	Desc.	# Units	Type	NRA	Extras	Market Rent (\$/month)	Market Rent (\$/sf/month)	Monthly Concession (If not in Market Rent)	Total Adjustments	Adjusted Effective Rent (\$/month)	Adjusted Effective Rent (\$/sf/month)	Source
<b>Merritt Monument - Applicant Concluded Rent</b>	<b>Pending</b>	<b>LIHTC</b>	<b>2</b>	<b>3x2</b>	<b>1,124</b>		<b>\$1,300</b>	<b>\$1.16</b>		<b>\$0</b>	<b>\$1,300</b>	<b>\$1.16</b>	<b>2016 - Coe</b>
Westwood Villas	2014	Mkt Rate	10	3x2	1,069		\$1,490	\$1.39	(124)	(\$124)	\$1,366	\$1.28	01/16 Mkt Study
Westwood Villas	2014	Mkt Rate	2	3x2	990		\$1,490	\$1.51	(124)	(\$124)	\$1,366	\$1.38	01/16 Mkt Study
<b>Merritt Monument - Applicant Concluded Rent</b>	<b>Pending</b>	<b>LIHTC</b>	<b>2</b>	<b>3x2</b>	<b>1,240</b>		<b>\$1,400</b>	<b>\$1.13</b>		<b>\$0</b>	<b>\$1,400</b>	<b>\$1.13</b>	<b>2016 - Coe</b>
Blue Ridge	2011	Mkt Rate	4	3x2	1,474		\$1,490	\$1.01		\$0	\$1,490	\$1.01	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	4	3x2	1,677		\$1,590	\$0.95		\$0	\$1,590	\$0.95	01/16 Mkt Study
Mesquite Terrace	2014	Mkt Rate	80	3x2	1,228		\$1,749	\$1.42		\$0	\$1,749	\$1.42	01/16 Mkt Study
Sandstone Ridge	2015	Mkt Rate	16	3x2	1,188		\$1,975	\$1.66		\$0	\$1,975	\$1.66	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	4	3x2	1,474		\$2,257	\$1.53		\$0	\$2,257	\$1.53	01/16 Mkt Study
Blue Ridge	2011	Mkt Rate	4	3x2	1,677		\$2,307	\$1.38		\$0	\$2,307	\$1.38	01/16 Mkt Study

Notes: Subject does not have any 3BR units.

**Addendum to Underwriting Report**

TDHCA Application #: **15234** Program(s): **9% HTC/HOME**

**Merritt Leisure**

Address/Location: Northeast quadrant of Leisure Drive and TX Loop 250

City: Midland County: Midland Zip: 79703

APPLICATION HISTORY	
Report Date	PURPOSE
10/15/15	Change in maturity of TDHCA HOME Loan
06/15/15	Original Underwriting Report

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
HOME Activity Funds	\$2,000,000	3.00%	30	30	\$2,000,000	3.00%	30	18	2nd
HOME CHDO Expenses	\$50,000				\$50,000				
LIHTC (Annual)	\$786,147				\$786,147				

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- Receipt and acceptance by HOME Closing:
  - Approved variance for reduced parking or compliance with existing Code, with all required spaces available to tenants at no cost.  
**Status:** Pending
  - Documentation clearing environmental issues contained in the ESA report, specifically:
    - Noise Assessment documentation and implementation consistent with current HUD guidelines evidencing that the average exterior Day/Night Noise Level ("DNL") at subject site is below 65 decibels and that the average interior DNL in all buildings is below 45 decibels.  
**Status:** Pending
- Should any terms of the proposed capital structure change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**ANALYSIS**

**Sources of Funds**

In compliance with §10.307(a)(2) of TDHCA's 2015 Uniform Multifamily Rules, the term on TDHCA's HOME loan must be changed to 18 years in order to match the term on the senior debt.

Underwriter: Gregg Kazak  
 Manager of Real Estate Analysis: Thomas Cavanagh  
 Director of Real Estate Analysis: Brent Stewart

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

DEBT / GRANT SOURCES															
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE					
DEBT (Must Pay)	MIP	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App											DCR	LTC
Community Bank Of Texas		1.34	1.37	1,048,723	5.75%	40	18	\$16,400,000	\$16,400,000	18	40	5.75%	\$1,048,723	1.37	58.1%
TDHCA		1.27	1.30	50,000	0.00%	40	18	\$2,000,000	\$2,000,000	18	30	3.00%	\$101,185	1.25	7.1%
City of Midland		1.19	1.22	80,948	3.00%	30	15	\$1,076,772	\$1,600,000	15	30	3.00%	\$80,948	1.16	5.7%
<b>CASH FLOW DEBT / GRANTS</b>															
City of Midland MATCH funds (HOME)		1.19	1.22		0.00%	0	0	\$523,228	\$0	0	0	0.00%		1.16	0.0%
				<b>\$1,179,671</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$20,000,000</b>	<b>\$20,000,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$1,230,856</b>	<b>1.16</b>	<b>70.9%</b>
<b>NET CASH FLOW</b>		\$220,493	\$253,639							<b>NET OPERATING INCOME</b>		\$1,433,310	\$202,454	<b>NET CASH FLOW</b>	

EQUITY SOURCES												
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
												RBC
DDC Investments, Ltd	Deferred Developer Fees	2.4%	(22% Deferred)		\$673,071	\$673,070	(22% Deferred)		2.4%		<b>Total Developer Fee:</b>	
Additional (Excess) Funds Req'd		0.0%			\$0	\$0			0.0%		<b>\$3,121,845</b>	
<b>TOTAL EQUITY SOURCES</b>		<b>29.1%</b>			<b>\$8,218,572</b>	<b>\$8,218,572</b>			<b>29.1%</b>	<b>15-Year Cash Flow:</b>	<b>\$5,216,109</b>	
<b>TOTAL CAPITALIZATION</b>						<b>\$28,218,572</b>	<b>\$28,218,572</b>				<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$4,543,038</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs		Total Costs	Eligible Basis		Total Costs		%	\$		
	Acquisition	New Const. Rehab				New Const. Rehab	Acquisition						
Land Acquisition			\$10,139 / Unit	\$1,966,882	\$1,966,882	\$10,139 / Unit				0.0%	\$0		
Building Acquisition	\$0		\$ / Unit	\$0	\$0	\$ / Unit		\$0		0.0%	\$0		
Closing costs & acq. legal fees				\$35,000	\$35,000						\$0		
Off-Sites		\$0	\$2,680 / Unit	\$519,920	\$519,920	\$2,680 / Unit	\$0			0.0%	\$0		
Site Work		\$1,803,700	\$9,297 / Unit	\$1,803,700	\$1,803,700	\$9,297 / Unit	\$1,803,700			0.0%	\$0		
Site Amenities		\$665,544	\$3,431 / Unit	\$665,544	\$665,544	\$3,431 / Unit	\$665,544			0.0%	\$0		
Building Cost		\$12,233,983	\$73.49 /sf	\$64,177/Unit	\$12,450,423	\$12,489,561	\$64,379/Unit	\$73.72 /sf	\$12,489,561	-0.3%	(\$39,138)		
Contingency		\$735,161	5.00%	5.00%	\$771,979	\$771,979	4.99%	4.91%	\$735,161	0.0%	\$0		
Contractor Fees		\$2,058,452	13.33%	13.33%	\$2,161,542	\$2,161,542	13.30%	13.12%	\$2,058,452	0.0%	\$0		
Soft Costs	0	\$1,264,955	\$6,690 / Unit	\$1,297,955	\$1,297,955	\$6,690 / Unit	\$1,264,955	\$0		0.0%	\$0		
Financing	0	\$1,277,330	\$11,978 / Unit	\$2,323,782	\$2,323,782	\$11,978 / Unit	\$1,277,330	\$0		0.0%	\$0		
Developer Fee	\$0	\$3,005,869	15.00%	15.00%	\$3,121,845	\$3,121,845	14.97%	14.81%	\$3,005,869	0.0%	\$0		
Reserves			\$5,670 / Unit	\$1,100,000	\$1,085,683	\$5,596 / Unit				1.3%	\$14,317		
<b>UNADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$23,044,994</b>	<b>\$145,457 / Unit</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$145,585 / Unit</b>	<b>\$23,300,572</b>	<b>\$0</b>	<b>-0.1%</b>	<b>(\$24,821)</b>		
Acquisition Cost	\$0			\$0									
Contingency		\$0											
Contractor's Fee		\$0											
Interim Interest		\$0											
Developer Fee	\$0	\$0		\$0									
Reserves				\$0									
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$23,044,994</b>	<b>\$145,457/unit</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$145,585/unit</b>	<b>\$23,300,572</b>	<b>\$0</b>	<b>-0.1%</b>	<b>(\$24,821)</b>		
<b>TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$28,218,572</b>								

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
High Cost Area Adjustment		100%		100%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
Applicable Fraction	50.00%	50.00%	50.00%	50.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$11,522,497	\$0	\$11,650,286
Applicable Percentage	3.35%	7.87%	3.35%	7.87%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$906,821	\$0	\$916,878
<b>CREDITS ON QUALIFIED BASIS</b>	\$906,821		\$916,878	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9598	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$906,821	\$8,703,736	----	----	----
<b>Gap</b>	\$856,273	\$8,218,572	----	----	----
<b>Applicant Request</b>	\$786,147	\$7,545,502	<b>\$786,147</b>	<b>\$0</b>	<b>\$0</b>

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Wrap Style (3 or 4-story)	169,420 SF	\$57.11	9,676,276
Adjustments				
Exterior Wall Finish	2.40%		1.37	\$232,231
Elderly	3.00%		1.71	290,288
9'	0.00%		0.00	0
Roofing			1.15	194,000
Subfloor			(0.12)	(19,766)
Floor Cover			3.57	604,880
Breezeways	\$0.00	0	0.00	0
Balconies	\$26.83	18,064	2.86	484,695
Plumbing Fixtures	\$970	192	1.10	186,240
Rough-ins	\$475	388	1.09	184,300
Built-In Appliances	\$1,790	194	2.05	347,260
Exterior Stairs	\$2,425	20	0.29	48,500
Heating/Cooling			2.11	357,476
Enclosed Corridors	\$49.41	41,723	12.17	2,061,706
Carports	\$11.82	4,080	0.28	48,226
Garages	\$39.63	6,300	1.47	249,656
Comm &/or Aux Bldgs	\$70.00	8,977	3.71	628,379
Elevators	\$89,550	3	1.59	268,650
<b>Other:</b>				
Storage, Utility, Laundry, etc.	\$49.41	8,921	2.60	440,823
Fire Sprinklers	\$2.47	229,041	3.34	565,731
<b>SUBTOTAL</b>			<b>99.45</b>	<b>16,849,551</b>
Current Cost Multiplier	0.99		(0.99)	(168,496)
Local Multiplier	0.88		(11.93)	(2,021,946)
<b>TOTAL BUILDING COSTS</b>			<b>86.53</b>	<b>\$14,659,109</b>
Plans, specs, survey, bldg permits	3.30%		(2.86)	(\$483,751)
Contractor's OH & Profit	11.50%		(9.95)	(1,685,798)
<b>NET BUILDING COSTS</b>		\$64,379/unit	\$73.72/sf	\$12,489,561



**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: **15234** Program(s): **9% HTC/HOME**

**Merritt Leisure**

Address/Location: Northeast quadrant of Leisure Drive and TX Loop 250

City: Midland County: Midland Zip: 79703

Population: Elderly Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Wrap Style (3 or 4-story) Region: 12

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
HOME Activity Funds	\$2,000,000	0.00%	35	35	\$2,000,000	3.00%	30	30	2nd
HOME CHDO Expenses	\$50,000				\$50,000				
LIHTC (Annual)	\$786,147				\$786,147				

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

\* CHDO HOME funds not used for Development Costs.

