

# **BOARD BOOK OF NOVEMBER 8, 2018**



**J. B. Goodwin, Chair**  
**Leslie Bingham Escareño, Vice-Chair**  
**Paul Braden, Member**  
**Asusena Reséndiz, Member**  
**Sharon Thomason, Member**  
**Leo Vasquez, III, Member**

## Texas Department of Housing and Community Affairs

### PROGRAMMATIC IMPACT IN FISCAL YEAR 2017

The Texas Department of Housing and Community Affairs (“TDHCA”) is the State of Texas’ lead agency responsible for affordable housing and administers a statewide array of programs to help Texans become more independent and self-sufficient. Short descriptions and key impact measures for these programs – including the total number of households/individuals to be served and total funding either administered or pledged for Fiscal Year 2017 (September 1, 2016, through August 31, 2017) – are set out below:

#### **Multifamily New Construction & Rehabilitation:**

Provides mechanisms to attract investment capital and to make available significant financing for the construction and rehabilitation of affordable rental housing through the Housing Tax Credit, Multifamily Bond, and Multifamily Direct Loan programs.

**Total Households Served: 8,583**  
**Total Funding: \$886,263,818\***

#### **Single Family Homebuyer Assistance, New Construction, Rehabilitation, Bootstrap, and Contract for Deed:**

Assists with the purchase, construction, repair, or rehabilitation of affordable single family housing by providing grants and loans through the HOME Single Family Development, HOME Homeowner Rehabilitation Assistance, HOME Homebuyer Assistance, Amy Young Barrier Removal, and Texas Bootstrap programs. Stabilizes homeownership in colonias through the HOME Contract for Deed program.

**Total Households Served: 326**  
**Total Funding: \$17,323,164**

#### **Single Family Homeownership Program:**

Provides down payment and closing cost assistance, mortgage loans, and mortgage credit certificates to eligible households through the My First Texas Home and Mortgage Credit Certificates programs.

**Total Households Served: 5,870**  
**Total Funding: \$870,405,445**

#### **Rental Assistance:**

Provides rental, security, and utility deposit assistance through HOME Tenant Based Rental Assistance, and rental assistance payments through HUD Section 8 Housing Choice Vouchers and Section 811 Project Based Rental Assistance.

**Total Households Served: 1,678**  
**Total Funding: \$13,668,121**

#### **Weatherization Assistance Program:**

Provides funding to help low-income households control energy costs through the installation of energy efficient materials and through energy conservation education.

**Total Households Served: 3,349**  
**Total Funding: \$24,379,360**

#### **Homelessness**

Funds local programs and services for individuals and families at risk of homelessness or experiencing homelessness. Primary programs are the Homeless Housing and Services program and the Emergency Solutions Grants program.

**Total Individuals Served: 36,555**  
**Total Funding: \$15,009,483**

#### **Comprehensive Energy Assistance Program:**

Provides energy utility bill assistance to households with an income at or below 150% federal poverty guidelines.

**Total Households Served: 134,465**  
**Total Funding: \$94,482,215**

#### **Community Services Block Grant:**

Provides administrative support for essential services for low-income individuals through Community Action Agencies.

**Total Individuals Served: 492,727**  
**Total Funding: \$31,237,527**

Sources: this data comes from the TDHCA 2018 State Low Income Housing Plan and Annual Report draft. Multifamily New Construction & Rehab data come from the most recent award logs from FY2017 for 4%, 9%, and Direct Loan Applications. Because Multifamily logs are updated on a monthly basis to reflect the changing status of Applications, this impact statement will also be updated on a monthly basis.

Note: Some households may be served by more than one TDHCA program.

\*FY2017 data for the Multifamily program is artificially low, largely due to federal tax reform’s timing effects on 4% housing tax credit developments. A significant amount of 4% activity was delayed into the 4 months after FY2017 (Sept., Oct., and Nov., and Dec.).





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

**A G E N D A  
8:00 AM  
November 8, 2018**

**Texas Capitol Building  
Capitol Extension Room E2.022  
1100 Congress Avenue  
Austin, TX 78701**

**CALL TO ORDER**

**ROLL CALL**

**CERTIFICATION OF QUORUM**

**J.B. Goodwin, Chair**

*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.*

**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 Tex. Gov't 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:**

**LEGAL**

- a) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Bella Vista Apartments (HTC 05626/Bond 05626/CMTS 4328)
- b) Presentation, discussion, and possible action regarding the adoption of Agreed Final Orders concerning related properties Prairie Estates (HTC 97107/CMTS 1763) and Homes of Persimmons (HTC 98170/CMTS 2026)
- c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning related properties Western Burgundy (HTC 97088/CMTS 1742), Lee Seniors (HTC 98093/CMTS 1950), Haymon Krupp (HTC 14127/CMTS 5003), Tays (HTC 14130/CMTS 5005), Raymond Telles Manor (HTC 14419/CMTS 5063), Lt. Palmer Baird (HTC 14420/CMTS 5064), J.E. Anderson Apartments (HTC 14421/CMTS 5066), Everett Alvarez Apartments (HTC 14423/CMTS 5067), Harry S. Truman Apartments (HTC 14424/CMTS 5068), Dwight D. Eisenhower Memorial Apartments (HTC 14425/CMTS 5069), Kennedy Brothers Communities (HTC 14427/CMTS 5071), Aloysius A. Ochoa Apartments (HTC 14428/CMTS 5072), Lyndon B Johnson Memorial Apartments (HTC 14429/CMTS 5073), Rafael Marmolejo Jr Memorial Apartments (HTC 14430/CMTS 5074), and Juan Hart Memorial Apartments (HTC 14431/CMTS 5075)

**Jeffrey T. Pender**  
Deputy General Counsel

**BOND FINANCE**

- d) Presentation, discussion, and possible action on Resolution No. 19-009 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and authorizing the selection of underwriters for the bonds

**Monica Galuski**  
Director of  
Bond Finance

## OCI/HTF/NSP DIVISION

- e) Presentation, discussion, and possible action on the appointment of Colonia Resident Advisory Committee members

**Raul Gonzales**  
Director of  
OCI, HTF, & NSP

## SECTION 8 PROGRAM

- f) Presentation, Discussion, and Possible Action on the 2019 Section 8 Payment Standards for the Housing Choice Voucher Program

**Michael De Young**  
Director of  
Community Affairs

## HOMEOWNERSHIP

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

**Cathy Gutierrez**  
Director of  
Texas Homeownership

## HOME AND HOMELESSNESS PROGRAMS

- h) Presentation, discussion, and possible action on Program Year 2018 Emergency Solutions Grants Program Awards
- i) Presentation, discussion, and possible action to authorize the issuance of the 2018 HOME Investment Partnerships Program Single Family Homeowner Rehabilitation Assistance Reservation System Notice of Funding Availability and publication in the *Texas Register*
- j) Presentation, discussion, and possible action to authorize the issuance of the 2018 HOME Investment Partnerships Program Single Family Homebuyer Assistance and Tenant-Based Rental Assistance Notice of Funding Availability and publication in the *Texas Register*

**Abigail Versyp**  
Director of  
HOME and  
Homelessness Programs

## MULTIFAMILY FINANCE

- k) Presentation, discussion, and possible action regarding Awards of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability
- |       |                         |          |
|-------|-------------------------|----------|
| 18259 | Cannon Courts           | Bangs    |
| 18223 | Harvest Park Apartments | Pampa    |
| 18274 | Hill Court Villas       | Granbury |
- l) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer
- |       |                        |          |
|-------|------------------------|----------|
| 18433 | DeWetter Apartments    | El Paso  |
| 18434 | Kathy White Apartments | El Paso  |
| 18437 | Ventura at Tradewinds  | Midland  |
| 18439 | Tays North Apartments  | El Paso  |
| 18440 | Bayshore Towers        | Pasadena |
- m) Presentation, discussion, and possible action on the Third Amendment to the 2018-1 Multifamily Direct Loan Notice of Funding Availability

**Marni Holloway**  
Director of  
MF Finance

## RULES

- n) Presentation, discussion, and possible action on the proposed repeal and proposed new 10 TAC Chapter 7 Subchapter C, concerning the Emergency Solutions Grant, and directing their publication for public comment in the *Texas Register*
- o) Presentation, discussion, and possible action regarding proposed amendments to 10 TAC Chapter 23, Single Family HOME Program Rules, Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds, §23.24 concerning Administrative Deficiency Process; Subchapter E, Contract for Deed Program, §23.51 concerning Contract for Deed General Requirements, and directing their publication for public comment in the *Texas Register*
- p) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §5.801, Project Access Initiative, and an order proposing new 10 TAC §5.801, Project Access Initiative, and directing publication for public comment in the *Texas Register*

**Abigail Versyp**  
Director of HOME and  
Homelessness Programs

**Brooke Boston**  
Director of Programs

- q) Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations; proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations, and directing publication for public comment in the *Texas Register*
- r) Presentation, discussion, and possible action on an order proposing new 10 TAC, Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.411, Administration of Block Grants under Tex. Gov't Code Chapter 2105, and directing publication for public comment in the *Texas Register*
- s) Presentation, discussion, and possible action on an order proposing new 10 TAC, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410, Determination of Alien Status for Program Beneficiaries, and directing publication for public comment in the *Texas Register*
- t) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §6.404, Distribution of Weatherization Assistance Program Funds, and an order adopting new 10 TAC §6.404, Distribution of Weatherization Assistance Program Funds, without changes, and directing that they be published for adoption in the *Texas Register*
- u) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 10, Subchapter A, concerning General Information and Definitions, Subchapter B, concerning Site and Development Requirements and Restrictions, Subchapter C, concerning Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications, Subchapter D, concerning Underwriting and Loan Policy, and Subchapter G, concerning Fee Schedule, Appeals and Other Provisions, and directing its publication in the *Texas Register*
- v) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 13 concerning the Multifamily Direct Loan Program Rule, and an order adopting the new 10 TAC Chapter 13 concerning the Multifamily Direct Loan Program Rule, and directing its publication in the *Texas Register*
- w) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and an order adopting the new 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and directing its publication in the *Texas Register*

**Michael De Young**  
Director of  
Community Affairs

**Marni Holloway**  
Director of  
MF Finance

**Teresa Morales**  
Manager of  
Multifamily Bonds

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

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

- a) TDHCA Outreach Activities, (October-November)
- b) Report on the Department's 4th Quarter Investment Report in accordance with the Public Funds Investment Act
- c) Report on the Department's 4<sup>th</sup> Quarter Investment Report relating to funds held under Bond Trust Indentures

**Michael Lyttle**  
Director of  
External Affairs

**David Cervantes**  
Director of  
Administration

**Monica Galuski**  
Director of  
Bond Finance

##### **ITEM 3: ACTION ITEMS**

###### **EXECUTIVE**

- a) Presentation, discussion, and possible action to grant certain authority to the Director of Administration and designating an Acting Director

**J.B. Goodwin**  
Board Chair

###### **ADMINISTRATION**

- b) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions in this regard

**David Cervantes**  
Director of Administration

## COMPLIANCE

- c) Presentation, discussion, and possible action on initiation of proceedings to remove the eligible entity status of Cameron and Willacy Counties Community Projects, Inc. and terminate CSBG contracts and funding

Patricia Murphy  
Director of  
Compliance

## ITEM 4: RULES

Presentation, discussion, and possible action on an order approving and recommending to the Governor the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and an order approving and recommending to the Governor in accordance with Tex. Gov't Code §2306.6724(b) the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan (which will incorporate into Chapter 11 substance from the Uniform Multifamily Rules being repealed from 10 TAC Chapter 10, Subchapters A, B, C, D, and G), and, upon action by the Governor, directing its publication in the *Texas Register*.

Marni Holloway  
Director of  
MF Finance

## ITEM 5: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on staff determinations regarding Undesirable Neighborhood Characteristics for Multifamily Direct Loan Application 18503 Eastern Oaks Apartments Austin
- b) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer and an Award of Direct Loan Funds 18407 Sphinx at Sierra Vista Senior Villas Fort Worth

Marni Holloway  
Director of  
MF Finance

## 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.B. Goodwin  
Chair

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;

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;

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;

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

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 Terri Roeber, ADA Responsible Employee, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five (5) 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 five (5) 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 cinco 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**

# CONSENT AGENDA



1a

**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Bella Vista Apartments (HTC 05626 / Bond 05626 / CMTS 4328)

**RECOMMENDED ACTION**

**WHEREAS**, Bella Vista Apartments, owned by UHF Gainesville Housing, L.P. (“Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, compliance findings included an Affirmative Marketing Plan violation, and a violation relating to written Tenant Selection Criteria;

**WHEREAS**, all findings that had been referred for an administrative penalty were resolved informally before consideration by the Enforcement Committee;

**WHEREAS**, Owner’s representatives have agreed, subject to Board approval, to enter into an Agreed Final Order stipulating that violations occurred and assessing no administrative penalty; and

**WHEREAS**, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case.

**NOW, therefore, it is hereby**

**RESOLVED**, that an Agreed Final Order, assessing no administrative penalty, but stipulating that violations occurred at Bella Vista Apartments (HTC 05626 / Bond 05626 / CMTS 4328), as presented at this meeting, but authorizing staff to make any necessary non-substantive technical corrections, is hereby adopted as the order of this Board.

## BACKGROUND

UHF Gainesville Housing, L.P. ("Owner") is the owner of Bella Vista Apartments ("Property"), a low income apartment complex composed of 144 units, located in Cooke County. Records of the Texas Secretary of State list the following members and/or officers for Unified Housing Foundation, Inc, the managing member: Roz Campisi Beadle (Director), R. Neil Crouch (President and Treasurer), Martha C. Stevens (Director and Secretary), and Betty J. Culbreath (Director) . CMTS lists Brad Kyles as the primary contact for Owner. The property is managed by Sunchaseamerican, with CMTS listing its primary contact as Gloria Snider.

The Property is subject to two Land Use Restriction Agreements (collectively "LURAs") signed in consideration for a housing tax credit allocation in the annual amount of \$518,676 and a \$6,800,000 allocation of Multifamily revenue Bonds to build and operate the Property.

The Property was previously referred for an administrative penalty for file monitoring violations, but those referrals were closed with full corrections before an informal conference notice was issued by the Enforcement Committee. The Property was referred again in 2018 for an Affirmative Marketing Plan violation, and for having Tenant Selection Criteria that did not meet TDHCA requirements. An opportunity was provided for owner to submit corrections to the Enforcement Committee in order to avoid an informal conference and corrections were received, but were incomplete. Ultimately, multiple submissions were required and the final submission that fully resolved all findings was received after the deadline set by the Enforcement Committee informal conference notice. It is not appropriate to close the current administrative penalty referral with a warning letter as a result, and Owner has agreed to sign an Agreed Final Order assessing no administrative penalty for noncompliance at Bella Vista Apartments, but stipulating that violations had occurred and were not timely corrected.

Consistent with direction from the Department's Enforcement Committee, an Agreed Final Order stipulating that violations occurred is recommended, with no administrative penalty. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST  
UHF GAINESVILLE HOUSING, L.P.  
WITH RESPECT TO  
BELLA VISTA APARTMENTS  
(HTC 05626 / BOND 05626B /  
CMTS # 4328)

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 8<sup>th</sup> day of November, 2018, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **UHF GAINESVILLE HOUSING, L.P.**, a Texas limited partnership (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov’t Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov’t Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (“FOF”)**

**Jurisdiction:**

1. During 2005, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$518,676, along with a \$6,800,000 allocation of Multifamily Housing Revenue Bonds, to build and operate Bella Vista Apartments (“Property”) (HTC file No. 5626 / CMTS No. 4328 / LDLD No. 272).

2. Respondent signed two land use restriction agreements (collectively "LURAs") regarding the Property. The Land Use Restriction Agreement for Low-Income Housing Credits ("HTC LURA") was effective May 1, 2007, and filed of record at Volume 1508, Page 696 of the Official Public Records of Real Property of Cooke County, Texas ("Records"). The Regulatory and Land Use Restriction Agreement ("Bond LURA") was effective April 1, 2006, and filed of record at Volume 1423, Page 242 of the Records.
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

4. An on-site monitoring review was conducted on November 7, 2017, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and an April 9, 2018, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
  - a. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities. An affirmative marketing plan was present during the onsite review, but did not accurately identify populations that were least likely to apply. Fully acceptable corrective documentation to resolve the violation was received on July 2, 2018, 84 days past the deadline, after intervention by the Enforcement Committee.
  - b. Respondent failed to maintain acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements. Fully acceptable corrective documentation to resolve the violation was received on August 23, 2018, 136 days past the deadline, after intervention by the Enforcement Committee.
5. All violations listed above are considered resolved at the time of this Order.

**CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.617 in 2017, by failing to provide a compliant affirmative marketing plan.
5. Respondent violated 10 TAC §10.610 in 2017, by not maintaining written tenant selection criteria meeting TDHCA requirements.
6. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
7. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
8. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
9. It is appropriate to assess no administrative penalty in accordance with the policies situated at 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent not be assessed an administrative penalty.

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 1, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

*[Remainder of page intentionally blank]*



Approved by the Governing Board of TDHCA on November 8, 2018.

By: \_\_\_\_\_  
Name: J.B. Goodwin  
Title: Chair of the Board of TDHCA

By: \_\_\_\_\_  
Name: James "Beau" Eccles  
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §  
  §  
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared J.B. Goodwin, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §  
  §  
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared James "Beau" Eccles, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas



**Exhibit 1**  
**Texas Administrative Code**

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

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(a) **Ownership Transfer Notification.** All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) **Requirement.** Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) **Transfers Prior to 8609 Issuance or Construction Completion.** Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) **Non-Profit Organizations.** If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

1b

**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action regarding the adoption of Agreed Final Orders concerning related properties Prairie Estates (HTC 97107 / CMTS 1763) and Homes of Persimmons (HTC 98170 / CMTS 2026)

**RECOMMENDED ACTION**

**WHEREAS**, Prairie Estates, owned by Prairie Estates, Ltd. (“Prairie Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, Homes at Persimmons, owned by Persimmons Townhomes, Ltd. (“Persimmons Owner”), has uncorrected compliance findings relating to the applicable land use restriction agreement and the associated statutory and rule requirements;

**WHEREAS**, Prairie Owner and Persimmons Owner are related entities, ultimately controlled by Joseph Kemp of KRR Companies G.P. (collectively known as “Owner”);

**WHEREAS**, on September 25, 2018, Owner’s representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into Agreed Final Orders, assessing an administrative penalty of \$500 for Prairie Estates and an administrative penalty \$500 for Homes of Persimmons, both to be fully forgiven if onsite management at Prairie Estates attend required training, and if all violations are resolved as specified in the Agreed Final Orders on or before February 6, 2019, for Prairie Estates and December 10, 2018, for Homes of Persimmons;

**WHEREAS**, unresolved compliance findings for Prairie Estates include Household Income Above Limit Upon Initial Occupancy violations for four units, an Affirmative Marketing Plan violation, and a violation for failure to have fully compliant Tenant Selection Criteria; and unresolved compliance findings at Homes of Persimmons include Uniform Physical Condition Standards (“UPCS”) violations identified during a 2017 inspection; and

**WHEREAS**, staff has based its recommendations for an Agreed Final Order on the Department’s rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case.



**NOW, therefore, it is hereby**

**RESOLVED**, that two Agreed Final Orders, one assessing an administrative penalty of \$500 for noncompliance at Prairie Estates, and a second assessing an administrative penalty of \$500 for noncompliance at Homes of Persimmons, subject to forgiveness as outlined above, substantially in the form presented at this meeting, and authorizing any non-substantive technical corrections, is hereby adopted as the order of this Board.

## BACKGROUND

Prairie Estates and Homes of Persimmons are owned by related entities, and are ultimately controlled by Joseph Kemp of KRR Companies G.P. Both are subject to Land Use Restriction Agreements (collectively "LURAs") in consideration for housing tax credit allocations to build and operate the properties.

Property	Owner	Funding	LURA Effective	Units	Location
Prairie Estates	Prairie Estates, Ltd.	Annual HTC allocation of \$1,039,521	1999	160, all of which are restricted	Dallas County
Homes of Persimmons	Persimmons Townhomes, Ltd.	Annual HTC allocation of \$1,058,204	2000	180, 135 of which are restricted	Dallas County

Both owners are ultimately controlled by KRR Companies G.P., a Texas general partnership. General partnerships are not filed with the Texas Secretary of State, but the Agreement of Partnership indicates that for the entity indicate that its partners include Joseph Kemp (95% partner) and the Joseph Kemp Revocable Living Trust (5%). CMTS lists Joseph Kemp as the primary contact for Owner. Both properties are self managed via KRR Real Estate Management LTD, with CMTS listing Vicki Mallett as its primary contact. The onsite manager listed in CMTS for Prairie Estates is Joseph Kemp. The onsite manager listed in CMTS for Prairie Estates is Brandy Kemp.

Prairie Estates has not been previously referred for an administrative penalty. Homes of Persimmons was previously referred for an administrative penalty for reporting violations and for failure to provide Fair Housing Disclosure Notices, a finding that was not correctable at the time. Both referrals were addressed without an informal conference. Both properties were referred for an administrative penalty during 2018 and corrections were submitted in response to a notice from the Enforcement Committee, but the following findings remain unresolved to date:

1. Prairie Estates:

- a. Household income above limit upon initial occupancy / program units not leased to Low-Income households for units 1304, 1406, 2304, and 2402. Assets were not verified for these households, so eligibility could not be verified;
- b. Affirmative Marketing Plan violation for failure to accurately identify least likely to apply populations, and to perform outreach marketing; and
- c. Violation for failure to have compliant written Tenant Selection Criteria.

2. Homes of Persimmons:

- a. Uniform Physical Condition Standards ("UPCS") violations, as listed in Exhibit 1 of the Agreed Final Order.

Owner participated in an informal conference with the Enforcement Committee on September 25, 2018, and agreed to sign Agreed Final Orders with the following terms:

Prairie Estates:

1. A \$500 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must correct the file monitoring violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before February 6, 2019 for Prairie Estates;
3. Onsite management, excluding maintenance staff, must attend First Thursday Income Eligibility Training and HTC Compliance Training, and then provide copies of completion certificates to TDHCA on or before February 6, 2019;
4. If Owner complies with all requirements and addresses all violations as required by the Agreed Final Order, the full administrative penalty in the amount of \$500 will be forgiven; and
5. If Owner violates any provision of the Agreed Final Order, the full administrative penalty in the amount of \$500 will immediately come due and payable.

Homes of Persimmons:

1. A \$500 administrative penalty, subject to partial forgiveness as indicated below;
2. Owner must correct the UPCS violations as indicated in the Agreed Final Order, and submit full documentation of the corrections to TDHCA on or before December 10, 2018;
3. If Owner complies with all requirements and addresses all violations as required by the Agreed Final Order, the full administrative penalty in the amount of \$500 will be forgiven; and
4. If Owner violates any provision of the Agreed Final Order, the full administrative penalty in the amount of \$500 will immediately come due and payable.

Consistent with direction from the Department's Enforcement Committee, an Agreed Final Order assessing a \$500 administrative penalty is recommended for Prairie Estates, and an Agreed Final Order assessing a \$500 administrative penalty is recommended for Homes of Persimmons, all of which would be probated and fully forgivable upon successful completion of probation as defined under each Agreed Final Order. This will be a reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST  
PRAIRIE ESTATES, LTD. WITH  
RESPECT TO PRAIRIE ESTATES  
(HTC FILE # 97107 / CMTS # 1763)

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 8<sup>th</sup> day of November, 2018, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **PRAIRIE ESTATES, LTD.**, a Texas limited partnership (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov’t Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov’t Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (“FOF”)**

**Jurisdiction:**

1. During 1999, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$1,039,521 to build and operate Prairie Estates (“Property”) (HTC file No. 97107 / CMTS No. 1763 / LDLD No. 751).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 27, 1999, and filed of record at Volume 99252, Page 04468 of the Official Public Records of Real Property of Dallas County, Texas (“Records”).

3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

4. An on-site monitoring review was conducted on November 10, 2017, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 24, 2018, corrective action deadline was set, however, the following violations were not corrected before the corrective action deadline:
  - a. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1304, 1406, 2304, and 2402, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program;
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities. An affirmative marketing plan was present during the onsite review, but did not comply with the rule requirements;
  - c. Respondent failed to maintain complete written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
5. The following violations remain outstanding at the time of this order:
  - a. Household income violations described in FOF #4.a;
  - b. Affirmative Marketing Plan violation described in FOF #4.b; and
  - c. Tenant Selection Criteria violation described in FOF #4.c.

**CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2017, by failing to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 1304, 1406 and 2402;
5. Respondent violated 10 TAC §10.617 in 2017, by failing to provide a complete affirmative marketing plan;
6. Respondent violated 10 TAC §10.610 in 2017, by not maintaining written tenant selection criteria meeting TDHCA requirements;
7. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
8. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
9. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
10. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$500, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that all property management staff for Prairie Estates, with the exception of maintenance personnel, shall attend First Thursday Income Eligibility Training offered by TDHCA and submit a completion certificate to the Agency on or before February 6, 2019.

**IT IS FURTHER ORDERED** that Respondent shall fully correct the file monitoring violations as indicated in the exhibits and submit full documentation of the corrections to TDHCA on or before February 6, 2019.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory



performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

**IT IS FURTHER ORDERED** that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System ("CMTS") by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at [ysella.kaseman@tdhca.state.tx.us](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 3, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

*[Remainder of page intentionally blank]*

Approved by the Governing Board of TDHCA on November 8, 2018.

By: \_\_\_\_\_  
Name: J.B. Goodwin  
Title: Chair of the Board of TDHCA

By: \_\_\_\_\_  
Name: James "Beau" Eccles  
Title: Secretary of the Board of TDHCA

**THE STATE OF TEXAS** §  
  §  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared J.B. Goodwin, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS** §  
  §  
**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared James "Beau" Eccles, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS

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COUNTY OF \_\_\_\_\_ §

BEFORE ME, \_\_\_\_\_, a notary public in and for the State of \_\_\_\_\_, on this day personally appeared \_\_\_\_\_, known to me or proven to me through \_\_\_\_\_ 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, who being by me duly sworn, deposed as follows:

1. "My name is \_\_\_\_\_, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of \_\_\_\_\_ for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**PRAIRIE ESTATES, LTD.**, a Texas limited partnership

**KRR Construction, Ltd.**, a Texas limited partnership, its general partner

**KRR Operations, LLC**, a Texas limited liability company, its general partner

**KRR Companies G.P.**, a Texas general partnership, its president

By: \_\_\_\_\_

Name: Joseph Kemp

Title: \_\_\_\_\_

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

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

## Exhibit 1

### **File Monitoring Violation Resources and Instructions**

#### **Resources:**

1. Refer to the following link for all references to the rules at 10 TAC §10 that are referenced below:  
[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=10&sch=F&rl=Y)
2. Refer to the following link for copies of forms that are referenced below:  
<http://www.tdhca.state.tx.us/pmcomp/forms.htm>
3. Technical support and training presentations are available at the following links:  
Income and Rent Limits: <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>  
Utility Allowance: <http://www.tdhca.state.tx.us/pmcomp/utility-allowance.htm>  
Affirmative Marketing Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>  
Affirmative Marketing Technical Assistance: <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>  
Tenant Selection Criteria Webinar: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>  
Online Reporting: <http://www.tdhca.state.tx.us/pmcomp/reports.htm>  
FAQ's: <http://www.tdhca.state.tx.us/pmcomp/compFaqs.htm>
4. **All corrections must be submitted via CMTS:** See link for steps to upload documents  
<http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.
5. **Important notes -**
  - i. Do not backdate any documents listed below.
  - ii. A transfer of a qualified household from another unit is not sufficient to correct any findings. If there is a tenant income certification or household income above limit violation, a transfer from another unit will simply cause the finding to transfer to that unit.

#### **Instructions:**

6. **Written tenant selection criteria** – Respondent submitted written tenant selection criteria, however, the criteria were incomplete.

How to prepare compliant criteria: First watch the webinar presentation is available at: <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>. Then prepare updated written policies and procedures addressing all requirements at 10 TAC §10.610. Staff recommends using that rule as a checklist. Ensure that you include an effective date for the policy. The "10.610 (policy & procedures)" tab of this spreadsheet provides details regarding how TDHCA monitors for this item so that you can check over your work before submission:  
<http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>

Examples of problems with prior submission: Problems observed included, but are not limited to:

- a. The Criteria did not include procedures regarding reasonable accommodations per 10 TAC §10.610(c), the waitlist per 10 TAC §10.610(d), or unit transfer policies per 10 TAC §10.610(g);
- b. The Criteria did not contain restrictions on student occupancy per 10 TAC §10.610(b)(1)(A)(ii);
- c. The Criteria did not include VAWA language per 10 TAC §10.610(b)(1)(E); and

- d. It appears that the Development requires an application deposit at the time of application. This must immediately stop and the criteria must be updated to remove this requirement.

What to submit: Once your written policies and procedures are complete, update the effective date, a supervisor must review the criteria, then you must upload the complete written policies and procedures to CMTS.

## 7. Affirmative marketing plan –

Technical Support: First read the rule at 10 TAC §10.617, read the technical assistance guide at <http://www.tdhca.state.tx.us/pmcdocs/AMT-Assistance-Guide.pdf>, and watch the webinar at <http://www.tdhca.state.tx.us/pmcomp/presentations.htm>, to gain a general understanding regarding affirmative marketing.

### Steps to complete affirmative marketing plan:

- a. Identify the appropriate housing market in which outreach efforts will be made;
- b. Determine the groups that are least likely to apply and mark them in your plan. The Affirmative Marketing Web Tool referenced at 10 TAC §10.617(d)(5) to determine groups that are least likely to apply is available online at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>. The groups *currently* identified by the tool are Persons with Disabilities, Not Hispanic, and Asian. If you use this Tool and save a copy with your Plan, you may rely upon its results.

Alternatively, if you do not use the Tool, you may perform your own analysis to determine groups that are least likely to apply, but you must perform and document a reasonable analysis by which those groups were identified, you must always include persons with disabilities, and populations representing less than 1% of the total population of the County or MSA will not be required in your affirmative marketing. This analysis must be included with the plan.

When the “Not Hispanic” population is identified by the Web Tool as a group least likely to apply, that group would be marked in your plan as “Other” and you would write in “Not Hispanic”. Many owners assume that the “Not Hispanic” group identified by the Affirmative Marketing Web Tool means “White”. That is not necessarily the case. The Compliance Division explains the category like this: each household member has a Race *and* an Ethnicity. The Race could be White, American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander. The Ethnicity could be either Hispanic or Not Hispanic. In other words, a person could be Black/African American and Hispanic. Likewise, a person could be White and Hispanic. In other words, the “Not Hispanic” demographic is literally everyone who is “Not Hispanic.”

- c. Identify in your plan specific organizations, media, and community contacts in the housing market to send marketing outreach materials for each of the targeted groups. The organizations must specifically reach those groups designated as least likely to apply. The Tool provides a link to a map that will show which Census tracts may be most beneficial for affirmative marketing. The census tracts provided for outreach consideration represent nearby neighborhoods identified in the U.S. Census as having the greatest number of the groups who are least likely to apply at your development based on its location. The identified neighborhoods may represent a first step for planning meaningful outreach and marketing for your development.