**CONDITIONS**

- 1 Receipt and acceptance by HOME loan Closing:
  - Approved variance for reduced parking or compliance with existing Code, with all required spaces available to tenants at no cost.
  - Documentation clearing environmental issues contained in the ESA report, specifically:
    - Noise Assessment documentation and implementation consistent with current HUD guidelines evidencing that the average exterior Day/Night Noise Level ("DNL") at subject site is below 65 decibels and that the average interior DNL in all buildings is below 45 decibels.
- 2 Should any terms of the proposed capital structure change or material changes to the development plan change, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

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**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	10
40% of AMI	40% of AMI	0
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	67

TDHCA SET-ASIDES for TDHCA HOME LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	8
50% of AMFI	Low HOME	20
60% of AMFI	High HOME	0
80% of AMFI	High HOME	0

**RISK PROFILE**

STRENGTHS/MITIGATING FACTORS	
▫	Elderly projects outside PMA average 100% occupancy
▫	13016 Westridge just completed w/96 units (86 restricted) is only other Elderly HTC project in PMA
▫	2.6% unemployment
▫	Developer experience
▫	1.25:1 DCR on TDHCA HOME loan
▫	Pro forma market rents on subject are 7% lower than market

WEAKNESSES/RISKS	
▫	50% of units are subject to market risk
▫	Declining rents and occupancy reported in market
▫	Uncertainty with Midland economy and job market
▫	
▫	
▫	

**DEVELOPMENT TEAM**

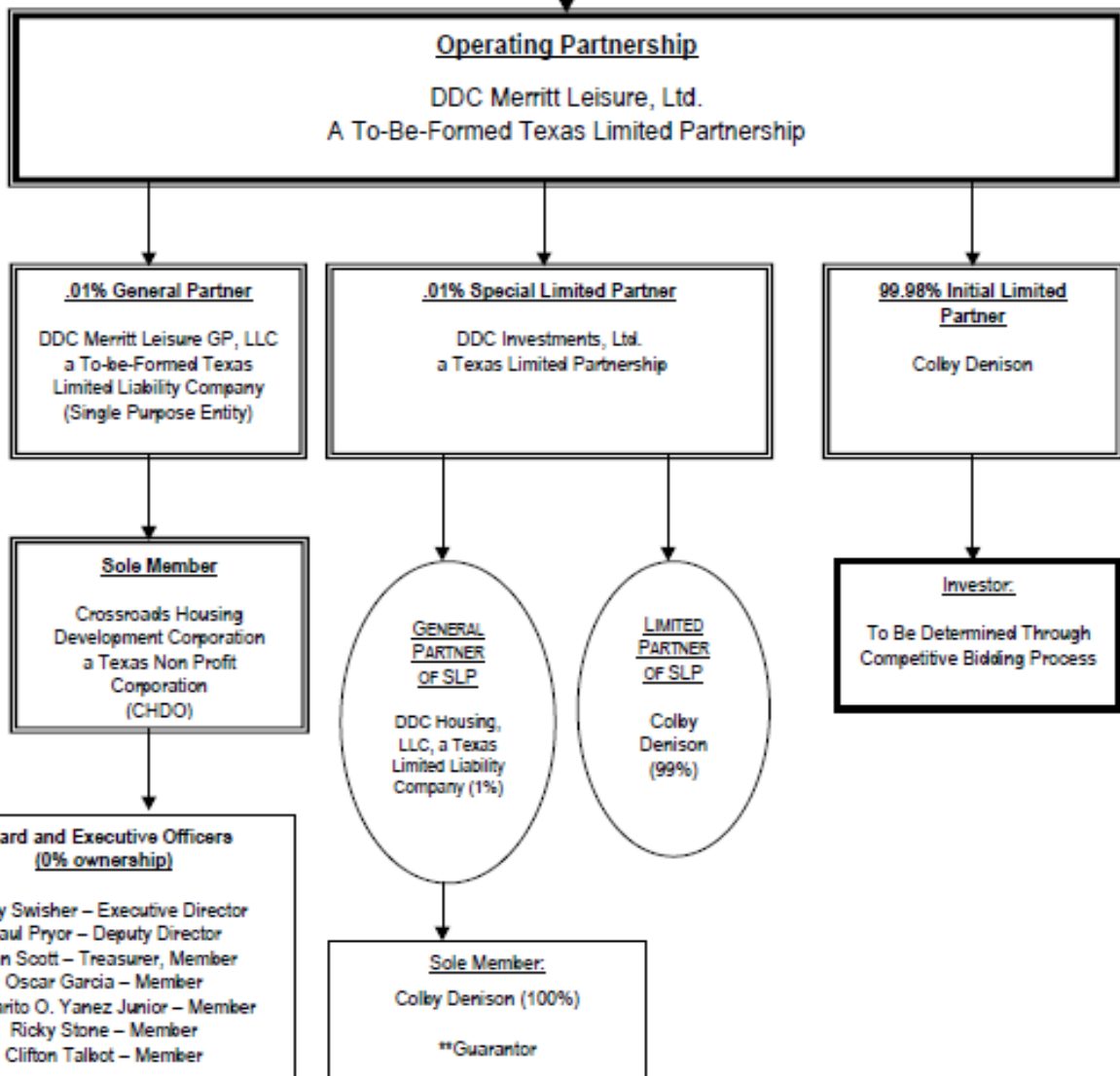
PRIMARY CONTACTS

Name: Colby Denison  
 Phone: (512) 732-1226  
 Relationship: Developer

Name: Stacy Swisher  
 Phone: (432) 770-7262  
 Relationship: CHDO Representative

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OWNERSHIP STRUCTURE



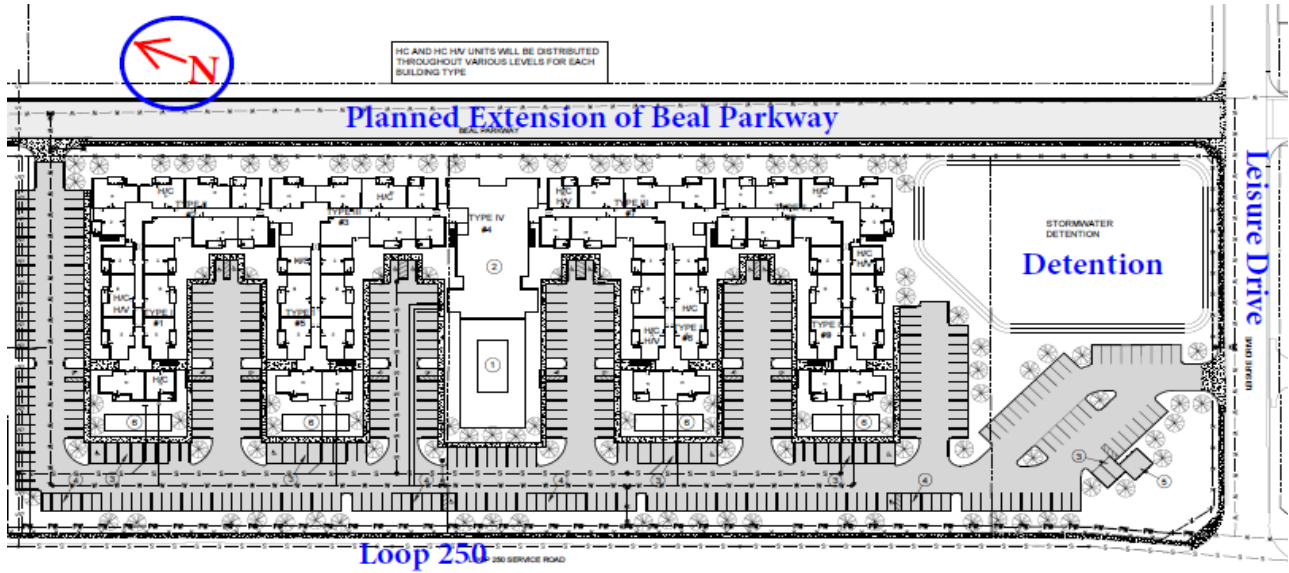
o Applicant, Developer, Property Manager, and Supportive Services Provider are related entities.

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# DEVELOPMENT SUMMARY

## SITE PLAN



**Comments:**

Site is flat, undeveloped grassland with sparsely scattered shrubbery, gently sloping from north to south. Required detention will be in SE corner of site. Developer will also be required to build an extension of Beal Parkway from Leisure Drive north along the east site boundary up to Thomason Drive (the next cross-street). Site access will be from Leisure Drive and from the extended Beal Parkway.

Parking	No Fee		Tenant-Paid		Total	
	Count	Cost	Count	Cost	Count	Cost
Open Surface	338	1.7/unit	0	--	338	1.7/unit
Carport	0	--	24	0.1/unit	24	0.1/unit
Garage	0	--	26	0.1/unit	26	0.1/unit
<b>Total Parking</b>	<b>338</b>	<b>1.7/unit</b>	<b>50</b>	<b>0.3/unit</b>	<b>388</b>	<b>2.0/unit</b>

**Comments:**

Lot complies with City Code minimum of 2 spaces/unit, but TDHCA Rules dictate that the minimum number of required spaces must be available to tenants at no cost [10.101(b)(4)(M)]. For Applicant to charge fees (currently in Applicant's proforma) for planned carports or garages, a matching amount of free spaces would have to be added or a variance would have to be obtained reducing required parking to 338 spaces or less.

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TYPICAL BUILDING ELEVATION



Comments:  
Wrap style, elevator served with conditioned corridors.

BUILDING CONFIGURATION

Building Type	1	2	3	4	5	6	7	8	9				Total Buildings
Floors/Stories	3	3	3	3	3	3	3	3	3				
Number of Bldgs	1	1	1	1	1	1	1	1	1				9
Units per Bldg	24	24	21	8	24	24	21	24	24				
<b>Total Units</b>	24	24	21	8	24	24	21	24	24				194
										<b>Average Unit Size</b>		873 sf	
										<b>Net Rentable SF</b>		169,420	
										<b>Common Area SF</b>		8,977	

GENERAL INFORMATION

Total Size: 9.10 acres	Scattered Site? No
Flood Zone: X	Within 100-yr floodplain? No
Zoning: PD-SC	Re-Zoning Required? Yes
Density: 21.3 units/acre	Utilities at Site? Yes
Year Constructed: N/A	Title Issues? No

Surrounding Uses:

**North** - Vacant land / Stripes gas station / Thomason Drive / 7-11 / Midland Church of God / Anson Jones Elementary School / single family.  
**South** - Leisure Drive / multifamily.  
**East** - Dirt road / vacant land / single family.  
**West** - Loop 250 / vacant land.

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**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: ECS Texas, LLP Date: 3/25/2015

Recognized Environmental Conditions (RECs) and Other Concerns:

- No REC's identified but noise study recommended.

Comments:

Proximity to Loop 250 warrants noise study.

**MARKET ANALYSIS**

Provider: Affordable Housing Analysts Date: 3/24/2015

Contact: Robert O. (Bob) Coe, II Phone: (281) 387-7552

Primary Market Area (PMA): 107 sq. miles 6 mile equivalent radius

PMA is comprised of 18 census tracts in the City of Midland, Midland County, Texas. It is entirely north of IH-20 but excludes a small section of the central city business district.

ELIGIBLE HOUSEHOLDS BY INCOME								
Midland County Income Limits								
HH size	30% of AMI		40% of AMI		50% of AMI		60% of AMI	
	min	max	min	max	min	max	min	max
1	\$9,216	\$14,370	---	---	\$15,384	\$23,950	\$18,456	\$28,740
2	\$9,216	\$16,410	---	---	\$15,384	\$27,350	\$18,456	\$32,820
3	\$11,064	\$18,450	---	---	\$18,432	\$30,750	\$22,128	\$36,900

Projected Annual Household Growth Rates in PMA											
Units Targeted by Income Band			Renter HH's			Total HH's			All Senior HH's		
0	\$1	\$10,000	2015	2020	%	2015	2020	%	2015	2020	%
10	\$10,000	\$20,000	1,414	1,363	-0.7%	2,814	2,607	-1.5%	1,580	1,540	-0.5%
87	\$20,000	\$30,000	1,841	1,776	-0.7%	3,207	3,097	-0.7%	1,418	1,476	0.8%
0	\$30,000	\$40,000	1,889	1,969	0.8%	3,725	3,617	-0.6%	1,620	1,669	0.6%
0	\$40,000	\$50,000	1,626	1,786	2.0%	3,336	3,487	0.9%	1,167	1,310	2.5%
0	\$50,000	\$60,000	1,409	1,447	0.5%	3,201	3,246	0.3%	1,138	1,203	1.1%

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
13016	Westridge	yes	new	Senior	84	96
Other Affordable Developments in PMA since 2011						
	None.				n/a	
Stabilized Affordable Developments in PMA ( pre-2011 )			0	Total Units	0	

Proposed, Under Construction, and Unstabilized Comparable Supply:

Westridge Apartments is a 2013 tax credit development which is located less than one mile from subject. It was used as a comparable by the Market Analyst and Underwriter.

The following are shown on the PMA map but are not included in the Underwriter's calculations as they are not located in the PMA and not senior developments: 15400 Compass Pointe, 14415 THF Palladium Midland, 12507 Champion Homes at Tahoe Lakes (\$3M of TDHCA HOME funds) and 11165 Playa Del Pueblo.

OVERALL DEMAND ANALYSIS				
	Market Analyst		Underwriter	
Total Households in the Primary Market Area	41,270		41,270	
Senior Households in the Primary Market Area	15,731		15,731	
Potential Demand from the Primary Market Area	7,601		4,189	
Potential Demand from Other Sources	0		0	
<b>GROSS DEMAND</b>	<b>7,601</b>		<b>4,189</b>	
Subject Affordable Units	97		97	
Unstabilized Comparable Units	84		84	
<b>RELEVANT SUPPLY</b>	<b>181</b>		<b>181</b>	
<b>Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE</b>	<b>2.4%</b>		<b>4.3%</b>	

<b>Population:</b>	<b>Elderly</b>	<b>Market Area:</b>	<b>Urban</b>	<b>Maximum Gross Capture Rate:</b>	<b>10%</b>
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Demand Analysis:

Market Analyst's PMA did not include three census tracts in the eastern portion of the City of Midland. Instead, the PMA includes a census tract (48329010112) which is north and east of the City. If the three census tracts inside City boundaries had been used instead of the northern one, the Gross Capture Rate would have been slightly lower.

Half of the units are market rate and will receive no subsidy. Underwriter did not perform demand calculations but the Market Report contains comparative data on five market rate developments in the area which are reporting 95% occupancy.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE								
Unit Type	Market Analyst				Underwriter			
	Demand	Subject Units	Comp Units	Unit Capture Rate	Demand	Subject Units	Comp Units	Unit Capture Rate
1 BR/30%	833	3	9	1%	549	3	9	2%
1 BR/50%	404	8	13	5%	307	7	13	7%
1 BR/60%	2159	23	32	3%	1,106	23	32	5%
2 BR/30%	1004	7	0	1%	249	7	0	3%
2 BR/50%	566	12	4	3%	113	13	4	15%
2 BR/60%	2635	44	26	3%	712	44	26	10%

Market Analyst Comments:

Rent-restricted senior developments in the area are at 100% occupancy. (p. 77)

The HTC property is a Seniors (Westridge), containing 96 units, of which 84 are restricted. This property is under construction and due to open in May 2015. It is reported by the manager of the adjacent property (same ownership) that six units are preleased.

Underwriter Comments:

Subject is located on far eastern end of PMA - almost directly across from the 2013 Westridge Apartments which will begin leasing in June, 2015. A mitigating factor is that Westridge should be stabilized by the time subject site begins leasing. Low Gross Capture Rate and the low Unit Capture Rates favor this development's success, as does lack of affordable senior housing in PMA.

In May 2015, REA contacted the 5 properties used by the Market Analyst for market rate rent comparables. As compared to the Market Analyst's reported rents in March 2015, leasing agents at all but one of the properties reported reduced rents and declining occupancies. Reduction in rent averaged \$92/unit while average occupancy declined by 4%. Concessions of 2 weeks to 1 month were also being offered at one of the properties, while 50% off on the deposit was being offered at another. Move-outs and decline in the rental rates are tied to lower oil prices, which in turn have resulted in less drilling activity and therefore jobs. Nonetheless, average surveyed rent remained high at \$1,652/unit (\$1.63/sf), which is \$215/unit more than Applicant's average projected rent.

**OPERATING PRO FORMA**

SUMMARY- AS UNDERWRITTEN (Applicant's Pro forma)					
NOI:	\$1,433,310	Avg. Rent:	\$1,091	Expense Ratio:	40.3%
Debt Service:	\$1,230,856	B/E Rent:	\$997	Controllable Expenses:	\$2,962
Net Cash Flow:	\$202,454	UW Occupancy:	92.5%	Property Taxes/Unit:	\$723
Aggregate DCR:	1.16	B/E Occupancy:	84.7%	Program Rent Year:	2014

Max program rents should be achievable and Applicant's average market rent assumption is \$105/unit less than that of Market Study.

Payroll \$500 to \$600 per unit high due to high wage rates in Midland. If downward pressure continues on rents due to declining economic situation, then it would be expected that wage rates would also decline. Therefore, if payroll were to normalize to standard expectations (say \$1,100/unit), then rents could drop an average of \$87/unit and still exhibit similar feasibility indicators.

As underwritten, rent with one month's concession on market units exceeds breakeven rent by \$34.

50% property tax exemption proposed thru non-profit's ownership interest and control in the general partner and subject to meeting all requirements of property tax code.

Breakeven occupancy occurs with 30 units vacant.

Overall DCR including City loan at 1.16:1. DCR on TDHCA Home loan is 1.25:1 as underwritten pursuant to the NOFA and break evens are 82% occupancy and \$960 breakeven rent on that debt.

With low expense ratio, relatively high level of controllable expenses and rising DCR over the pro forma (1.40:1 in year 15), good feasibility indicators projected throughout 35 year term of permanent debt.

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## ACQUISITION INFORMATION

### SITE CONTROL

Type: Commercial Contract - Unimproved Property Acreage: 9.1

Acquisition Cost: \$1,966,882 Contract Expiration: 12/31/2015

Cost Per Unit: \$10,139

Seller: J. Durwood Owen and Kathleen McKenzie Owen Revocable Living Trust

Buyer: Denison Development and Construction, Inc.

Assignee: Pending

Related-Party Seller/Identity of Interest: No

## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (Applicant's Costs)

Acquisition	\$216,141/ac	\$10,139/unit	\$2,001,882	Contractor Fee	\$2,161,542
Off-site + Site Work		\$15,408/unit	\$2,989,164	Soft Cost + Financing	\$3,621,737
Building Cost	\$73.49/sf	\$64,177/unit	\$12,450,423	Developer Fee	\$3,121,845
Contingency	5.00%	\$3,979/unit	\$771,979	Reserves	\$1,100,000
<b>Total Development Cost</b>	\$145,457/unit	<b>\$28,218,572</b>	<b>Rehabilitation Cost</b>	<b>N/A</b>	
<b>Qualified for 30% Basis Boost?</b>		Not Qualified			

**Off-site:**

Budget of \$520K is to build required extension of Beal Parkway. City is currently preparing the plans which should alleviate engineering costs. Off-site costs are not included in eligible basis.

**Site Work:**

Certified estimate of \$2.5M includes typical grading, landscaping, fencing and utilities, but also includes \$1.5M for concrete parking lots not as commonly used as less expensive asphalt.

**Building Cost:**

Cost/unit falls within the typical range, but cost/sf is inflated due to small unit sizes. With average quality design features typically found in elevator served (3), wrap style buildings with conditioned corridors, REA's estimate consistent with Applicant's budget. Due to the market rate component and needing to compete with 100% market-rate properties, finishes are of high quality.

**Soft Costs:**

Typical level of A&E costs at \$3.1K/unit, with total soft cost less than average at \$6.7K per unit.

**Comments:**

Applicant's total development cost varies less than 1.00% from REA's estimate. As a result, the recommended capital structure will be determined by Applicant's cost schedule.

**Credit Allocation Supported by Costs:**

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$28,218,572	\$23,044,994	\$906,821

## UNDERWRITTEN CAPITALIZATION

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
TDHCA	HOME	\$2,000,000	0.00%	7%
Community Bank Of Texas	Conventional Loan	\$20,600,000	4.00%	73%
City of Midland	Local Government Loan	\$1,076,772	0.00%	4%
RBC	HTC	\$1,509,100	\$0.96	5%
DDC Investments, Ltd	Deferred Fee	\$2,509,472	0.00%	9%
City of Midland	MATCH funds (HOME)	\$523,228	0.00%	2%
		<b>\$28,218,572</b>	<b>Total Sources</b>	

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Community Bank Of Texas	\$16,400,000	5.75%	40	18	\$16,400,000	5.75%	40	18	58%
TDHCA	\$2,000,000	0.00%	40	18	\$2,000,000	3.00%	30	30	7%
City of Midland	\$1,076,772	3.00%	30	15	\$1,600,000	3.00%	30	15	6%
City of Midland MATCH funds (HOME)	\$523,228	0.00%	0	0	\$0	0.00%	0	0	0%
<b>Total</b>	<b>\$20,000,000</b>				<b>\$20,000,000</b>				

Comments:

TDHCA's Home loan requires a match component provided by the Applicant. The QAP allows below-market financing to count as match. The amount of match is determined by the NPV of the interest savings on the below market loan compared to a market-rate loan. In this case, the NPV of the savings is \$523K. Applicant has bifurcated City's loan showing match component as a separate source of funds. However, the underwritten capital structure shows the full \$1.6M as a single line-item.

If HOME funds not available, the project would remain within the Department's rules regarding DCR, and the resulting gap in financing could be covered by increasing deferred developer to \$2,673,070 (86%), which could be repaid with 8 years of operation.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
RBC	\$7,545,502	\$0.96		\$7,545,502	\$0.96	27%	
DDC Investments, Ltd	\$673,071		22%	\$673,070		2%	22%
<b>Total</b>	<b>\$8,218,572</b>			<b>\$8,218,572</b>			
				<b>\$28,218,572</b>	<b>Total Sources</b>		

Comments:

Underwriter assumes City's \$1.6M loan based on current information is not federally sourced. If federally sourced and not repayable, the \$1.6M would be removed from basis. Due to excess eligible basis, the credit recommendation would not change.

Credit Price Range	
<b>\$1.0454</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.6483</b>	Minimum Credit Price below which the Development would be characterized as infeasible



## CONCLUSIONS

### Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	\$28,218,572
Permanent Sources	\$20,000,000
Gap in Permanent Financing	\$8,218,572

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$8,703,736	\$906,821
Needed to Fill Gap in Financing	\$8,218,572	\$856,273
Requested by Applicant	\$7,545,502	\$786,147

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$7,545,502	\$786,147

	Amount	Interest Rate	Amort	Term	Lien
TDHCA HOME Loan	\$2,000,000	3%	30	30	2nd

Deferred Developer Fee	\$673,070	( 22% deferred)
Repayable in	4 years	

### Comments:

The project would remain feasible if no HOME funds are awarded. Debt coverage would increase to 1.27 and the resulting gap in financing could be covered by increasing deferred developer fee to \$2,673,070 (86%), which could be repaid within 8 years of operation.

Underwriter:	<u>Gregg Kazak</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

**UNIT MIX/RENT SCHEDULE**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

LOCATION DATA	
CITY:	Midland
COUNTY:	Midland
PROGRAM REGION:	12
PIS Date:	On or After 2/1/2014
IREM REGION:	NA

UNIT DISTRIBUTION		
# Beds	# Units	% Total
Eff	-	0.0%
1	66	34.0%
2	128	66.0%
3	-	0.0%
4	-	0.0%
<b>TOTAL</b>	<b>194</b>	<b>100.0%</b>