Specific examples:

- i. Least likely to apply population - People with disabilities:
  - A. Local Center for Independent Living (“CIL”) – serve persons with all disability types. Not all counties are covered [http://www.txsilc.org/page\\_CILs.html](http://www.txsilc.org/page_CILs.html)
  - B. Aging and Disability Resource Center (“ADRC”) – intake and referral for persons with physical, intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>

- C. Local Intellectual and Developmental Disability Authority (LIDDA) – serves persons with intellectual, or developmental disabilities - all counties are covered: <https://www.dads.state.tx.us/contact/search.cfm>
  - D. Local Mental Health Authority (LMHA) – serves persons with Mental Illness and Substance Use disorders - all counties are covered: <https://www.dshs.texas.gov/mhservices-search/>
  - E. Local non-profits in your area serving people with disabilities
  - F. Call 211 and ask about resources for people with disabilities in your area, reach out to groups serving people with disabilities in your community
- ii. Least likely to apply population - Asian:
    - A. Local Asian real estate association
    - B. Local Asian Chamber of Commerce
    - C. Local Asian American Resource Center
    - D. Local organizations serving the Asian community
    - E. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group. In TDHCA’s Web Tool, these areas are listed under “tracts for outreach consideration”
  - iii. Least likely to apply population – Not Hispanic:
    - A. Community centers, places of worship, libraries, grocery stores in census tracts with a high concentration of the racial group. In TDHCA’s Web Tool, these areas are listed under “tracts for outreach consideration”
- d. Complete and execute an affirmative marketing plan using any version of HUD Form 935.2A, including the groups and organizations identified above;
  - e. Comply with all requirements of 10 TAC §10.617, which we recommend using as a checklist;
  - f. Ensure that your plan includes a section considering how Limited English Proficiency may affect populations least likely to apply, and including ways you plan to mitigate language barriers related to advertising and community outreach. Such information should be included in the Plan as an additional consideration, or as an attachment to the Plan. Some sample information that may be useful for preparation is available at <http://www.tdhca.state.tx.us/pmcdocs/LAP-Guide.doc>;
  - g. Send marketing outreach materials to the identified organizations, ensuring that said marketing materials comply with all requirements of 10 TAC §10.617. Remember that 10 TAC §10.617(f)(5) requires marketing materials to include the Fair Housing Logo and give contact information that prospective tenants can access if reasonable accommodations are needed in order to complete the application process. This contact information sentence must include the terms “reasonable accommodation” and must be in English and Spanish. Here is a sample of an acceptable sentence recently included in marketing materials from another property: *“Individuals who need to request a reasonable accommodation to complete the application process should contact the apartment manager at XXX-XXX-XXXX. Personas con discapacidad que necesitan solicitar un acomodacion razonable para completar el proceso de aplicacion deben comunicarse con el Administrador del apartment al XXX-XXX-XXXX.”*
  - h. Look over the “10.617 (affirmative marketing)” tab of the spreadsheet at the following link, which provides details regarding how TDHCA monitors for this item so that you can check over your work before submission: <http://www.tdhca.state.tx.us/pmcdocs/OnsiteMonitoringForms.xlsx>
  - i. Maintain all documentation in your files for future review.

What to submit: Once your updated Affirmative Marketing plan *and* outreach materials are complete, have them reviewed by a supervisor, then submit both via CMTS.

9. **Household income above limit upon initial occupancy for units:** Follow the instructions below with respect to units 1304, 1406, 2304, and 2402, and submit documentation.

Circumstance with respect to units listed above	Instruction
I. If unit is occupied by a qualified household	<p>TDHCA requested documentation verifying assets for each household at the time of move in. If that could not be completed, you must recertify the household using current circumstances. The Development responded by submitting the initial certification without verification of assets for each household. To correct, recertify the households using current circumstances, and submit for each unit:</p> <ul style="list-style-type: none"> <li>A. New application using current circumstances;</li> <li>B. New verifications of each source of income and assets,</li> <li>C. New Income Certification;</li> <li>D. Lease and lease addendum; and</li> <li>E. Tenant Rights and Resources Guide Acknowledgment.</li> </ul> <p>Remember that items A-C above must be dated within 120 days of one another.</p> <p>If the unit is vacant or the tenant does not qualify, follow alternate instructions below.</p>
IV. If unit is occupied by a nonqualified household with a non-expired lease	<ul style="list-style-type: none"> <li>A. Issue a nonrenewal notice to tenant and provide a copy to TDHCA.*</li> <li>B. As soon as the unit is occupied by a qualified household, you must submit the full tenant file*. Receipt of the full tenant file after 2/6/2018 is acceptable for this circumstance provided that Requirement A above is fulfilled.</li> </ul>
V. If unit has been vacant <i>more than</i> 30 days	<ul style="list-style-type: none"> <li>A. Unit must be made ready for occupancy and a letter certifying to that effect must be submitted to TDHCA.</li> <li>B. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/6/2018 is acceptable for this circumstance provided that Requirement A above is fulfilled.</li> </ul>
VI. If unit has been vacant <i>less than</i> 30 days	<ul style="list-style-type: none"> <li>A. If unit is ready for occupancy, a letter certifying to that effect must be submitted to TDHCA.</li> <li>B. If unit is not ready for occupancy, submit a letter to TDHCA including details regarding work that is required and when the unit will be ready for occupancy (no more than 30 days from the date of vacancy).</li> <li>C. Occupy the unit by a qualified household, and submit the full new tenant file within 30 days of occupancy*. Receipt of the full tenant file after 2/6/2018 is acceptable for this circumstance provided that Requirements A and B above are fulfilled.</li> </ul>

*\* If a notice of nonrenewal or notice of termination is sent to tenant, ensure that it complies with requirements of the rule at 10 TAC 10.610(f)*

## Exhibit 2

### Tenant File Guidelines

The following technical support does not represent a complete list of all file requirements and is intended only as a guide. TDHCA staff recommends that all onsite staff responsible for accepting and processing applications sign up for First Thursday Training in order to get a full overview of the process. Sign up at <http://www.tdhca.state.tx.us/pmcomp/COMPtrain.html>. Forms discussed below are available at: <http://www.tdhca.state.tx.us/pmcomp/forms.htm>.

1. **Intake Application**<sup>2</sup>: Each adult household member must complete their own application in order to be properly screened at initial certification. A married couple can complete a joint application. The Department does not have a required form to screen households, but we make a sample form available for that purpose. All households must be screened for household composition, income and assets. Applicants must complete all blanks on the application and answer all questions. Any lines left intentionally blank should be marked with “none” or “n/a.” The application must be signed and dated by all adult household members, using the date that the form is actually completed. If you use the Texas Apartment Association (TAA) Rental Application, be aware that it does not include all requirements, but they have a “Supplemental Rental Application for Units Under Government Regulated Affordable Housing Programs” that includes the additional requirements.
2. **Release and Consent**: Have tenant sign TDHCA’s Release and Consent form so that verifications may be collected by the property.
3. **Verify Income**<sup>3</sup>: Each source of income and asset must be documented for every adult household member based upon the information disclosed on the application. There are multiple methods:
  - a. **Income Verification for Households with Section 8 Certificates**: This form is signed by the Public Housing Authority, verifying that the household is eligible at initial occupancy or at recertification. Since the necessary income and asset verifications were performed by the housing authority and were effective as of a specific date, this form must be signed within 120 days of that effective date, either at initial move-in or at recertification. This form must also be dated within 120 days of the application and Income Certification that you collect. If outside of that period, you must verify income and assets yourself.
  - b. **First hand verifications**: Paystubs or payroll print-outs that show gross income. If you choose this method, ensure that you consistently collect a specified number of consecutive check stubs as defined in your management plan;
  - c. **Employment Verification Form**: Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the employer. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the employer portion has authority to do so and has access to all applicable information in order to verify the employment income. If you receive the verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it;

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<sup>2</sup> & <sup>3</sup> Remember that the application, verifications of income and assets, and the Tenant Income Certification form must be signed within 120 days of one another. If one component is outside of that timeframe, you must recertify.



- d. **Verification of non-employment income:** You must obtain verifications for all other income sources, such as child support, social security, and/or unemployment benefits. Self-certification by the household is not acceptable. Examples: benefit verification letter(s) would be acceptable for social security and/or employment benefits. Acceptable verifications for child support could include documents such as divorce decree(s), court order(s), or a written statement from the court or attorney general regarding the monthly awarded amount;
  - e. **Telephone Verifications:** these are acceptable *only* for clarifying discrepancies and cannot be used as primary form of verification. Include your name, the date, the name of the person with whom you spoke, and your signature;
  - f. **Certification of Zero Income:** If an adult household member does not report any sources of income on the application, this form can be used to document thorough screening and to document the source of funds used to pay for rent, utilities, and/or other necessities.
4. **Verify Assets<sup>4</sup>:** Regardless of their balances, applicants must report all assets owned, including assets such as checking or savings accounts. The accounts are typically disclosed on the application form, but you must review all documentation from the tenant to ensure proper documentation of the household's income and assets. For instance, review the credit report (if you pull one), application, pay stubs, and other documents to ensure that all information is consistent. Examples of ways to find assets that are frequently overlooked: Review pay stubs for assets such as checking and retirement accounts that the household may have forgotten to include in the application. These accounts must also be verified. Format of verifications:
- a. **Under \$5000 Asset Certification Form:** If the total cash value of the assets owned by members of the household is less than \$5,000, as reported on the Intake Application, the TDHCA Under \$5,000 Asset Certification form may be used to verify assets. If applicable, follow the instructions to complete one form per household that includes everyone's assets, even minors, and have all adults sign and date using the date that the form is actually completed.
  - b. **First hand verifications** such as bank statements to verify a checking account. First hand verifications are required for the HOME Program. For savings accounts, use the current balance. For checking accounts, use the average balance for the last 6 months (include 6 months of statements and average the balance). For other account types or for HTC properties, ensure that you use a consistent number of consecutive statements, as identified in your management plan.
  - c. **3<sup>rd</sup> party verifications** using the TDHCA Asset Verification form. As with the "Employment Verification Form" discussed above, Part 1 must be completed by you and signed by the tenant. Part 2 must be completed by the financial institution. To prevent fraud, you must submit the form directly to the employer and must not allow the tenant to handle it. You should ensure that the person completing the financial institution's portion has authority to do so and has access to all applicable information in order to verify the asset(s). If you receive the

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<sup>4</sup> Remember that the application, verifications of income and assets, and the Tenant Income Certification form must be signed within 120 days of one another. If one component is outside of that timeframe, you must recertify.

verification via mail, retain the envelope. If you receive it via fax, ensure that the fax stamp is on it.

5. **Tenant Income Certification Form:** Upon verification of all income and asset sources disclosed on the application and any additional information found in the documentation submitted by the tenant, the next step is to annualize the sources on the Income Certification Form, add them together, and compare to the applicable income limit for household size which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. Be sure to include any income derived from assets. The form must include all household members, and be signed by each adult household member. *Remember that it must be signed within 120 days of the application and the verifications of income and assets.*
6. **Lease:** Must conform with your LURA and TDHCA requirements and indicate a rent below the maximum rent limits, which can be found at <http://www.tdhca.state.tx.us/pmcomp/irl/index.htm>. When determining the rent, ensure that the tenant's rent, plus the utility allowance, plus any housing subsidies, plus any mandatory fees, are below the maximum limits set by TDHCA. 10 TAC §10.613(a) prohibits the eviction or termination of tenancy of low income households for reasons other than good cause throughout the affordability period in accordance with Revenue Ruling 2004-82. In addition, 10 TAC §10.613(f) prohibits HTC developments from locking out or threatening to lock out any development resident, or seizing or threatening to seize personal property of a resident, except by judicial process, for purposes of performing necessary repairs or construction work, or in case of emergency. The prohibitions must be included in the lease or lease addendum. TAA has an affordable lease addendum that has incorporated this required language. If you are not a TAA member, you can draft a lease addendum using the requirements outlined above.
7. **Tenant Selection Criteria:** In accordance with 10 TAC §10.610(b), you must maintain written Tenant Selection Criteria and a copy of those written criteria under which an applicant was screened must be included in the household's file.
8. **Tenant Rights and Resources Guide:** As of 1/8/2015, the Fair Housing Disclosure Notice and Tenant Amenities and Services Notice have been replaced by the Tenant Rights and Resources Guide, a copy of which is available online at: <http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureBooklet.doc>.

Per 10 TAC §10.613(m), a laminated copy of this guide must be posted in a common area of the leasing office, and you must provide a copy of the guide to each household during the application process and upon any subsequent changes to the items described at paragraph b) below. The Tenant Rights and Resources Guide includes:

- a) Information about Fair Housing and tenant choice; and
- b) Information regarding common amenities, unit amenities, and services.

A representative of the household must receive a copy of the Tenant Rights and Resources Guide and sign an acknowledgment of receipt of the brochure prior to, but no more than 120 days prior to, the initial lease execution date.

A copy of the acknowledgment form is available at:

<http://www.tdhca.state.tx.us/pmcdocs/FairHousingDisclosureSignaturePage.pdf>.

**Exhibit 3:**

**Texas Administrative Code**

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

ENFORCEMENT ACTION AGAINST  
PERSIMMONS TOWNHOMES, LTD.  
WITH RESPECT TO  
HOMES AT PERSIMMONS  
(HTC FILE # 98170 / CMTS # 2026)

§  
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§  
§

BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

### **AGREED FINAL ORDER**

#### **General Remarks and official action taken:**

On this 8<sup>th</sup> day of November, 2018, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against **PERSIMMONS TOWNHOMES, LTD.**, a Texas limited partnership (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

#### **WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov’t Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov’t Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

#### **FINDINGS OF FACT (“FOF”)**

##### *Jurisdiction:*

1. During 2000, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board, in an annual amount of \$1,058,204 to build and operate Homes at Persimmons (“Property”) (HTC file No. 98170 / CMTS No. 2026 / LLDL No. 245).
2. Respondent signed a land use restriction agreement (“LURA”) regarding the Property. The LURA was effective December 14, 2000, and filed of record at Volume 2000249, Page 04572 of the Official Public Records of Real Property of Dallas County, Texas (“Records”).
3. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

4. A Uniform Physical Condition Standards ("UPCS") inspection was conducted on March 1, 2017. Inspection reports showed numerous serious property condition violations, a violation of 10 TAC §10.621 (Property Condition Standards). Notifications of noncompliance were sent and a June 30, 2017, corrective action deadline was set. Corrective action was received but did not resolve any violations. A further response was received on September 4, 2018, after intervention by the Enforcement Committee, but it did not fully address all violations. Respondent has indicated that all repairs have been completed, but that proper paperwork was not submitted. The violations listed at Attachment 1 remain outstanding at the time of this order.

**CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.621 in 2017 and I.R.C. §42, as amended, by failing to comply with HUD's Uniform Physical Condition Standards when major violations were discovered and not timely corrected.<sup>2</sup>
5. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
6. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
7. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

<sup>2</sup> HUD's Uniform Physical Condition Standards HUD are the standards adopted by TDHCA pursuant to 10 TAC 10.621(a)

8. An administrative penalty of \$500 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$500, subject to deferral as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall repair all UPCS violations as indicated in the exhibits and submit work orders in the correct format, and including all necessary parts, to document the corrections to TDHCA on or before December 10, 2018.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the full administrative penalty in the amount of \$500 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

**IT IS FURTHER ORDERED** that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System ("CMTS") by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at [ysella.kaseman@tdhca.state.tx.us](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. If it comes due and payable, the penalty payment must be submitted to the following address:

<b>If via overnight mail (FedEx, UPS):</b>	<b>If via USPS:</b>
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 2, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

*Approved by the Governing Board of TDHCA on November 8, 2018.*

By: \_\_\_\_\_  
Name: J.B. Goodwin  
Title: Chair of the Board of TDHCA

By: \_\_\_\_\_  
Name: James "Beau" Eccles  
Title: Secretary of the Board of TDHCA

**THE STATE OF TEXAS §**  
**§**  
**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared J.B. Goodwin, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS §**  
**§**  
**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared James "Beau" Eccles, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas





## Exhibit 1

### UPCS Instructions

1. UPCS violations that must be corrected:

Bldg. #	Unit #	Inspectable Item	Deficiency	Level	Note
1	N/A.	Exterior Walls	Cracks/Gaps	L2	Trim rotting
8	806	Kitchen	Plumbing - Leaking Faucet/Pipes	L3	Kitchen sink leaks under cabinet
11	1105	Health & Safety	Emergency Fire Exits - Emergency/Fire Exits Blocked/Unusable	L3	Bdr 2
20	2005	Ceiling	Peeling/Needs Paint	L2	Bdr 4
20	2005	Kitchen	Refrigerator- Missing/Damaged/Inoperable	L1	Gasket
20	2005	Windows	Cracked/Broken/Missing Panes	L3	Bdr 2 condensation crack from bb gun maybe
23	2306	Doors	Deteriorated/Missing Seals (Entry Only)	L3	Front seal

2. Prepare corrective documentation following these guidelines:  
<http://www.tdhca.state.tx.us/pmcomp/inspections/docs/UPCS-WorkOrderGuidelines.pdf>.  
Ensure that a supervisor checks your documentation to verify that each document is complete.
3. Submit corrective documentation via CMTS following on or before 12/10/2018.

Exhibit 2:

**Texas Administrative Code**

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

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**BOARD ACTION REQUEST**

**LEGAL DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning related properties Western Burgundy (HTC 97088 / CMTS 1742), Lee Seniors (HTC 98093 / CMTS 1950), Haymon Krupp (HTC 14127 / CMTS 5003), Tays (HTC 14130 / CMTS 5005), Raymond Telles Manor (HTC 14419 / CMTS 5063), Lt. Palmer Baird (HTC 14420 / CMTS 5064), J.E. Anderson Apartments (HTC 14421 / CMTS 5066), Everett Alvarez Apartments (HTC 14423 / CMTS 5067), Harry S. Truman Apartments (HTC 14424 / CMTS 5068), Dwight D. Eisenhower Memorial Apartments (HTC 14425 / CMTS 5069), Kennedy Brothers Communities (HTC 14427 / CMTS 5071), Aloysius A. Ochoa Apartments (HTC 14428 / CMTS 5072), Lyndon B Johnson Memorial Apartments (HTC 14429 / CMTS 5073), Rafael Marmolejo Jr Memorial Apartments (HTC 14430 / CMTS 5074), and Juan Hart Memorial Apartments (HTC 14431 / CMTS 5075)

**RECOMMENDED ACTION**

**WHEREAS**, Western Burgundy, owned by Western Burgundy Ltd (“Western Burgundy Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Lee Seniors, owned by Lee Seniors Ltd. (“Lee Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Haymon Krupp, owned by Haymon Krupp, LP (“Haymon Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Tays, owned by El Paso Tays, LP (“Tays Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Raymond Telles Manor, owned by El Paso RAD I, Ltd. (“El Paso Owner”), had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Lt. Palmer Baird, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, J.E. Anderson Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Everett Alvarez Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Harry S. Truman Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Dwight D. Eisenhower Memorial Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Kennedy Brothers Communities, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Aloysius A. Ochoa Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Lyndon B Johnson Memorial Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Rafael Marmolejo Jr Memorial Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, Juan Hart Memorial Apartments, owned by El Paso Owner, had uncorrected compliance findings relating to the applicable land use restriction agreements and the associated statutory and rule requirements;

**WHEREAS**, compliance findings that were referred for an administrative penalty included: failure to maintain complete and acceptable written tenant selection criteria for all of the above properties; failure to provide a complete and acceptable Affirmative Marketing Plan and associated outreach marketing materials at five properties, including Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, Rafael Marmolejo Jr. Memorial Apartments, and Juan Hart Memorial Apartments; failure to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office for four properties, including Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, and Rafael Marmolejo Jr. Memorial Apartments; failure to execute required lease provisions or exclude prohibited lease language for three units at Tays; failure to provide documentation that household incomes were within prescribed limits upon initial occupancy for two units at Tays; failure to collect an Annual Eligibility Certification for one unit at Lyndon B Johnson Memorial Apartments; and for charging gross rents that exceeded the allowable limits for one unit at Kennedy Brothers Communities;

**WHEREAS**, all of the above findings that had been referred for an administrative penalty were resolved informally before consideration by the Enforcement Committee;

**WHEREAS**, on August 28, 2018, Owner's representatives participated in an informal conference with the Enforcement Committee and agreed, subject to Board approval, to enter into an Agreed Final Order assessing no administrative penalty, but stipulating that violations occurred and were not timely corrected;

**WHEREAS**, Owner's representatives have agreed, subject to Board approval, to enter into an Agreed Final Order stipulating that violations occurred and assessing no administrative penalty; and

**WHEREAS**, staff has based its recommendations for an Agreed Final Order on the Department's rules for administrative penalties and an assessment of each and all of the statutory factors to be considered in assessing such penalties, applied specifically to the facts and circumstances present in this case.

**NOW, therefore, it is hereby**

**RESOLVED**, that an Agreed Final Order, assessing no administrative penalty, but stipulating that violations occurred at Western Burgundy (HTC 97088 / CMTS 1742), Lee Seniors (HTC 98093 / CMTS 1950), Haymon Krupp (HTC 14127 / CMTS 5003), Tays (HTC 14130 / CMTS 5005), Raymond Telles Manor (HTC 14419 / CMTS 5063), Lt. Palmer Baird (HTC 14420 / CMTS 5064), J.E. Anderson Apartments (HTC 14421 / CMTS 5066), Everett Alvarez Apartments (HTC 14423 / CMTS 5067), Harry S. Truman Apartments (HTC 14424 / CMTS 5068), Dwight D. Eisenhower Memorial Apartments (HTC 14425 / CMTS 5069), Kennedy Brothers Communities (HTC 14427 / CMTS 5071), Aloysius A. Ochoa Apartments (HTC 14428 / CMTS 5072), Lyndon B Johnson Memorial Apartments (HTC 14429 / CMTS 5073), Rafael Marmolejo Jr Memorial Apartments (HTC 14430 / CMTS 5074), and Juan Hart Memorial Apartments (HTC 14431 / CMTS 5075), as presented at this meeting, but authorizing staff to make any necessary non-substantive technical corrections, is hereby adopted as the order of this Board.



## BACKGROUND

The following fifteen properties in El Paso are owned by related entities, ultimately controlled by the Housing Authority of the City of El Paso ("HACEP"). All fifteen properties are subject to Land Use Restriction Agreements (collectively "LURAs") in consideration for housing tax credit allocations to acquire, build and/or rehabilitate, and operate the properties:

	<b>Property Name</b>	<b>Owning Entity</b>	<b>Funding</b>	<b>LURA Effective</b>	<b># of Units</b>	<b>Activity Type</b>
1	Western Burgundy	Western Burgundy Ltd.	Annual HTC allocation of \$349,498	1999	64	New construction
2	Lee Seniors	Lee Seniors, Ltd.	Annual HTC allocation of \$74,001	1999	19	New construction
3	Haymon Krupp	Haymon Krupp, LP	Annual HTC allocation of \$800,000	2016	96	New construction
4	Tays	El Paso Tays, LP	Annual HTC allocation of \$1,352,756	2017	198	New construction
5	Raymond Telles Manor	El Paso RAD I, Ltd.	Annual HTC allocation of \$393,686	2017	68	Acquisition / Rehabilitation
6	Lt. Palmer Baird	El Paso RAD I, Ltd.	Annual HTC allocation of \$301,785	2017	55	Acquisition / Rehabilitation
7	J.E. Anderson Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$320,245	2017	58	Acquisition / Rehabilitation
8	Everett Alvarez Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$383,011	2016	96	Acquisition / Rehabilitation
9	Harry S. Truman Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$504,234	2017	90	Acquisition / Rehabilitation

10	Dwight D. Eisenhower Memorial Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$1,014,282	2016	194	Acquisition / Rehabilitation
11	Kennedy Brothers Communities	El Paso RAD I, Ltd.	Annual HTC allocation of \$2,037,920	2016	364	Acquisition / Rehabilitation
12	Aloysius A. Ochoa Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$266,331	2016	70	Acquisition / Rehabilitation
13	Lyndon B Johnson Memorial Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$646,186	2016	126	Acquisition / Rehabilitation
14	Rafael Marmolejo Jr Memorial Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$1,506,875	2016	292	Acquisition / Rehabilitation
15	Juan Hart Memorial Apts	El Paso RAD I, Ltd.	Annual HTC allocation of \$257,080	2016	48	Acquisition / Rehabilitation

The executive leadership team for HACEP includes: Gerald Cichon (Chief Executive Officer), Satish Bhaskar (Chief Operating Officer), John Hannah Sarah (Interim Chief Financial Officer), Tom Deloye (Chief RAD Officer), and Arthur Provenghi (Legal Counsel). As of 2015, the officers of Paisano Housing Redevelopment Corporation, a nonprofit corporation and instrumentality of the Housing Authority of the City of El Paso, and the 100% member of the general partner for all of the above properties with the exception of Western Burgundy and Lee Seniors, included Gerald Cichon (Chief Executive Officer), Joe Fernandez (Board Chairperson), Francisco Ortega (Board Member), Burt Blacksher (Board Member), Lupita Licerio (Board Member), and Kevin Quinn (Board Member). CMTS lists Gerald Cichon as the primary contact for each Owning Entity listed above. The properties are all self managed, with Western Burgundy, Lee Seniors, Haymon Krupp, and Tays managed via EP Housing Operations and Management Enterprises PFC, with Satish Bhaskar listed as the primary contact in CMTS, and the remainder of the properties managed via the Housing Authority of the City of El Paso, with Diana Smith listed as the primary contact in CMTS.

HACEP was previously referred for an administrative penalty earlier in 2018 for file monitoring violations at two related entities, Alamito Terrace Apartments (HTC 07405 / CMTS 4538) and Woodrow Bean Apartments (HTC 14426 / CMTS 5070). Full corrections were received upon the request of the Enforcement Committee and both referrals were closed with warning letters dated February 23, 2018, indicating that any future administrative penalty referrals for those properties or any related properties under the same ownership group or primary owner contact would result in

mandatory consideration by the Enforcement Committee. In June of 2018, the fifteen related properties listed above were referred for an administrative penalty for the following violations:

1. Failure to maintain complete and acceptable written tenant selection criteria for all of the above properties;
2. Failure to provide a complete and acceptable Affirmative Marketing Plan and associated outreach marketing materials at five properties, including Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, Rafael Marmolejo Jr. Memorial Apartments, and Juan Hart Memorial Apartments;
3. Failure to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office for four properties, including Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, and Rafael Marmolejo Jr. Memorial Apartments;
4. Failure to execute required lease provisions or exclude prohibited lease language for three units at Tays;
5. Failure to provide documentation that household incomes were within prescribed limits upon initial occupancy for two units at Tays;
6. Failure to collect an Annual Eligibility Certification for one unit at Lyndon B Johnson Memorial Apartments; and
7. Charging gross rents that exceeded the allowable limits for one unit at Kennedy Brothers Communities.

An informal conference notice was issued, and all of the violations listed above were fully resolved before the deadline set in that notice. Owner representatives then participated in an informal conference with the Enforcement Committee on August 28, 2018, and agreed to sign an Agreed Final Order assessing no administrative penalty for noncompliance at the fifteen properties listed above, but stipulating that violations had occurred and were not timely corrected. Although the administrative penalty referral included a significant number of properties and a variety of systematic file monitoring violations, HACEP presented compelling factors that justified not assessing an administrative penalty. HACEP has been primarily compliant until 2018, with compliance problems beginning earlier this year during the first group of file monitoring reviews performed after HACEP began converting its entire portfolio of 6,100 units from public housing to project based Rental Assistance Demonstration ("RAD") units, many of the conversions involving housing tax credit funding from TDHCA. Conventional public housing does not permit projects to service any debt, and as a result, public housing authorities have few options to recapitalize and rehabilitate existing properties. RAD was designed so that the developments could operate similarly to conventional projects to enable them to use traditional financing structures and perform rehabilitations with that new funding. The majority of the referred properties above are part of the 2014 RAD 1 Portfolio, which involved thirteen properties with 1,590 units. HACEP was not prepared for the compliance monitoring challenge associated with so many new HTC allocations and simultaneous onsite reviews, and admitted to the Enforcement Committee that they had not adequately prepared, but have now taken steps to ensure that they comply fully going forward. They hired Novogradic & Company LLP in June of 2018 to ensure full future compliance at all HACEP properties, and are confident that this ongoing relationship should mitigate most future compliance monitoring violations, while ensuring that any future violations that do occur are timely and fully corrected.

Consistent with direction from the Department's Enforcement Committee, an Agreed Final Order stipulating that violations occurred is recommended, with no administrative penalty. This will be a

reportable item of consideration under previous participation for any new award to the principals of the owner.

ENFORCEMENT ACTION AGAINST  
WESTERN BURGUNDY, LTD. WITH  
RESPECT TO WESTERN  
BURGUNDY, LTD. (HTC FILE # 97088  
/ CMTS # 1742), ET AL

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BEFORE THE  
TEXAS DEPARTMENT OF  
HOUSING AND  
COMMUNITY AFFAIRS

### **AGREED FINAL ORDER**

#### **General Remarks and official action taken:**

On this 8<sup>th</sup> day of November, 2018, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA” or “Department”) considered the matter of whether enforcement action should be taken against the following related entities (collectively, “Respondent”):

1. **WESTERN BURGUNDY, LTD.**, a Texas limited partnership, owner of Western Burgundy (HTC 97088 / CMTS 1742);
2. **LEE SENIORS, LTD.**, a Texas limited partnership, owner of Lee Seniors (HTC 98093 / CMTS 1950);
3. **HAYMON KRUPP, LP**, a Texas limited partnership, owner of Haymon Krupp (HTC 14127 / CMTS 5003);
4. **EL PASO TAYS, LP**, a Texas limited partnership, owner of Tays (HTC 14130 / CMTS 5005); and
5. **EL PASO RAD I, LTD.**, a Texas limited partnership, owner of:
  - a. Raymond Telles Manor (HTC 14419 / CMTS 5063);
  - b. Lt. Palmer Baird (HTC 14420 / CMTS 5064);
  - c. J.E. Anderson Apartments (HTC 14421 / CMTS 5066);
  - d. Everett Alvarez Apartments (HTC 14423 / CMTS 5067);
  - e. Harry S. Truman Apartments (HTC 14424 / CMTS 5068);
  - f. Dwight D. Eisenhower Memorial Apartments (HTC 14425 / CMTS 5069);
  - g. Kennedy Brothers Communities (HTC 14427 / CMTS 5071);
  - h. Aloysius A. Ochoa Apartments (HTC 14428 / CMTS 5072);
  - i. Lyndon B Johnson Memorial Apartments (HTC 14429 / CMTS 5073);
  - j. Rafael Marmolejo Jr Memorial Apartments (HTC 14430 / CMTS 5074); and
  - k. Juan Hart Memorial Apartments (HTC 14431 / CMTS 5075).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov't Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov't Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT ("FOF")**

**Jurisdiction:**

1. Respondent was awarded the following allocations of Low Income Housing Tax Credits by the Board, to acquire, build and/or rehabilitate, and operate fifteen multifamily apartment complexes located in El Paso County. A land use restriction agreement ("LURA") was signed regarding each Property:

#	Property Name	Annual HTC Allocation	LURA Details	# of Units	Activity Type
1	Western Burgundy	Annual HTC allocation of \$349,498	Effective 12/1/1999. Recorded at Document No. 99094603 of the Official Public Records of Real Property of El Paso County, Texas (the "Records"), as amended by a First Amendment executed on 4/8/2013, and filed in the Records at Document No. 20130025465	64	New construction
2	Lee Seniors	Annual HTC allocation of \$74,001	Effective 12/1/1999. Recorded at Document No.99094604 of the Records, as amended by a First Amendment executed on 4/8/2013, and filed in the Records at Document No 20130025344.	19	New construction
3	Haymon Krupp	Annual HTC allocation of \$800,000	Effective 11/17/2016. Recorded at Document No. 20160091312 of the Records.	96	New construction

4	Tays	Annual HTC allocation of \$1,352,756	Effective 11/27/2017. Recorded at Document No. 20170095024 of the Records, as amended by a First Amendment, Executed on July 12, 2018, and filed in the Records at Document No. 20180055606	198	New construction
5	Raymond Telles Manor	Annual HTC allocation of \$393,686	Effective 12/27/2017. Recorded at Document No. 20170096930 of the Records	68	Acquisition / Rehabilitation
6	Lt. Palmer Baird	Annual HTC allocation of \$301,785	Effective 12/27/2017. Recorded at Document No. 20170096931 of the Records	55	Acquisition / Rehabilitation
7	J.E. Anderson Apts	Annual HTC allocation of \$320,245	Effective 12/27/2017. Recorded at Document No. 20170096927 of the Records	58	Acquisition / Rehabilitation
8	Everett Alvarez Apts	Annual HTC allocation of \$383,011	Effective 11/28/2016. Recorded at Document No. 20160091317 of the Records	96	Acquisition / Rehabilitation
9	Harry S. Truman Apts	Annual HTC allocation of \$504,234	Effective 12/27/2017. Recorded at Document No. 20170096929 of the Records	90	Acquisition / Rehabilitation
10	Dwight D. Eisenhower Memorial Apts	Annual HTC allocation of \$1,014,282	Effective 12/29/2016. Recorded at Document No. 20160091320 of the Records	194	Acquisition / Rehabilitation
11	Kennedy Brothers Communities	Annual HTC allocation of \$2,037,920	Effective 12/19/2016. Recorded at Document No. 20160091318 of the Records	364	Acquisition / Rehabilitation
12	Aloysius A. Ochoa Apts	Annual HTC allocation of \$266,331	Effective 12/1/2016. Recorded at Document No. 20160091314 of the Records	70	Acquisition / Rehabilitation
13	Lyndon B Johnson Memorial Apts	Annual HTC allocation of \$646,186	Effective 12/19/2016. Recorded at Document No. 20160091319 of the Records	126	Acquisition / Rehabilitation
14	Rafael Marmolejo Jr Memorial Apts	Annual HTC allocation of \$1,506,875	Effective 12/19/2016. Recorded at Document No. 20160091316 of the Records	292	Acquisition / Rehabilitation

15	Juan Hart Memorial Apts	Annual HTC allocation of \$257,080	Effective 11/29/2016. Recorded at Document No. 20160091313 of the Records	48	Acquisition / Rehabilitation
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2. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

3. An on-site monitoring review was conducted at Western Burgundy on November 16, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
4. An on-site monitoring review was conducted at Lee Seniors on November 16, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 8, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
5. An on-site monitoring review was conducted at Haymon Krupp on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 22, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.



6. An on-site monitoring review was conducted at Tays on November 29, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 22, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities;
  - c. Respondent failed to execute required lease provisions or exclude prohibited lease language, a violation of 10 TAC §10.613 (Lease Requirements), which requires leases to include specific language protecting tenants from eviction without good cause and prohibiting owners from taking certain actions such as locking out or seizing property, or threatening to do so, except by judicial process; and
  - d. Respondent failed to provide complete documentation that household incomes were within prescribed limits upon initial occupancy for units 4305 and 4318, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program.
7. An on-site monitoring review was conducted at Raymond Telles Manor on December 14, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
8. An on-site monitoring review was conducted at Lt. Palmer Baird on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

- b. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
9. An on-site monitoring review was conducted at J.E. Anderson Apartments on December 12, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to persons with disabilities; and
  - c. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.
10. An on-site monitoring review was conducted at Everet Alvarez Apartments on December 15, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
11. An on-site monitoring review was conducted at Harry S. Truman Apartments on December 13, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:

- a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.
12. An on-site monitoring review was conducted at Dwight D. Eisenhower Memorial Apartments on November 28, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
13. An on-site monitoring review was conducted at Kennedy Brothers Communities on November 17, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent collected gross rents that exceeded income limits for unit 208113. The total gross rent totaled \$889, including tenant paid rent of \$690 plus a \$199 utility allowance, exceeding the gross rent limit of \$882. TDHCA publishes maximum rent limits for the tax credit program annually and owners are responsible for ensuring that the maximum rents that they charge include the amount of rent paid by the household, plus an allowance for utilities, plus any mandatory fees. Exceeding the maximum rent is a violation of 10 TAC §10.622 (Special Rules Regarding Rents and Rent Limit Violations).

14. An on-site monitoring review was conducted at Aloysius A. Ochoa Apartments on November 29, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements.
15. An on-site monitoring review was conducted at Lyndon B. Johnson Memorial Apartments on November 27, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to collect required data by not providing an Annual Eligibility Certification for unit 2100022, a violation of 10 TAC §10.612 (Tenant File Requirements), which requires developments to annually collect an Annual Eligibility Certification form from each household.
16. An on-site monitoring review was conducted at Rafael Marmolejo Jr. Memorial Apartments on December 12, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements;
  - c. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled; and
  - d. Respondent failed to post a copy of the Tenant Rights and Resources Guide in a common area of the leasing office, a violation of 10 TAC §10.613 (Lease Requirements), which requires owners to post a laminated copy of the Guide in a

common area of the leasing office and provide a copy to each household during the application process and upon any subsequent change to common amenities, unit amenities, or services.

17. An on-site monitoring review was conducted at Juan Hart Memorial Apartments on November 30, 2017, to determine whether it was in compliance with LURA requirements to lease units to low income households, maintain records demonstrating eligibility, and to complete additional file monitoring requirements, as applicable. The monitoring review found violations of the LURA and TDHCA rules. Notifications of noncompliance were sent and a May 21, 2018, corrective action deadline was set, however, the following violations were not resolved before the corrective action deadline:
  - a. Respondent failed to maintain complete and acceptable written tenant selection criteria, a violation of 10 TAC §10.610 (Written Policies and Procedures), which requires all developments to establish written tenant selection criteria that meet minimum TDHCA requirements; and
  - b. Respondent failed to provide a compliant affirmative marketing plan, a violation of 10 TAC §10.617 (Affirmative Marketing), which requires developments to maintain an affirmative marketing plan that meets minimum requirements and to distribute marketing materials to selected marketing organizations that reach groups identified as least likely to apply and to the disabled.
18. All violations listed above are considered resolved at the time of this Order, but were resolved after the corrective action period.

### CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503, and 10 TAC §2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).
3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Respondent violated 10 TAC §10.610 in 2017, by not maintaining complete and acceptable written tenant selection criteria meeting TDHCA requirements at all fifteen properties that are the subject of this Agreed Final Order.
5. Respondent violated 10 TAC §10.617 in 2017, by failing to provide a complete and acceptable affirmative marketing plan and associated outreach marketing materials at the following five properties: Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, Rafael Marmolejo Jr. Memorial Apartments, and Juan Hart Memorial Apartments.

6. Respondent violated leasing requirements in 10 TAC §10.613 in 2017, by failing to post a laminated copy of the Tenant Rights and Resources Guide in a common area of the leasing office at the following four properties: Tays, J.E. Anderson Apartments, Harry S. Truman Apartments, and Rafael Marmolejo Jr. Memorial Apartments.
7. Respondent violated 10 TAC §10.613 in 2017, by failing to execute required lease provisions or exclude prohibited lease language at Tays.
8. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2017 by failing to provide documentation that household incomes are within prescribed limits upon initial occupancy for two units at Tays.
9. Respondent violated 10 TAC §10.609 in 2017 by failing to collect an Annual Eligibility Certification for one unit at Lyndon B Johnson Memorial Apartments.
10. Respondent violated 10 TAC §10.622 in 2017 by charging gross rents exceeding the allowable limits, and not making timely corrections once the violations were discovered, for one unit at Kennedy Brothers Communities.
11. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
12. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
13. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
14. It is appropriate to assess no administrative penalty in accordance with the policies situated at 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent not be assessed an administrative penalty.

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 1, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

Approved by the Governing Board of TDHCA on \_\_\_\_\_ November 8 \_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: J.B. Goodwin

Title: Chair of the Board of TDHCA

By: \_\_\_\_\_

Name: James "Beau" Eccles

Title: Secretary of the Board of TDHCA

**THE STATE OF TEXAS** §

§

**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared J.B. Goodwin, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**THE STATE OF TEXAS** §

§

**COUNTY OF TRAVIS** §

Before me, the undersigned notary public, on this 8th day of November, 2018, personally appeared James "Beau" Eccles, proved 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 purposes and consideration therein expressed.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS

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§

COUNTY OF EL PASO

BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ 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, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Executive Director for the Housing Authority of the City of El Paso. I am an authorized representative of Respondent, owner of the property known as Western Burgundy, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**WESTERN BURGUNDY, LTD.**, a Texas limited partnership

**HOUSING AUTHORITY OF THE CITY OF EL PASO**, a public housing authority, its general partner

By: \_\_\_\_\_

Name: Gerald Cichon

Title: Chief Executive Officer

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

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



STATE OF TEXAS                   §  
  §  
COUNTY OF EL PASO           §

BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ 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, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Executive Director for the Housing Authority of the City of El Paso. I am an authorized representative of Respondent, owner of the property known as Lee Seniors, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**LEE SENIORS, LTD**, a Texas limited partnership  
**HOUSING AUTHORITY OF THE CITY OF EL PASO**, a public housing authority, its general partner

By: \_\_\_\_\_  
Name: Gerald Cichon  
Title: Chief Executive Officer

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

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

STATE OF TEXAS

§

COUNTY OF EL PASO

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BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ 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, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Chief Executive Officer of Paisano Haymon Krupp GP, LLC. I am an authorized representative of Respondent, owner of the property known as Haymon Krupp, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**HAYMON KRUPP, LP**, a Texas limited partnership

**PAISANO HAYMON KRUPP GP, LLC**, a Texas limited liability company, its general partner

**PAISANO HOUSING REDEVELOPMENT CORPORATION**, a Texas nonprofit corporation, an instrumentality of the Housing Authority of the City of El Paso

By: \_\_\_\_\_

Name: Gerald Cichon

Title: Chief Executive Officer

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

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



STATE OF TEXAS

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§  
§

COUNTY OF EL PASO

BEFORE ME, \_\_\_\_\_, a notary public in and for the State of Texas, on this day personally appeared Gerald Cichon, known to me or proven to me through \_\_\_\_\_ 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, who being by me duly sworn, deposed as follows:

1. "My name is Gerald Cichon, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Chief Executive Officer of Paisano El Paso RAD I, Inc. I am an authorized representative of Respondent, owner of the following eleven properties, known as: Raymond Telles Manor, Lt. Palmer Baird, J.E. Anderson Apartments, Everett Alvarez Apartments, Harry S. Truman Apartments, Dwight D. Eisenhower Memorial Apartments, Kennedy Brothers Communities, Aloysius A. Ochoa Apartments, Lyndon B Johnson Memorial Apartments, Rafael Marmolejo Jr Memorial Apartments, and Juan Hart Memorial Apartments, which are each subject to separate Land Use Restriction Agreements monitored by the TDHCA in the State of Texas, and I am duly authorized to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**EL PASO RAD I, LTD**, a Texas limited partnership

**PAISANO EL PASO RAD I, INC**, a Texas corporation, its general partner

**PAISANO HOUSING REDEVELOPMENT CORPORATION**, a Texas nonprofit corporation, an instrumentality of the Housing Authority of the City of El Paso

By: \_\_\_\_\_

Name: Gerald Cichon

Title: Chief Executive Officer

*[notary page follows]*

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_

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

**Exhibit 1**  
**Texas Administrative Code**

TITLE 10	COMMUNITY DEVELOPMENT
PART 1	TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CHAPTER 10	UNIFORM MULTIFAMILY RULES
SUBCHAPTER E	POST AWARD AND ASSET MANAGEMENT REQUIREMENTS
RULE §10.406	Ownership Transfers (§2306.6713)

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(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice to the Department at least thirty (30) calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Transfers that are the result of an involuntary removal of the general partner by the investment limited partner must be reported to the Department, as soon as possible due to the sensitive timing and nature of this decision. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure, staff may make a recommendation to the Board for the debarment of the entity and/or its Principals and Affiliates pursuant to the Department's debarment rule. In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration by the Executive Award and Review Committee, in accordance with §1.5 of this title (relating to Previous Participation Reviews), prior to recommending any new financing or allocation of credits.

(b) Requirement. Department approval must be requested for any new member to join in the ownership of a Development. Exceptions include changes to the investment limited partner, non-controlling limited partner, or other partners affiliated with the investment limited partner, or changes resulting from foreclosure wherein the lender or financial institution involved in the transaction is the resulting owner. Any subsequent transfer of the Development will be required to adhere to the process in this section. Furthermore, a Development Owner may not transfer an allocation of tax credits or ownership of a Development supported with an allocation of tax credits to any Person or entity unless the Development Owner obtains the Executive Director's prior, written approval of the transfer. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section. Notwithstanding the foregoing, a Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new members or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(c) Transfers Prior to 8609 Issuance or Construction Completion. Transfers (other than those that do not require Executive Director approval, as set forth in subsection (b) of this section) will not be approved prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs) unless the Development Owner can provide evidence that the need for the transfer is due to a hardship (ex. potential bankruptcy, removal by a partner, etc.). The Development Owner must provide the Department with a written explanation describing the hardship and a copy of any applicable agreement between the parties to the transfer, including any Third-Party agreement.

(d) Non-Profit Organizations. If the ownership transfer request is to replace a non-profit organization within the Development ownership entity, the replacement non-profit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Non-Profit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Non-Profit Organization that meets the requirements of §42(h)(5) of the Code and Texas Government Code §2306.6706.

(2) If the LURA requires ownership or material participation in ownership by a qualified non-profit organization, but the Development did not receive Tax Credits pursuant to §42(h)(5) of the Code, the Development Owner must show that the transferee is a non-profit organization that complies with the LURA.

(e) Historically Underutilized Business ("HUB") Organizations. If a HUB is the general partner of a Development Owner and it (i) is being removed as the result of a default under the organizational documents of the Development Owner or (ii) determines to sell its ownership interest, in either case, after the issuance of 8609s, the purchaser of that general partnership interest is not required to be a HUB as long as the LURA does not require such continual ownership or a material LURA amendment is approved. Such approval can be obtained concurrent with Board approval described herein. All such transfers must be approved by the Board and require that the Board find that:

(1) the selling HUB is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(2) the participation by the HUB has been substantive and meaningful, or would have been substantial and meaningful had the HUB not defaulted under the organizational documents of the Development Owner, enabling it to realize not only financial benefit but to acquire skills relating to the ownership and operation of affordable housing; and

(3) the proposed purchaser meets the Department's standards for ownership transfers

(f) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances that gave rise to the need for the transfer and the effects of approval or denial. Documentation includes but is not limited to:

(1) a written explanation outlining the reason for the request;

(2) a list of the names of transferees and Related Parties;

(3) detailed information describing the experience and financial capacity of transferees and related parties holding an ownership interest of 10 percent or greater in any Principal or Controlling entity;

(4) evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least thirty (30) calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30 day period has expired.

(g) Within five (5) business days after the date the Department receives all necessary information under this section, staff shall initiate a qualifications review of a transferee, in accordance with §1.5 of this title, to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter.

(h) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) in cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) in cases where the general partner is being replaced if the award of credits was made at least five (5) years prior to the transfer request date.

(i) Penalties. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring). The Development Owner, as on record with the Department, will be liable for any penalties imposed by the Department even if such penalty can be attributable to the new Development Owner unless such ownership transfer is approved by the Department.

(j) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by corresponding ownership transfer fee as outlined in §10.901 of this chapter (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective December 9, 2014, 39 TexReg 9518

1d



BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
NOVEMBER 8, 2018

Presentation, discussion, and possible action on Resolution No. 19-009 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and authorizing the selection of underwriters for the bonds

RECOMMENDED ACTION

Adopt the attached resolution.

BACKGROUND

On September 12, 2018, the Department closed its 2018 Series A Single Family Mortgage Revenue Bonds in the amount of \$143,995,000. Funds were made available to Participating Lenders for reservation beginning August 3, 2018, and bond proceeds were fully committed by October 3, 2018. Staff has been working with the Department's Financial Advisor and Bond Counsel to evaluate various single family mortgage revenue bond ("SFMRB") structures. Based on current market conditions, staff is requesting Board authorization to begin moving forward with the issuance of SFMRBs to include a tax-exempt series not to exceed \$175 million (the "2019A Bonds") and a taxable series not to exceed \$25 million (the "2019B Bonds"). The bonds are expected to price in January 2019 and to close in February 2019.

In order to begin the issuance of tax exempt SFMRBs, the Department must submit an application to the Texas Bond Review Board to draw down private activity bond authority, or volume cap. Staff is requesting authorization to apply for an amount not-to-exceed \$175 million in single family private activity bond authority for the 2019A Bonds. Staff anticipates that the 2019A Bonds will use volume cap that has been carried forward by the Department for this purpose. The 2019B Bonds are taxable and require no private activity bond authority.

Staff is requesting that the Board delegate, to the Director of Bond Finance and Chief Investment Officer, the selection of underwriters for this and future bond issues from among the Department's approved underwriting team. Exhibit A lists the current members of the Department's underwriting team and Exhibit B details the recent history of underwriter roles for the Department's SFMRBs.

At this time, staff is not seeking nor is the Board granting, final approval of a bond issue with respect to the financing structure, target mortgage rates, timing, and/or size of the issue. Staff will return to the Board with those specifics, and with substantially final documents, at a later date for final Board approval before pricing and selling the bonds.

## Exhibit A

### Texas Department of Housing and Community Affairs Current Underwriting Team

<u>Underwriter</u>	<u>Eligible Role</u>
Fidelity Capital Markets	Co Manager
J.P. Morgan	Senior or Co Manager
Jefferies	Senior or Co Manager
Piper Jaffray & Co.	Co Manager
Ramirez & Co., Inc.	Senior or Co Manager
RBC Capital Markets	Senior or Co Manager

The term of the current Underwriting Team expires August 31, 2019, and may be extended in one year increments until August 31, 2020.

Exhibit B

Texas Department of Housing and Community Affairs  
Underwriting Roles, Recent History

	Prior Underwriting Team		Current Underwriting Team	
Issue Size	\$53,695,000	\$91,245,000	\$133,700,952	\$143,995,000
Series and Description	2015 Series A Taxable Refunding and 2015 Series B Tax-Exempt New Money	2016 Series A Tax-Exempt New Money and 2016 Series B Taxable Refunding	2017 Series A Tax-Exempt New Money and 2017 Series B Taxable Refunding and 2017 Series C Taxable New Money	2018 Series A Tax-Exempt New Money
Date Issued	10/29/2015	2/24/2016	6/22/2017	9/12/2018
<u>Underwriter</u>	<u>Role on Transaction</u>	<u>Role on Transaction</u>	<u>Role on Transaction</u>	<u>Role on Transaction</u>
Estrada Hinojosa & Co., Inc.	Co Manager	N/A	Not on UW Team	Not on UW Team
Fidelity Capital Markets	Not on UW Team	Not on UW Team	N/A	N/A
J.P. Morgan	N/A	Senior Manager	N/A	Co Manager
Jefferies	Not on UW Team	Not on UW Team	Co Manager	Co Senior Manager
Loop Capital Markets	N/A	N/A	Not on UW Team	Not on UW Team
Morgan Stanley & Co.	Senior Manager	Co Manager	Not on UW Team	Not on UW Team
Piper Jaffray & Co.	Not on UW Team	Not on UW Team	N/A	N/A
Ramirez & Co., Inc.	Co Manager	Co Manager	Senior Manager	N/A
Raymond James & Associates	N/A	N/A	Not on UW Team	Not on UW Team
RBC Capital Markets	Co Manager	Co Manager	Co Manager	Senior Manager

## **RESOLUTION NO. 19-009**

RESOLUTION AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR RESERVATION WITH THE TEXAS BOND REVIEW BOARD WITH RESPECT TO QUALIFIED MORTGAGE BONDS; AUTHORIZING STATE DEBT APPLICATION; APPROVING DELEGATION OF SELECTION OF UNDERWRITING TEAM; 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 from time to time (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 and very low income (as defined in the Act) and families of moderate income (as described in the Act and determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to make, acquire and finance, and to enter into advance commitments to make, acquire and finance, mortgage loans and participating interests therein, secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose, among others, of obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, 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; and

WHEREAS, Section 103 and Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), provide that the interest on obligations issued by or on behalf of a state or a political subdivision thereof the proceeds of which are to be used to finance owner-occupied residences will be excludable from gross income of the owners thereof for federal income tax purposes if such issue meets certain requirements set forth in Section 143 of the Code; and

WHEREAS, Section 146(a) of the Code requires that certain "private activity bonds" (as defined in Section 141(a) of the Code) must come within the issuing authority's private activity bond limit for the applicable calendar year in order to be treated as obligations the interest on which is excludable from the gross income of the holders thereof for federal income tax purposes; and

WHEREAS, the private activity bond "State ceiling" (as defined in Section 146(d) of the Code) applicable to the State is subject to allocation, in the manner authorized by Section 146(e) of the Code, pursuant to Chapter 1372, Texas Government Code, as amended (the "Allocation Act"); and

WHEREAS, the Allocation Act requires the Department, in order to reserve a portion of the State ceiling for qualified mortgage bonds (the "Reservation") and satisfy the requirements of Section 146(a) of the Code, to file an application for reservation (the "Application for Reservation") with the Texas Bond Review Board (the "Bond Review Board"), stating the maximum amount of the bonds requiring an allocation, the purpose of the bonds and the section of the Code applicable to the bonds; and

WHEREAS, the Allocation Act and the rules promulgated thereunder by the Bond Review Board (the "Allocation Rules") require that the Application for Reservation be accompanied by a certified copy of the resolution of the issuer authorizing the filing of the Application for Reservation; and

WHEREAS, the Board has determined to authorize the filing of one or more Applications for Reservation in the maximum aggregate amount of \$175,000,000 with respect to qualified mortgage bonds; and

WHEREAS, the Board further desires to approve an application to the Bond Review Board for approval of state bonds; and

WHEREAS, the Board further desires to approve delegation of selection of the underwriting team for the qualified mortgage bonds referenced in this Resolution and for future qualified mortgage bonds issued by the Department;

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

## ARTICLE 1

### APPROVAL OF CERTAIN ACTIONS

Section 1.1 Applications for Reservation. The Board hereby authorizes Bracewell LLP, as Bond Counsel to the Department, to file on its behalf with the Bond Review Board one or more Applications for Reservation in the maximum aggregate amount of \$175,000,000 with respect to qualified mortgage bonds, together with any other documents and opinions required by the Bond Review Board as a condition to the granting of one or more Reservations.

Section 1.2 State Debt Application. The Board hereby authorizes and approves the submission of the application for approval of state bonds to the Bond Review Board on behalf of the Department in accordance with Chapter 1231, Texas Government Code.

Section 1.3 Authorization of Certain Actions. The Authorized Representatives of the Department named in this Resolution are hereby authorized to take such actions on behalf of the Department as may be necessary to carry out the purposes of this Resolution, including the submission of any carryforward designation requests for such Reservations.

Section 1.4 Delegation of Selection of Underwriting Team. The Board hereby delegates to the Director of Bond Finance and Chief Investment Officer of the Department, for the bonds referenced in this Resolution and future qualified mortgage bonds issued by the Department, the selection of underwriters from among the Department's approved underwriting team.

Section 1.5 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 or Acting Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Texas Homeownership 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

### GENERAL PROVISIONS

Section 2.1 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 2.2 Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 8th day of November, 2018.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

1e

BOARD ACTION REQUEST  
OCI, HTF, and NSP DIVISION  
NOVEMBER 8, 2018

Presentation, discussion and possible action on the appointment of Colonia Resident Advisory Committee members

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Department is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, pursuant to Tex. Gov't Code §2306.582, the Department is required to establish, operate, monitor and fund Colonia Self-Help Centers ("Colonia SHCs") in El Paso, Webb, Starr, and Hidalgo counties, and in Cameron County to serve Cameron and Willacy counties;

WHEREAS, in 2001 the Department opened two additional Colonia SHCs in Maverick and Val Verde counties, as authorized by Tex. Gov't Code §2306.582, to address the needs of colonias in those counties;

WHEREAS, pursuant to Tex. Gov't Code §2306.585 the Colonia Resident Advisory Committee ("C-RAC") is required to advise the Department's Governing Board on the needs of colonia residents and activities to be undertaken through the Colonia SHCs;

WHEREAS, pursuant to Tex. Gov't Code §2306.584 C-RAC members are required to be appointed by the Texas Department of Housing and Community Affairs Governing Board; and

WHEREAS, the two C-RAC members representing Hidalgo County resigned their positions in August 2018, leaving vacant their positions which expire on October 12, 2021;

NOW, therefore, it is hereby

RESOLVED, that two Hidalgo County colonia residents named herein are hereby appointed to the C-RAC to represent Hidalgo County in the Colonia Self-Help Center Program and fill vacant C-RAC positions that expire on October 12, 2021.



## BACKGROUND

The Texas Department of Housing and Community Affairs (the "Department") is required to establish Colonia SHCs under Tex. Gov't Code §2306.582 to provide on-site technical assistance to improve the quality of life for colonia residents located in five counties (El Paso, Webb, Starr, Hidalgo, and Cameron/Willacy). Additionally, the Department is authorized to establish other Colonia SHCs if it determines it is necessary and appropriate. Since the creation of the program in 1995, two additional Colonia SHCs have been established in Maverick and Val Verde counties.

Five colonias within each county are selected to receive concentrated technical assistance in housing rehabilitation, new construction, surveying and platting, construction skills training, tool library access for self-help, housing, finance, credit and debt counseling, grant preparation, infrastructure construction, contract-for-deed conversions, and capital access for mortgages and other improvements. The Department currently oversees seven Colonia SHCs along the Texas-Mexico border in El Paso, Webb, Hidalgo, Starr, Cameron/Willacy, Maverick, and Val Verde counties.

The Department's Governing Board is required under Section 2306.584 of the Texas Government Code to appoint at least five persons who are residents of colonias to serve on the C-RAC. These members must reside in a colonia in a county designated to have a Colonia SHC, and may not be a board member, contractor, or employee of, or have any ownership interest in an entity that is awarded a contract under the Colonia SHC Program. Each county recommends individuals to the Department for C-RAC membership with input from local nonprofit organizations.

The C-RAC evaluates the needs of colonia residents; reviews programs and activities that are proposed for or operated through the Colonia SHCs; and advises the Department's Governing Board in order for the Colonia SHC Program to better serve colonia residents. The C-RAC is required to meet 30 days before any Colonia SHC contract is scheduled to be awarded or amended by the Department's Governing Board and may meet at other times as needed. The C-RAC is currently composed of two persons from each county designated to have a Colonia SHC. The term of service on the C-RAC is four years and the term limits of all current C-RAC members ends on October 12, 2021.

Approval of the following recommendations, which were made by Hidalgo County, will allow the Department to carry out the statutory requirements of the Colonia SHC Program and C-RAC:

COUNTY	NAME	ADDRESS	COLONIA
Hidalgo	Irma Andrade (completing term for Yessica Gonzales of Indian Hills Subdivision)	322 San Bernardino Dr. Alamo TX 78516	South Tower Colonia
Hidalgo	Yolanda Hernandez (completing term for Cayetano Lopez of Linda Vista Estates)	1411 Santa Barbara Dr. Alamo TX 78516	South Tower Colonia

COLONIA RESIDENT ADVISORY COMMITTEE ROSTER

COUNTY	NAME	ADDRESS	COLONIA
El Paso	Maria Vargas	645 Agua Clara El Paso TX 79928	Agua Dulce
El Paso	Alma Hernandez	651 Agua Marina El Paso TX 79928	Agua Dulce
Val Verde	Rita Rodriguez	155 Fir St. Del Rio TX 78840	Cienegas Terrace
Val Verde	Rosa Maria Martinez	113 Burge Dr. Del Rio TX 78840	Val Verde Park Estates
Maverick	Dora Lucia Contreras	2043 Boulder Ridge Eagle Pass TX 78852	Loma Bonita
Maverick	Irma Holguin	1766 Coyunda St. Eagle Pass TX 78852	Loma Bonita
Webb	Bella Garcia	253 Los Altos Laredo TX 78043	Colonia Los Altos
Webb	Elvira Torres	258 Arco Iris Laredo TX 78043	Colonia Los Altos
Starr	Rosie Jones Lopez	P.O. Box 123 Garciasville TX 78547	Garciasville
Starr	Norma Guzman	P.O. Box 63 Garciasville TX 78547	La Casita
Hidalgo	VACANT (remaining term of Yessica Gonzales of Indian Hills Subdivision)		
Hidalgo	VACANT (remaining term of Cayetano Lopez of Linda Vista Estates)		
Cameron	Victor Alvarez	2618 Eduardo Ave. Brownsville TX 78526	Cameron Park
Cameron	Arron Villafranca	1730 Rancho Grande East San Benito TX 78556	Rancho Grande
Willacy	Jessica Garza	13744 E. 6th St. Sebastian TX 78594	Sebastian
Willacy	Emma Gonzales	3713 Coast Ave. Sebastian TX 78594	Sebastian

All member terms expire on October 12, 2021.

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**NOVEMBER 8, 2018**

Presentation, Discussion, and Possible Action on the 2019 Section 8 Payment Standards for the Housing Choice Voucher Program

**RECOMMENDED ACTION**

**WHEREAS**, the Department operates as a Public Housing Authority (“PHA”) and administers a housing choice voucher program (“HCVP”)

**WHEREAS**, 24 CFR §982.503 requires PHAs to establish Payment Standards annually for areas served by its vouchers;

**NOW, therefore, it is hereby**

**RESOLVED**, that the 2019 HCVP Payment Standards for the Department in its role acting as a PHA, and in accordance with 24 CFR §982.505, are hereby approved in the form presented to this meeting.

**BACKGROUND**

The U.S. Department of Housing and Urban Development (“HUD”) requires PHAs to adopt a payment standard schedule annually that establishes voucher payment standard amounts for each Fair Market Rent (“FMR”) area or Small Area Fair Market Rent (“SAFMR”) in the PHA jurisdiction. The PHA must establish payment standard amounts for each “unit size,” defined as the number of bedrooms (one-bedroom, two-bedrooms, etc.) in each housing unit.

The Department, operating as a PHA, may establish the payment standard amount at any level between 90% and 110% of the published FMR or SAFMR, as applicable, for that unit size. The establishment of the standard is important because it impacts 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. Having a payment standard above FMRs or SAFMRs may help voucher holders who have had difficulty in finding acceptable units or affording units in more desirable areas. Higher payment standards provide additional choices and opportunities to tenants in highly competitive rental markets.

The importance of trying to ensure that a household's voucher provides enough assistance to house them is balanced with the importance of beneficiaries of vouchers not being over-subsidized. Providing more assistance per household than is needed to find a decent, safe, sanitary, and affordable housing unit means fewer total households can be assisted. It is through these payment standards that the balance is established.

The approach the Department has taken in setting the payment standards is by evaluating the HUD released FMRs against HUD's (“SAFMRs”). SAFMRs were created by HUD in response to

increasing demand for more localized measures of rent and are published at the ZIP code level for all metro areas; not all areas served by TDHCA have published SAFMRs. HUD suggests that PHAs use the SAFMRs as a guide to setting their payment standards as long as the payment standards still remain within the basic range (90%-110%) of the HUD published FMRs. By using the SAFMRs as a benchmark, clients are provided with access to a broader range of neighborhoods, thus allowing them the choice to move into areas with more employment, transportation and educational opportunities. HUD also considers the impact that the use of SAFMR may have when payment standards can be reduced (to below 100% of the FMR) to prevent undue subsidy in lower-rent neighborhoods.