Applicable Programs
9% Housing Tax Credits
HOME

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	100%
Applicable Fraction	50.00%
APP % Acquisition	3.35%
APP % Construction	7.87%
Average Unit Size	873 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		HOME (Rent / Income)		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst	
TC 30%	\$384	30%/30%	\$384	3	1	1	678	\$384	\$39	\$345	\$0	\$0.51	\$345	\$1,035	\$1,035	\$345	\$0.51	\$0	\$1,238	\$1.83	\$1,375
TC 50%	\$641	LH/50%	\$641	7	1	1	678	\$641	\$39	\$602	\$0	\$0.89	\$602	\$4,214	\$4,214	\$602	\$0.89	\$0	\$1,238	\$1.83	\$1,375
TC 60%	\$769	0%		23	1	1	678	\$769	\$39	\$730	\$0	\$1.08	\$730	\$16,790	\$16,790	\$730	\$1.08	\$0	\$1,238	\$1.83	\$1,375
MR		0%		33	1	1	678	\$0	\$39		NA	\$1.78	\$1,207	\$39,831	\$40,838	\$1,238	\$1.83	NA	\$1,238	\$1.83	\$1,375
TC 30%	\$461	30%/30%	\$461	3	2	1	940	\$461	\$51	\$410	\$0	\$0.44	\$410	\$1,230	\$1,230	\$410	\$0.44	\$0	\$1,440	\$1.53	\$1,600
TC 50%	\$768	LH/50%	\$768	7	2	1	940	\$768	\$51	\$717	\$0	\$0.76	\$717	\$5,019	\$5,019	\$717	\$0.76	\$0	\$1,440	\$1.53	\$1,600
TC 60%	\$922	0%		22	2	1	940	\$922	\$51	\$871	\$0	\$0.93	\$871	\$19,162	\$19,162	\$871	\$0.93	\$0	\$1,440	\$1.53	\$1,600
MR		0%		32	2	1	940	\$0	\$51		NA	\$1.59	\$1,498	\$47,936	\$46,080	\$1,440	\$1.53	NA	\$1,440	\$1.53	\$1,600
TC 30%	\$461	0%		1	2	2	1,008	\$461	\$51	\$410	\$0	\$0.41	\$410	\$410	\$410	\$410	\$0.41	\$0	\$1,485	\$1.47	\$1,650
TC 30%	\$461	30%/30%	\$461	2	2	2	1,008	\$461	\$51	\$410	\$0	\$0.41	\$410	\$820	\$820	\$410	\$0.41	\$0	\$1,485	\$1.47	\$1,650
TC 50%	\$768	LH/50%	\$768	5	2	2	1,008	\$768	\$51	\$717	\$0	\$0.71	\$717	\$3,585	\$3,585	\$717	\$0.71	\$0	\$1,485	\$1.47	\$1,650
TC 60%	\$922	0%		18	2	2	1,008	\$922	\$51	\$871	\$0	\$0.86	\$871	\$15,678	\$15,678	\$871	\$0.86	\$0	\$1,485	\$1.47	\$1,650
MR		0%		26	2	2	1,008	\$0	\$51		NA	\$1.59	\$1,606	\$41,756	\$38,610	\$1,485	\$1.47	NA	\$1,485	\$1.47	\$1,650
TC 30%	\$461	0%		1	2	2	1,008	\$461	\$51	\$410	\$0	\$0.41	\$410	\$410	\$410	\$410	\$0.41	\$0	\$1,485	\$1.47	\$1,650
TC 50%	\$768	LH/50%	\$768	1	2	2	1,008	\$768	\$51	\$717	\$0	\$0.71	\$717	\$717	\$717	\$717	\$0.71	\$0	\$1,485	\$1.47	\$1,650
TC 60%	\$922	0%		4	2	2	1,008	\$922	\$51	\$871	\$0	\$0.86	\$871	\$3,484	\$3,484	\$871	\$0.86	\$0	\$1,485	\$1.47	\$1,650
MR		0%		6	2	2	1,008	\$0	\$51		NA	\$1.59	\$1,606	\$9,636	\$8,910	\$1,485	\$1.47	NA	\$1,485	\$1.47	\$1,650
<b>TOTALS/AVERAGES:</b>				<b>194</b>			<b>169,420</b>				<b>\$0</b>	<b>\$1.25</b>	<b>\$1,091</b>	<b>\$211,713</b>	<b>\$206,992</b>	<b>\$1,067</b>	<b>\$1.22</b>	<b>\$0</b>	<b>\$1,386</b>	<b>\$1.59</b>	<b>\$1,540</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>		<b>\$2,540,556</b>	<b>\$2,483,898</b>
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## STABILIZED PRO FORMA

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

### STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Other	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
	<b>POTENTIAL GROSS RENT</b>				\$1.25	\$1,091	\$2,540,556	\$2,483,898	\$1,067	\$1.22		2.3%
App & Late Fees, Laundry, etc.					\$12.00	\$27,936						
Parking (Covered Spaces)					\$12.16	\$28,308						
Total Secondary Income					\$24.16		\$46,560	\$20.00			20.8%	\$9,684
<b>POTENTIAL GROSS INCOME</b>						\$2,596,800	\$2,530,458				2.6%	\$66,342
Vacancy & Collection Loss					7.5% PGI	(194,760)	(189,784)	7.5% PGI			2.6%	(4,976)
Rental Concessions						-	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$2,402,040	\$2,340,674				2.6%	\$61,366

General & Administrative	\$57,458	\$296/Unit	\$50,963	\$263	2.27%	\$0.32	\$281	\$54,500	\$50,963	\$263	\$0.30	2.18%	6.9%	3,537
Management	\$70,256	5.3% EGI	\$71,555	\$369	5.00%	\$0.71	\$619	\$120,102	\$117,034	\$603	\$0.69	5.00%	2.6%	3,068
Payroll & Payroll Tax	\$202,757	\$1,045/Unit	\$219,555	\$1,132	13.11%	\$1.86	\$1,624	\$314,985	\$314,985	\$1,624	\$1.86	13.46%	0.0%	-
Repairs & Maintenance	\$107,733	\$555/Unit	\$111,198	\$573	4.44%	\$0.63	\$550	\$106,700	\$106,700	\$550	\$0.63	4.56%	0.0%	-
Electric/Gas	\$45,663	\$235/Unit	\$24,330	\$125	1.54%	\$0.22	\$191	\$37,085	\$24,330	\$125	\$0.14	1.04%	52.4%	12,755
Water, Sewer, & Trash	\$125,381	\$646/Unit	\$76,095	\$392	2.56%	\$0.36	\$316	\$61,386	\$76,095	\$392	\$0.45	3.25%	-19.3%	(14,709)
Property Insurance	\$47,349	\$0.28 /sf	\$48,379	\$249	2.22%	\$0.31	\$275	\$53,350	\$48,411	\$250	\$0.29	2.07%	10.2%	4,939
Property Tax 1.9032	\$79,964	\$412/Unit	\$84,125	\$434	5.84%	\$0.83	\$723	\$140,290	\$121,660	\$627	\$0.72	5.20%	15.3%	18,630
Reserve for Replacements	\$60,437	\$312/Unit	\$50,619	\$261	2.02%	\$0.29	\$250	\$48,500	\$48,500	\$250	\$0.29	2.07%	0.0%	-
Cable TV			\$50,783	\$262	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Supportive Services			\$4,492	\$23	1.04%	\$0.15	\$129	\$25,000	\$25,000	\$129	\$0.15	1.07%	0.0%	-
TDHCA Compliance fees			\$5,610	\$29	0.20%	\$0.03	\$25	\$4,832	\$4,832	\$25	\$0.03	0.21%	0.0%	-
TDHCA Bond Admin Fees			\$0	\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Security			\$6,322	\$33	0.08%	\$0.01	\$10	\$2,000	\$2,000	\$10	\$0.01	0.09%	0.0%	-
Other			\$22,694	\$117	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
<b>TOTAL EXPENSES</b>			<b>\$ 826,719</b>		<b>40.33%</b>	<b>\$5.72</b>	<b>\$4,993</b>	<b>\$ 968,730</b>	<b>\$ 940,509</b>	<b>\$4,848</b>	<b>\$5.55</b>	<b>40.18%</b>	<b>3.0%</b>	<b>\$ 28,221</b>
<b>NET OPERATING INCOME ("NOI")</b>			<b>\$ -</b>		<b>59.67%</b>	<b>\$8.46</b>	<b>\$7,388</b>	<b>\$1,433,310</b>	<b>\$1,400,164</b>	<b>\$7,217</b>	<b>\$8.26</b>	<b>59.82%</b>	<b>2.4%</b>	<b>\$ 33,146</b>

<b>CONTROLLABLE EXPENSES</b>							\$2,962/Unit				\$2,954/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

DEBT / GRANT SOURCES															
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE					
DEBT (Must Pay)	MIP	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App											DCR	LTC
Community Bank Of Texas		1.34	1.37	1,048,723	5.75%	40	18	\$16,400,000	\$16,400,000	18	40	5.75%	\$1,048,723	1.37	58.1%
TDHCA		1.27	1.30	50,000.00	0.00%	40	18	\$2,000,000	\$2,000,000	30	30	3.00%	\$101,185	1.25	7.1%
City of Midland		1.19	1.22	80,948	3.00%	30	15	\$1,076,772	\$1,600,000	15	30	3.00%	\$80,948	1.16	5.7%
<b>CASH FLOW DEBT / GRANTS</b>															
City of Midland MATCH funds (HOME)		1.19	1.22		0.00%	0	0	\$523,228	\$0	0	0	0.00%		1.16	0.0%
				<b>\$1,179,671</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$20,000,000</b>	<b>\$20,000,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$1,230,856</b>	<b>1.16</b>	<b>70.9%</b>
<b>NET CASH FLOW</b>		\$220,493	\$253,639							<b>NET OPERATING INCOME</b>		\$1,433,310	\$202,454	<b>NET CASH FLOW</b>	

EQUITY SOURCES												
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit		
												RBC
DDC Investments, Ltd	Deferred Developer Fees	2.4%	(22% Deferred)		\$673,071	\$673,070	(22% Deferred)		2.4%		<b>Total Developer Fee:</b>	
Additional (Excess) Funds Req'd		0.0%			\$0	\$0			0.0%		<b>\$3,121,845</b>	
<b>TOTAL EQUITY SOURCES</b>		<b>29.1%</b>			<b>\$8,218,572</b>	<b>\$8,218,572</b>			<b>29.1%</b>	<b>15-Year Cash Flow:</b>	<b>\$5,216,109</b>	
<b>TOTAL CAPITALIZATION</b>						<b>\$28,218,572</b>	<b>\$28,218,572</b>				<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$4,543,038</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs		Total Costs	Eligible Basis		Total Costs		Total Costs	%	\$	
	Acquisition	New Const. Rehab				New Const. Rehab	Acquisition						
Land Acquisition			\$10,139 / Unit	\$1,966,882	\$1,966,882		\$10,139 / Unit				0.0%	\$0	
Building Acquisition	\$0		\$ / Unit	\$0	\$0		\$ / Unit		\$0		0.0%	\$0	
Closing costs & acq. legal fees				\$35,000	\$35,000							\$0	
Off-Sites		\$0	\$2,680 / Unit	\$519,920	\$519,920	\$2,680 / Unit	\$0				0.0%	\$0	
Site Work		\$1,803,700	\$9,297 / Unit	\$1,803,700	\$1,803,700	\$9,297 / Unit	\$1,803,700				0.0%	\$0	
Site Amenities		\$665,544	\$3,431 / Unit	\$665,544	\$665,544	\$3,431 / Unit	\$665,544				0.0%	\$0	
Building Cost		\$12,233,983	\$73.49 /sf	\$64,177/Unit	\$12,450,423	\$12,489,561	\$64,379/Unit	\$73.72 /sf	\$12,489,561		-0.3%	(\$39,138)	
Contingency		\$735,161	5.00%	5.00%	\$771,979	\$771,979	4.99%	4.91%	\$735,161		0.0%	\$0	
Contractor Fees		\$2,058,452	13.33%	13.33%	\$2,161,542	\$2,161,542	13.30%	13.12%	\$2,058,452		0.0%	\$0	
Soft Costs	0	\$1,264,955	\$6,690 / Unit	\$1,297,955	\$1,297,955	\$6,690 / Unit	\$1,264,955		\$0		0.0%	\$0	
Financing	0	\$1,277,330	\$11,978 / Unit	\$2,323,782	\$2,323,782	\$11,978 / Unit	\$1,277,330		\$0		0.0%	\$0	
Developer Fee	\$0	\$3,005,869	15.00%	15.00%	\$3,121,845	\$3,121,845	14.97%	14.81%	\$3,005,869	\$0	0.0%	\$0	
Reserves			\$5,670 / Unit	\$1,100,000	\$1,085,683	\$5,596 / Unit					1.3%	\$14,317	
<b>UNADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$23,044,994</b>	<b>\$145,457 / Unit</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$145,585 / Unit</b>	<b>\$23,300,572</b>	<b>\$0</b>	<b>-0.1%</b>	<b>(\$24,821)</b>		
Acquisition Cost	\$0			\$0									
Contingency		\$0											
Contractor's Fee		\$0											
Interim Interest		\$0											
Developer Fee	\$0	\$0		\$0									
Reserves				\$0									
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$23,044,994</b>	<b>\$145,457/unit</b>	<b>\$28,218,572</b>	<b>\$28,243,393</b>	<b>\$145,585/unit</b>	<b>\$23,300,572</b>	<b>\$0</b>	<b>-0.1%</b>	<b>(\$24,821)</b>		
<b>TOTAL UNDERWRITTEN COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>						<b>\$28,218,572</b>							

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
High Cost Area Adjustment		100%		100%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$23,044,994	\$0	\$23,300,572
Applicable Fraction	50.00%	50.00%	50.00%	50.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$11,522,497	\$0	\$11,650,286
Applicable Percentage	3.35%	7.87%	3.35%	7.87%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$906,821	\$0	\$916,878
<b>CREDITS ON QUALIFIED BASIS</b>	\$906,821		\$916,878	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9598	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$906,821	\$8,703,736	----	----	----
<b>Gap</b>	\$856,273	\$8,218,572	----	----	----
<b>Applicant Request</b>	\$786,147	\$7,545,502	<b>\$786,147</b>	<b>\$0</b>	<b>\$0</b>

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	AMOUNT
Base Cost:	Wrap Style (3 or 4-story)	169,420 SF	\$57.11	9,676,276
Adjustments				
Exterior Wall Finish	2.40%		1.37	\$232,231
Elderly	3.00%		1.71	290,288
9'	0.00%		0.00	0
Roofing			1.15	194,000
Subfloor			(0.12)	(19,766)
Floor Cover			3.57	604,880
Breezeways	\$0.00	0	0.00	0
Balconies	\$26.83	18,064	2.86	484,695
Plumbing Fixtures	\$970	192	1.10	186,240
Rough-ins	\$475	388	1.09	184,300
Built-In Appliances	\$1,790	194	2.05	347,260
Exterior Stairs	\$2,425	20	0.29	48,500
Heating/Cooling			2.11	357,476
Enclosed Corridors	\$49.41	41,723	12.17	2,061,706
Carports	\$11.82	4,080	0.28	48,226
Garages	\$39.63	6,300	1.47	249,656
Comm &/or Aux Bldgs	\$70.00	8,977	3.71	628,379
Elevators	\$89,550	3	1.59	268,650
<b>Other:</b>				
Storage, Utility, Laundry, etc.	\$49.41	8,921	2.60	440,823
Fire Sprinklers	\$2.47	229,041	3.34	565,731
<b>SUBTOTAL</b>			<b>99.45</b>	<b>\$14,849,551</b>
Current Cost Multiplier	0.99		(0.99)	(168,496)
Local Multiplier	0.88		(11.93)	(2,021,946)
<b>TOTAL BUILDING COSTS</b>			<b>86.53</b>	<b>\$14,659,109</b>
Plans, specs, survey, bldg permits	3.30%		(2.86)	(\$483,751)
Contractor's OH & Profit	11.50%		(9.95)	(1,685,798)
<b>NET BUILDING COSTS</b>		\$64,379/unit	\$73.72/sf	\$12,489,561

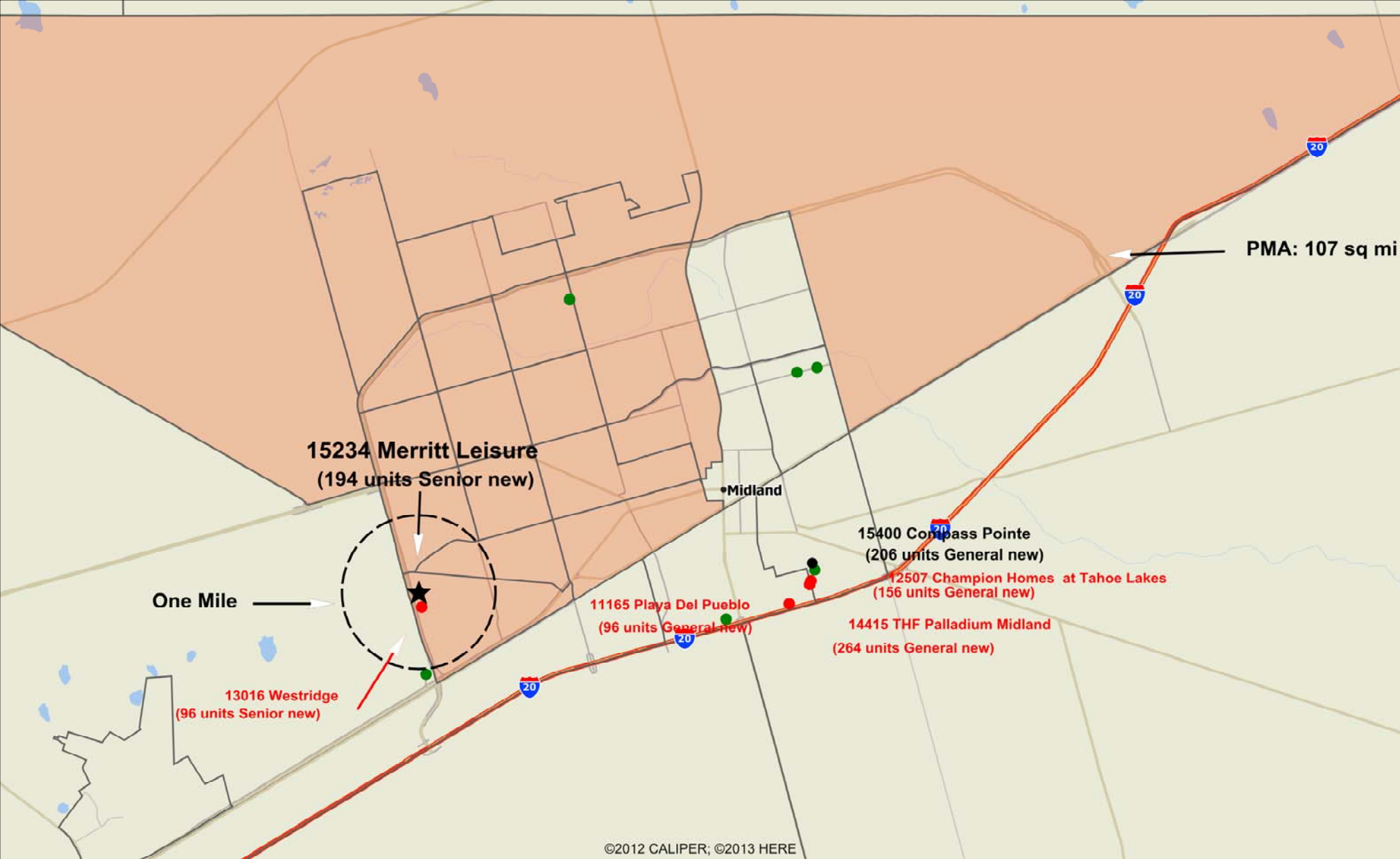
## 30-Year Long-Term Pro Forma

*Merritt Leisure, Midland, 9% HTC/HOME #15234*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
EFFECTIVE GROSS INCOME	2.00%	\$2,402,040	\$2,450,081	\$2,499,082	\$2,549,064	\$2,600,045	\$2,870,660	\$3,169,441	\$3,499,319	\$3,863,531	\$4,265,650
TOTAL EXPENSES	3.00%	\$968,730	\$996,591	\$1,025,264	\$1,054,772	\$1,085,141	\$1,250,800	\$1,442,098	\$1,663,040	\$1,918,263	\$2,213,130
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$1,433,310</b>	<b>\$1,453,490</b>	<b>\$1,473,819</b>	<b>\$1,494,292</b>	<b>\$1,514,905</b>	<b>\$1,619,860</b>	<b>\$1,727,343</b>	<b>\$1,836,278</b>	<b>\$1,945,268</b>	<b>\$2,052,520</b>
<b>MUST -PAY DEBT SERVICE</b>											
Community Bank Of Texas		\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723	\$1,048,723
TDHCA		\$101,185	\$101,185	\$101,185	\$101,185	\$101,185	\$101,185	\$101,185	\$101,185	\$101,185	\$101,185
City of Midland		\$80,948	\$80,948	\$80,948	\$80,948	\$80,948	\$80,948	\$80,948	\$80,948	\$80,948	\$80,948
TOTAL DEBT SERVICE		\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856	\$1,230,856
<b>ANNUAL CASH FLOW</b>		<b>\$202,454</b>	<b>\$222,634</b>	<b>\$242,963</b>	<b>\$263,436</b>	<b>\$284,049</b>	<b>\$389,004</b>	<b>\$496,487</b>	<b>\$605,423</b>	<b>\$714,412</b>	<b>\$821,664</b>
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$202,454</b>	<b>\$425,088</b>	<b>\$668,051</b>	<b>\$931,488</b>	<b>\$1,215,537</b>	<b>\$2,949,457</b>	<b>\$5,216,109</b>	<b>\$8,025,023</b>	<b>\$11,379,410</b>	<b>\$15,274,337</b>
DEBT COVERAGE RATIO		1.16	1.18	1.20	1.21	1.23	1.32	1.40	1.49	1.58	1.67
EXPENSE/INCOME RATIO		40.3%	40.7%	41.0%	41.4%	41.7%	43.6%	45.5%	47.5%	49.7%	51.9%
Deferred Developer Fee Balance		\$470,616	\$247,982	\$5,019	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Residual Cash Flow		0	0	0	\$258,417	\$284,049	\$389,004	\$496,487	\$605,423	\$714,412	\$821,664



# 15234 Merritt Leisure PMA Map





6

**BOARD ACTION REQUEST**  
**HOME PROGRAM DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on Activities Assisted under HOME Investment Partnerships Program (“HOME”) Reservation System Participant (“RSP”) Agreement No. 2011-0062 with EBENZ Inc. (“EBENZ”) for four single family homes located in Texas City and League City, Galveston County.

**RECOMMENDED ACTION**

**WHEREAS**, on January 28, 2016, the Board authorized staff to proceed with a compliant course of action to address construction deficiencies as necessary on four single family homes located in Texas City and League City, Galveston County, originally assisted under RSP No. 2011-0062 by EBENZ, as soon as an action plan was determined by the Executive Director;

**WHEREAS**, TDHCA’s Executive Director determined that utilizing HOME funds when possible and contracting with another HOME RSP Administrator to correct deficiencies was the most compliant, lawful, and expeditious action plan;

**WHEREAS**, the Department notified the public on February 4, 2016, of an opportunity for HOME-eligible Administrators to contract with the Department for the completion of construction on a specific pre-determined single family housing unit in Texas City, Texas, located in Galveston County;

**WHEREAS**, a nonprofit organization, Institute for Building Technology and Safety (“IBTS”), applied for an RSP Agreement from the Department for this purpose and an RSP Agreement is now in place between the Department and IBTS;

**WHEREAS**, the Department conducted physical inspections of the remaining three houses in Texas City and League City, and identified additional construction deficiencies on those homes that remain outstanding;

**WHEREAS**, the Board authorization from January 28, 2016, allows the Department to pursue a course of action to address construction deficiencies on those homes reconstructed under RSP Agreement No. 2011-0062 with EBENZ; and

**WHEREAS**, the Department is in the process of determining an action plan for those houses that may include the award of HOME funds to IBTS for one or more of those houses to resolve all outstanding construction deficiencies that can be addressed utilizing HOME funds and may also include the use of funds other than HOME funds;

**NOW, therefore, it is hereby**

**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 address remaining construction deficiencies on one or more homes through an RSP Agreement with IBTS utilizing HOME funds as a funding source that is lawfully available to accomplish these objectives;

**FURTHER RESOLVED**, that construction deficiencies that cannot be corrected with HOME funds, if any, may be completed with an alternate funding source, including the Department's Housing Trust Fund, if necessary and as authorized by the Board on January 28, 2016; and

**FURTHER RESOLVED**, that staff will continue to report to the Board on the resolution of these matters.

### **BACKGROUND**

EBENZ received RSP Agreement 2011-0062 in October 2012 for the provision of three contract activities: 1) Homeowner Rehabilitation Assistance ("HRA") under the Department's General set-aside contract number 1001695, 2) Persons with Disabilities ("PWD") set-aside contract number 1001696, and 3) Disaster Relief ("DR") set-aside contract number 1001697. EBENZ identified two households to assist under contract 1001695 and two households to assist under 1001696. TDHCA's contract monitoring team and physical inspection monitoring team conducted reviews that each resulted in multiple findings of non-compliance. Currently, EBENZ has disallowed costs totaling \$73,720.78 that was due to the Department on February 26, 2016, as well as identified construction deficiencies on all four homes approved under RSP Agreement 2011-0062.

Of the four houses assisted through RSP Agreement 2011-0062, one was completed in November 2014, one was completed in April 2015, one was completed in July 2015, and one home is currently under construction. Each of the four houses have outstanding construction deficiencies; however, the deficiencies for the first two houses that were completed are minor. The Department has determined that HOME funds can be utilized to correct remaining deficiencies and complete construction utilizing HOME funds in accordance with federal regulations for the two houses completed in 2015, as well as the home currently under construction. However, HOME funds cannot be used to correct deficiencies in the home completed in November 2014 because additional HOME funds may only be committed to a project for up to one year after project completion. A final decision on how to proceed with that home had not been determined as of Board book posting although, a solution will be implemented; it should be noted that the deficiencies on this home are relatively minor including missing insulation on pipes, an unsupported lavatory, and a nonfunctioning doorbell.