The Department has authority in 34 counties where it is required to set payment standards. Staff has compared the counties in its jurisdiction to SAFMRs, when available, to generate recommended payment standards. Additionally, HUD requires that PHAs managing programs in the Dallas, TX HUD Metropolitan Fair Market Rent Area ("FMR Area"), which the Department does, must utilize its published SAFMR instead of FMRs. HUD also requires PHAs managing programs in the San Antonio-New Braunfels, TX FMR Area and Fort Worth-Arlington, TX FMR Area to adopt SAFMRs, and the Department is proposing to do so.

It should be noted that some ZIP codes cross county lines; HUD generates one SAFMR for that ZIP code, but because the FMRs for each county may vary, the resulting payment standard may be different in one part of the ZIP code than another, based on the following analysis being applied.

For 2019, staff recommends establishing the payment standard as follows:

- For ZIP codes in which the FMR falls below the SAFMR by more than 10%, staff adjusted the payment standard to 105% of FMR. These standards are identified in red.
- For ZIP codes in which the FMR falls above the SAFMR by more than 10%, staff adjusted the payment standard to 95% of FMR. These standards are identified in green.
- For ZIP codes in which the FMR falls between 90% to 110% of the SAFMR, staff set the payment standard at 97% of the FMR. These areas are identified in white.
- For ZIP codes in which no SAFMR is available by HUD, the HUD FMR was utilized at 100% of FMR. These areas are identified in gray.
- Except as noted below, for counties within HUD's Dallas Metro FMR Area, Fort Worth-Arlington FMR Area, or the San Antonio-New Braunfels Metro FMR Area, the SAFMRs are used at 100% of the SAFMR. These are identified in blue.
- For two ZIP codes in Ellis County (75119 and 75165), 110% of the SAFMR was used because data from the Department's own current voucher holders indicates that the SAFMRs were significantly lower than the average rent. These are identified in purple.
- For two ZIP codes in Galveston County (77539 and 77518), the Department will be requesting a waiver from HUD under 24 CFR §982.503(c) to use 116% of the FMR. This request is being made because data from the Department's own current voucher holders indicates that the FMRs are not sufficient to address the high rents and limited housing in response to Hurricane Harvey. These are identified in orange.

These new payment standards will become effective on January 1, 2019, and will be applied at the

first annual reexamination following the effective date of the increase in the payment standard. This will affect the tenant upon a subsequent change to the Housing Assistance Payment ("HAP") contract such as relocating to a new unit or a change in the family's household composition. The FMRs or SAFMRs for unit sizes larger than four bedrooms are calculated by adding 15% for each extra bedroom to the four-bedroom FMR or SAFMRs. If a ZIP code is not reflected in the attached list, but is within the Department's jurisdiction, the payment standard will be 97% of the FMR or if in a mandatory use the area SAFMR.

Staff recommends adopting these Payment Standards because they allow current tenants continued affordability in the units they have selected and help new tenants find decent, safe, sanitary, and affordable units. In the case of the two ZIP codes in Galveston County, staff believes that the current posted SAFMRs are not reflective of the reality in these areas. By increasing the Payment Standard to 116% of the higher of the SAFMR in these two ZIP codes, staff estimates that the number of households for whom the current payment standard fails to cover the contract will be reduced by two thirds. Additionally, this change in the Payment Standard of these two ZIP codes will reduce the average deficit between the current proposed Payment Standard, and the contract rent from more than \$150 to \$100. If the request to HUD is not authorized for Galveston County by the date the payment standards become effective, the two ZIP codes in Galveston County will utilize 110% of the FMR.

The attached Exhibit A details the Department's recommended 2019 Payment Standards.

For areas outside of these 34 counties served by the Department's Project Access program, the Department will adopt the regular Section 8 payment standards in use by the applicable PHA for its Section 8 program. If there is no applicable PHA in the area, the Department will use 100% of the FMR or 100% of the SAFMR if the area is required by HUD to use the SAFMR.

The Department's Project-Based VASH vouchers, operated at Freedom's Path at Kerrville, will utilize 100% FMR for Kerr County.

These Payment Standards are proposed based on HUD's publication of FMRs and SAFMRs in the Federal Register. If there are any 2019 FMR or SAFMR changes in a subsequent Federal Register Notice, the Department will adopt HUD's final adopted FMR or SAFMR (as applicable), but, will leave the payment standard rate as that adopted in this board action. If needed, a utility allowance will be established.

Legend	
0 = Gray	= Zip Codes with no SAFMR available. 100% FMR
1 = Red	= FMR < 90% SAFMR. 105% FMR
2 = Green	= FMR > 110% SAFMR. 95% FMR
3 = White	= SAFMR between 90% and 110% FMR. 97% FMR
4 = Blue	= San Antonio, Dallas, Fort Worth MSA. 100% SAFMR
5 = Orange	= Galveston County Impact ZIPs. 116% of Higher of SAFMR or FMR
6 = Purple	= Ellis County Impact Zips. 110% of SAFMR

Zip Codes Spanning Multiple Counties Highlighted in Yellow

Atascosa						
HUD FMR		560	645	853	1088	1088
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Atascosa	78005	543	626	827	1055	1221
Atascosa	78008	543	626	827	1055	1221
Atascosa	78011	543	626	827	1055	1221
Atascosa	78012	543	626	827	1055	1221
Atascosa	78026	588	677	896	1142	1322
Atascosa	78050	543	626	827	1055	1221
Atascosa	78052	543	626	827	1055	1221
Atascosa	78064	588	677	896	1142	1322
Atascosa	78065	532	613	810	1034	1196
Atascosa	78069	543	626	827	1055	1221
Atascosa	78073	543	626	827	1055	1221
Atascosa	78113	543	626	827	1055	1322
Atascosa	78114	543	677	827	1142	1322
Atascosa	78118	543	626	827	1055	1221
Atascosa	78264	588	677	896	1142	1322
Atascosa	78021	543	626	827	1055	1221
Atascosa	78002	543	677	827	1055	1322
Austin						
HUD FMR		741	792	1009	1264	1264
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Austin	77418	719	768	979	1226	1719
Austin	77426	719	768	979	1226	1719
Austin	77452	741	792	1009	1264	1772
Austin	77473	778	832	1059	1327	1861

Austin	77474	719	768	979	1226	1719
Austin	77485	719	768	979	1226	1719
Austin	77833	719	768	979	1226	1719
Austin	77835	719	768	979	1226	1719
Austin	78931	719	768	979	1226	1719
Austin	78933	719	768	979	1226	1719
Austin	78940	704	752	959	1201	1683
Austin	78944	719	768	979	1226	1719
Austin	78950	778	832	1059	1327	1861
Austin	78954	719	768	979	1226	1719
Bandera						
HUD FMR		688	844	1050	1379	1379
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Bandera	78003	670	830	1030	1350	1660
Bandera	78010	640	790	980	1290	1580
Bandera	78023	890	1090	1360	1780	2180
Bandera	78055	650	800	990	1300	1590
Bandera	78063	630	770	960	1260	1540
Bandera	78884	510	630	790	1040	1250
Bandera	78885	640	790	980	1290	1580
Bandera	78883	640	790	980	1290	1580
Bosque						
HUD FMR		529	532	704	882	882
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Bosque	76043	513	559	739	926	1000
Bosque	76457	529	532	704	882	952
Bosque	76633	555	559	739	926	1000
Bosque	76634	555	559	739	926	1000
Bosque	76637	529	532	704	882	952
Bosque	76649	529	532	704	882	952
Bosque	76652	529	532	704	882	952
Bosque	76665	529	532	704	882	952
Bosque	76671	529	532	704	882	952
Bosque	76689	513	516	683	926	1000
Bosque	76690	529	532	704	882	952
Bosque	76528	513	516	683	926	1000
Caldwell						
HUD FMR		931	1086	1315	1734	1734
Payment Standard						
County	ZIP	0 BR	1 BR	2 BR	3 BR	4 BR



	Code					
Caldwell	78610	903	1053	1276	1682	2036
Caldwell	78616	884	1032	1249	1647	1994
Caldwell	78622	884	1032	1249	1647	1994
Caldwell	78632	884	1032	1249	1647	1994
Caldwell	78640	978	1140	1381	1821	2204
Caldwell	78644	884	1032	1249	1647	1994
Caldwell	78648	884	1032	1249	1647	1994
Caldwell	78655	884	1032	1249	1647	1994
Caldwell	78656	884	1032	1249	1647	1994
Caldwell	78661	884	1032	1249	1647	1994
Caldwell	78662	884	1032	1249	1647	1994
Caldwell	78666	884	1032	1249	1647	1994
Caldwell	78953	884	1032	1249	1647	1994
Caldwell	78959	884	1032	1249	1647	1994
Chambers						
HUD FMR		812	907	1104	1509	1509
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Chambers	77514	771	862	1049	1434	1802
Chambers	77521	771	862	1049	1434	1802
Chambers	77523	788	880	1071	1464	1840
Chambers	77535	788	862	1049	1434	1802
Chambers	77560	788	880	1071	1464	1840
Chambers	77575	771	862	1049	1434	1802
Chambers	77580	788	880	1071	1464	1840
Chambers	77597	788	880	1071	1464	1840
Chambers	77661	788	880	1071	1464	1840
Chambers	77665	771	862	1049	1434	1802
Colorado						
HUD FMR		526	529	700	1012	1012
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Colorado	77412	526	529	700	1012	1230
Colorado	77434	526	529	700	1012	1230
Colorado	77435	552	555	735	1063	1292
Colorado	77442	526	529	700	1012	1230
Colorado	77460	526	529	700	1012	1230
Colorado	77470	526	529	700	1012	1230
Colorado	77474	552	555	735	1063	1292
Colorado	77475	526	529	700	1012	1230

Colorado	78933	552	555	735	1063	1292
Colorado	78934	526	529	700	1012	1230
Colorado	78935	526	529	700	1012	1230
Colorado	78940	552	555	735	982	1292
Colorado	78943	526	529	700	1012	1230
Colorado	78950	552	555	735	1063	1292
Colorado	78951	526	529	700	1012	1230
Colorado	78956	526	529	700	1012	1230
Colorado	78962	526	529	700	1012	1230
Colorado	77964	526	529	700	1012	1230
Comal						
HUD FMR		688	844	1050	1379	1379
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Comal	78006	810	1000	1240	1560	2160
Comal	78015	1050	1290	1600	2070	2660
Comal	78070	920	1130	1410	1850	2270
Comal	78108	1040	1270	1580	2080	2540
Comal	78130	730	900	1120	1470	1800
Comal	78131	770	950	1180	1550	1900
Comal	78132	710	870	1080	1420	1740
Comal	78133	730	890	1110	1460	1790
Comal	78135	688	844	1050	1379	1689
Comal	78154	830	1010	1260	1660	2030
Comal	78163	770	950	1180	1550	1900
Comal	78266	1040	1270	1580	2080	2540
Comal	78606	600	740	910	1230	1580
Comal	78623	770	950	1180	1550	1900
Comal	78666	780	910	1110	1460	1770
Comal	78676	900	1050	1270	1670	2030
Comanche						
HUD FMR		526	610	700	1012	1012
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Comanche	76432	526	610	700	1012	1079
Comanche	76436	526	610	700	1012	1079
Comanche	76442	526	610	700	1012	1079
Comanche	76444	526	610	700	1012	1079
Comanche	76445	526	610	700	1012	1079
Comanche	76446	526	610	700	1012	1079
Comanche	76452	526	610	700	1012	1079
Comanche	76454	526	610	700	1012	1079

Comanche	76455	526	610	700	1012	1079
Comanche	76468	526	610	700	1012	1079
Comanche	76474	526	610	700	1012	1079
Comanche	76890	526	610	700	1012	1079
Comanche	76471	526	610	700	1012	1079
Crockett						
HUD FMR		526	557	700	1012	1012
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Crockett	76943	526	557	700	1012	1079
Denton						
HUD FMR		836	989	1201	1600	1600
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Denton	75007	920	1090	1320	1760	2290
Denton	75009	810	950	1160	1550	2010
Denton	75010	1000	1180	1430	1900	2480
Denton	75011	830	980	1190	1580	2060
Denton	75019	1040	1230	1500	2000	2600
Denton	75022	1250	1480	1800	2400	3120
Denton	75024	1250	1480	1800	2400	3120
Denton	75027	870	1030	1250	1660	2160
Denton	75028	1250	1480	1800	2400	3120
Denton	75029	870	1030	1250	1660	2160
Denton	75033	890	1050	1280	1710	2220
Denton	75034	1100	1300	1580	2100	2740
Denton	75035	1250	1480	1800	2400	3120
Denton	75056	1000	1180	1430	1900	2480
Denton	75057	930	1090	1330	1770	2300
Denton	75065	870	1030	1250	1660	2160
Denton	75067	930	1100	1340	1780	2320
Denton	75068	1250	1470	1790	2380	3100
Denton	75077	1020	1200	1460	1940	2530
Denton	75078	1130	1330	1620	2160	2810
Denton	75093	1130	1340	1630	2170	2820
Denton	75287	950	1120	1360	1810	2350
Denton	76052	1130	1280	1590	2170	2750
Denton	76078	810	980	1160	1470	1680
Denton	76092	760	860	1070	1470	1860
Denton	76177	1060	1210	1510	2050	2610
Denton	76201	790	940	1140	1520	1970
Denton	76202	870	1030	1250	1660	2160

Denton	76203	836	989	1201	1600	2080
Denton	76204	870	1030	1250	1660	2160
Denton	76205	850	1000	1220	1620	2110
Denton	76206	870	1030	1250	1660	2160
Denton	76207	910	1080	1310	1740	2270
Denton	76208	870	1030	1250	1660	2160
Denton	76209	740	880	1070	1430	1850
Denton	76210	1000	1190	1440	1920	2490
Denton	76226	1250	1480	1800	2400	3120
Denton	76227	1250	1480	1800	2400	3120
Denton	76234	750	900	1070	1350	1520
Denton	76247	1020	1200	1460	1940	2530
Denton	76249	1030	1220	1480	1970	2560
Denton	76258	880	1040	1270	1690	2190
Denton	76259	920	1090	1320	1750	2280
Denton	76262	930	1080	1320	1780	2290
Denton	76266	910	1070	1300	1730	2250
Denton	76272	650	770	940	1250	1630
Ellis						
HUD FMR		836	989	1201	1600	1600
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Ellis	75101	680	800	970	1290	1680
Ellis	75104	1040	1230	1490	1980	2580
Ellis	75119	825	979	1188	1584	2057
Ellis	75125	790	940	1140	1520	1970
Ellis	75146	770	910	1110	1480	1920
Ellis	75152	760	900	1090	1450	1890
Ellis	75154	910	1070	1300	1730	2250
Ellis	75165	858	1012	1232	1639	2134
Ellis	75167	1220	1440	1750	2330	3030
Ellis	75168	810	950	1160	1550	2010
Ellis	76041	810	950	1160	1550	2010
Ellis	76050	620	700	880	1200	1530
Ellis	76055	810	950	1160	1550	2010
Ellis	76063	950	1080	1350	1850	2340
Ellis	76064	610	720	870	1160	1510
Ellis	76065	910	1070	1300	1730	2250
Ellis	76084	650	740	920	1250	1590
Ellis	76623	810	950	1160	1550	2010
Ellis	76626	810	950	1160	1550	2010
Ellis	76641	810	950	1160	1550	2010
Ellis	76651	600	710	860	1150	1490

Ellis	76670	700	820	1000	1330	1730
Erath						
HUD FMR		623	683	829	1116	1116
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Erath	76401	623	683	829	1116	1121
Erath	76402	623	683	829	1116	1121
Erath	76433	604	663	804	1083	1177
Erath	76436	623	683	829	1116	1121
Erath	76444	623	683	829	1116	1121
Erath	76445	623	683	829	1116	1121
Erath	76446	623	683	829	1116	1121
Erath	76453	623	683	829	1116	1121
Erath	76457	623	683	829	1116	1121
Erath	76461	623	683	829	1116	1121
Erath	76462	654	717	870	1172	1177
Erath	76463	623	683	829	1116	1121
Erath	76465	623	683	829	1116	1121
Erath	76649	623	683	829	1116	1121
Falls						
HUD FMR		488	529	700	877	877
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Falls	76519	512	513	679	921	1171
Falls	76524	512	555	735	921	1171
Falls	76570	473	513	679	921	1082
Falls	76579	473	513	679	921	1171
Falls	76629	512	555	735	921	1171
Falls	76630	512	555	735	921	1171
Falls	76632	512	555	735	921	1171
Falls	76653	512	555	735	921	1171
Falls	76655	512	555	735	921	1171
Falls	76656	473	513	679	921	1082
Falls	76661	473	513	679	851	1082
Falls	76664	512	555	735	921	1171
Falls	76680	473	513	679	851	1082
Falls	76682	512	555	735	921	1171
Falls	76685	473	513	679	851	1082
Falls	76706	512	555	735	921	1171
Fort Bend						
HUD FMR		812	907	1104	1509	1509
Payment Standard						

County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Fort Bend	77031	771	862	1049	1434	1802
Fort Bend	77053	853	952	1159	1584	1992
Fort Bend	77082	853	952	1159	1584	1992
Fort Bend	77083	788	880	1071	1464	1840
Fort Bend	77085	788	880	1071	1464	1840
Fort Bend	77099	788	880	1071	1464	1840
Fort Bend	77406	853	952	1159	1584	1992
Fort Bend	77407	853	952	1159	1584	1992
Fort Bend	77417	771	862	1049	1434	1802
Fort Bend	77420	853	952	1159	1584	1992
Fort Bend	77423	771	862	1049	1434	1802
Fort Bend	77430	788	952	1159	1584	1992
Fort Bend	77435	788	880	1071	1464	1840
Fort Bend	77441	771	862	1049	1434	1802
Fort Bend	77444	788	952	1071	1464	1992
Fort Bend	77450	853	952	1159	1584	1992
Fort Bend	77451	853	952	1159	1584	1992
Fort Bend	77459	853	952	1159	1584	1992
Fort Bend	77461	771	862	1049	1434	1802
Fort Bend	77464	853	952	1159	1584	1992
Fort Bend	77469	788	880	1071	1464	1840
Fort Bend	77471	788	880	1071	1464	1840
Fort Bend	77476	853	952	1159	1584	1992
Fort Bend	77477	853	952	1159	1584	1992
Fort Bend	77478	853	952	1159	1584	1992
Fort Bend	77479	853	952	1159	1584	1992
Fort Bend	77481	853	952	1159	1584	1992
Fort Bend	77485	771	862	1049	1434	1840
Fort Bend	77487	853	952	1159	1584	1992
Fort Bend	77489	853	952	1159	1584	1992
Fort Bend	77493	853	952	1159	1584	1992
Fort Bend	77494	853	952	1159	1584	1992
Fort Bend	77496	853	952	1159	1584	1992
Fort Bend	77497	853	952	1159	1584	1992
Fort Bend	77498	853	952	1159	1584	1992
Fort Bend	77545	853	952	1159	1584	1992
Fort Bend	77583	788	880	1071	1434	1840
Fort Bend	77584	853	952	1159	1584	1992
Freestone						
HUD FMR		526	577	700	1012	1012
Payment Standard						
County	ZIP	0 BR	1 BR	2 BR	3 BR	4 BR

	Code					
Freestone	75831	526	577	700	1012	1230
Freestone	75838	526	577	700	1012	1230
Freestone	75840	526	577	700	1012	1230
Freestone	75848	526	577	700	1012	1230
Freestone	75855	526	577	700	1012	1230
Freestone	75859	526	577	700	1012	1230
Freestone	75860	526	577	700	1012	1230
Freestone	76667	526	577	700	1012	1230
Freestone	76693	526	577	700	1012	1230
Frio						
HUD FMR		560	645	853	1088	1088
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Frio	78005	578	593	735	967	1193
Frio	78016	578	593	735	967	1292
Frio	78017	596	611	700	921	1230
Frio	78057	566	593	735	967	1193
Frio	78061	596	611	700	921	1230
Galveston						
HUD FMR		812	907	1104	1509	1509
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Galveston	77510	788	880	1071	1464	1840
Galveston	77511	788	880	1071	1464	1840
Galveston	77517	788	880	1071	1464	1840
Galveston	77518	942	1052	1281	1750	2201
Galveston	77539	942	1052	1281	1750	2201
Galveston	77546	853	952	1159	1584	1992
Galveston	77549	788	880	1071	1464	1840
Galveston	77550	788	880	1071	1464	1840
Galveston	77551	788	880	1071	1464	1840
Galveston	77552	788	880	1071	1464	1840
Galveston	77553	788	880	1071	1464	1840
Galveston	77554	788	880	1071	1464	1840
Galveston	77555	812	907	1104	1509	1897
Galveston	77563	788	880	1071	1464	1840
Galveston	77565	853	952	1159	1584	1992
Galveston	77568	788	880	1071	1464	1840
Galveston	77573	853	952	1159	1584	1992
Galveston	77574	788	880	1071	1464	1840

Galveston	77581	788	952	1071	1464	1840
Galveston	77590	771	862	1049	1434	1802
Galveston	77591	788	880	1071	1464	1840
Galveston	77623	771	862	1049	1434	1802
Galveston	77650	788	880	1071	1464	1840
Gillespie						
HUD FMR		732	736	974	1363	1363
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Gillespie	76856	732	736	974	1363	1471
Gillespie	78028	732	736	974	1363	1471
Gillespie	78058	732	736	974	1363	1471
Gillespie	78618	732	736	974	1363	1471
Gillespie	78624	710	773	945	1322	1545
Gillespie	78631	732	736	974	1363	1471
Gillespie	78671	732	736	974	1363	1471
Gillespie	78675	732	736	974	1363	1471
Grimes						
HUD FMR		526	529	700	992	992
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Grimes	77316	552	555	735	1042	1133
Grimes	77356	552	555	735	1042	1133
Grimes	77363	552	555	735	1042	1133
Grimes	77484	552	555	735	1042	1133
Grimes	77830	526	529	700	992	1079
Grimes	77831	526	529	700	992	1079
Grimes	77861	526	529	700	992	1079
Grimes	77868	552	555	735	1042	1133
Grimes	77872	526	529	700	992	1079
Grimes	77873	552	555	735	1042	1133
Grimes	77875	526	529	700	992	1079
Grimes	77876	526	529	700	992	1079
Guadalupe						
HUD FMR		688	844	1050	1379	1379
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Guadalupe	78108	1040	1270	1580	2080	2540
Guadalupe	78115	720	880	1100	1440	1770



Guadalupe	78121	750	920	1140	1500	1830
Guadalupe	78123	570	700	870	1140	1400
Guadalupe	78124	670	820	1020	1340	1640
Guadalupe	78130	730	900	1120	1470	1800
Guadalupe	78132	710	870	1080	1420	1740
Guadalupe	78140	510	630	790	1040	1250
Guadalupe	78154	830	1010	1260	1660	2030
Guadalupe	78155	600	730	910	1200	1460
Guadalupe	78156	720	880	1100	1440	1770
Guadalupe	78638	510	630	790	1040	1250
Guadalupe	78648	650	790	980	1320	1580
Guadalupe	78655	740	880	1070	1410	1720
Guadalupe	78666	780	910	1110	1460	1770
Guadalupe	78670	670	820	1020	1340	1640
Johnson						
HUD FMR		754	853	1068	1460	1460
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	76009	730	820	1030	1410	1790
Johnson	76028	800	900	1140	1560	1990
Johnson	76031	660	740	930	1270	1610
Johnson	76033	690	770	970	1330	1680
Johnson	76035	720	830	1030	1400	1760
Johnson	76036	900	1010	1270	1740	2200
Johnson	76044	810	910	1140	1560	1980
Johnson	76049	740	870	1050	1420	1770
Johnson	76050	620	700	880	1200	1530
Johnson	76058	700	790	990	1350	1720
Johnson	76059	680	770	960	1310	1660
Johnson	76061	730	830	1040	1420	1800
Johnson	76063	950	1080	1350	1850	2340
Johnson	76070	580	680	830	1160	1430
Johnson	76084	650	740	920	1250	1590
Johnson	76093	730	830	1040	1420	1800
Johnson	76097	730	830	1040	1420	1800
Karnes						
HUD FMR		502	581	769	963	963
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Karnes	78062	502	581	769	963	1185
Karnes	78111	502	581	769	963	1185

Karnes	78113	527	610	807	1011	1244
Karnes	78116	502	581	769	963	1185
Karnes	78117	527	610	807	1011	1244
Karnes	78118	527	564	746	1011	1149
Karnes	78119	527	610	746	1011	1149
Karnes	78144	502	581	769	963	1185
Karnes	78151	502	581	769	963	1185
Kendall						
HUD FMR		799	984	1217	1525	1525
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Kendall	78004	775	954	1180	1479	2074
Kendall	78006	775	954	1180	1479	2074
Kendall	78013	759	935	1156	1449	2031
Kendall	78015	839	1033	1278	1601	2245
Kendall	78027	775	954	1180	1479	2074
Kendall	78070	839	1033	1278	1601	2074
Kendall	78074	775	954	1180	1479	2074
Kendall	78606	759	935	1156	1449	2031
Kendall	78624	759	935	1156	1449	2031
Kerr						
HUD FMR		717	735	842	1178	1178
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Kerr	76849	717	735	842	1178	1199
Kerr	78003	695	772	884	1237	1259
Kerr	78010	681	713	884	1143	1259
Kerr	78013	695	772	884	1143	1259
Kerr	78024	717	735	842	1178	1199
Kerr	78025	717	735	842	1178	1199
Kerr	78028	717	735	842	1178	1199
Kerr	78029	717	735	842	1178	1199
Kerr	78055	681	713	884	1143	1259
Kerr	78058	717	735	842	1178	1199
Kerr	78063	681	713	884	1143	1259
Kerr	78624	695	772	884	1237	1259
Kerr	78631	717	735	842	1178	1199
Lee						
HUD FMR		616	652	820	1110	1110
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR

Lee	76578	647	685	861	1166	1326
Lee	77853	616	652	820	1110	1263
Lee	78621	647	685	861	1166	1326
Lee	78650	647	685	861	1166	1326
Lee	78659	647	685	861	1166	1326
Lee	78942	647	685	861	1166	1326
Lee	78946	616	652	820	1110	1263
Lee	78947	616	652	820	1110	1263
Lee	78948	616	652	820	1110	1263
Lee	78945	647	685	861	1166	1326
Llano						
HUD FMR		611	615	813	1019	1019
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Llano	76831	611	615	813	1019	1253
Llano	76885	611	615	813	1019	1253
Llano	78607	611	615	813	1019	1253
Llano	78609	611	615	813	1019	1253
Llano	78611	611	615	813	1019	1253
Llano	78624	642	646	854	1070	1316
Llano	78639	611	615	813	1019	1253
Llano	78643	611	615	813	1019	1253
Llano	78657	611	615	813	1019	1253
Llano	78672	611	615	813	1019	1253
McLennan						
HUD FMR		488	529	700	877	877
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
McLennan	76524	555	609	798	1090	1285
McLennan	76557	555	609	798	1090	1285
McLennan	76561	555	609	798	1090	1285
McLennan	76621	555	609	798	1090	1285
McLennan	76622	555	609	798	1090	1285
McLennan	76624	555	609	798	1090	1285
McLennan	76630	601	659	864	1180	1391
McLennan	76633	601	659	864	1180	1391
McLennan	76638	601	659	864	1180	1391
McLennan	76640	555	609	798	1090	1285
McLennan	76643	601	659	864	1180	1391
McLennan	76654	555	609	798	1090	1285
McLennan	76655	601	659	864	1180	1391
McLennan	76657	555	609	798	1090	1285

McLennan	76664	555	609	798	1090	1285
McLennan	76673	555	609	798	1090	1285
McLennan	76682	555	609	798	1090	1285
McLennan	76684	572	628	823	1124	1325
McLennan	76689	555	609	798	1090	1285
McLennan	76691	543	609	798	1090	1285
McLennan	76701	555	609	798	1090	1285
McLennan	76702	555	609	798	1090	1285
McLennan	76703	555	609	798	1090	1285
McLennan	76704	543	609	798	1090	1285
McLennan	76705	543	609	798	1090	1285
McLennan	76706	555	609	798	1090	1285
McLennan	76707	555	609	798	1090	1285
McLennan	76708	555	609	798	1090	1285
McLennan	76710	555	609	798	1090	1285
McLennan	76711	555	609	798	1090	1285
McLennan	76712	601	659	864	1180	1391
McLennan	76714	555	609	798	1090	1285
McLennan	76716	555	609	798	1090	1285
McLennan	76797	572	628	823	1124	1325
McLennan	76798	555	609	798	1090	1285
McLennan	76799	572	628	823	1124	1325
McMullen						
HUD FMR		564	597	751	997	997
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
McMullen	78007	564	597	751	997	1157
McMullen	78026	592	627	789	1047	1214.85
McMullen	78072	564	597	751	997	1157
McMullen	78071	564	597	751	997	1157
Medina						
HUD FMR		688	844	1050	1379	1379
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Medina	78003	555	639	846	1152	1379
Medina	78009	513	591	782	1064	1274
Medina	78016	513	591	782	1064	1274
Medina	78023	555	639	846	1152	1379
Medina	78039	513	591	782	1064	1274
Medina	78052	513	591	782	1064	1274
Medina	78056	513	591	782	1064	1274

Medina	78057	513	591	782	1064	1274
Medina	78059	503	579	766	1042	1247
Medina	78066	513	591	782	1064	1274
Medina	78253	555	639	846	1152	1379
Medina	78254	555	639	846	1152	1379
Medina	78850	513	591	782	1064	1274
Medina	78861	513	591	782	1064	1274
Medina	78884	513	591	782	1064	1274
Medina	78886	513	591	782	1064	1274
Waller						
HUD FMR		812	907	1104	1509	1509
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Waller	77355	788	880	1071	1464	1840
Waller	77363	771	862	1049	1434	1802
Waller	77423	771	862	1049	1434	1802
Waller	77445	771	862	1049	1434	1802
Waller	77446	788	880	1071	1464	1840
Waller	77447	853	952	1159	1584	1992
Waller	77466	788	880	1071	1464	1840
Waller	77484	788	880	1071	1464	1840
Waller	77493	853	952	1159	1584	1992
Waller	77494	853	952	1159	1584	1992
Waller	77868	771	862	1049	1434	1802
Wharton						
HUD FMR		812	907	1104	1509	1509
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Wharton	77420	659	664	811	1020	1383
Wharton	77432	628	632	772	971	1317
Wharton	77434	628	632	772	971	1317
Wharton	77435	659	664	811	1020	1383
Wharton	77436	628	632	772	971	1317
Wharton	77437	628	632	772	971	1317
Wharton	77443	628	632	772	971	1317
Wharton	77448	628	632	772	971	1317
Wharton	77453	628	632	772	971	1317
Wharton	77454	628	632	772	971	1317
Wharton	77455	628	632	772	971	1317
Wharton	77467	628	632	772	971	1317
Wharton	77485	659	664	811	1020	1383

Wharton	77488	628	632	772	971	1317
Wilson						
HUD FMR		560	645	853	1088	1088
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Wilson	78064	650	750	990	1260	1460
Wilson	78101	740	910	1130	1480	1820
Wilson	78112	660	810	1010	1330	1620
Wilson	78113	590	710	900	1170	1420
Wilson	78114	600	740	920	1210	1480
Wilson	78117	660	800	1000	1310	1610
Wilson	78121	750	920	1140	1500	1830
Wilson	78140	510	630	790	1040	1250
Wilson	78143	660	800	1000	1310	1610
Wilson	78147	590	720	900	1180	1450
Wilson	78152	560	680	850	1120	1370
Wilson	78160	710	880	1090	1430	1750
Wilson	78161	660	800	1000	1310	1610
Wilson	78223	620	760	950	1250	1530
Wise						
HUD FMR		714	857	1020	1278	1278
Payment Standard						
County	ZIP Code	0 BR	1 BR	2 BR	3 BR	4 BR
Wise	76020	693	831	989	1240	1510
Wise	76023	693	831	989	1240	1395
Wise	76052	750	900	1071	1342	1510
Wise	76071	750	900	1071	1342	1510
Wise	76073	693	831	989	1240	1395
Wise	76078	750	900	1071	1342	1510
Wise	76082	693	831	989	1240	1510
Wise	76225	693	831	989	1240	1395
Wise	76234	693	831	989	1240	1395
Wise	76246	714	857	1020	1278	1438
Wise	76247	750	900	1071	1342	1510
Wise	76249	750	900	1071	1342	1510
Wise	76259	750	900	1071	1342	1510
Wise	76267	714	857	1020	1278	1438
Wise	76270	693	831	989	1240	1395
Wise	76426	693	831	989	1240	1395
Wise	76431	693	831	989	1240	1395
Wise	76458	693	831	989	1240	1395
Wise	76487	693	831	989	1240	1510
Wise	76239	693	831	989	1240	1395

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**BOARD ACTION REQUEST**

**TEXAS HOMEOWNERSHIP DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on the Single Family Mortgage Loan and Mortgage Credit Certificate Programs Participating Lender List.