The Department has executed an RSP Agreement with IBTS that will be used to award funds to IBTS to complete construction on the unfinished home, and is in discussions with IBTS to potentially correct the deficiencies noted on the two other houses that can still receive HOME funds, as well as on the home completed in November 2014. Of those three homes, one has major

deficiencies and the other homes have fewer deficiencies, one of which includes the lack of an accessible route. To accomplish this, the Department anticipates that the amount of HOME funds invested under the IBTS RSP Agreement per house for the completed homes will be limited to the lesser of the bid amount or \$40,000 for hard costs and no more than \$5,000 for soft costs including inspection fees. Third-party Project Soft Costs related to requirements under this section, such as appraisals, title reports or insurance, tax certificates, recording fees, and surveys are not subject to these maximums, however the total amount invested per project under both RSP Agreements cannot not exceed federal per-unit subsidy limits. As it relates to the home currently under construction, HOME funds budgeted and not drawn by Ebenz under RSP Agreement 2011-0062 total \$88,092, including \$8,092 for soft cost expenses. These funds are no longer available to be drawn by Ebenz. Staff anticipates this amount is sufficient to complete construction activities; however in event that the total amount needed to complete this home exceeds available funds currently budgeted, staff may also authorize additional costs not to exceed the lesser of \$40,000 for hard costs and no more than \$5,000 for soft costs including inspection fees, not to exceed federal pre-unit subsidy limits.

Staff will continue to report to the Board on the resolution of this situation.

7

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**MARCH 31, 2016**

Presentation, Discussion, and Possible Action on the Ratification of Program Year (“PY”) 2016 Community Services Block Grant Awards (“CSBG”) for Cameron and Willacy Counties Community Projects Incorporated (“CWCCP”) and Urban Community Center of North Texas (“UCC”).

**RECOMMENDED ACTION**

**WHEREAS**, at the meeting of July 30, 2015, the Governing Board approved the awards for the 2016 PY CSBG funds to the network of CSBG eligible entities;

**WHEREAS**, the recommendation to the Governing Board did not provide for the award of funds to CWCCP or UCC; and

**WHEREAS**, based upon guidance from the U.S. Department of Health and Human Services (“USHHS”) staff has proceeded with the execution of contracts for these two CSBG eligible entities and requires Board ratification of the awards;

**NOW, therefore, it is hereby**

**RESOLVED**, that the PY 2016 CSBG Awards for CWCCP and UCC, in the form presented to this meeting, are hereby approved and

**FURTHER RESOLVED**, that the Executive Director or his designee are hereby authorized, empowered, and directed, for and on behalf of this Board to contract for the awards and in connection therewith to execute, deliver, and cause to be performed such amendments, documents, and other writings as they or any of them may deem necessary or advisable to effectuate the foregoing.

**BACKGROUND**

The Department approved the Program Year 2016 CSBG awards at the governing board meeting of July 30, 2015, meeting of the. At that time, the Executive Award and Review Advisory Committee (“EARAC”) had not recommended awards for CWCCP and UCC due to concerns with the implementation of the CSBG program at the local level. During the recent technical assistance visit from USHHS, staff discussed the status of those awards with USHHS staff and it was determined that the PY 2016 awards should be approved and contracts executed with both entities. Staff approved the contracts and seeks ratification of those awards through this request. The award amounts are as follows:

<b>Entity</b>	<b>Estimated PY 2016 Award Amount</b>
Cameron and Willacy Counties Community Projects Inc.	\$926,078
Urban Community Center of North Texas	\$2,932,262

8a



**BOARD REPORT ITEM**  
**MULTIFAMILY FINANCE DIVISION**

**March 31, 2016**

Report and Possible action regarding Eligibility of State Representative Letters in TDHCA #16319, Residence at Coulter

The letter from the State Representative for the district in which Competitive Housing Tax Credit Application #16319, Residence at Coulter, is located, in staff's estimation, merits scoring as a positive letter, despite concerns raised due to the submission of multiple letters by the Representative.

On January 25, 2016, Rep. John Smithee, the representative in whose district Residence at Coulter is proposed to be located, provided the letter attached as Exhibit "A." The letter did not reference any Pre-Applications submitted and was considered general comment.

The QAP requirement in 10 TAC § 11.9 (d)(5) is as follows:

"To qualify under this paragraph letters must be on the State Representative's letterhead, be signed by the State Representative, identify the specific Development and clearly state support for or opposition to the specific Development. **This documentation will be accepted with the Application or through delivery to the Department from the Applicant or the State Representative and must be submitted no later than the Final Input from Elected Officials Delivery Date as identified in §11.2 of this chapter. Once a letter is submitted to the Department it may not be changed or withdrawn.** Therefore, it is encouraged that letters not be submitted well in advance of the specified deadline in order to facilitate consideration of all constituent comment and other relevant input on the proposed Development. State Representatives to be considered are those in office at the time the letter is submitted and whose district boundaries include the Development Site. Neutral letters or letters that do not specifically refer to the Development or specifically express support or opposition will receive zero (0) points. A letter that does not directly express support but expresses it indirectly by inference (*e.g.* "the local jurisdiction supports the Development and I support the local jurisdiction") will be treated as a neutral letter." (Emphasis added).

On February 15, 2016, Rep. Smithee provided the letter attached as Exhibit "B," particularly based on his reading and interpretation of TEX. GOV'T CODE §2306.6710.

TEX. GOV'T CODE §2306.6710 (J) provides the Department shall implement point system criteria encompassing these letters as follows:

(J) the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site;

Upon being made aware of the specific requirements of the Department's rule, Rep. Smithee prepared a third letter conforming to the rule. On March 1, 2016, within the time frame for submission of a letter, the email attached as Exhibit "D" was provided to the Department. The attachment to that email was the same as Exhibit "B." It was identified by the representative's office that this transmission had been made in error, and on March 3, 2016, the email attached as Exhibit "E" was provided. Attached to that email was the letter that is Exhibit "F" which clearly states the Representative's intent that his letter is a letter of support and not be taken as a neutral.

It is staff's assessment that Exhibit "F" was not intended to be a change to or withdrawal of Exhibit "B" but was rather intended to clarify technical compliance with the provisions of the Department's rule. It appears from the date on Exhibit "F" that the resending of Exhibit "B" on March 1, 2016, was an error which the office promptly identified and corrected by sending Exhibit "F" on March 3, 2016. Although a technical administrative deficiency was not issued, the clarifying letter was provided in a time frame consistent with administrative deficiency timelines.

Staff believes that a state representative should be afforded an opportunity to clarify a letter of support by the deadline when the letter appears to follow the statute but does not appear to adhere to the technical requirements of the Department's rule and, if so, the representative's clerical error of attaching the previous letter instead of the clarified letter, and submitting it by the deadline, should be permitted to be corrected and the letter dated March 1, 2016 (Exhibit "F") should be substituted for the February 15, 2016, letter (Exhibit "B") *nunc pro tunc*.



The State of Texas  
House of Representatives  
Austin, Texas

**John Smithee**  
State Representative  
District 86  
Dallam  
Deaf Smith  
Hartley  
Oldham  
Parmer  
Randall

Committees:  
Judiciary & Civil  
Jurisprudence,  
Chair  
State  
Affairs

January 25, 2016

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

Re: TDHCA Applications for Amarillo projects

Dear Mr. Irvine:

It is my understanding that several applicants are seeking Texas Department of Housing and Community Affairs (TDHCA) Tax Credits related to affordable housing in Amarillo. While I am not qualified to judge the most qualified applicant, and have very little background information on the applicants, I can affirm that the Amarillo area appears to have a pressing need for housing that is affordable to citizens of modest means. Therefore, I would urge that tax credits for at least one or more of the Amarillo projects be approved. Please let me know if I can provide additional information.

Yours very truly,

John Smithee



Exhibit B

The State of Texas  
House of Representatives  
Austin, Texas

**John Smithee**

State Representative  
District 86

Dallam  
Deaf Smith  
Hartley  
Oldham  
Parmer  
Randall

February 15, 2016

Committees:  
Judiciary & Civil  
Jurisprudence,  
Chair  
State  
Affairs

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

RE: TDHCA Application for Amarillo projects

Dear Mr. Irvine:

Pursuant to Tex. Gov't Code § 2306.6710(b)(1)(J), I provide this written statement regarding the level of community support for the following applications concerning proposed development sites in the Texas House of Representatives District 86, of which I have been made aware:

1. Las Palmas
2. The Residence at Coulter
3. Valencia

My office has neither the resources nor ability to assess the applicants or to determine to what extent they are reputable or honest. Neither are we in a position to independently evaluate the individual projects. Therefore, my office has conducted no investigation into any of the applicants or their proposed projects, and this letter should not be taken as an opinion as to either matter.

I provide this statement of the level of community support as reflected in the following information regarding the level of community support for one or more of the above projects:

- By resolutions of January 19, 2016, the Amarillo City Council expressed its unanimous support for each of these projects.
- By letter from the City of Amarillo verifying the actions taken by city leadership in support of these projects.
- By editorial of January 24, 2016, the Amarillo Globe News voiced its support for each of these projects.
- I am not currently aware of any significant community opposition to any of the projects.

Yours very truly,

John Smithee

**Sharon Gamble**

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**From:** Michael Lyttle  
**Sent:** Tuesday, March 01, 2016 4:30 PM  
**To:** Marni Holloway; Sharon Gamble  
**Subject:** Fw: Smithee letter #3  
**Attachments:** TDHCA affordable housing letter 3.pdf  
  
**Importance:** High

Sent from my BlackBerry 10 smartphone.

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**From:** Andrea Stingley <[Andrea.Stingley@house.texas.gov](mailto:Andrea.Stingley@house.texas.gov)>  
**Sent:** Tuesday, March 1, 2016 4:20 PM  
**To:** Michael Lyttle  
**Subject:** Smithee letter #3

Michael,

Hello. Attached is a letter from Rep. Smithee. I just tried you but you stepped away. Give me a call at your convenience. If tomorrow is easier, I completely understand.

My apologies.....

Andrea

Rep. John Smithee

(512) 463-0702

**Sharon Gamble**

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**From:** Michael Lyttle  
**Sent:** Thursday, March 03, 2016 3:20 PM  
**To:** Andrea Stingley  
**Subject:** Re: March 1 letter

Will make sure right folks get it.

Sent from my BlackBerry 10 smartphone.

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**From:** Andrea Stingley  
**Sent:** Thursday, March 3, 2016 3:08 PM  
**To:** Michael Lyttle  
**Subject:** March 1 letter

Michael,

I sent this letter to the agency but realize that I may have emailed you the previous letter via email. Here is the letter from March 1 that I referenced the other day.

Sorry for the confusion!

Andrea

Rep. John Smithee



The State of Texas  
House of Representatives  
Austin, Texas

**John Smithee**

State Representative  
District 86

Dallam  
Deaf Smith  
Hartley  
Oldham  
Parmer  
Randall

Mr. Tim Irvine, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11th Street  
Austin, TX 78701

March 1, 2016

Committees:  
Judiciary & Civil  
Jurisprudence,  
Chair  
State  
Affairs

RE: TDHCA Application for Amarillo projects

Dear Mr. Irvine:

This letter is intended to comply with the express language of Tex. Gov't Code § 2306.6710(b)(1)(J), regarding the level of community support for the applications regarding the following projects located within the Texas House of Representatives District 86, of which I have been made aware:

1. Las Palmas
2. The Residence at Coulter
3. Valencia

This letter is intended to express clear and unequivocal community support for these projects, and should not be taken as neutral on the question of community support. My evaluation is based on the following community input:

- By resolutions of January 19, 2016, the Amarillo City Council expressed its unanimous support for each of these projects.
- By letter from the City of Amarillo verifying the actions taken by city leadership in support of these projects.
- By editorial of January 24, 2016, the Amarillo Globe News voiced its support for each of these projects.
- I am not currently aware of any significant community opposition to any of the projects.

Yours very truly,

John Smithee



8b

**TO BE POSTED NOT LATER THAN THE  
THIRD DAY BEFORE THE DATE OF  
THE MEETING**

8c

**TO BE POSTED NOT LATER THAN THE  
THIRD DAY BEFORE THE DATE OF  
THE MEETING**

9

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**MARCH 31, 2016**

Presentation, Discussion, and Possible Actions on: first, withdrawal of previously proposed repeal and concurrent proposed new 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614 (concerning Utility Allowances); second, the proposed repeal of §10.614 (concerning Utility Allowances); and third, the proposed new §10.614 (concerning Utility Allowances) and directing that these be published for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, at the Board meeting of December 17, 2015, the Board approved the proposed repeal of and adoption of new section §10.614 (concerning Utility Allowances);

**WHEREAS**, The U.S. Department of the Treasury (“Treasury”) published the final Treasury Regulation §1.42-10 Utility Allowance in the *Federal Register* on March 3, 2016, that directly impacts the proposed new §10.614 (concerning Utility Allowances); and

**WHEREAS**, the public comment period has ended and staff has considered and responded to all comment.

**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 cause the withdraw of the previously published proposed repeal and concurrent proposed new of 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring §10.614 (concerning Utility Allowance) as presented at the Board meeting of December 17, 2015, to be published in the *Texas Register*; and

**FURTHER 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 propose the repeal of 10 TAC Chapter 10 Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, (concerning Utility Allowances), and the proposed new §10.614, (concerning Utility Allowances) in the *Texas Register* and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

## **BACKGROUND**

As a result of federal guidance released after the end of the public comment period, the Department is withdrawing the repeal and proposed new §10.614 (concerning Utility Allowances) that was presented at the Board meeting of December 17, 2015.



**Attachment 1: Preamble and proposed withdraw of both the proposed repeal of and concurrent new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614 Utility Allowances**

At the Board meeting of December 17, 2015, staff proposed a repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, concerning Utility Allowances and concurrently proposed a new §10.614. The intent was to codify federal requirements related to utility allowance under the HOME Final Rule, 24 CFR Part 92, which was updated in August 2013. The rule introduced a new requirement for the Department, as the Participating Jurisdiction, to determine a development's utility allowance using the HUD Utility Model Schedule. Further, the Department identified a need for more detail in the rule to provide better guidance on how to properly calculate a utility allowance for all Department administered multifamily programs.

The repeal and proposed new section was published in the January 1, 2016, issue of the *Texas Register* (41 Tex.Reg. 32). A public comment period was held January 1, 2016, thru February 1, 2016. Significant comment was received indicating that the Department had not clearly outlined the expectation and/or rationale to support the rule. At the Board meeting of February 25, 2016, comment was made during the public comment period of the meeting by Jen Joyce Brewerton, representing the Texas Affiliation of Affordable Housing Providers ("TAAHP"), requesting staff to sit down with the development community and TAAHP membership to discuss the Department tentative reasoned response to public comment received for the purposes of education. The Department held a "Compliance Discussion" on March 9, 2016, that was open to the public. To date, the Department has held public meetings to discuss matters related to utility allowances November 13, 2015, January 29, 2016, and March 9, 2016.

On March 3, 2016, Treasury released the final Treasury Regulation §1.42-10, which governs federal utility allowance requirements under Section 42. The changes in the updated regulation requires additional changes to §10.614 (concerning Utility Allowance) that were not included in the previously proposed rule.

**Attachment 2: Preamble and proposed repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, concerning Utility Allowances**

The Texas Department of Housing and Community Affairs (the “Department”) proposes the repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, concerning Utility Allowances. This repeal is being proposed concurrently with the proposal of new §10.614, concerning Utility Allowances which will improve compliance with new requirements related to the HOME program concerning utility allowances and newly released guidance from Treasury for the Housing Tax Credit (“HTC”) program.

**FISCAL NOTE.** Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is 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 is in effect, there will be no change in the public benefit anticipated as a result of the repeal. There will be no economic impact to any individuals required to comply with the 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.** The public comment period will be held April 15, 2016, through May 16, 2016, to receive input on the proposed amendment. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Stephanie Naquin, 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. MAY 16, 2016.

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

The proposed repeal affects no other code, article, or statute.

**§10.614 Utility Allowances**

### **Attachment 3. Preamble and proposed new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, concerning Utility Allowances**

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.614, concerning Utility Allowances.

The HOME Final Rule, 24 CFR Part 92, was updated in August 2013. The rule introduced a new requirement for the Department, as the Participating Jurisdiction, to determine a development’s utility allowance using the HUD Utility Model Schedule. The Utility Allowance rule is being updated to codify this requirement and describe the process by which the Department will calculate the utility allowance annually.

Related to the Housing Tax Credit (“HTC”) program, Treasury released final Treasury Regulation §1.42-10 Utility Allowance in the Federal Register on March 3, 2016. The revisions to the regulation is cause for further updates to §10.614. Specifically, the updates address what to do when there is not an applicable Public Housing Authority with a Housing Choice Voucher (“Section 8”) Program, what it means to be a “HUD-Regulated” building, and changes to the Energy Consumption Model and submetering provisions.

Further, the Department has identified a need for more detail in the rule to provide better guidance on how to properly calculate a utility allowance for all Department administered multifamily programs.

**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 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 sections are in effect, the public benefit anticipated as a result of the new sections will be improved compliance with affordable housing program administered by the Department. There will not be any increased economic cost to any individuals required to comply with the new section that are not required by participating in a federal program.

**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 April 15, 2016, through May 16, 2016, to receive input on the proposed amendment. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Stephanie Naquin, 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. MAY 16, 2016.

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

The proposed new sections affect no other code, article, or statute

**§10.614. Utility Allowances**

(a) Purpose. The purpose of this section is to provide the guidelines for calculating a utility allowance under the Department's multifamily programs. The Department will cite noncompliance and/or not approve a utility allowance if it is not calculated in accordance with this section. Owners are expected to comply with the provisions of this section, as well as, any existing federal or state program guidance.

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

(1) Building Type. The HUD Office of Public and Indian Housing (“PIH”) characterizes building and unit configurations for HUD programs. The Department will defer to the guidance provided by HUD found at: [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_11608.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_11608.pdf) (or successor Uniform Resource Locator (“URL”)) when making determinations regarding the appropriate building type(s) at a Development.

(2) Power to Choose. The Public Utility Commission of Texas database of retail electric providers in the areas of the state where the sale of electricity is open to retail competition <http://www.powertochoose.org/> (or successor URL). In areas of the state where electric service is deregulated, the Department will verify the availability of residential service. If the utility company is not listed as a provider of residential service in the Development's ZIP code for an area that is deregulated, the request will not be approved

(3) Component Charges. The actual cost associated with the billing of a residential utility. Each Utility Provider may publish specific utility service information in varying formats depending on the service area. Such costs include, but are not limited to:

(i) Rate(s). The cost for the actual unit of measure for the utility (e.g. cost per kilowatt hour for electricity);

(ii) Fees. The cost associated with a residential utility that is incurred regardless of the amount of the utility the household consumes (e.g. Customer Charge); and,

(iii) Taxes. Taxes for electricity and gas are regulated by the Texas Comptroller of Public Accountants and can be found <http://comptroller.texas.gov/> (or successor URL). Local Utility Providers have control of the tax structure related to water, sewer and trash. To identify if taxes are imposed for these utilities, obtain records directly from the Utility Provider.

(4) Renewable Source. Energy produced from energy property described in IRC §48 or IRC §45(d)(1) through (4), (6), (9), or (11). The manner in which a resident is billed is limited to the rate at which the local Utility Provider would have charged the residents for the utility if that entity had provided it to them, and as may be further limited by the Texas Utilities Code or by regulation.

(5) Submetered Utility. A utility purchased from or through a local Utility Provider by the building Owner where the resident is billed directly by Owner of the building or to a third party billing company and the utility is:

(A) Based on the residents actual consumption of that utility and not an allocation method or Ratio Utility Billing System (“RUBS”); and,

(B) The rate at which the utility is billed does not exceed the rate incurred by the building owner for that utility.

(6) Utility Allowance. An estimate of the expected monthly cost of any utility for which a resident is financially responsible, other than telephone, cable television, or internet

(A) For HTC, TCAP, and Exchange buildings, include:

(i) Utilities paid by the resident directly to the Utility Provider;

(ii) Submetered Utilities; and,

(iii) Renewable Source Utilities

(B) For HOME, Bond, HTF, NSP, and TCAP RF Developments, unless otherwise prescribed in the program's Regulatory Agreement, include all utilities regardless of how they are paid.

(6) Utility Provider. The company that provides residential utility service (e.g. electric, gas, water, wastewater, and/or trash) to the buildings.

(c) Methods. The following options are available to establish a utility allowance for all programs except Developments funded with HOME, NSP, TCAP RF funds.

(1) Rural Housing Services (RHS) buildings or buildings with RHS assisted tenants. The applicable utility allowance for the Development will be determined under the method prescribed by the RHS (or successor agency). No other utility method described in this section can be used by RHS buildings or buildings with RHS assisted tenants.

(2) HUD-Regulated buildings layered with any Department program. If neither the building nor any tenant in the building receives RHS rental assistance payments, and the rents and the utility allowances of the building are reviewed by HUD (HUD-regulated building), the applicable utility allowance for all rent restricted Units in the building is the applicable HUD utility allowance. No other utility method described in this section can be used by HUD-regulated buildings. Unless further guidance is received from the U.S. Department of Treasury or the Internal Revenue Service (“IRS”), the Department considers Developments awarded HOME to be HUD-Regulated buildings.

(3) Other Buildings. For all other rent-restricted Units, Development Owners must use one of the methods described in subparagraphs (A) - (E) of this paragraph:

(A) Public Housing Authority (“PHA”). The utility allowance established by the applicable PHA for the Section 8 Existing Housing Program. The Department will utilize the Texas Local Government Code, Chapter 392 to determine which PHA is the most applicable to the Development.

(i) If the PHA publishes different schedules based on Building Type, the Owner is responsible for implementing the correct schedule based on the Development's Building Type(s). Example 614(1): The applicable PHA publishes a separate utility allowance schedule for Apartments (5+ units), one for Duplex/Townhomes and another for Single Family Homes. The Development consist of twenty buildings, ten of which are Apartments (5+ units) and the other ten buildings are Duplexes. The Owner must use the correct schedule for each Building Type.

(ii) In the event the PHA publishes a utility allowance schedule specifically for energy efficient units, and the Owner desires to use such a schedule, the Owner must demonstrate that the building(s) meet the housing authority's specifications for energy efficiency once every five (5) years.

(iii) If the applicable PHA allowance lists flat fees for any utility, those flat fees must be included in the calculation of the utility allowance if the resident is responsible for that utility.

(iv) If the individual components of a utility allowance are not in whole number format, the correct way to calculate the total allowance is to add each amount and then round the total up to the next whole dollar. Example 614(2): Electric cooking is \$8.63, Electric Heating is \$5.27, Other Electric is \$24.39, Water and Sewer is \$15. The utility allowance in this example is \$54.00.

(v) If an Owner chooses to implement a methodology as described in subparagraph (B), (C), (D), or (E) of this paragraph, for Units occupied by Section 8 voucher holders, the utility allowance remains the applicable PHA utility allowance established by the PHA from which the household's voucher is received.

(vi) If the Development is located in an area that does not have a municipal, county, or regional housing authority that publishes a utility allowance schedule for the Housing Choice Voucher Program, Owners must select an alternative methodology, unless the building(s) is located in the published Housing Choice Voucher service area of:

(I) A Council of Government created under Texas Local Government Code, Chapter 303, that operates a Housing Choice Voucher Program; or,

(II) The Department's Housing Choice Voucher Program.

(B) Written Local Estimate. The estimate must come from the local Utility Provider, be signed by the Utility Provider representative, and specifically include all Component Charges for providing the utility service.

(C) HUD Utility Schedule Model. The HUD Utility Schedule Model and related resources can be found at <http://www.huduser.gov/portal/resources/utilallowance.html> (or successor URL). Each item on the schedule must be displayed out two decimal places. The total allowance must be rounded up to the next whole dollar amount. The Component Charges used can be no older than those in effect sixty (60) days prior to the beginning of the ninety (90) day period described in subsection (e) of this section.

(i) The allowance must be calculated using the MS Excel version available at <http://www.huduser.org/portal/resources/utilmodel.html> (or successor URL), as updated from time to time, with no changes or adjustments made other than entry of the required information needed to complete the model.

(ii) In the event that the PHA code for the local PHA to the Development is not listed in "Location" tab of the workbook, the Department will use the PHA code for the PHA that is closest in distance to the Development using online mapping tools (e.g. MapQuest).

(iii) Green Discount. If the Owner elects any of the Green Discount options for a Development, documentation to evidence that the units and the buildings meet the Green Discount standard as prescribed in the model is required for the initial approval and every subsequent annual review. In the event the allowance is being calculated for an application of Department funding (e.g. 9% Housing Tax Credits), upon request, the Department will provide both the Green Discount and the non-Green Discount results for application purposes; however, to utilize the Green Discount allowance for leasing activities, the Owner must evidence that the units and buildings have met the Green Discount elected when the request is submitted as required in subsection (k) of this section.