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.149, the Board approves mortgage lenders; and

**WHEREAS**, the Department has compiled a Participating Lender List for the Single Family Mortgage Loan and Mortgage Credit Certificate ("MCC") Programs, and recommends Board approval;

**Now, therefore, it is hereby**

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

**BACKGROUND**

Attached is the current Participating Lender List for both the Single Family Mortgage Loan and MCC Programs. The process to request to become a Participating Lender is open, ongoing, and non-competitive. New mortgage lenders are able to submit documentation for consideration at any time. To date, 187 lending institutions providing mortgage options throughout the state have signed documents to participate in one or both of the programs. Of the list below, 14 are new participants to the program(s).

In an effort to maintain a well trained and knowledgeable lender network, online lender trainings are available year round on demand by our program administrator on any current mortgage loan program to any existing and/or new participating lender. Additionally, Department staff conducts webinars or on-site lender trainings upon request.

In accordance with Tex. Gov't Code §2306.149, staff is requesting the Board approve the attached list of mortgage lenders for use in conjunction with the Single Family Mortgage Loan and MCC Program(s).



**Approved Mortgage Lenders**

1st Alliance Mortgage, LLC*
Academy Mortgage Corporation
Affiliated Bank Mortgage
Affiliated Mortgage Company
Alterra Group, LLC
Amarillo National Bank
AMCAP Mortgage LLC
AMEC (American Mortgage & Equity Consultants, Inc.)
American Financial Network, Inc.
American Mortgage & Equity Consultants, Inc.
American Southwest Mortgage Corp.
America's Choice Home Loans
AmeriFirst Financial, Inc.
AmeriPro Funding, Inc.
AmRes Corporation dba American Residential Living
Annie-Mac Home Mortgage (American Neighborhood Mortgage Acceptance Co.)
ARK-LA-TEX Financial Services, LLC – dba Benchmark Mortgage
Aspire Financial, Inc.
Austin Capital Bank/Home Advantage Mortgage*
Axia Financial LLC*
BancorpSouth Bank
Bank of America
Bank of Oklahoma dba Bank of Texas
Barton Creek Lending Group, LLC
Bay Equity LLC
BBMC Mortgage, a division of Bridgeview Bank Group
BlueSky Lending, LLC
Bluewater Mortgage, LLC dba Upward Home Loans
Bridgeview Mortgage, LLC
Broker Solutions Inc., dba New American Funding
CalAtlantic Mortgage, Inc.
CalCon Mutual Mortgage, LLC dba OneTrust Home Loans
Caliber Home Loans, Inc
Caltex Funding, LP
Capstar Lending, LLC
Cardinal Financial Company, LP*
Castle & Cooke Mortgage, LLC.
Cendera Funding, Inc.

**Approved Mortgage Lenders**

Certainty Home Loans
Champions Lending, LLC dba Champions Mortgage*
City Bank Mortgage
City First Mortgage Services, LLC
Citywide Home Loans
CLM Mortgage, LLC
CMG Mortgage, INC DBA CMG Financial
Colonial National Mortgage , a Division of Colonial Savings, F.A.
Columbus Capital Lending
Commonwealth Mortgage of Texas, LP
Compass Mortgage, Inc.
Cornerstone Home Lending, Inc.
Corridor Mortgage Group, Inc.
Counselors Mortgage Corp
Crestmark Mortgage Company, Ltd. (Cornerstone is the General Partner)
CrossCountry Mortgage, Inc.
DAS Acquisition Company, LLC
Data Mortgage, Inc. dba Essex Mortgage, Inc.
DHI Mortgage Co., Ltd.
Diamond Residential Mortgage Corp.
Draper and Kramer Mortgage Corp dba 1st Advantage Mortgage
Eagle Home Mortgage, LLC
Elite Financing Group, LLC.
Envoy Mortgage, Ltd
Eustis Mortgage Corporation dba Finance Home America
Everett Financial, Inc., dba Supreme Lending
Fairway Independent Mortgage Corp
Finance of America Mortgage, LLC
First American Mortgage
First California Mortgage DBA FirstCal
First Centennial Mortgage Corporation*
First Choice Loan Services, Inc.
First Community Bank
First Continental Mortgage, LTD.
First National Bank of Trenton
FNBT dba First Community Mortgage
Freedom Mortgage Corporation
Gardner Financial Services, Ltd. dba Legacy Mutual Mortgage

**Approved Mortgage Lenders**

Gateway Mortgage Group, LLC

GenEquity Mortgage, Inc.

Geneva Financial, LLC

Georgetown Mortgage, LLC

Global Home Finance, Inc.

Gold Standard Mortgage

Gold Star Mortgage Financial Group

Great Plains National Bank

Guild Mortgage Company

Hamilton Group Funding, Inc.

Hancock Mortgage

Hancock Whitney Bank

Highlands Residential Mortgage

HomeBridge Financial Services, Inc.

Hometown Lenders, LLC

Hometrust Mortgage Company

Homeway Mortgage

Homewood Mortgage, LLC

IberiaBank Mortgage Company

IHS Mortgage, LLC

Impact Capital Mortgage

Independent Bank

Infinity Mortgage Holdings, LLC\*

Integrity First Financial Group, Inc.\*

InterLinc Mortgage Services, LLC

International City Mortgage, Inc.

JP Morgan Chase

K. Hovnanian American Mortgage, LLC.

KBHS Home Loans, LLC

Keller Mortgage LLC (dba's Primero Home Loans, Smarter Mortgages)

Land Home Financial Services, Inc.\*

LeaderOne Financial Corp.

LHM Financial Corp dba CNN Mortgage

Liberty Bank and Trust Co.

Liberty Mortgage (Wendeburg Interests)

Loan Simple Inc.

LoanDepot LLC dba iMortgage

LoanStar Home Loans, LLC dba LoanStar Home Lending

**Approved Mortgage Lenders**

Mann Mortgage

M/I Financial, LLC

Mid America Mortgage, Inc.

Mission Mortgage of Texas, Inc.

MLD Mortgage, Inc. DBA The Money Store

Moria Development, Inc. dba Peoples Mortgage Company

Mortgage Financial Services, LLC.

Mortgage Pros, Inc.

Mortgage Services, Inc.

Mountain West Financial Services, LLC.

Nations Reliable Lending, LLC

Network Funding, L.P.

New ERA Mortgage Services, Inc.

New Penn Financial, LLC

Norwich Commercial Group, Inc. dba Norcom Mortgage\*

Oak Mortgage Group

On Q Financial, Inc.

Open Mortgage, LLC

Pacific Union Financial, LLC.

Paramount Residential Mortgage Group (PRMG)

Patriot Bank Mortgage, Inc.

PNC Mortgage

Peoples Home Equity Mortgage Lending

Perl Mortgage, Inc.\*

Planet Home Lending, LLC

Precious Realty &amp; Mortgage, LLC

Premier Nationwide Lending (NTFN, Inc.)

Primary Residential Mortgage

PrimeLending, a Plains Capital Company

PrimeWest Mortgage Corp.

Princess Palace, LLC dba Impact Mortgage

Prodigy, Inc.

Prompt Mortgage, LLC\*

Prospect Mortgage

Pulte Mortgage LLC

RANLife, Inc.

Republic State Mortgage Company

Residential Bancorp

<b>Approved Mortgage Lenders</b>
Right Start Mortgage, Inc.*
RMC Mortgage Corporation
Rocky Mountain Mortgage Company
Secure Financial Services, Inc. dba Secure Mortgage Company
Security American Mortgage
Security National Mortgage Company
Sente Mortgage
Sequoia Mortgage, LLC*
SFMC, LP dba Service First Mortgage Co
Southwest Funding, LP
Stearns Lending, Inc.
Success Mortgage Partners, Inc.
SWBC Mortgage Corporation
Synergy One Lending, Inc.
Texana Bank
Texas Bank Financial dba Texas Bank Mortgage Co.
The Home Lending Group dba Modern Mortgage
The Lending Partners, LLC
Top One Mortgage LLC
Town Square Mortgage & Investments, Inc. dba Town Square Financial
Tri-State Mortgage Company
TXL Mortgage Corporation
Union Home Mortgage Corporation
US Bank Home Mortgage
Veterans United Home Loans
Victorian Finance, LLC
W.J. Bradley Mortgage Capital
Wallick & Volk, Inc.
Waterstone Mortgage Company
Wells Fargo Home Mortgage
WestStar Bank
Weststar Mortgage Corporation
Willow Bend Mortgage
Wolfe Financial, Inc. dba Integrity Mortgage Group
Woodside Mortgage Corporation

\* Approved within last 12 months

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**BOARD ACTION REQUEST**

**HOME AND HOMELESS PROGRAMS DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on Program Year 2018 Emergency Solutions Grants Program Awards

**RECOMMENDED ACTION**

**WHEREAS**, the Emergency Solutions Grants (“ESG”) Program is funded by the U.S. Department of Housing and Urban Development (“HUD”);

**WHEREAS**, the Department released a Notice of Funding Availability (“NOFA”) in January 2017 to identify successful applicants to be awarded funding for Program Years (“PY”) 2017 and 2018 if funds were awarded to the State;

**WHEREAS**, for PY 2018, the Department received \$8,801,531 from HUD, which is approximately a 0.65% decrease from PY 2017;

**WHEREAS**, the 2017/2018 ESG NOFA stated that awards to ESG Subrecipients for the second year of funding would be proportional to any increase or decrease received by TDHCA from HUD;

**WHEREAS**, during a July 2018 monitoring from HUD, HUD identified a concern about the method of awarding ESG funds to collaborative subgrantees that the Department had been using, and in response the Department has made a change to contract directly with each ESG provider that was not procured;

**WHEREAS**, \$7,977,354 was awarded to 59 of 63 eligible ESG Subrecipients at the October 11, 2018, Board meeting, along with \$351,920, which is to be retained for State administration of the program;

**WHEREAS**, \$472,257 is presented to be awarded to the remaining four ESG Subrecipients at this meeting; and

**WHEREAS**, federal program rules require the Department to commit all funds within 60 days of receipt of an award letter from HUD, and the Department’s ESG award letter was signed by HUD on September 12, 2018;

**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 awards in PY 2018 ESG contracts.

### **Background**

The ESG Program is funded by HUD and its focus is to assist people to regain stability in permanent housing quickly after experiencing a housing crisis and/or homelessness. On January 9, 2017, the Department released a two year NOFA notifying prospective applicants of the availability of ESG funds for PY 2017 and PY 2018. Successful applicants would receive funding for two years, PY 2017 and PY2018. Funds were allocated for competition to the State's 11 Continuum of Care ("CoC") regions based on criteria indicated in the NOFA. During the Board meeting of November 9, 2017, the Board approved the final 2017 ESG award recommendations based on the total final amount of PY 2017 received by the Department, and after the resolution of appeals.

The NOFA and the Department's 2018 Action Plan indicated that PY 2018 ESG awards would be proportional to any increase or decrease that the Department received from HUD in PY 2018 funding. In addition, the NOFA outlines that any additional funds which might become available either through a supplemental appropriation, return of funds, or recapture of prior year funds would be distributed to increase the award of Subrecipients that received a partial award. The Department was notified that the 2018 allocation of ESG funds is \$8,801,531, which is an approximate decrease of 0.65% from the 2017 allocation. This decrease was proportionally applied to the funds awarded in 2017<sup>1</sup>.

During a HUD monitoring in July 2018, HUD identified concerns with the Department's recent ESG subgranting process whereby ESG Subrecipients that were private nonprofits could subgrant a portion of the ESG funds they were awarded to other private nonprofit organizations identified as partners in the application. The concerns identified by HUD included the timeliness of payments to the second tier subgrantees, monitoring of these subgrantees by the ESG Subrecipients, and the substance of the agreement between the ESG Subrecipients and subgrantees. Because of these concerns, the Department's award recommendations to the Board reflect a change to the 2018 ESG awards process to contract directly with both Subrecipients and their 2017 subgrantees, which in essence makes all awardees Subrecipients and equal in their relationship with the Department's 2018 ESG funds. As a result, the number of awards for 2018 ESG funds has increased, though the number of actual ESG providers did not increase. In order to effect this change, ESG Subrecipients who subgranted funds in 2017 were asked to confirm the award and performance targets with the subgrantees, and provide that confirmation to the Department in order for the Department to contract directly with the selected subgrantee. In some cases, the 2017 ESG Subrecipient or subgrantee declined to contract directly with the Department, and while keeping performance targets that would have resulted in the Application originally being funded, the original Subrecipient was allowed to reallocate the funds to other subgrantees listed in the Application or keep the funds for itself.

Four potential ESG Subrecipients did not submit required documentation to complete their

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<sup>1</sup> The Department received a special allocation of 2017 ESG funds that was earmarked by HUD for entities in the Amarillo Continuum of Care. That special allocation was not repeated in 2018, and consequently Subrecipients in that region had 2018 ESG awards reduced by an amount greater than .65%.



previous participation review in time for the October 11, 2018, Board meeting. Those remaining four 2018 ESG awards are presented at this November 8, 2018, Board meeting, having submitted the required documentation.

A total of \$472,257 in ESG funds will be awarded with this action. The entities that were subgrantees under a group application last year are identified with a number after the decimal in their application number. The award recommendation log is as follows:

#	Application number	Continuum of Care Region	Organization	Recommended Award amounts
1	186016.1	TX601	Catholic Charities of Fort Worth	\$142,418
2	186039.1	TX603	El Paso Center for Children	\$23,844
3	186073.3	TX607	Giving HOPE, Inc	\$156,971
4	186073.4	TX607	The Salvation Army of Denton	\$149,024

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## **BOARD ACTION REQUEST**

### **HOME AND HOMELESSNESS PROGRAMS DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action to authorize the issuance of the 2018 HOME Investment Partnerships Program Single Family Homeowner Rehabilitation Assistance Reservation System Notice of Funding Availability and publication in the *Texas Register*

#### **RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) has approximately \$11,694,221 of HOME Investment Partnerships Program (“HOME”) Single Family general set-aside funds to make available for the Homeowner Rehabilitation Assistance (“HRA”) program activity from the U.S. Department of Housing and Urban Development’s (“HUD”) State of Texas 2018 allocation to TDHCA for the HOME Program; and

**WHEREAS**, based on public input and dialogue, and in compliance with the Department’s HUD-approved 2018 Consolidated Plan One-Year Action Plan the Department proposed to make approximately \$11,694,221 in funds available for HRA through the HOME Reservation System;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department’s website and to publish a notification in the *Texas Register*, a 2018 HOME Single Family Programs HRA NOFA for funding in the amount of approximately \$11,694,221, to be released into the Reservation System, and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.

#### **BACKGROUND**

The U.S. Department of Housing and Urban Development’s (“HUD”) State of Texas 2018 allocation to TDHCA for the HOME Program is approximately \$34,986,241 and was dated September 12, 2018. TDHCA has programmed the funds for various uses in accordance with the HUD-approved 2018 Consolidated Plan One-Year Action Plan. Staff is proposing to release a HOME Single Family Programs HRA NOFA that includes \$11,694,221 of the 2018 HOME allocation for general set asides. The funds will be made to single family HOME Program Reservation System Administrators for HRA activities. These set-aside funds are subject to the Regional Allocation Formula. Approval for participation in the Reservation System does not assure funding.

On August 28, 2018, staff held a roundtable to solicit input regarding community preferences for

funding through an awards cycle or the Reservation System for the 2018 allocation for general set-aside funds. Based on feedback at that roundtable, staff is releasing \$11,694,221 in general set-aside HOME funds from the 2018 allocation into the Reservation System for HRA on January 22, 2019. Funding that is deobligated from prior Reservation System activities is directed back into the Reservation System within the set-aside from which funds were originally committed. Addition of other sources of deobligated funding may be added to the balance of available general set-aside funds in the Reservation System in the case of anticipated oversubscription.

Any funds remaining on July 30, 2019, at 10 a.m. Austin local time not requested under this NOFA may be reprogrammed in a manner that is consistent with the 2018 One-Year Action Plan approved by HUD.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 1 Administration, Chapter 2, Enforcement, Chapter 20, Single Family Umbrella Rule, Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and Chapter 23, the Single Family HOME Program, as amended (“HOME Program Rule”), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (“HOME Final Rule”).

The 2018 HOME Single Family Programs HRA Reservation System NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules, and the HOME Final Rule. Administrators will access the funds available under this NOFA either through existing reservation agreements or by applying for a reservation system participation agreement. Applications for reservation system participation agreements are accepted on an ongoing basis.



**HOME Investment Partnerships Program (“HOME”)  
CFDA# 14.239**

**2018 HOME Investment Partnerships Program Single Family Homeowner Rehabilitation  
Assistance General Set-Aside Reservation System Notice of Funding Availability**

**1) Summary.**

- a) The Texas Department of Housing and Community Affairs (the “Department”) announces a NOFA of approximately \$11,694,221 in HOME funds for single family housing programs under the Homeowner Rehabilitation Assistance (“HRA”) general set-aside under a Reservation System. These funds will be made available to HOME Reservation System Participants with a current Reservation System Participation (“RSP”) Agreement.
- b) The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (“TAC”) rules in effect at the time of application review or contract execution (as applicable), Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, effective August 3, 2017, (“State HOME Rules”); and Tex. Gov’t Code §2306. Other federal and state regulations include but are not limited to, 24 CFR Part 58 for environmental requirements, 24 CFR Part 200 for Uniform Administrative Requirements, 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (“Federal HOME Rules”), and for units of government, the Uniform Grant Management Standards (“UGMS”) as outlined in Chapter 783 in the Texas Local Government Code. Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- c) Capitalized terms in this NOFA have the meanings defined herein, or as defined in State HOME Rules or the Federal HOME Rules.
- d) If changes to the RSP are required during the RSP term due to required changes in Federal or State law, the Department may initiate an amendment process to ensure compliance.

- 2) Source of Funds.** Funds totaling \$11,694,221 are made available for single family activities through the Department’s 2018 annual HOME allocation from the U.S. Department of Housing and Urban Development (“HUD”). The Department, in its sole discretion, may also release unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

3) **Eligible Activity Types.** The following activity types are eligible uses of Set-Aside HOME funds under this NOFA:

- a) **Homeowner Rehabilitation Assistance.** HRA provides funds for the rehabilitation, reconstruction, or new construction of a single family residence owned and occupied by eligible low-income Households. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter C, Homeowner Rehabilitation Assistance Program, §§23.30 - 23.32.
- b) Prohibited activities include those at 24 CFR §92.214, and in the State HOME Rules.

4) **Limitation on Funds.**

- a) Funds will not be eligible for use in a Participating Jurisdiction (“PJ”).
- b) Funding under this NOFA may be made available through the Reservation System to HOME Administrators with active RSP Agreements. Applications to request an RSP Agreement are accepted on an on-going basis. Applicants requesting an RSP Agreement must submit a completed application, required documentation, and associated application materials as detailed in the Application Submission Procedures Manual (“ASPM”).
- c) Each applicant that is granted HOME funds may also be eligible to receive funding for Administrative costs. Funds for Administrative costs cannot exceed 4% of the total project funds committed under the Reservation System.
- d) Updated balances for the Reservation System may be accessed online at <http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm>. Reservations of funds may be submitted at any time during the term of an RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.
- e) Except as limited in this NOFA or by statute, the Department may reprogram funds at anytime to the Reservation System, or to administer directly.

5) **Regional Allocation Formula.** In accordance with Tex. Gov’t Code §2306.111(d), these funds are subject to the Regional Allocation Formula (“RAF”). Refer to Table 1: Regional Allocation for Homeowner Rehabilitation Assistance, which will also be published on the Department’s website at <http://www.tdhca.state.tx.us/home-division/applications.htm>.

<b>Table 1: Regional Allocation for Homeowner Rehabilitation Assistance</b>			
<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>1</b>	\$ 120,402	\$ 534,141	\$ 654,543
<b>2</b>	\$ 107,803	\$ 433,506	\$ 541,309
<b>3</b>	\$ 1,737,593	\$ 296,967	\$ 2,034,560
<b>4</b>	\$ 344,869	\$ 777,925	\$ 1,122,794
<b>5</b>	\$ 191,829	\$ 504,992	\$ 696,821
<b>6</b>	\$ 377,921	\$ 246,472	\$ 624,393
<b>7</b>	\$ 827,952	\$ 246,622	\$ 1,074,574
<b>8</b>	\$ 377,689	\$ 384,372	\$ 762,061
<b>9</b>	\$ 309,153	\$ 276,207	\$ 585,361

<b>Table 1: Regional Allocation for Homeowner Rehabilitation Assistance</b>			
<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>10</b>	\$ 270,248	\$ 396,754	\$ 667,002
<b>11</b>	\$ 303,817	\$ 505,404	\$ 809,221
<b>12</b>	\$ 232,132	\$ 452,427	\$ 684,559
<b>13</b>	\$ 256,313	\$ 1,180,710	\$ 1,437,022
<b>Total</b>	<b>\$ 5,457,722</b>	<b>\$ 6,236,499</b>	<b>\$ 11,694,221</b>

**6) Allocation of Funds.**

- a) Approximately \$11,694,221 in funds are reserved for general set-aside HRA Activities through the HOME Reservation System in accordance with section 4 of this NOFA and subject to the RAF, and will be available under each Uniform State Service Region by sub-region (Rural and Urban) beginning on **Tuesday, January 22, 2019, at 10:00 a.m. Austin local time** until **Tuesday, February 26, 2019, at 10:00 a.m. Austin local time**.
- b) On **Wednesday, February 27, 2019, at 10:00 a.m. Austin local time**, any funds which have not been requested under section 6(a) of this NOFA will collapse within each region and will be made available by Uniform State Service Region until **Tuesday, March 26, 2019, at 10:00 a.m. Austin local time**.
- c) On **Wednesday, March 27, 2019, at 10:00 a.m. Austin local time**, any funds which have not been requested under sections 6(a) or 6(b) of this NOFA will collapse, and be made available for HRA Activities in any Uniform State Service Region.
- d) On **Tuesday, July, 30, 2019, at 10:00 a.m. Austin local time**, any funds which have not been requested under 6(c) of this NOFA will be made available in the Reservation System for any General Set-Aside Activity in any Uniform State Service Region.
- e) An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion. Subsequent changes to the timeline or method of release will be published on the Department's website. However, failure to do so will not invalidate reservations that are otherwise made in accordance with this NOFA.
- f) Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm). Reservations of funds may be submitted at any time during the term of a RSP Agreement, as long as funds are available in the Reservation System. Participation in the Reservation System is not a guarantee of funding availability.

**7) Application Selection Process**

- a) Funding under this NOFA will be made available through the Reservation System to HOME Administrators with active RSP Agreements. Applications to request an RSP Agreement are accepted on an ongoing basis. Applicants requesting an RSP Agreement must submit a completed application, required documentation, and associated application materials as detailed in the ASPM.
- b) All Application materials including manuals, program guidelines, and applicable HOME rules, are available on the Department's website at <http://www.tdhca.state.tx.us/home->

[division/applications.htm](#). Applications for an RSP Agreement will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.

- c) Reservations of funds may be submitted at any time during the term of an RSP Agreement, as long as funds are available in the Reservation System. Updated balances for the Reservation System may be accessed online at [www.tdhca.state.tx.us/home-division/home-reservation-summary.htm](http://www.tdhca.state.tx.us/home-division/home-reservation-summary.htm).
- d) Administrative deficiencies noted during the review of an Application shall be subject to the administrative deficiency process outlined in 10 TAC §23.24.
- e) All Applicants will be subject to a Previous Participation Review by the Department as outlined in 10 TAC Chapter 1, Subchapter C.
- f) Audit Requirements. All Applicants are subject to the requirements of 10 TAC §1.403 concerning Single Audits.
- g) Pursuant to Tex. Gov't Code §2306.1112, the Executive Award and Review Advisory Committee will make recommendations to the Board regarding funding and allocation decisions.

#### **8) Eligible and Ineligible Applicants.**

- a) Eligible Applicants include Units of General Local Government, Nonprofit Organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.
- b) Applicants are required to familiarize themselves with the Department's certification and debarment policies prior to application submission.

#### **9) Application Submission.**

- a) The Department will accept applications for the Reservation System on an ongoing basis. **Applications for the Reservation System are to be submitted as an upload to the Department's FTP server in the format requirements detailed in the RSP ASPM.**
- b) Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA and as detailed in the RSP ASPM. All scanned copies must be scanned in accordance with the guidance provided in the RSP ASPM.
- c) All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on Application forms published online at the above reference site provided by the Department which cannot be altered or modified, and must be in final form before they are submitted to the Department.
- d) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 per Application.



Payment must be in the form of a check, cashier's check or money order. **Do not send cash.** Pursuant to Tex. Gov't Code §2306.147(b), the Department will waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must request a waiver of the grant application fee in a board resolution authorizing the submittal of the application to the Department, and must include with the application proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not an allowable or reimbursable cost under the HOME Program.

- e) This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME and Homelessness Programs Division for guidance and assistance.

#### **10) Dispute Resolution/Appeal.**

- a) In accordance with Tex. Gov't Code §2306.082 and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution ("ADR") procedures under the Governmental Dispute Resolution Act, Tex. Gov't Code Chapter 2009, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's Rule on ADR at 10 TAC §1.17.
- b) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

For questions regarding this NOFA, please contact Jaclyn Leasure, HOME Production Coordinator for the HOME and Homelessness Programs Division, at (512) 475-2975 or via email at [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us).

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**BOARD ACTION REQUEST**

**HOME AND HOMELESSNESS PROGRAMS DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action to authorize the issuance of the 2018 HOME Investment Partnerships Program Single Family Homebuyer Assistance and Tenant-Based Rental Assistance Notice of Funding Availability and publication in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) has approximately \$7,796,148 of HOME Investment Partnerships Program (“HOME”) Single Family general set-aside funds to make available for Homebuyer Assistance (“HBA”) and Tenant-Based Rental Assistance (“TBRA”) program activities from the U.S. Department of Housing and Urban Development’s (“HUD”) State of Texas 2018 allocation to TDHCA for the HOME Program; and

**WHEREAS**, based on public input and dialogue and in compliance with the Department’s HUD-approved 2018 Consolidated Plan One-Year Action Plan, the Department proposes to make approximately \$7,796,148 in funds available for HBA and TBRA under the general set-aside through awards made under an Open Application Cycle;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to post on the Department’s website and to publish a notification in the *Texas Register*, a 2018 HOME Single Family Programs HBA and TBRA NOFA in the amount of approximately \$7,796,148, and to make any technical corrections or perform such other acts as may be necessary to effectuate the foregoing.

**BACKGROUND**

HUD’s State of Texas 2018 allocation to TDHCA for the HOME Program is approximately \$34,986,241 and was received on September 12, 2018. TDHCA has programmed the funds for various uses in accordance with the HUD-approved 2018 Consolidated Plan One-Year Action Plan. Staff is proposing to release a HOME Single Family Programs HBA and TBRA NOFA which includes \$7,796,148 of the 2018 HOME allocation for general set asides. The funds will be made available for award for single family HOME Program HBA and TBRA activities. These set-aside funds are subject to the Regional Allocation Formula.

On August 28, 2018, staff held a roundtable to solicit input regarding community preferences for funding through an awards cycle or the Reservation System for the 2018 allocation for general set-

aside funds. Based on feedback from that roundtable, staff is proposing to award \$7,796,148 in general set-aside HOME funds from the 2018 allocation through an Open Application Cycle for HBA and TBRA. Applications for an Open Application Cycle are prioritized on a first-come, first-serve basis based on Application receipt date and time. The NOFA will be structured according to activity type under the general set-aside. Applications for award will be accepted beginning January 22, 2019, and ending May 28, 2019, or when all funds are awarded, whichever comes earlier. Funds in an amount not to exceed \$150,000 in project funds per application may be awarded under this NOFA for provision of HBA. Funds in an amount not to exceed \$350,000 in project funds per application may be awarded under this NOFA for provision of TBRA. Applicants may apply for more than one award under the Open Application Cycle, with a maximum of two contracts per program activity type. Applicants requesting more than one award must submit a separate application for each request, and the service areas for each award per program activity must be mutually exclusive.

Funds which have not been requested under the Open Application Cycle as of Tuesday, May 28, 2019, at 5 p.m. Austin local time will be made available under the Reservation System in any Uniform State Service Region for general set-aside TBRA or HBA Activities. Funding that is deobligated from prior Reservation System activities is directed back into the Reservation System within the set-aside from which it was originally committed. Addition of other sources of deobligated funding may be added to the balance of available general set-aside funds in Reservation System in the case of oversubscription.

Any funds remaining on July 30, 2019, at 10 a.m. Austin local time not requested under this NOFA may be reprogrammed in a manner that is consistent with the 2018 One-Year Action Plan approved by HUD.

The availability and use of these funds are subject to state and federal regulations including, but not limited to Texas Administrative Code in Title 10 Part 1, Chapter 1 Administration, Chapter 2, Enforcement, Chapter 20, Single Family Umbrella Rule, Chapter 21, Minimum Energy Efficiency Requirements for Single Family Construction Activities, and Chapter 23, the Single Family HOME Program, as amended (“HOME Program Rule”), and the federal regulation governing the HOME Program at 24 CFR Part 92, as amended (“HOME Final Rule”).

The 2018 HOME Single Family Programs HBA and TBRA NOFA was developed in accordance with the Single Family Umbrella and HOME Program Rules. Administrators will access the funds available under this NOFA by applying under an Open Application Cycle.



**HOME Investment Partnerships Program (“HOME”)  
CFDA# 14.239**

**2018 HOME Single Family Programs HBA and TBRA General Set-Aside  
Notice of Funding Availability (“NOFA”)**

**1) Summary.**

- a) The Texas Department of Housing and Community Affairs (“the Department”) announces an initial NOFA of approximately \$7,796,148 in HOME funds for Homebuyer Assistance (“HBA”) and Tenant-Based Rental Assistance (“TBRA”) programs under the general set-aside.
- b) The availability and use of these funds are subject to the HOME rules including, but not limited to the following Texas Administrative Code (“TAC”) rules in effect at the time of application review or contract execution (as applicable), Title 10, Part 1, Chapter 1, Administration; Chapter 2, Enforcement; Chapter 20, the Single Family Programs Umbrella Rule; Chapter 21, the Minimum Energy Efficiency Requirements for Single Family Construction Activities; Chapter 23, the Single Family HOME Program, effective August 3, 2017, (“State HOME Rules”); and Tex. Gov’t Code §2306. Other federal and state regulations include but are not limited to, 24 CFR Part 58 for environmental requirements, 24 CFR Part 200 for Uniform Administrative Requirements, 24 CFR §135.38 for Section 3 requirements, 24 CFR Part 5, Subpart A for fair housing, (“Federal HOME Rules”), and for units of government, the Uniform Grant Management Standards (“UGMS”) as outlined in Chapter 783 in the Texas Local Government Code. Applicants must familiarize themselves with all of the applicable state and federal rules that govern the HOME Program.
- c) Capitalized terms in this NOFA have the meanings defined herein or as defined in State HOME Rules or the Federal HOME Rules.