(iv) Do not take into consideration any costs (e.g. penalty) or credits that a consumer would incur because of their actual usage. Example 614(3) The Electric Fact Label for ABC Electric Utility Provider provides a Credit Line of \$40 per billing cycle that is applied to the bill when the usage is greater than 999 kWh and less than 2000 kWh. Example 614(4) A monthly minimum usage fee of \$9.95 is applied when the usage is less than 1000 kWh in the billing cycle. When calculating the allowance, disregard these types costs or credits.

(D) Energy Consumption Model. The model must be calculated by a properly licensed mechanical engineer. The individual must not be related to the Owner within the meaning of §267(b) or §707(b) of the Code. The utility consumption estimate must, at minimum, take into consideration specific factors that include, but are not limited to, Unit size, building type and orientation, design and materials, mechanical systems, appliances, characteristics of building location, and available historical data. Component Charges used must be no older than in effect sixty (60) days prior to the beginning of the ninety (90) day period described in subsection (e) of this section.; and,

(E) An allowance based upon an average of the actual use of similarly constructed and sized Units in the building using actual utility usage data and Component Charges, provided that the Development Owner has the written permission of the Department. This methodology is referred to as the "Actual Use Method." For a Development Owner to use the Actual Use Method they must:

(i) Provide a minimum sample size of usage data for at least 5 Continuously Occupied Units of each Unit Type or 20 percent of each Unit Type whichever is greater. Example 614(5): A Development has 20 three bedroom/one bath Units, and 80 three bedroom/two bath Units. Each bedroom/bathroom equivalent Unit is within 120 square feet of the same floor area. Data must be supplied for at least five of the three bedroom/one bath Units, and sixteen of the three bedroom/two bath Units. If there are less than five Units of any Unit Type, data for 100 percent of the Unit Type must be provided;

(ii) Upload the information in subclause (I) - (IV) of this clause to the Development's CMTS account no later than the beginning of the ninety (90) day period after which the Owner intends to implement the allowance, reflecting data no older than sixty (60) days prior to the ninety (90) day implementation period described in subsection (e) of this section. Example 614(6): The Utility Provider releases the information regarding electric usage at Westover Townhomes on February 5, 2015. The data provided is from February 1, 2015, through January 31, 2015. The Owner must submit the information to the Department no later than March 31, 2015, for the information to be valid;

(I) An Excel spreadsheet listing each Unit for which data was obtained to meet the minimum sample size requirement of a Unit Type, the number of bedrooms, bathrooms and square footage for each Unit, the household's move-in date, the utility usage (e.g. actual kilowatt usage for electricity) for each month of the twelve (12) month period for each Unit for which data was obtained, and the Component Charges in place at the time of the submission;

(II) All documentation obtained from the Utility Provider (or billing entity for the utility provider) and/or copies of actual utility bills gathered from the residents, including all usage data not needed to meet the minimum sample size requirement and any written correspondence from the utility provider;

(III) The rent roll showing occupancy as of the end of the month for the month in which the data was requested from the utility provider; and

(IV) Documentation of the current utility allowance used by the Development.

(iii) Upon receipt of the required information, the Department will determine if the Development Owner has provided the minimum information necessary to calculate an allowance using the Actual Use Method. If so, the Department shall calculate the utility allowance for each bedroom size using the guidelines described in subclause (I) - (V) of this clause;

(I) If data is obtained for more than the sample requirement for the Unit Type, all data will be used to calculate the allowance;

(II) If more than twelve (12) months of data is provided for any Unit, only the data for the most current twelve (12) months will be averaged;

(III) The allowance will be calculated by multiplying the average units of measure for the applicable utility (i.e., kilowatts over the last twelve (12) months by the current rate) for all Unit Types within that bedroom size. For example, if sufficient data is supplied for 18 two bedroom/one bath Units, and 12 two bedroom/two bath Units, the data for all 30 Units will be averaged to calculate the allowance for all two bedroom Units;

(IV) The allowance will be rounded up to the next whole dollar amount. If allowances are calculated for different utilities, each utility's allowance will be rounded up to the next whole dollar amount and then added together for the total allowance; and

(V) If the data submitted indicates zero usage for any month, the data for that Unit will not be used to calculate the Utility Allowance.

(iv) The Department will complete its evaluation and calculation within forty-five (45) days of receipt of all the information requested in clause (ii) of this subparagraph;

(d) Acceptable Documentation. For the Methods where utility specific information is required to calculate the allowance (e.g. base charges, cost per unit of measure, taxes) Owners should obtain documentation directly from the Utility Provider and/or Regulating State Agency. Any Component Charges related to the utility that are published by the Utility Provider and/or Regulating State Agency must be included. In the case where a utility is billed to the Owner of the building(s) and the Owner is disbursing the bill to the tenant through a third party billing company, the Component Charges published by the Utility Provider and not the third party billing company will be used.

(e) Changes in the Utility Allowance. An Owner may not change utility allowance methods, start or stop charging residents for a utility without prior written approval from the Department. Example 614(7): A Housing Tax Credit Development has been paying for water and sewer since the beginning of the Compliance Period. In year 8, the Owner decides to require residents to pay for water and sewer. Prior written approval from the Department is required. Any such request must include the Utility Allowance Questionnaire found on the Department's website and supporting documentation.



(1) The Department will review all request, with the exception of the methodology prescribed in subsection (c)(3)(E) (concerning the Actual Use Method), within 90 days of the receipt of the request. For a review involving a utility allowance for an application from funding from the Department, the request will not be reviewed until the program area notifies the compliance division that the application is being considered for funding.

(2) If the Owner fails to post the notice to the residents and simultaneously submit the request to the Department by the beginning of the 90 day period, the Department's approval or denial will be delayed for up to 90 days after Department notification. Example 614(8): The Owner has chosen to calculate the electric portion of the utility allowance using the written local estimate. The annual letter is dated July 5, 2014, and the notice to the residents was posted in the leasing office on July 5, 2014. However, the Owner failed to submit the request to the Department for review until September 15, 2014. Although the Notice to the Residents was dated the date of the letter from the utility provider, the Department was not provided the full 90 days for review. As a result, the allowance cannot be implemented by the owner until approved by the Department.

(3) Effective dates. If the Owner uses the methodologies as described in subsection (c)(1), (2) or (3)(A) of this section, any changes to the allowance can be implemented immediately, but must be implemented for rent due at least ninety (90) days after the change. For methodologies as described in subsection (c)(3)(B) - (E) of this section, the allowance cannot be implemented until the estimate is submitted to the Department and is made available to the residents by posting in a common area of the leasing office at the Development. This action must be taken by the beginning of the ninety (90) day period in which the Owner intends to implement the utility allowance. Nothing in this section prohibits an Owner from reducing a resident's rent prior to the end of the 90 day period when the proposed allowance would result in a gross rent issue.

Method	Beginning of 90 Day Notification Period
Written Local Estimate	Date of letter from the Utility Provider
HUD Utility Schedule Model	Date entered as "Form Date"
Energy Consumption Model	60 days after the end of the last month of the 12 month period for which data was used to compute the estimate
Actual Use Method	Date the allowance is approved by the Department

(f) Requirements for Annual Review.

(1) RHS and HUD-Regulated Buildings. Owners must demonstrate that the utility allowance has been reviewed in accordance with the RHS or HUD regulations.

(2) Buildings using the PHA Allowance. Owners are responsible for periodically determining if the applicable PHA released an updated schedule to ensure timely implementation. When the allowance changes or a new allowance is made available by the PHA, it can be implemented immediately, but must be implemented for rent due ninety (90) days after the PHA releases an updated scheduled.

(3) Written Local Estimate, HUD Utility Model Schedule and Energy Consumption Model. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than October 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review. At the same time the request is submitted to the Department, the Owner must post, at the Development, the utility allowance estimate in a common area of the leasing office where such notice is unobstructed and visible in plain sight. The Department will review the request for compliance with all applicable requirements and reasonableness. If, in comparison to other approved utility allowances for properties of similar size, construction and population in the same geographic area, the allowance does not appear reasonable or appears understated, the Department may require additional support and/or deny the request.

(5) Actual Use Method. Owners must update the allowance once a calendar year. The update and all back up documentation required by the method must be submitted to the Department no later than August 1st of each year. However, Owners are encouraged to submit prior to the deadline to ensure the Department has time to review.

(g) In accordance with 24 CFR §92.252, for HOME, NSP and TCAP RF funds for which the Department is the funding source, the utility allowance will be established in the following manner:

(1) By April 30<sup>th</sup>, the Department will calculate the utility allowance for each HOME, NSP, and TCAP RF Developments using HUD Utility Schedule Model. For property specific data, the Department will use:

(A) The information submitted in the Annual Owner's Compliance Report;

(B) Entrance Interview Questionnaires submitted with prior onsite reviews; or,

(C) The owner may be contacted and asked to complete the Utility Allowance Questionnaire. In such case, a five (5) day period will be provided to return the completed questionnaire.

(2) Utilities will be evaluated in the following manner:

(A) For regulated utilities, the Department will contact the Utility Provider directly and apply the Component Charges in effect no later than 60 days before the allowance will be effective.

(B) For deregulated utilities:

(i) The Department will use the Power to Choose website and search available Utility Providers by zip code;

(ii) The plan chosen will be the median cost per kWh based on average price per kWh for the average monthly use of 1000 kWh of all available plans; and,

(ii) The actual Component Charges from the plan chosen in effect no later than 60 days before the allowance will be effective will be inputted into the Model.

(3) The Department will notify the Owner contact in CMIS of the new allowance and provide the backup for how the allowance was calculated. The owner will be provided a five (5) day period to review the Department's calculation and note any errors. Only errors related to the physical characteristics of the building(s) and utilities paid by the tenants will be reconsidered; the utility plan and Utility Provider selected by the Department and Component Charges used in calculating the allowance will not be changed. During this five (5) day period, the owner also has the opportunity to submit documentation and request use of any of the available Green Discounts.

(4) Once approved, the allowance must be implemented for rent due in all program units thirty (30) days after written approval from the Department is received.

(5) HTC Buildings in which there are HOME, NSP, or TCAP RF units are considered HUD- Regulated buildings and the HUD Model Schedule must be used for all rent restricted units (with the exception of units occupied by households that receive tenant based rental assistance in which case the allowance is established by the program from where the household receives the assistance). For HOME if the Department is not the awarding jurisdiction, Owners are required to obtain the utility allowance established by the awarding jurisdiction, and to document all efforts to obtain such allowance to evidence due diligence in the event that the jurisdiction is nonresponsive.

(h) For Owners participating in the Department's Section 811 Project Rental Assistance ("PRA") Program, the utility allowance is the allowance established in accordance with this section related to the other multifamily program(s) at the Development. Example 614(9) ABC Apartments is an existing HTC Development now participating in the PRA Program. The residents pay for electricity and the Owner is using the PHA method to calculate the utility allowance for the HTC Program. The appropriate utility allowance for the PRA Program is the PHA method.

(i) Combining Methods. With the exception of HUD regulated buildings and RHS buildings, Owners may combine any methodology described in this section for each utility service type paid directly by the resident and not by or through the Owner of the building (e.g. electric, gas). For example, if residents are responsible for electricity and gas, an Owner may use the appropriate PHA allowance to determine the gas portion of the allowance and use the Actual Use Method to determine the electric portion of the allowance.

(j) The Owner shall maintain and make available for inspection by the tenant all documentation, including but not limited to, the data, underlying assumptions and methodology that was used to calculate the allowance. Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling Unit of the tenant at the convenience of both the Owner and tenant.

(k) If Owners want to utilize the HUD Utility Schedule Model, the Written Local Estimate or the Energy Consumption Model to establish the initial utility allowance for the Development, the Owner must submit utility allowance documentation for Department approval, at minimum, 90 days prior to the commencement of leasing activities. This subsection does not preclude an Owner from changing to one of these methods after commencement of leasing.

(l) The Department reserves the right to outsource to a third party the review and approval of all or any utility allowance requests to use the Energy Consumption Model or when review requires the use of expertise outside the resources of the Department. In accordance with Treasury Regulation §1.42-10(c) any costs associated with the review and approval shall be paid by the Owner.

(m) All requests described in this subsection must be complete and uploaded directly to the Development's CMTS account using the "Utility Allowance Documents" in the type field. The Department will not be able to approve requests that are incomplete and/or are not submitted correctly.