- 2) Source of Funds.** Funds totaling \$7,796,148 are made available for single family activities through the Department’s 2018 annual HOME allocation from the U.S. Department of Housing and Urban Development (“HUD”). The Department, in its sole discretion, may also release unallocated HOME funds, deobligated funds, Program Income, and funds reallocated from undersubscribed set-asides, as allowable and available, under this NOFA. The Department, in its sole discretion, also reserves the right to cancel or modify the amount available in this NOFA.

- 3) Eligible Activity Types.** The following activity types are eligible uses of Set-Aside HOME funds awarded under this NOFA:

- a) **Homebuyer Assistance.** HBA provides down payment and closing cost assistance, as well as possible rehabilitation assistance for accessibility modifications for eligible low-income

Households. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter D, Homebuyer Assistance Program, §§23.40 - 23.42.

**Tenant-Based Rental Assistance.** TBRA provides rental subsidies to eligible low-income Households. Assistance may include rental, security, and utility deposits. Specific program guidelines can be found at 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, Tenant-Based Rental Assistance Program, §§23.60 - 23.62.

b) Prohibited activities include those at 24 CFR §92.214 and in the State HOME Rules.

**4) Limitation on Funds.**

a) Funds will not be eligible for use in a Participating Jurisdiction (“PJ”).

b) The Department awards Open Application Cycle HOME funds to eligible entities for the intent of one or more Households and the maximum amount of each award may not exceed the following amounts (exclusive of administrative costs) per program activity:

- i) \$150,000 for HBA applications
- ii) \$350,000 for TBRA applications

c) Applicants may apply for more than one award under the Open Application Cycle. Applicants requesting more than one award must submit a separate application for each request, and the service areas for each award per program activity must be mutually exclusive. The Department will not award more than two contracts per program activity to the same Applicant under the Open Application Cycle.

d) Funding under this NOFA may be available through the Reservation System to HOME Administrators with active Reservation System Participation (“RSP”) Agreements. Applications to request an RSP Agreement are accepted on an ongoing basis. Applicants requesting an RSP Agreement must submit a completed application, required documentation, and associated application materials as detailed in the RSP Application Submission Procedures Manual (“ASPM”).

e) Each applicant that is awarded HOME funds may also be eligible to receive funding for Administrative costs.

- i) For HBA applications, funds for Administrative costs cannot exceed 4% of the direct activity costs awarded under a contract.
- ii) For TBRA applications, Applicants may request Administrative funds in an amount not to exceed 8% of direct activity costs awarded. Applicants that request a maximum of 4% of direct activity costs awarded may be eligible for up to \$1,200 in project soft costs per activity assisted under the Contract in accordance with 10 TAC §23.61(g).

f) Except as limited in this NOFA or by statute, the Department may reprogram funds at anytime to the Reservation System, or to administer directly.

**5) Regional Allocation Formula.** In accordance with Tex. Gov’t Code §2306.111(d), these funds are subject to the Regional Allocation Formula (“RAF”). Refer to Table 1: Regional Allocation for Homebuyer Assistance and Tenant-Based Rental Assistance, which will also be published on the Department’s website at <http://www.tdhca.state.tx.us/home-division/applications.htm>.

<b>Table 1: Regional Allocation for Homebuyer Assistance and Tenant-Based Rental Assistance</b>			
<b>Region</b>	<b>Urban Subregion</b>	<b>Rural Subregion</b>	<b>Total Available in Region</b>
<b>1</b>	\$ 80,268	\$ 356,094	\$436,362
<b>2</b>	\$ 71,869	\$ 289,004	\$360,873
<b>3</b>	\$ 1,158,396	\$ 197,978	\$1,356,374
<b>4</b>	\$ 229,913	\$ 518,617	\$748,530
<b>5</b>	\$ 127,886	\$ 336,661	\$464,547
<b>6</b>	\$ 251,947	\$ 164,315	\$416,262
<b>7</b>	\$ 551,968	\$ 164,414	\$716,382
<b>8</b>	\$ 251,792	\$ 256,248	\$508,040
<b>9</b>	\$ 206,102	\$ 184,138	\$390,240
<b>10</b>	\$ 180,165	\$ 264,503	\$444,668
<b>11</b>	\$ 202,545	\$ 336,936	\$539,481
<b>12</b>	\$ 154,755	\$ 301,618	\$456,373
<b>13</b>	\$ 170,875	\$ 787,140	\$958,015
<b>Total</b>	<b>\$ 3,638,481</b>	<b>\$4,157,667</b>	<b>\$7,796,148</b>

**6) Allocation of Funds.**

a) **Tenant-Based Rental Assistance and Homebuyer Assistance.** Approximately \$7,796,148 in funds is available for general set-aside TBRA and HBA program activities under an Open Application Cycle for contract awards in accordance with section 4 of this NOFA.

i) Requirements of the RAF and 10 TAC §23.22(a) will be utilized in prioritizing funding recommendations. Applicants for the Open Application Cycle may apply for the maximum allowed in each activity even though the amount of available funds utilizing the RAF may be less. However, only the maximum allowable under the RAF will be recommended for award during the RAF period.

ii) Applications that do not exceed the RAF limitation for the Subregion under which the Application is received will be prioritized for award based on Application received date. Remaining funds after subregional awards will collapse into the Region, and Applications which do not exceed the remaining funds available in the Region will be prioritized based on the Application received date. Applications that exceeded the remaining funds available by Subregion or Region, as applicable, will be prioritized for remaining funds available statewide based on the Application received date.

iii) Applications for the Open Application Cycle will be accepted beginning on **Tuesday, January 22, 2019, at 10:00 a.m. Austin local time on a first-come, first-serve basis.** Applications received prior to the commencement of the Application acceptance period will not be accepted.

iv) On **Tuesday, March 26, 2019, at 10:00 a.m. Austin local time,** funds not requested under the Open Application Cycle utilizing the RAF will collapse and will be made available in any Uniform State Service Region. Applications will be accepted by the Department on an on-going basis until the earlier of the award of all funds or **Tuesday, May 28, 2019, at 5:00 p.m. Austin local time.**

- v) On **Wednesday, May 29, 2019, at 10 a.m. Austin local time**, funds which have not been requested under the Open Application Cycle will be made available under the Reservation System for reservation and commitment of funds benefiting individual Households through RSP Agreements in any Uniform State Service Region for General set-aside TBRA or HBA Activities.
  - vi) On **Tuesday, July 30, 2019, at 10:00 a.m. Austin local time**, any remaining funding not requested under this NOFA may be reprogrammed in a manner that is consistent with the Department's 2018 One-Year Action Plan approved by HUD.
  - b) An alternative timeline and method of releasing funds may be implemented, at the Department's sole discretion. Subsequent changes to the timeline or method of release will be published on the Department's website. However, failure to do so will not invalidate reservations that are otherwise made in accordance with this NOFA.
- 7) Application Selection Process.**
- a) All Application materials including manuals, program guidelines, and applicable HOME rules, are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>.
  - b) Applications must adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, cannot be altered or modified, and must be in final form before submitting them to the Department.
  - c) Administrative deficiencies noted during the review of an Application shall be subject to the administrative deficiency process outlined in 10 TAC §23.24.
  - d) All Applicants will be subject to a Previous Participation Review by the Department as outlined in 10 TAC §1.302.
  - e) Audit Requirements. All Applicants are subject to the requirements of 10 TAC §1.403 concerning Single Audits.
  - f) Pursuant to Tex. Gov't Code §2306.1112, the Executive Award and Review Advisory Committee will make recommendations to the Board regarding funding and allocation decisions.
- 8) Eligible and Ineligible Applicants.**
- a) Eligible Applicants include Units of General Local Government, Nonprofit Organizations, Public Housing Authorities, Local Mental Health Authorities, and Councils of Government.
  - b) Applicants are required to familiarize themselves with the Department's certification and debarment policies prior to application submission.
- 9) Application Submission.**
- a) The Department will accept applications for the Open Application Cycle on an ongoing basis. **Applications are to be submitted as an upload to the Department's FTP server in the format requirements detailed in the Open Application Cycle ASPM.** The



**Department will not accept Open Application Cycle applications submitted otherwise.**

- b) Applications for the Open Application Cycle must be received no later than **Tuesday, May 28, 2019, at 5:00 p.m. Austin local time. Applications received after the deadline for submission will not be considered for an award.**
- c) Applicants must submit a completed Application, required documentation, and associated application materials, as described in this NOFA and as detailed in the applicable ASPM. All scanned copies must be scanned in accordance with the guidance provided in the applicable ASPM.
- d) All Application materials including manuals, this NOFA, program guidelines, and applicable HOME rules are available on the Department's website at <http://www.tdhca.state.tx.us/home-division/applications.htm>. Applications will be required to adhere to the HOME Rule and threshold requirements in effect at the time of the Application submission. Applications must be on Application forms published online at the above reference site provided by the Department which cannot be altered or modified, and must be in final form before they are submitted to the Department.
- e) Applicants are required to remit a non-refundable Application fee payable to the Texas Department of Housing and Community Affairs in the amount of \$30 per Application. Payment must be in the form of a check, cashier's check or money order. **Do not send cash.** Pursuant to Tex. Gov't Code §2306.147(b), the Department will waive Application fees for private nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services. These organizations must request a waiver of the grant application fee in a board resolution authorizing the submittal of the application to the Department, and must include with the application proof of their exempt status and a description of their supportive services in lieu of the Application fee. The Application fee is not an allowable or reimbursable cost under the HOME Program.
- f) This NOFA does not include text of the various applicable regulatory provisions that may be important to the HOME Program. For proper completion of the application, the Department strongly encourages potential Applicants to review the State and Federal regulations, and contact the HOME and Homelessness Programs Division for guidance and assistance.

#### **10) Dispute Resolution/Appeal.**

- a) In accordance with Tex. Gov't Code §2306.082 and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Tex. Gov't Code Chapter 2009, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For

additional information on the Department's ADR Policy, see the Department's Rule on ADR at 10 TAC §1.17.

- b) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

For questions regarding this NOFA, please contact Jaclyn Leasure, HOME Production Coordinator for the HOME and Homelessness Programs Division, at (512) 475-2975 or via email at [HOME@tdhca.state.tx.us](mailto:HOME@tdhca.state.tx.us).

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously authorized release of the 2018-1 Multifamily Direct Loan Notice of Funding Availability (“NOFA”) for up to \$28,862,745 with the application acceptance period beginning on January 4, 2018;

**WHEREAS**, the NOFA has since been amended several times, increasing the amount available to \$58,304,276;

**WHEREAS**, Application #18223, which requested \$1,000,000 in Direct Loan funds for Harvest Park Apartments, is a Priority 3 application under the 2018-1 NOFA that has received complete reviews for compliance with program and underwriting requirements and has previously been awarded 9% housing tax credits (“9% HTC”) on July 26, 2018;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 3 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

**WHEREAS**, 10 TAC §13.5(d)(2) requires Applications for Developments previously awarded Department funds under any program to be found eligible by the Board;

**WHEREAS**, this Application was found eligible by the Board on July 26, 2018, and has provided evidence of adverse factors beyond the applicant’s control that could materially impair their ability to provide affordable housing as a criteria for the Board to consider in affirming their eligibility;

**WHEREAS**, staff recommends the Board continue to find this Application eligible; and

**WHEREAS**, this Application has layered Direct Loan rent restrictions on 10 of the 9% HTC units as a result of this addition of Direct Loan funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that an additional award of \$1,000,000 in Direct Loan funds from the 2018-1 NOFA for Harvest Park is hereby approved in the form presented at this meeting; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

### **BACKGROUND**

On December 14, 2017, the Board approved the issuance of a NOFA for up to \$28,862,745, which has subsequently been amended to increase the amount available to \$58,304,276 within three set-asides:

- \$22,324,041 in Supportive Housing/ Soft Repayment set-aside, composed of \$3.3 million in TCAP RF and \$19,024,041 in National Housing Trust Fund
- \$8,215,058 of HOME funds under the CHDO set-aside,
- \$27,765,177 in the General set-aside, composed of \$13,318,946 in HOME, \$5 million in NSP1 Program Income and \$9,446,231 in TCAP RF.

Harvest Park Apartments was awarded an allocation of 9% HTC on July 26, 2018, which proposed new construction of 60 two and three-bedroom units for a General population in Pampa. The Applicant's expectation of increased building costs and labor shortages as a result of recent hurricanes were provided as justification for requesting Direct Loan funds after the allocation of 9% HTC. Also, this request for additional Direct Loan funds, which is anticipated to be funded with HOME, will help the Department in expediently committing its HOME funds.

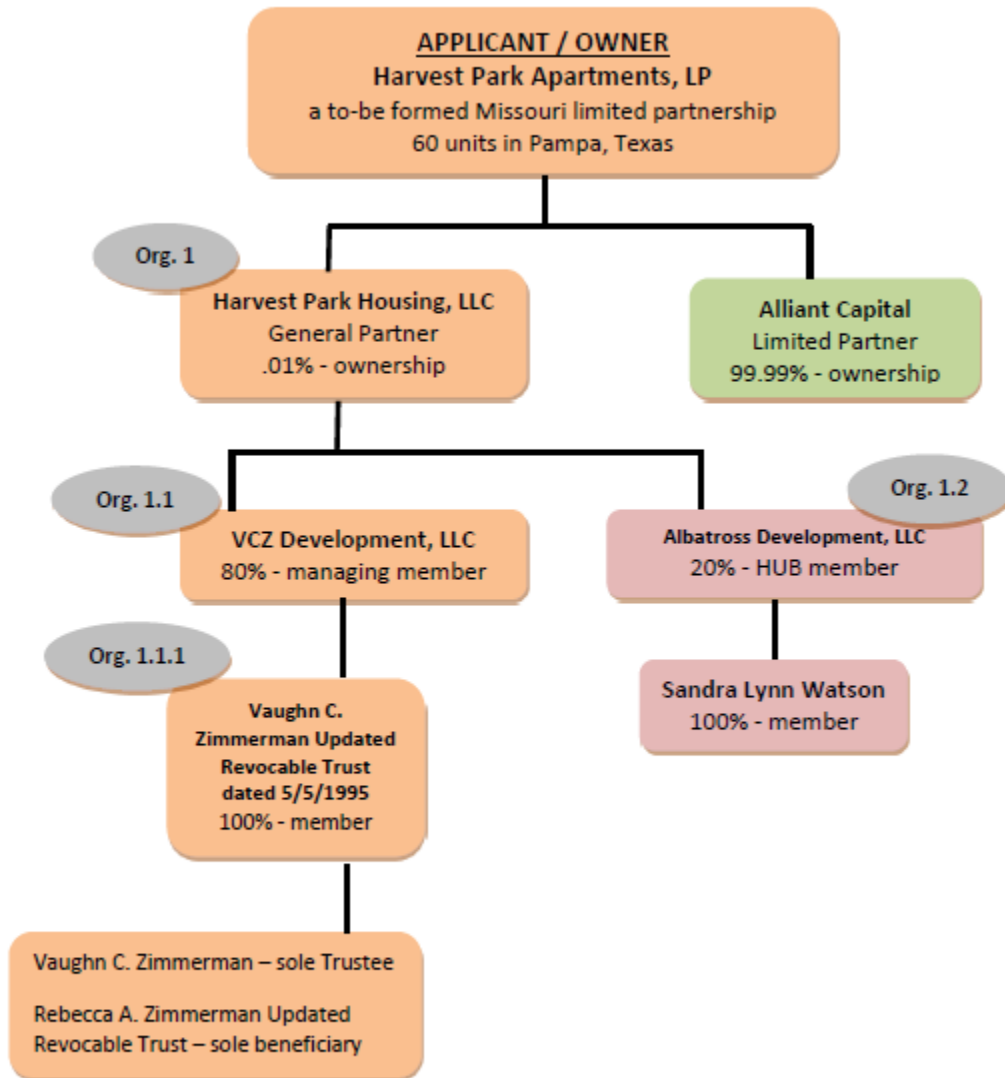
Staff is recommending the Board's approval of Harvest Park Apartments' application (18223) for HOME funds totaling \$1,000,000 as a loan at 4% interest rate with a 30 year amortization and 30 year term under the General Set-Aside. This loan will be subordinate to a Bank of Oklahoma conventional loan and will maintain second lien position during the permanent period as a result. The recommended application and award amounts are outlined in the attached award recommendations log behind this Board item.

This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should the recommended award be approved, \$49,665,028 will remain available under the NOFA, of which 12 applications requesting \$27,965,000 are still under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

*Organizational Structure and Previous Participation:* The borrower is Harvest Park Apartments, LP and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the applicant was an Extra Large Portfolio Category 3. EARAC recommends approval without further comment.

*Public Comment:* There have been no letters of support or opposition received by the Department in connection with this current application.



## Andrew Sinnott

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**From:** Ben Mitchell [bmitchell@wilhoitproperties.com]  
**Sent:** Friday, October 12, 2018 9:53 AM  
**To:** Andrew Sinnott; Jamie McDonald; Melissa Forster; Jeff Beckler; Sandy Watson  
**Subject:** RE: 18223 and 18274 Direct Loan applications

Andrew,

Thank you for talking this morning. Please except this email as our response for apps #18223 and 18274. With the recent hurricanes, construction costs will be a challenge. The addition of the MFDL to both developments will enable us to absorb those potential cost. We appreciate TDHCA's efforts to assist all their developers so every asset is the best for Texas.

Please do not hesitate to contact me if you need any additional information.



**Ben Mitchell, Vice President – Development/Finance**  
**We Have Moved – Please update your records with our new office address.**  
**All other contact information (email, website, and telephone/fax numbers) are the same.**

**Zimmerman Properties, LLC**  
**1329 East Lark Street; Springfield, Missouri 65804**

Corporate Phone (417) 883-1632 | Corporate Fax (417) 883-6343

Direct Dial (417) 890-3219 | Email [bmitchell@wilhoitproperties.com](mailto:bmitchell@wilhoitproperties.com)

Website <http://www.wilhoitproperties.com>



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**From:** Andrew Sinnott <[andrew.sinnott@tdhca.state.tx.us](mailto:andrew.sinnott@tdhca.state.tx.us)>

**Sent:** Friday, October 12, 2018 8:53 AM

**To:** Ben Mitchell <[bmitchell@wilhoitproperties.com](mailto:bmitchell@wilhoitproperties.com)>; Jamie McDonald <[jmcdonald@wilhoitproperties.com](mailto:jmcdonald@wilhoitproperties.com)>;  
Melissa Forster <[mforster@wilhoitproperties.com](mailto:mforster@wilhoitproperties.com)>; Jeff Beckler <[jbeckler@wilhoitproperties.com](mailto:jbeckler@wilhoitproperties.com)>; Sandy Watson  
<[swatson@wilhoitproperties.com](mailto:swatson@wilhoitproperties.com)>

**Subject:** 18223 and 18274 Direct Loan applications

All,

One deficiency I forgot to list in my deficiency notice a couple weeks ago for both 18223 and 18274 relates to the requirements in [10 TAC §13.5\(d\)\(2\)](#). Please provide documentation (either in a letter or email) explaining why this application – which previously received an award (9% HTC) from the Department – should be found eligible. Interest rate increases, construction cost increases, additional city requirements that add cost, etc. are examples of potential reasons why an application that previously received funds from the Department could potentially come back for additional funds and be found eligible.

Feel free to contact me if you have any questions.

Thanks,

**Andrew Sinnott**

Multifamily Loan Programs Administrator  
512.475.0538

*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)).*





**2018-1 Multifamily Direct Loan Program - Application Log - November 1, 2018**

Per 2018-1 Multifamily Direct Loan Notice of Funding Availability published in the *Texas Register* on 12/29/2017, First Amendment to NOFA published in the *Texas Register* on 4/6/2018, and Second Amendment to the NOFA published in the *Texas Register* on 7/27/18

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*Applications sorted by date received within each set-aside.*

													TCAP RF	\$3,300,000
													NHIF	\$19,024,041
													Total Set Aside Funding Level:	<b>\$22,324,041</b>
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<b>Total Amount Awarded Under CHDO Set Aside</b>						<b>\$ 1,600,000</b>	<b>Total Units</b>	<b>50</b>	<b>14</b>					
<b>Total Amount Remaining Under CHDO Set Aside</b>						<b>\$ 6,615,058</b>								

HOME (limited availability statewide)	\$13,318,946
NSPI PI (available statewide)	\$5,000,000
TCAP RF (available statewide)	\$9,446,231
<b>NSPI PI and TCAP RF Total</b>	<b>\$14,446,231</b>

													Total Set Aside Funding Level:	<b>\$27,765,177</b>
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18407	Sphinx at Sierra Vista Senior Villas	Fort Worth	Tarrant	3	NC	\$ 3,600,000	General	272	27	4%	8/31/2018	Previously awarded 4% HTC on 3/22/18
18223	Harvest Park Apartments	Pampa	Gray	1	NC	\$ 1,000,000	General	60	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18274	Hill Court Villas	Granbury	Hood	3	NC	\$ 1,000,000	Elderly Limitation	48	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18454	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	19	4%	9/21/2018	
18019	Highlander Senior Village	Comal	Bulverde	9	NC	\$ 3,090,000	Elderly Limitation	66	20	9%	9/25/2018	Previously awarded 9% HTC on 7/26/18
18036	Clyde Ranch	Clyde	Callahan	2	NC	\$ -	General	40	25	9%	10/1/2018	Application withdrawn 10/12/18
18040	Farmhouse Row	Slaton	Lubbock	1	NC	\$ -	General	48	37	9%	10/1/2018	Application withdrawn 10/12/18
18505	Mistletoe Station	Fort Worth	Tarrant	3	NC	\$ 1,500,000	General	110	8	9%	10/25/2018	Previously awarded 9% HTC on 7/27/17
18507	Legend Oaks	Llano	Llano	7		\$ 444,000	Elderly Limitation	48			10/30/2018	
<b>Total Amount Requested Under General Set Aside: Development Sites in non-PJs</b>						\$ 13,573,248	<b>Total Units</b>	426	121			
<b>Total Amount Requested Under General Set Aside: Development Sites in PJs</b>						\$ 12,975,000	<b>Total Units</b>	650	162			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 26,548,248	<b>Total Units</b>	1,076	283			
<b>Total Amount Awarded Under General Set Aside (HOME)</b>						\$ 2,380,000	<b>Total Units</b>	123	33			
<b>Total Amount Awarded Under General Set Aside (TCAP RF)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Awarded Under General Set Aside (NSPI PI)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Remaining Under General Set Aside (HOME)</b>						\$ 10,938,946						
<b>Total Amount Remaining Under General Set Aside (TCAP RF)</b>						\$ 9,446,231						
<b>Total Amount Remaining Under General Set Aside (NSPI PI)</b>						\$ 5,000,000						

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse

2= Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.



**Addendum to Underwriting Report**

TDHCA Application #: **18223** Program(s): **9% HTC**

**Harvest Park**

Address/Location: 1100 Block of E. Harvester Avenue

City: Pampa County: Gray Zip: 79065

APPLICATION HISTORY	
Report Date	PURPOSE
10/31/18	MFDL Loan Application
06/11/18	New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)					\$1,000,000	4.00%	30	17	2
LIHTC (9% Credit)	\$777,900				\$777,900				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
  - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
- 2 Receipt and acceptance by Cost Certification:
  - Architect certification that buildings were tested for the presence of radon and any recommended mitigation measures were implemented.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	4
50% of AMI	50% of AMI	10
60% of AMI	60% of AMI	34

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
50% of AMFI	Low HOME	10

## ANALYSIS

18223 Harvest Park Apartments was awarded \$777,900 in tax credits in the 2018 9% tax credit cycle. According to the Applicant, construction costs will be a challenge due to the effects on the market from recent hurricanes. The MFDL will help to enable the Developer to absorb any potential cost increases and also to secure a lower effective interest rate than previously underwritten.

As part of the Application, the Developer is proposing to have 10 units at 50% AMI / Low HOME rents.

### Operating Pro Forma

Applicant is now using the HUD utility model for the utility allowances, this results in an increase of \$11,455 for the Applicant's pro forma. This results in a first year DCR of 1.26.

Underwriter updated rents to the 2018 rents for Pampa which resulted in a rent increase of \$14K. Applicant's proforma is not within 5% of Underwriter's proforma, therefore the Underwriter's pro forma will be used. The Underwriter's pro forma arrives at first year DCR of 1.17.

### Development Cost

Applicant's cost schedule is unchanged from original underwriting. Developer Fee remains unchanged, consistent with §13.5(d)(2)(C).

### Sources of Funds

Applicant originally had a senior debt of \$2.60M from Bank of Oklahoma at 6% interest rate with terms of 17 years and 30 year amortization. That loan has now been reduced to \$1.67M at the same terms. Applicant is now requesting \$1,000,000 in MFDL funds at 4% for 17 year term and 30 year amortization. Part of extra funds is being used to pay down deferred developer fee.

### Recommendation

MFDL loan of \$1,000,000 at terms requested by the Applicant is recommended. No change in the previous tax credit recommendation of \$777,900.

Underwriter:	<u>Duc Nguyen</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously authorized release of the 2018-1 Multifamily Direct Loan Notice of Funding Availability (“NOFA”) for up to \$28,862,745 with the application acceptance period beginning on January 4, 2018;

**WHEREAS**, the NOFA has since been amended several times, increasing the amount available to \$58,304,276;

**WHEREAS**, Application #18259, which requested \$1,800,000 in Direct Loan funds for Cannon Courts, is a Priority 3 application under the 2018-1 NOFA that has received complete reviews for compliance with program and underwriting requirements and has previously been awarded 9% housing tax credits (“9% HTC”) on July 26, 2018;

**WHEREAS**, staff has reduced the Direct Loan request to \$1,659,248 while increasing the requested interest rate to 3.0% to better conform with the Real Estate Analysis rules and the requirements of the NOFA;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Small Portfolio Category 1 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

**WHEREAS**, 10 TAC §13.5(d)(2) requires Applications for Developments previously awarded Department funds under any program to be found eligible by the Board;

**WHEREAS**, this Application was found eligible by the Board on July 26, 2018, and provided evidence of adverse factors beyond the applicant’s control that could materially impair their ability to provide affordable housing as a criteria for the Board to consider in affirming their eligibility;

**WHEREAS**, staff recommends the Board continue to find this Application eligible; and

**WHEREAS**, this Application has layered Direct Loan rent restrictions on 11 of the 9% HTC units as a result of this addition of Direct Loan funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that an additional award of \$1,659,248 in Direct Loan funds from the 2018-1 NOFA for Cannon Courts is hereby approved in the form presented at this meeting; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

### **BACKGROUND**

On December 14, 2017, the Board approved the issuance of a NOFA for up to \$28,862,745, which has subsequently been amended to increase the amount available to \$58,304,276 within three set-asides:

- \$22,324,041 in Supportive Housing/ Soft Repayment set-aside, composed of \$3.3 million in TCAP RF and \$19,024,041 in National Housing Trust Fund
- \$8,215,058 of HOME funds under the CHDO set-aside, and
- \$27,765,177 in the General set-aside, composed of \$13,318,946 in HOME, \$5 million in NSP1 Program Income and \$9,446,231 in TCAP RF.

Cannon Courts was awarded an allocation of 9% HTC on July 26, 2018, which proposed new construction of 36 one, two, and three-bedroom units for a General population in Bangs. The Applicant's expectation of increased building costs and labor shortages, as well as rising interest rates over the past several months, were provided as justification for requesting Direct Loan funds after the allocation of 9% HTC. Also, this request for additional Direct Loan funds, which is anticipated to be funded with HOME, will help the Department in expediently committing its HOME funds.

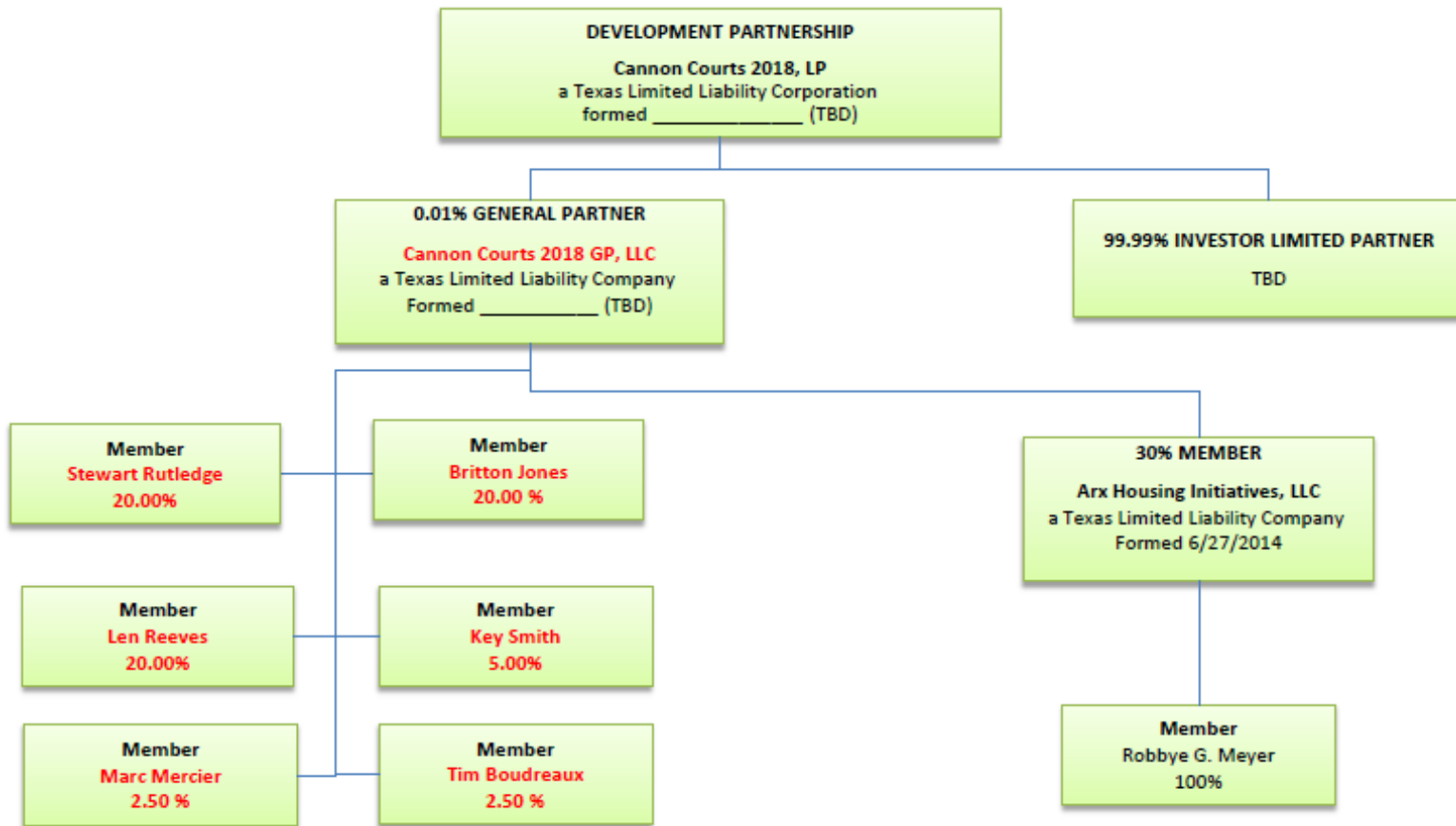
Staff is recommending the Board's approval of Cannon Courts' application (18099) for HOME funds totaling \$1,659,248 as a loan at 3% interest rate with a 30 year amortization and 30 year term under the General Set-Aside. This loan represents the totality of the permanent debt and will maintain first lien position during the permanent period as a result. The recommended application and award amounts are outlined in the attached award recommendations log behind this Board item.

This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should the recommended award be approved, \$50,665,028 will remain available under the NOFA, of which 13 applications requesting \$28,965,000 are still under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

*Organizational Structure and Previous Participation:* The borrower is FC Waters Park Housing, LP and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the applicant was a Small Portfolio Category 1. EARAC recommends approval without further comment.

*Public Comment:* There have been no letters of support or opposition received by the Department in connection with this current application.





**Arx Housing Initiatives, LLC**

Robbye G. Meyer  
1305 Dusky Thrush Trail  
Austin, Texas 78746  
(512) 963-2555  
robbye@arxadvantage.net

October 12, 2018

Andrew Sinnott  
Multifamily Loan Programs Administrator  
Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701

Dear Mr. Sinnott,

In accordance with 10 TAC §13.5(d)(2) Eligibility Criteria, this letter is to explain the eligibility of the Cannon Courts application to receive funding, since the development previously received an award of competitive housing tax credits in July of 2018.

Since the submission of the application, the development team has experienced an increase in construction costs on other developments under construction. Due to the changes in tariffs on imports, the cost of lumber and other construction materials has increased. Additionally, the increased activity in rebuilding the Hurricane Harvey affected areas has begun the shortage of labor for other construction in the state. In anticipation of these factors, the development team was looking for other means of financing that could give us a little more room in our financing structure.

In addition to the anticipated increased costs, the steady rise of interest rates over the past three to four months has the development team considering other financing options as well.

We believe these issues presented meet the eligibility requirements for 10 TAC §13.5(d)(2).

Should you have any questions, please feel free to contact me.

Sincerely,

Robbye G. Meyer  
Principal, Managing Member





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TCAP RF \$3,300,000  
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Total Set Aside Funding Level: **\$22,324,041**

**CHDO (HOME funds only)**

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18407	Sphinx at Sierra Vista Senior Villas	Fort Worth	Tarrant	3	NC	\$ 3,600,000	General	272	27	4%	8/31/2018	Previously awarded 4% HTC on 3/22/18
18223	Harvest Park Apartments	Pampa	Gray	1	NC	\$ 1,000,000	General	60	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18274	Hill Court Villas	Granbury	Hood	3	NC	\$ 1,000,000	Elderly Limitation	48	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18454	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	19	4%	9/21/2018	
18019	Highlander Senior Village	Comal	Bulverde	9	NC	\$ 3,090,000	Elderly Limitation	66	20	9%	9/25/2018	Previously awarded 9% HTC on 7/26/18
18036	Clyde Ranch	Clyde	Callahan	2	NC	\$ -	General	40	25	9%	10/1/2018	Application withdrawn 10/12/18
18040	Farmhouse Row	Slaton	Lubbock	1	NC	\$ -	General	48	37	9%	10/1/2018	Application withdrawn 10/12/18
18505	Mistletoe Station	Fort Worth	Tarrant	3	NC	\$ 1,500,000	General	110	8	9%	10/25/2018	Previously awarded 9% HTC on 7/27/17
18507	Legend Oaks	Llano	Llano	7		\$ 444,000	Elderly Limitation	48			10/30/2018	
<b>Total Amount Requested Under General Set Aside: Development Sites in non-PJs</b>						\$ 13,573,248	<b>Total Units</b>	426	121			
<b>Total Amount Requested Under General Set Aside: Development Sites in PJs</b>						\$ 12,975,000	<b>Total Units</b>	650	162			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 26,548,248	<b>Total Units</b>	1,076	283			
<b>Total Amount Awarded Under General Set Aside (HOME)</b>						\$ 2,380,000	<b>Total Units</b>	123	33			
<b>Total Amount Awarded Under General Set Aside (TCAP RF)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Awarded Under General Set Aside (NSPI PI)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Remaining Under General Set Aside (HOME)</b>						\$ 10,938,946						
<b>Total Amount Remaining Under General Set Aside (TCAP RF)</b>						\$ 9,446,231						
<b>Total Amount Remaining Under General Set Aside (NSPI PI)</b>						\$ 5,000,000						

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse

2= Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.



**Addendum to Underwriting Report**

TDHCA Application #: **18259** Program(s): **9% HTC/MDL**

**Cannon Courts**

Address/Location: 808 East Hall St

City: Bangs County: Brown Zip: 76823

APPLICATION HISTORY	
Report Date	PURPOSE
10/31/18	MDL Application
07/25/18	9% HTC Original Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	na	na	na	na	\$1,659,248	3.00%	30	30	1
LIHTC (0% Credit)	\$500,000				\$500,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders.
  - c: Substantially final draft of limited partnership agreement.
  - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
  - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

- 2 Receipt and acceptance by Commitment:
  - a: Receipt of MAP Invitation Letter for FHA 221(d)(4) loan, or letter from Lender indicating the date that the HUD concept meeting was held, and confirmation that based on that meeting the Lender intends to proceed with submitting the application to HUD.

Status: No longer applicable with current financing. No FHA loan.

b: Certification that if the site is in the 100-year floodplain when it places in service, the finished ground floor elevation of the buildings will be at least one foot above the floodplain and that all drives, parking and amenities will be no more than 6 inches below the floodplain; and that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.

**Status: Satisfied.**

c: Revised site plan that clearly delineates the floodplain boundary.

**Status: Satisfied.**

3 Receipt and acceptance by Carryover:

- A Wetlands and Jurisdictional Waters of the United States Determination Report with a clear determination of the wetland status of the subject site, indicating whether any mitigation is required.

**Status: Satisfied. "Since there are no planned construction activities near the western boundary, it is unlikely the adjacent stream and any potential adjacent wetland areas will be impacted by the proposed development."**

4 Receipt and acceptance by 10% test:

- Documentation that a noise study has been completed, and certification from the Architect that all recommendations from the noise study are incorporated into the development plans.

5 Receipt and acceptance by Cost Certification:

a: Architect or engineer certification (including a Letter of Map Amendment "LOMA" or Letter of Map Revision "LOMR-F") indicating that the development is not within the 100 year floodplain; or that the finished ground floor elevation for each building is at least one foot above the floodplain and that all drives, parking and amenities are not more than 6 inches below the floodplain.

For any buildings remaining in the floodplain, documentation that flood insurance is in place both for the buildings and for the residents' personal property at the property owner's expense; and certification from the owner that flood insurance for the buildings and for the residents' personal property will remain in force until such time that the buildings are officially designated as no longer in a floodplain.

b: If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	8
60% of AMI	60% of AMI	25

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
50% of AMFI	Low HOME	3
60% of AMFI	High HOME	8

## ANALYSIS

Applicant is applying for MDL funds to replace the original FHA loan due to more favorable terms. The MDL loan will likely be funded from HOME. Rent and incomes have been updated to 2018 levels. The unit mix and expenses will not change, except for NOI calculated management fees and MDL compliance fees.

### Operating Pro Forma

2018 rents increased income by \$13k (5%).

Underwriter still assumes 5% management fee; management company letter states a 4.47% fee increasing to 5.22% over time. Underwriter's pro forma is within 5% of Applicant's, therefore Applicant's pro forma is used for analysis. Expense ratio is 61.2%.

### Development Cost

The only changes to development costs are financing, soft costs, and reserves associated with switching from an FHA loan to an MDL loan.

Financing costs will increase \$224k mainly due to the construction loan interest and origination fees. The construction loan amount is increasing by \$2.525M and the interest rate increasing from 4% to 6%. Deferred developer fee during construction will decrease from \$888k to \$0.

Building costs and total developer fee did not change.

Applicant overstated eligible financing costs by \$79k.

### Sources of Funds

Applicant requested \$1.8M in MDL funds at 2% 30/30 to replace the original \$1.475M Mason Joseph FHA 221(d)(4) loan (4.25%, 40/40). They also assumed a \$100k reduction in deferred fee. Applicant did not include the \$90k match funds as a permanent source in their MDL Application.

The TDHCA recommended MDL loan terms are determined by the MDL program area within the parameters of the NOFA, not Section 10.302(d)(4)(D)(i) of the REA rules.

The recommended MDL loan terms are \$1,659,248 at 3%, 30/30. This generates a 1.32 DCR with \$189k deferred fee paying off in year 7 with a 15 year residual cash flow of \$250k.

The tax credit request and recommendation of \$500k annual credits remains the same as original underwriting.

Underwriter:	<u>Jeanna Rolsing</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

**UNIT MIX/RENT SCHEDULE**  
**Cannon Courts, Bangs, 9% HTC #18259**

LOCATION DATA	
CITY:	Bangs
COUNTY:	Brown
Area Median Income	\$53,300
PROGRAM REGION:	2

UNIT DISTRIBUTION							
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	30%	3	8.3%
1	4	11.1%	0	1	40%	-	0.0%
2	20	55.6%	0	6	50%	8	22.2%
3	12	33.3%	0	4	60%	25	69.4%
4	-	0.0%	0	0	MR	-	0.0%
<b>TOTAL</b>	<b>36</b>	<b>100.0%</b>	<b>-</b>	<b>11</b>	<b>TOTAL</b>	<b>36</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.39%
APP % Construction	9.00%
Average Unit Size	1,006 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC		TDHCA Direct Loan Program-HOME						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%	\$328			1	1	1	800	\$328	\$35	\$293	\$0	\$0.37	\$293	\$293	\$293	\$293	\$0.37	\$0	\$670	\$0.84	\$670
TC 50%	\$547			2	1	1	800	\$547	\$35	\$512	\$0	\$0.64	\$512	\$1,024	\$1,024	\$512	\$0.64	\$0	\$670	\$0.84	\$670
TC 50%	\$547	LH/50%	\$530	1	1	1	800	\$530	\$35	\$495	(\$0)	\$0.62	\$495	\$495	\$495	\$495	\$0.62	\$0	\$670	\$0.84	\$670
TC 30%	\$394			2	2	2	900	\$394	\$42	\$352	\$0	\$0.39	\$352	\$703	\$703	\$352	\$0.39	\$0	\$785	\$0.87	\$785
TC 50%	\$657			2	2	2	900	\$657	\$42	\$615	\$0	\$0.68	\$615	\$1,229	\$1,229	\$615	\$0.68	\$0	\$785	\$0.87	\$785
TC 50%	\$657	LH/50%	\$636	1	2	2	900	\$636	\$42	\$594	\$0	\$0.66	\$594	\$594	\$594	\$594	\$0.66	\$0	\$785	\$0.87	\$785
TC 60%	\$789			2	2	2	900	\$789	\$42	\$747	\$0	\$0.83	\$747	\$1,493	\$1,493	\$747	\$0.83	\$0	\$785	\$0.87	\$785
TC 60%	\$789	HH/60%	\$705	1	2	2	900	\$705	\$42	\$663	\$0	\$0.74	\$663	\$663	\$663	\$663	\$0.74	\$0	\$785	\$0.87	\$785
TC 60%	\$789			8	2	2	1,000	\$789	\$42	\$747	\$0	\$0.75	\$747	\$5,974	\$5,974	\$747	\$0.75	\$0	\$785	\$0.79	\$785
TC 60%	\$789	HH/60%	\$705	4	2	2	1,000	\$705	\$42	\$663	\$0	\$0.66	\$663	\$2,652	\$2,651	\$663	\$0.66	\$0	\$785	\$0.79	\$785
TC 50%	\$759			1	3	2	1,150	\$759	\$50	\$709	\$0	\$0.62	\$709	\$709	\$709	\$709	\$0.62	\$0	\$900	\$0.78	\$900
TC 50%	\$759	LH/50%	\$735	1	3	2	1,150	\$735	\$50	\$685	\$0	\$0.60	\$685	\$685	\$685	\$685	\$0.60	\$0	\$900	\$0.78	\$900
TC 60%	\$911			7	3	2	1,150	\$911	\$50	\$861	\$0	\$0.75	\$861	\$6,029	\$6,029	\$861	\$0.75	\$0	\$900	\$0.78	\$900
TC 60%	\$911	HH/60%	\$995	3	3	2	1,150	\$911	\$50	\$861	(\$0)	\$0.75	\$861	\$2,583	\$2,584	\$861	\$0.75	\$0	\$900	\$0.78	\$900
<b>TOTALS/AVERAGES:</b>				<b>36</b>			<b>36,200</b>				<b>\$0</b>	<b>\$0.69</b>	<b>\$698</b>	<b>\$25,128</b>	<b>\$25,128</b>	<b>\$698</b>	<b>\$0.69</b>	<b>\$0</b>	<b>\$811</b>	<b>\$0.81</b>	<b>\$811</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$301,538</b>	<b>\$301,535</b>
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**STABILIZED PRO FORMA**

*Cannon Courts, Bangs, 9% HTC #18259*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	Expense Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.69	\$698	\$301,538	\$289,271	\$289,271	\$301,535	\$698	\$0.69		0.0%	\$3
Vending					\$7.64	\$3,300	2,160							
Laundry					\$6.94	\$3,000	2,160							
Total Secondary Income					\$14.58			4,320	\$6,300	\$14.58			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$307,838	\$293,591	\$293,591	\$307,835				0.0%	\$3
Vacancy & Collection Loss				7.5% PGI		(23,088)	(22,019)	(22,019)	(23,088)	7.5% PGI			0.0%	(0)
Rental Concessions						-	0	0	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$284,750	\$271,572	\$271,572	\$284,747				0.0%	\$3

General & Administrative	\$18,346	\$510/Unit	\$12,358	\$343	3.79%	\$0.30	\$300	\$10,800	\$10,800	\$12,358	\$12,358	\$343	\$0.34	4.34%	-12.6%	(1,558)
Management	\$18,393	6.8% EGI	\$11,901	\$331	4.21%	\$0.33	\$333	\$12,000	\$13,575	\$13,579	\$14,237	\$395	\$0.39	5.00%	-15.7%	(2,237)
Payroll & Payroll Tax	\$43,173	\$1,199/Unit	\$38,357	\$1,065	16.01%	\$1.26	\$1,267	\$45,600	\$45,600	\$43,173	\$43,173	\$1,199	\$1.19	15.16%	5.6%	2,427
Repairs & Maintenance	\$28,430	\$790/Unit	\$29,849	\$829	5.27%	\$0.41	\$417	\$15,000	\$15,000	\$21,600	\$21,600	\$600	\$0.60	7.59%	-30.6%	(6,600)
Electric/Gas	\$9,924	\$276/Unit	\$5,511	\$153	4.47%	\$0.35	\$353	\$12,720	\$12,720	\$9,924	\$9,924	\$276	\$0.27	3.49%	28.2%	2,796
Water, Sewer, & Trash	\$20,006	\$556/Unit	\$27,392	\$761	8.85%	\$0.70	\$700	\$25,200	\$25,200	\$27,392	\$27,392	\$761	\$0.76	9.62%	-8.0%	(2,192)
Property Insurance	\$10,189	\$0.28 /sf	\$8,711	\$242	3.79%	\$0.30	\$300	\$10,800	\$10,800	\$10,189	\$10,189	\$283	\$0.28	3.58%	6.0%	611
Property Tax (@ 100%) 2.531200	\$17,609	\$489/Unit	\$19,694	\$547	11.03%	\$0.87	\$872	\$31,400	\$31,400	\$26,981	\$29,647	\$824	\$0.82	10.41%	5.9%	1,753
Reserve for Replacements	\$16,730	\$465/Unit	\$11,749	\$326	3.16%	\$0.25	\$250	\$9,000	\$9,000	\$9,000	\$9,000	\$250	\$0.25	3.16%	0.0%	-
Supportive Services			\$6,461	\$179	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			\$981	\$27	0.64%	\$0.05	\$50	\$1,814	\$1,440	\$1,440	\$1,814	\$50	\$0.05	0.64%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>61.22%</b>	<b>\$4.82</b>	<b>\$4,843</b>	<b>\$ 174,334</b>	<b>\$175,535</b>	<b>\$175,637</b>	<b>\$179,335</b>	<b>\$4,982</b>	<b>\$4.95</b>	<b>62.98%</b>	<b>-2.8%</b>	<b>\$ (5,001)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>38.78%</b>	<b>\$3.05</b>	<b>\$3,067</b>	<b>\$110,416</b>	<b>\$96,037</b>	<b>\$95,935</b>	<b>\$105,412</b>	<b>\$2,928</b>	<b>\$2.91</b>	<b>37.02%</b>	<b>4.7%</b>	<b>\$ 5,004</b>

CONTROLLABLE EXPENSES							\$3,037/Unit						\$3,179/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Cannon Courts, Bangs, 9% HTC #18259*

DEBT / GRANT SOURCES																		
		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE							
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative		
		UW	App						Applicant	TDHCA						DCR	LTC	
Mason Joseph FHA 221(d)(4)	0.25%			-	0.00%	0	0	\$0	\$1,475,000	\$1,475,000	\$0	0	0	0.00%			0.0%	
TDHCA		1.32	1.38	\$79,838	2.00%	30	30	\$1,800,000			\$1,659,248	30	30	3.00%	\$83,945	1.32	25.2%	
<b>CASH FLOW DEBT / GRANTS</b>																		
Architect & Engineer Fee Waiver-Match		1.32	1.38		0.00%	0	0	\$90,000			\$90,000	0	0	0.00%			1.32	1.4%
City of Bangs		1.32	1.38		0.00%	0	0	\$250			\$250	0	0	0.00%			1.32	0.0%
				<b>\$79,838</b>				<b>TOTAL DEBT / GRANT SOURCES</b>	<b>\$1,890,250</b>	<b>\$1,475,000</b>	<b>\$1,749,498</b>			<b>TOTAL DEBT SERVICE</b>	<b>\$83,945</b>	<b>1.32</b>	<b>26.6%</b>	

<b>NET CASH FLOW</b>	\$25,574	\$30,578		<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$110,416	\$26,471	<b>NET CASH FLOW</b>
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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	Allocation Method	
						Applicant	TDHCA							Amount
CREA	LIHTC Equity	70.6%	\$500,000	0.93	\$4,649,535	\$4,694,535	\$4,694,535	\$4,649,535	\$0.93	\$500,000	70.6%	\$13,889	Previous Allocation	
Cannon Courts 2018, LP	Deferred Developer Fees	2.1%	(15% Deferred)		\$138,822	\$238,824	\$239,324	\$189,324		(20% Deferred)	2.9%		<b>Total Developer Fee: \$952,000</b>	
Additional (Excess) Funds Req'd		0.0%			\$0	\$0	\$0				0.0%			
<b>TOTAL EQUITY SOURCES</b>		<b>72.7%</b>			<b>\$4,788,357</b>	<b>\$4,933,359</b>	<b>\$4,933,859</b>	<b>\$4,838,859</b>			<b>73.4%</b>			
<b>TOTAL CAPITALIZATION</b>					<b>\$6,678,607</b>	<b>\$6,408,359</b>	<b>\$6,408,859</b>	<b>\$6,588,357</b>	15-Yr Cash Flow after Deferred Fee:					<b>\$249,045</b>

DEVELOPMENT COST / ITEMIZED BASIS													
		APPLICANT COST / BASIS ITEMS				Prior Underwriting		TDHCA COST / BASIS ITEMS				COST VARIANCE	
	Eligible Basis		Total Costs		Applicant	TDHCA	Total Costs		Eligible Basis		%	\$	
	Acquisition	New Const. Rehab							New Const. Rehab	Acquisition			
Land Acquisition			\$6,944 / Unit	\$250,000	\$250,000	\$250,000	\$250,000	\$6,944 / Unit			0.0%	\$0	
Building Acquisition	\$0		\$ / Unit	\$0	\$0	\$0	\$ / Unit	\$0		\$0	0.0%	\$0	
Off-Sites		\$0	\$4,444 / Unit	\$160,000	\$160,000	\$160,000	\$160,000	\$4,444 / Unit	\$0		0.0%	\$0	
Site Work		\$983,000	\$27,306 / Unit	\$983,000	\$983,000	\$983,000	\$27,306 / Unit	\$983,000		\$983,000	0.0%	\$0	
Site Amenities		\$25,000	\$694 / Unit	\$25,000	\$25,000	\$25,000	\$694 / Unit	\$25,000		\$25,000	0.0%	\$0	
Building Cost		\$2,375,400	\$65.62 /sf	\$65,983/Unit	\$2,375,400	\$2,375,400	\$2,440,877	\$67,802/Unit	\$67.43 /sf	\$2,375,400	-2.7%	(\$65,477)	
Contingency		\$213,000	6.30%	6.01%	\$213,000	\$213,000	\$213,000	5.90%	6.30%	\$213,000	0.0%	\$0	
Contractor Fees		\$502,500	13.97%	13.99%	\$525,500	\$525,500	\$525,500	13.75%	13.97%	\$502,500	0.0%	\$0	
Soft Costs	0	\$273,250	\$7,590 / Unit	\$273,250	\$288,250	\$288,250	\$273,250	\$7,590 / Unit		\$273,250	\$0	0.0%	\$0
Financing	0	\$557,127	\$18,450 / Unit	\$664,207	\$440,209	\$440,209	\$664,207	\$18,450 / Unit		\$482,182	\$0	0.0%	\$0
Developer Fee	\$0	\$952,000	19.31%	18.71%	\$952,000	\$952,000	\$952,000	18.74%	19.61%	\$952,000	\$0	0.0%	\$0
Reserves			\$4,639 / Unit	\$167,000	\$196,500	\$127,873	\$129,607	\$3,600 / Unit			28.9%	\$37,393	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BA</b>		<b>\$0</b>	<b>\$5,881,277</b>	\$183,010 / Unit	<b>\$6,588,357</b>	<b>\$6,408,859</b>	<b>\$6,405,709</b>	<b>\$6,616,441</b>	\$183,790 / Unit	<b>\$5,806,332</b>	<b>\$0</b>	<b>-0.4%</b>	<b>(\$28,085)</b>
Acquisition Cost	\$0			\$0	\$0								
Contingency		\$0		\$0	\$0								
Contractor's Fee		\$0		\$0	\$0								
Financing Cost		(\$74,944)		\$0	\$0								
Developer Fee	\$0	\$0		\$0	\$0								
Reserves				\$0	\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$5,806,332</b>	\$183,010/unit	<b>\$6,588,357</b>	<b>\$6,408,859</b>	<b>\$6,405,709</b>	<b>\$6,616,441</b>	\$183,790/unit	<b>\$5,806,332</b>	<b>\$0</b>	<b>-0.4%</b>	<b>(\$28,085)</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$6,588,357</b>								



**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Cannon Courts, Bangs, 9% HTC #18259*

	CREDIT CALCULATION ON QUALIFIED BASIS			
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	<b>ADJUSTED BASIS</b>	\$0	\$5,806,332	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$5,806,332	\$0	\$5,806,332
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$7,548,232	\$0	\$7,548,232
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$7,548,232	\$0	\$7,548,232
Applicable Percentage	3.39%	9.00%	3.39%	9.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$679,341	\$0	\$679,341
<b>CREDITS ON QUALIFIED BASIS</b>	\$679,341		\$679,341	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price	Variance to Request	
			\$0.9299	Credit Allocation	Credits
<b>Eligible Basis</b>	\$679,341	\$6,317,238	----	----	----
<b>Needed to Fill Gap</b>	\$520,359	\$4,838,859	----	----	----
<b>Previous Allocation</b>	\$500,000	\$4,649,535	<b>\$500,000</b>	<b>\$0</b>	<b>\$0</b>

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Combination	36,200 SF	\$66.45	2,405,565
Adjustments				
Exterior Wall Finish	1.60%		1.06	\$38,489
Elderly	0.00%		0.00	0
8-Ft. Ceilings	0.00%		0.00	0
Roof Adjustment(s)			1.51	54,600
Subfloor			(0.86)	(31,132)
Floor Cover			2.56	92,672
Breezeways	\$27.44	3,648	2.77	100,114
Balconies	\$27.57	2,966	2.26	81,779
Plumbing Fixtures	\$1,020	72	2.03	73,440
Rough-ins	\$500	72	0.99	36,000
Built-In Appliances	\$1,730	36	1.72	62,280
Exterior Stairs	\$2,280	8	0.50	18,240
Heating/Cooling			2.21	80,002
Storage Space	\$27.44	0	0.00	0
Carports	\$12.25	0	0.00	0
Garages		0	0.00	0
Comm &/or Aux Bldgs	\$103.62	1,590	4.55	164,753
Elevators		0	0.00	0
<b>Other:</b> Mail Kiosk	\$49.10	180	0.24	8,838
Fire Sprinklers	\$2.59	41,438	2.96	107,324
<b>SUBTOTAL</b>			<b>90.97</b>	<b>3,292,965</b>
Current Cost Multiplier	1.01		0.91	32,930
Local Multiplier	0.86		(12.74)	(461,015)
<b>TOTAL BUILDING COSTS</b>			<b>79.14</b>	<b>\$2,864,880</b>
Plans, specs, survey, bldg permits	3.30%		(2.61)	(\$94,541)
Contractor's OH & Profit	11.50%		(9.10)	(329,461)
<b>NET BUILDING COSTS</b>		\$67,802/unit	\$67.43/sf	\$2,440,877

## Long-Term Pro Forma

*Cannon Courts, Bangs, 9% HTC #18259*

	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%	\$284,750	\$290,445	\$296,254	\$302,179	\$308,223	\$340,303	\$375,722	\$414,828	\$458,003	\$505,673
TOTAL EXPENSES	3.00%	\$174,334	\$179,444	\$184,705	\$190,121	\$195,698	\$226,150	\$261,378	\$302,135	\$349,293	\$403,861
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$110,416</b>	<b>\$111,001</b>	<b>\$111,549</b>	<b>\$112,058</b>	<b>\$112,525</b>	<b>\$114,153</b>	<b>\$114,344</b>	<b>\$112,692</b>	<b>\$108,710</b>	<b>\$101,812</b>
EXPENSE/INCOME RATIO		61.2%	61.8%	62.3%	62.9%	63.5%	66.5%	69.6%	72.8%	76.3%	79.9%
<b>MUST -PAY DEBT SERVICE</b>											
TOTAL DEBT SERVICE		\$83,945	\$83,945	\$83,945	\$83,945	\$83,945	\$83,945	\$83,945	\$83,945	\$83,945	\$83,945
DEBT COVERAGE RATIO		1.32	1.32	1.33	1.33	1.34	1.36	1.36	1.34	1.30	1.21
<b>ANNUAL CASH FLOW</b>		<b>\$26,471</b>	<b>\$27,056</b>	<b>\$27,604</b>	<b>\$28,113</b>	<b>\$28,580</b>	<b>\$30,207</b>	<b>\$30,398</b>	<b>\$28,747</b>	<b>\$24,765</b>	<b>\$17,866</b>
Deferred Developer Fee Balance		\$162,853	\$135,797	\$108,193	\$80,080	\$51,500	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$96,785</b>	<b>\$249,045</b>	<b>\$396,909</b>	<b>\$529,739</b>	<b>\$634,165</b>

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion and possible action regarding an Award of Direct Loan funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously authorized release of the 2018-1 Multifamily Direct Loan Notice of Funding Availability (“NOFA”) for up to \$28,862,745 with the application acceptance period beginning on January 4, 2018;

**WHEREAS**, the NOFA has since been amended several times, increasing the amount available to \$58,304,276;

**WHEREAS**, Application #18274, which requested \$1,000,000 in Direct Loan funds for Hill Court Villas, is a Priority 3 application under the 2018-1 NOFA that has received complete reviews for compliance with program and underwriting requirements and has previously been awarded 9% housing tax credits (“9% HTC”) on July 26, 2018;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Portfolio Category 3 and deemed acceptable by the Executive Award and Review Advisory Committee (“EARAC”) after review and discussion;

**WHEREAS**, 10 TAC §13.5(d)(2) requires Applications for Developments previously awarded Department funds under any program to be found eligible by the Board;

**WHEREAS**, this Application was found eligible by the Board on July 26, 2018, and has provided evidence of adverse factors beyond the applicant’s control that could materially impair their ability to provide affordable housing as a criteria for the Board to consider in affirming their eligibility,

**WHEREAS**, staff recommends the Board continue to find this Application eligible; and

**WHEREAS**, this Application has layered Direct Loan rent restrictions on 10 of the 9% HTC units as a result of this addition of Direct Loan funds;

**NOW, therefore, it is hereby**

**RESOLVED**, that an additional award of \$1,000,000 in Direct Loan funds from the 2018-1 NOFA for Hill Court Villas is hereby approved in the form presented at this meeting; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon satisfaction of all conditions of underwriting, and completion of any other reviews required to assure compliance with the applicable rules and requirements.

### **BACKGROUND**

On December 14, 2017, the Board approved the issuance of a NOFA for up to \$28,862,745, which has subsequently been amended to increase the amount available to \$58,304,276 within three set-asides:

- \$22,324,041 in Supportive Housing/ Soft Repayment set-aside, composed of \$3.3 million in TCAP RF and \$19,024,041 in National Housing Trust Fund
- \$8,215,058 of HOME funds under the CHDO set-aside,
- \$27,765,177 in the General set-aside, composed of \$13,318,946 in HOME, \$5 million in NSP1 Program Income and \$9,446,231 in TCAP RF.

Hill Court Villas was awarded an allocation of 9% HTC on July 26, 2018, which proposed new construction of 60 two and three-bedroom units for a General population in Pampa. The Applicant's expectation of increased building costs and labor shortages as a result of recent hurricanes were provided as justification for requesting Direct Loan funds after the allocation of 9% HTC. Also, this request for additional Direct Loan funds, which is anticipated to be funded with HOME, will help the Department in expediently committing its HOME funds.

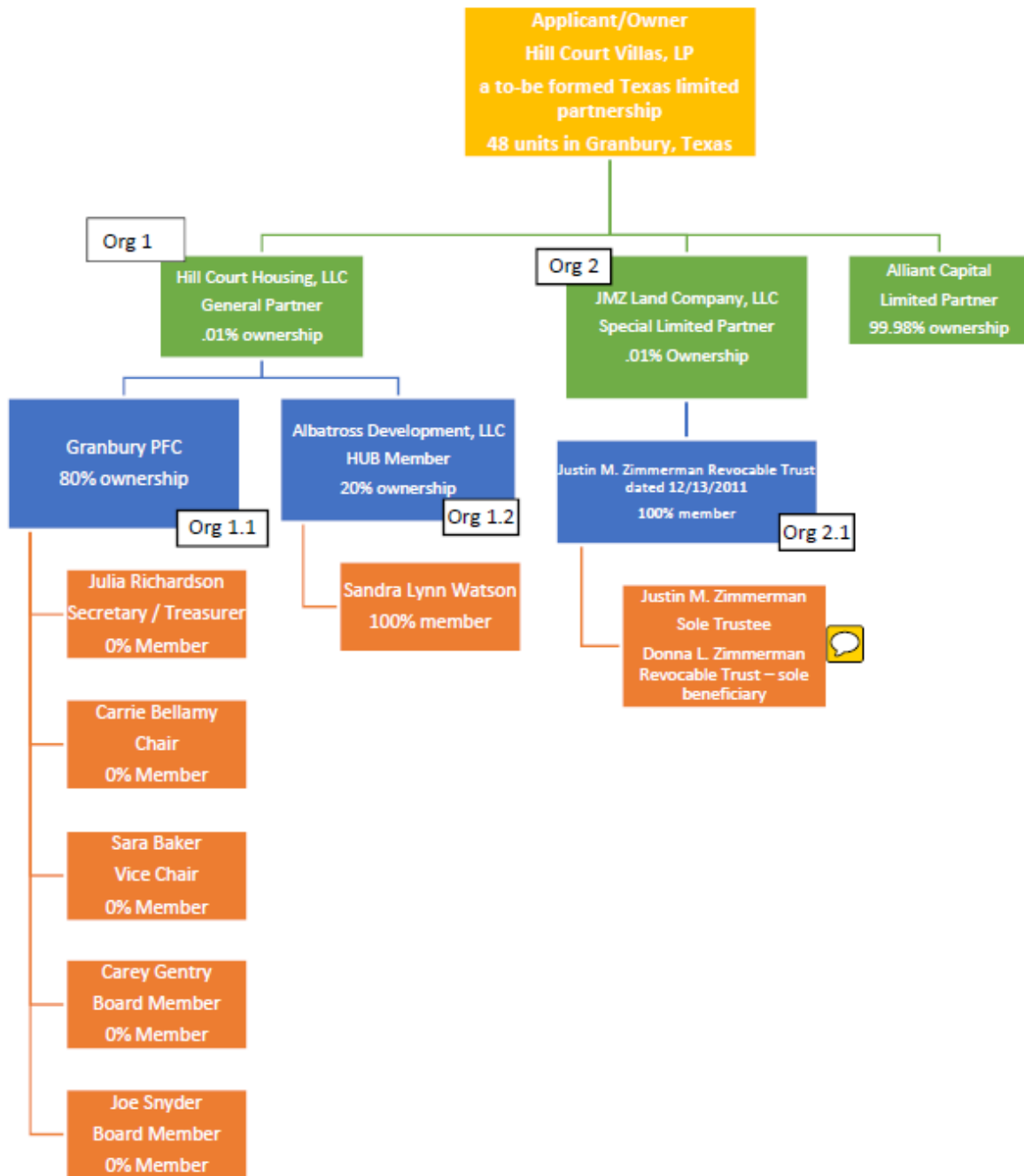
Staff is recommending the Board's approval of Hill Court Villas' application (18274) for HOME funds totaling \$1,000,000 as a loan at 4% interest rate with a 30 year amortization and 30 year term under the General Set-Aside. This loan will be subordinate to a Bank of Oklahoma conventional loan and will maintain second lien position during the permanent period as a result. The recommended application and award amounts are outlined in the attached award recommendations log behind this Board item.

This application has been underwritten and determined to meet the Real Estate Analysis rules and requirements and has received a previous participation review.

Should the recommended award be approved, \$48,665,028 will remain available under the NOFA, of which 12 applications requesting \$27,965,000 are still under review. Subsequent award recommendations for applications undergoing staff reviews may appear on future Board agendas.

*Organizational Structure and Previous Participation:* The borrower is Hill Court Villas, LP and includes entities and principals as indicated in the organization chart below. At the time of the Previous Participation Review, the applicant was an Extra Large Portfolio Category 3. EARAC recommends approval without further comment.

*Public Comment:* There have been no letters of support or opposition received by the Department in connection with this current application.



## Andrew Sinnott

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**From:** Ben Mitchell [bmitchell@wilhoitproperties.com]  
**Sent:** Friday, October 12, 2018 9:53 AM  
**To:** Andrew Sinnott; Jamie McDonald; Melissa Forster; Jeff Beckler; Sandy Watson  
**Subject:** RE: 18223 and 18274 Direct Loan applications

Andrew,

Thank you for talking this morning. Please except this email as our response for apps #18223 and 18274. With the recent hurricanes, construction costs will be a challenge. The addition of the MFDL to both developments will enable us to absorb those potential cost. We appreciate TDHCA's efforts to assist all their developers so every asset is the best for Texas.

Please do not hesitate to contact me if you need any additional information.



**Ben Mitchell, Vice President – Development/Finance**  
**We Have Moved – Please update your records with our new office address.**  
**All other contact information (email, website, and telephone/fax numbers) are the same.**

**Zimmerman Properties, LLC**  
**1329 East Lark Street; Springfield, Missouri 65804**

Corporate Phone (417) 883-1632 | Corporate Fax (417) 883-6343

Direct Dial (417) 890-3219 | Email [bmitchell@wilhoitproperties.com](mailto:bmitchell@wilhoitproperties.com)

Website <http://www.wilhoitproperties.com>



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**From:** Andrew Sinnott <[andrew.sinnott@tdhca.state.tx.us](mailto:andrew.sinnott@tdhca.state.tx.us)>  
**Sent:** Friday, October 12, 2018 8:53 AM  
**To:** Ben Mitchell <[bmitchell@wilhoitproperties.com](mailto:bmitchell@wilhoitproperties.com)>; Jamie McDonald <[jmcdonald@wilhoitproperties.com](mailto:jmcdonald@wilhoitproperties.com)>; Melissa Forster <[mforster@wilhoitproperties.com](mailto:mforster@wilhoitproperties.com)>; Jeff Beckler <[jbeckler@wilhoitproperties.com](mailto:jbeckler@wilhoitproperties.com)>; Sandy Watson <[swatson@wilhoitproperties.com](mailto:swatson@wilhoitproperties.com)>  
**Subject:** 18223 and 18274 Direct Loan applications

All,

One deficiency I forgot to list in my deficiency notice a couple weeks ago for both 18223 and 18274 relates to the requirements in [10 TAC §13.5\(d\)\(2\)](#). Please provide documentation (either in a letter or email) explaining why this application – which previously received an award (9% HTC) from the Department – should be found eligible. Interest rate increases, construction cost increases, additional city requirements that add cost, etc. are examples of potential reasons why an application that previously received funds from the Department could potentially come back for additional funds and be found eligible.

Feel free to contact me if you have any questions.

Thanks,

**Andrew Sinnott**  
Multifamily Loan Programs Administrator  
512.475.0538

*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)).*



**2018-1 Multifamily Direct Loan Program - Application Log - November 1, 2018**

Per 2018-1 Multifamily Direct Loan Notice of Funding Availability published in the *Texas Register* on 12/29/2017, First Amendment to NOFA published in the *Texas Register* on 4/6/2018, and Second Amendment to the NOFA published in the *Texas Register* on 7/27/18

The following data was compiled using information submitted by each applicant. While this data has been reviewed or verified by the Department, errors may still be present. Those reviewing the log are advised to use caution in reaching any definitive conclusions based on this information alone. Where Applications are layered with 9% or 4% Tax credits, the Applications are also subject to evaluation under the Department criteria for those fund sources. Applicants are encouraged to review 10 TAC §§11.1(b) and 10.2(a) concerning Due Diligence and Applicant Responsibility, along with 10 TAC Subchapter C related to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications. This log will be updated periodically as staff completes application reviews and as more applications are received. The Multifamily Direct Loan Program - Application Log is presented for informational use only, and does not represent a conclusion or judgment by TDHCA, its staff or Board. Applicants that identify an error in the log should contact Andrew Simmott at andrew.simmott@tdhca.state.tx.us as soon as possible. Identification of an error early does not guarantee that the error can be addressed administratively.

*Applications sorted by date received within each set-aside.*

													TCAP RF	\$3,300,000
													NHIF	\$19,024,041
													Total Set Aside Funding Level:	<b>\$22,324,041</b>
TDHCA Application #	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments		
18502	Arlinda Gardens Supportive Housing	Bryan	Brazos	8	NC	\$ -	Supportive Housing	29	13		3/1/2018	Application withdrawn 8/7/18		
18099	Waters Park Studios	Austin	Travis	7	NC	\$ 1,000,000	Supportive Housing	132	10	9%	4/2/2018	Recommended for award at 7/26/18 Board meeting		
18099	Waters Park Studios	Austin	Travis	7	NC	\$ 1,000,000	Supportive Housing	132	8	9%	7/27/2018	Recommended for award at 10/11/18 Board meeting		
18504	Brooks Haven Supportive Housing	Rockdale	Milam	8	NC	\$ 2,000,000		30	9		8/31/2018			
18502	Arlinda Gardens Supportive Housing	Bryan	Brazos	8	NC	\$ 2,000,000	Supportive Housing	29	13		9/12/2018			
18503	Eastern Oaks Apartments	Austin	Travis	7	R	\$ 2,000,000	General	30	18		9/19/2018			
18448	RBJ Phase I	Austin	Travis	7	NC	\$ 2,000,000	Elderly Limitation	279	15	4%	10/29/2018			
<b>Total Amount Requested Under SH/SR Set Aside</b>						<b>\$ 10,000,000</b>	<b>Total Units</b>	<b>632</b>	<b>73</b>					
<b>Total Amount Awarded Under SH/SR Set Aside</b>						<b>\$ 2,000,000</b>	<b>Total Units</b>	<b>30</b>	<b>10</b>					
<b>Total Amount Remaining Under SH/SR Set Aside</b>						<b>\$ 20,324,041</b>								

													Total Set Aside Funding Level:	<b>\$8,215,058</b>
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments		
18322	Las Casitas de Azucar	Santa Rosa	Cameron	11	NC	\$ 1,600,000	General	50	14	9%	4/2/2018	Recommended for award at 7/26/18 Board meeting		
18391	Merritt Manor	Manor	Travis	7	NC	\$ 2,000,000	Elderly Limitation	146	30	9%	4/2/2018			
<b>Total Amount Requested Under CHDO Set Aside</b>						<b>\$ 3,600,000</b>	<b>Total Units</b>	<b>196</b>	<b>44</b>					
<b>Total Amount Awarded Under CHDO Set Aside</b>						<b>\$ 1,600,000</b>	<b>Total Units</b>	<b>50</b>	<b>14</b>					
<b>Total Amount Remaining Under CHDO Set Aside</b>						<b>\$ 6,615,058</b>								

HOME (limited availability statewide)	\$13,318,946
NSPI PI (available statewide)	\$5,000,000
TCAP RF (available statewide)	\$9,446,231
<b>NSPI PI and TCAP RF Total</b>	<b>\$14,446,231</b>

													Total Set Aside Funding Level:	<b>\$27,765,177</b>
TDHCA#	Property Name	Property City	Property County	Region	Housing Activity <sup>1</sup>	Multifamily Direct Loan Request/Award	Target Population	Total Units	MF Direct Loan Units	Layering <sup>2</sup>	Date Received <sup>3</sup>	Comments		
18500	Rio Lofts	San Antonio	Bexar	9	NC	\$ -	General	81	36	9%	1/11/2018	Application withdrawn 4/11/18		
18501	Secretariat Apartments	Arlington	Tarrant	3	NC	\$ -	Elderly Limitation	74	29	9%	1/11/2018	Application withdrawn 4/30/18		
18412	Lord Road Apartments	San Antonio	Bexar	9	NC	\$ -	General	324	50	4%	1/18/2018	\$2,975,000 Direct Loan award returned after 4/26/18 Board approval		
18417	Sphinx at Throckmorton Villas	McKinney	Collin	3	NC	\$ -	General	220	18	4%	2/15/2018	Application suspended 10/9/18		
18000	Evergreen at Garland Senior Community	Garland	Dallas	3	NC	\$ 1,500,000	Elderly Limitation	105	25	9%	4/2/2018			
18002	Evergreen at Basswood Senior Community	Garland	Dallas	3	NC	\$ 2,000,000	Elderly Limitation	116	34	9%	4/2/2018			
18036	Clyde Ranch	Clyde	Callahan	2	NC	\$ 660,000	General	40	11	9%	4/2/2018	Recommended for award at 7/26/18 Board meeting		
18040	Farmhouse Row	Slaton	Lubbock	1	NC	\$ 660,000	General	48	11	9%	4/2/2018	Recommended for award at 7/26/18 Board meeting		
18052	Nacogdoches Lofts	San Antonio	Bexar	9	NC	\$ 2,025,000	Elderly Limitation	102	35	9%	4/2/2018			
18053	Alazan Lofts	San Antonio	Bexar	9	NC	\$ -	General	88	24	9%	4/2/2018	Application terminated		
18054	Piedmont Lofts	San Antonio	Bexar	9	NC	\$ 2,350,000	General	55	41	9%	4/2/2018	Requested CHDO set-aside, which is unavailable for this application		
18369	The Residences at Canyon Lake	Canyon Lake	Comal	9	NC	\$ 1,060,000	Elderly Limitation	35	11	9%	4/2/2018	Recommended for award at 7/26/18 Board meeting		
18421	Travis Flats	Austin	Travis	7	NC	\$ -	General	146	50	4%	4/4/2018	Application withdrawn 7/26/18		



18259	Cannon Courts	Bangs	Brown	2	NC	\$ 1,659,248	General	36	11	9%	8/30/2018	To be recommended for award at 11/8/18 Board meeting
18407	Sphinx at Sierra Vista Senior Villas	Fort Worth	Tarrant	3	NC	\$ 3,600,000	General	272	27	4%	8/31/2018	Previously awarded 4% HTC on 3/22/18
18223	Harvest Park Apartments	Pampa	Gray	1	NC	\$ 1,000,000	General	60	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18274	Hill Court Villas	Granbury	Hood	3	NC	\$ 1,000,000	Elderly Limitation	48	10	9%	9/13/2018	To be recommended for award at 11/8/18 Board meeting
18454	Grim Hotel Apartments	Texarkana	Bowie	4	ADR	\$ 4,000,000	General	93	19	4%	9/21/2018	
18019	Highlander Senior Village	Comal	Bulverde	9	NC	\$ 3,090,000	Elderly Limitation	66	20	9%	9/25/2018	Previously awarded 9% HTC on 7/26/18
18036	Clyde Ranch	Clyde	Callahan	2	NC	\$ -	General	40	25	9%	10/1/2018	Application withdrawn 10/12/18
18040	Farmhouse Row	Slaton	Lubbock	1	NC	\$ -	General	48	37	9%	10/1/2018	Application withdrawn 10/12/18
18505	Mistletoe Station	Fort Worth	Tarrant	3	NC	\$ 1,500,000	General	110	8	9%	10/25/2018	Previously awarded 9% HTC on 7/27/17
18507	Legend Oaks	Llano	Llano	7		\$ 444,000	Elderly Limitation	48			10/30/2018	
<b>Total Amount Requested Under General Set Aside: Development Sites in non-PJs</b>						\$ 13,573,248	<b>Total Units</b>	426	121			
<b>Total Amount Requested Under General Set Aside: Development Sites in PJs</b>						\$ 12,975,000	<b>Total Units</b>	650	162			
<b>Total Amount Requested Under General Set Aside: TOTAL</b>						\$ 26,548,248	<b>Total Units</b>	1,076	283			
<b>Total Amount Awarded Under General Set Aside (HOME)</b>						\$ 2,380,000	<b>Total Units</b>	123	33			
<b>Total Amount Awarded Under General Set Aside (TCAP RF)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Awarded Under General Set Aside (NSPI PI)</b>						\$ -	<b>Total Units</b>					
<b>Total Amount Remaining Under General Set Aside (HOME)</b>						\$ 10,938,946						
<b>Total Amount Remaining Under General Set Aside (TCAP RF)</b>						\$ 9,446,231						
<b>Total Amount Remaining Under General Set Aside (NSPI PI)</b>						\$ 5,000,000						

1 = Housing Activity: New Construction=NC, Rehabilitation=R, ADR = Adaptive Reuse

2= Layering of Other Department Funds: 9%=9% Competitive Tax Credits, 4%=4% Tax Credit Program

3 = Date Received: The date that the application, all required 3rd Party Reports, Application Fees (if applicable), and Certificate of Reservation (if applicable) were received.



**Addendum to Underwriting Report**

TDHCA Application #: **18274** Program(s): **9% HTC**

**Hill Court Villas**

Address/Location: 1111 Hill Court Blvd

City: Granbury County: Hood Zip: 76048

APPLICATION HISTORY	
Report Date	PURPOSE
10/24/18	MDL Loan Application
07/20/18	New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan (Repayable)					\$1,000,000	4.00%	30	17	2
LIHTC (0% Credit)	\$570,000				\$570,000				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Senior loan documents (and/or partnership documents) must contain a provision(s) that any stabilization resizing on the senior debt includes the debt service on the TDHCA MDL at a 1.15 DCR.
  - e: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

## SET-ASIDES

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	8
60% of AMI	60% of AMI	25

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
50% of AMFI	Low HOME	11

## ANALYSIS

18274 Hill Court Villas was awarded \$570,000 in tax credits in the 2018 9% tax credit cycle. According to the Applicant, construction costs will be a challenge due to the effects on the market from recent hurricanes. The MFDL will help to enable the Developer to absorb any potential cost increases and also to secure a lower effective interest rate than previously underwritten.

As part of the Application, the Developer is proposing to have 11 units at 50% AMI / Low HOME rents.

### **Operating Pro Forma**

Applicant's did not submit any changes to the income or expenses since Application, which were based on 2017 program rents.

Underwriter updated rents to the 2018 which showed an increase of 6.5% from previous year. This resulted a rent increase of \$20K.

Applicant's pro forma not with in 5% of Underwriter's pro forma. Underwriter's first year DCR is 1.28.

### **Development Cost**

Applicant's cost schedule is unchanged from original underwriting. Developer Fee remains unchanged, consistent with §13.5(d)(2)(C).

### **Sources of Funds**

Applicant originally had a senior debt of \$2.56M from Bank of Oklahoma at 6% interest rate with terms of 17 years and 35 year amortization. That loan has now been reduced to \$1.71M at the same terms. Applicant is now requesting \$1,000,000 in MFDL funds at 4% for 17 year term and 35 year amortization. Part of extra funds is being used to pay down deferred developer fee.

### **Recommendation**

MFDL loan of \$1,000,000 at terms requested by the Applicant is recommended. No change in the previous tax credit recommendation of \$570,000.

Underwriter:	<u>Duc Nguyen</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

11

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#18433 DeWetter Apartments, El Paso)

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for DeWetter Apartments, sponsored by the Housing Authority of the City of El Paso (“HACEP”), was submitted to the Department on July 27, 2018;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on August 14, 2018, and will expire on January 11, 2019;

**WHEREAS**, the proposed issuer of the bonds is the Alamito Public Facilities Corporation; and

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Category 4 and subject to the conditions as noted herein after review and discussion by the Executive Award and Review Advisory Committee (“EARAC”);

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$938,881 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for DeWetter Apartments, and conditioned upon the following, is hereby approved as presented to this meeting:

1. HACEP or the management company contracted by HACEP is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department by December 31, 2018.
- 2.HACEP is required to designate agreed upon persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Developments subject to TDHCA LURAs over which HACEP has the power to exercise control.
3. HACEP is required to ensure that agreed upon persons attend the training listed in (A) and review the webinar trainings listed in (B) below and provide TDHCA with a certification of attendance for (A) and a certification of completion for (B) no later than December 31, 2018.

- (A) Housing Tax Credit Training sponsored by the Texas Apartment Association; and  
(B) Review the TDHCA Compliance Training webinars:

- (i) 2015 Tenant Selection Criteria Webinar Video;
- (ii) 2015 Tenant Selection Criteria Presentation;
- (iii) 2015 Tenant Selection Criteria- Q and A's;
- (iv) §10.610 – Tenant Selection Criteria;
- (v) 2015 Affirmative Marketing Requirements Webinar Video;
- (vi) 2015 Affirmative Marketing Requirements Presentation;
- (vii) 2015 Affirmative Marketing Requirements- Q and A's.

4. HACEP is required to submit the Written Policies and Procedures for all developments subject to a TDHCA LURA for Department review no later than December 31, 2018.

5. HACEP agrees that for future applications submitted through December 31, 2018, a qualified third party accessibility specialist will review the entire development site to confirm compliance with TDHCA accessibility standards and that such documentation be submitted 14 days prior to Board approval.

6. The Executive Director, for good cause, may grant one extension of these conditions for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

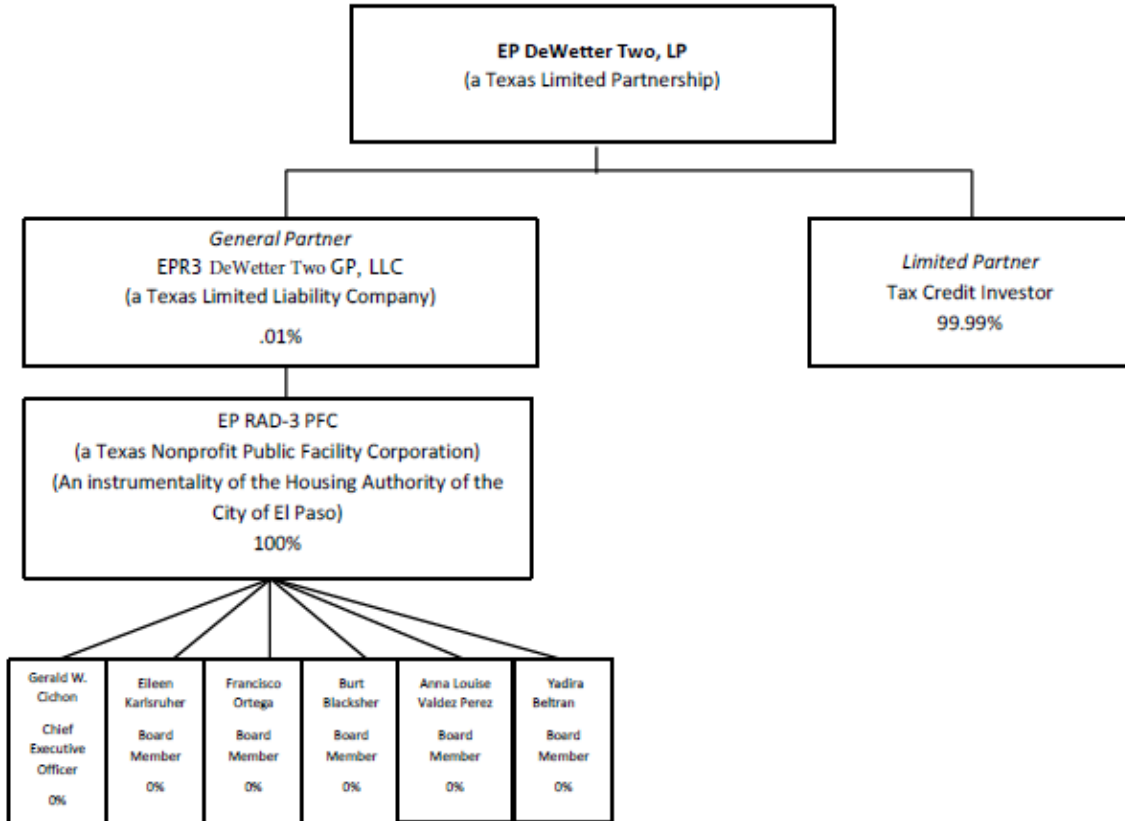
### **BACKGROUND**

*General Information:* DeWetter Apartments is located at 560 Lisbon Avenue, El Paso, El Paso County, and consists of 98 units. The subject property was originally constructed in 1971 and the units are occupied and operating as public housing. The property is currently owned by HACEP and is part of a two property bond financing, including Kathy White Apartments, which is also on the Board agenda for consideration today. The property will be converted from public housing to Section 8 rental assistance through the Rental Assistance Demonstration program administered by HUD. The development will serve the general population and conforms to current zoning. All of the units will be rent and income restricted at 60% of the Area Medium Family Income. The census tract (0031.00) has a median household income of \$26,029, is in the fourth quartile, and has a poverty rate of 28.8%.

*Organizational Structure:* The Borrower is EP DeWetter Two, LP and includes the entities and principals as indicated in the organization chart in Exhibit A. The applicant's portfolio is considered a Category 4 and the previous participation was deemed acceptable by EARAC, with the aforementioned conditions, after review and discussion.

*Public Comment:* There were no letters of support or opposition received by the Department.

## EXHIBIT A



# 18433 DeWetter - Application Summary

REAL ESTATE ANALYSIS DIVISION  
October 29, 2018

PROPERTY IDENTIFICATION	
Application #	18433
Development	DeWetter
City / County	El Paso / El Paso
Region/Area	13 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1971)

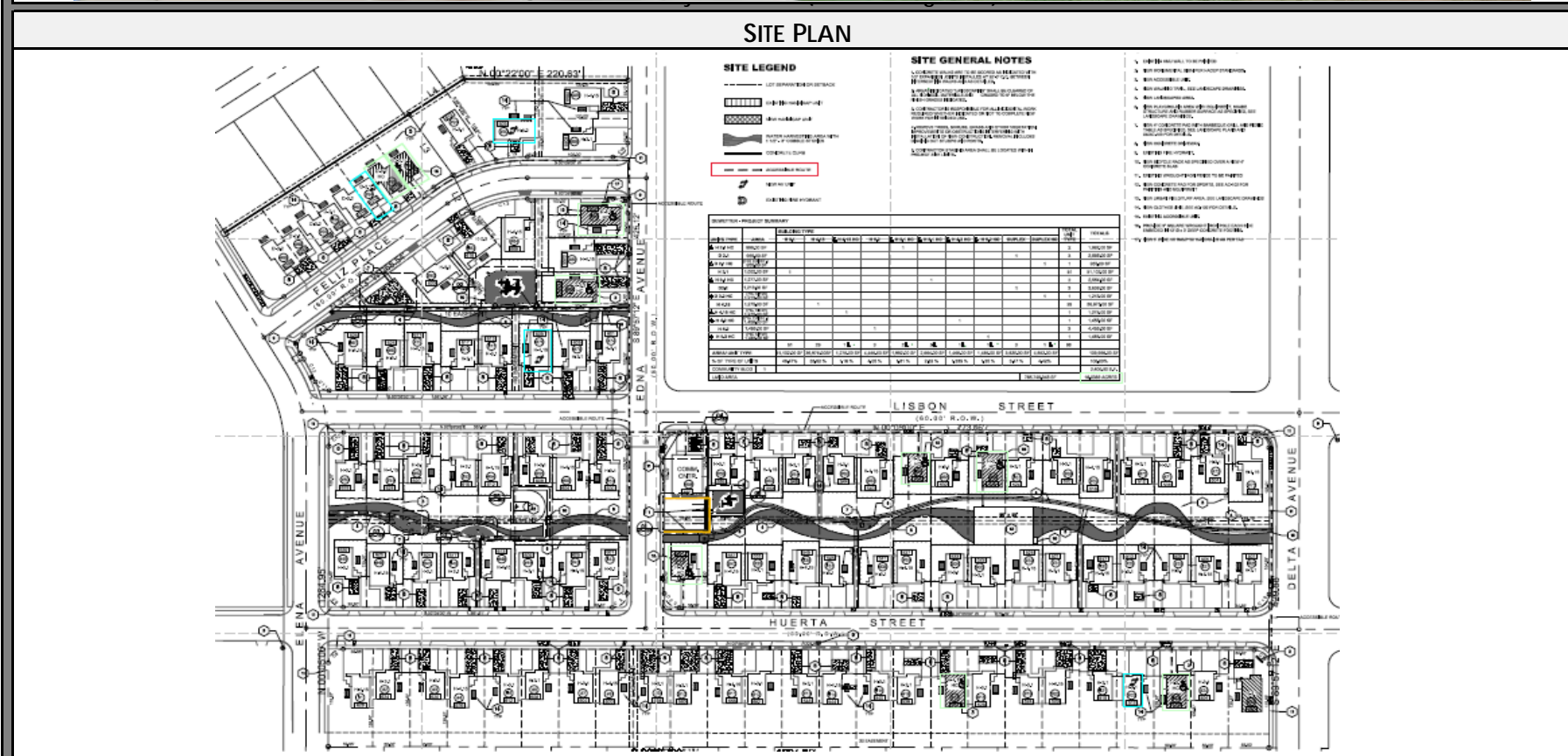
RECOMMENDATION			
TDHCA Program	Request	Recommended	
LIHTC (4% Credit)	\$971,651	\$938,881	\$7,810/Unit \$0.95

KEY PRINCIPAL / SPONSOR			
Housing Authority of the City of El Paso (HACEP)			
Miller Valentine - Brian McGeady (Developer)			
Alamito PFC (Related-Party Issuer)			
Affordable Housing Enterprises (Contractor)			
Gerald ("Jerry") W. Cichon			
Related Parties	Contractor - Yes	Seller - Yes	



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
1	-	1%	30%	-	0%
2	6	20%	40%	-	0%
3	57	55%	50%	-	0%
4	31	21%	60%	98	100%
5	4	2%	MR	-	✓
<b>TOTAL</b>	<b>98</b>	<b>100%</b>	<b>TOTAL</b>	<b>98</b>	<b>100%</b>

COMBINED PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	48.7%
Breakeven Occ.	88.2%	Breakeven Rent	\$660
Average Rent	\$712	B/E Rent Margin	\$52
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$3,988/unit	Controllable	\$2,842/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	1.6%	✓	
Highest Unit Capture Rate	7%	4 BR/50%	###
Dominant Unit Cap. Rate	6%	3 BR/50%	57
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	98	100% Total Units	

COMBINED DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	1,216 SF	Density	6.9/acre
Acquisition	\$106K/unit	\$10,340K	
Building Cost	\$69.16/SF	\$129K/unit	\$12,623K
Hard Cost	\$182K/unit		\$17,823K
Total Cost	\$407K/unit		\$39,919K
Developer Fee	\$4,480K (31% Deferred)	Paid Year: 10	
Contractor Fee	\$2,282K	30% Boost	Yes

REHABILITATION COSTS / UNIT					
Site Work	\$8K	8%	Finishes/Fixture	\$16K	16%
Building Shell	\$22K	22%	Amenities	\$4K	4%
HVAC	\$4K	4%	Total Exterior	\$35K	38%
Appliances	\$1K	1%	Total Interior	\$21K	23%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
PNC Real Estate - Construction/Freddie	15/35	5.50%	\$9,850,000	1.16	HACEP Seller Note	50/0	3.00%	\$10,340,000	1.16	PNC Tax Credit Capital	\$13,090,840
					Paisano Gap Loan	50/0	3.00%	\$5,270,460	1.16	Paisano Housing Redevelopment Corp	\$1,367,801
										<b>TOTAL EQUITY SOURCES</b>	\$14,458,641
										<b>TOTAL DEBT SOURCES</b>	\$25,460,460
<b>TOTAL DEBT (Must Pay)</b>			<b>\$9,850,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$15,610,460</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$39,919,101</b>

**CONDITIONS**

1 Receipt and acceptance before Determination Notice:

a: HUD approval of RAD conversion including a commitment to enter into the Housing Assistance Payment contract (or executed CHAP or similar agreement), HUD approved rents and operating budget.

b: Reconciliation of the \$936K of costs characterized as site demolition in the PCA supplements and the "select demolition" costs included in the Development Cost Schedules.

2 Receipt and acceptance by Cost Certification:

a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

b: Certification of comprehensive testing for asbestos and lead-based paint; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	Alamito PFC
Expiration Date	1/11/2019
Bond Amount	\$13,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Freddie TEL
% Financed with Tax-Exempt Bonds	55.7%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Cross collateralization
▫	10% construction contingency & available
▫	Minimal lease up risk
▫	Pro forma based on historical expenses
▫	100% rental assistance

WEAKNESSES/RISKS	
▫	Potential cost overruns associated with rehab
▫	Deal structure could create management

**AREA MAP**



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#18434 Kathy White Apartments, El Paso)

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Kathy White Apartments, sponsored by the Housing Authority of the City of El Paso (“HACEP”), was submitted to the Department on July 27, 2018;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on August 14, 2018, and will expire on January 11, 2019;

**WHEREAS**, the proposed issuer of the bonds is the Alamito Public Facilities Corporation;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the presence of certain characteristics of a proposed development site;

**WHEREAS**, the middle school for the attendance zone of the proposed development did not achieve a Met Standard rating based on the 2017 Accountability Ratings by the Texas Education Agency (“TEA”);

**WHEREAS**, staff has conducted a further review of the proposed development site and based on the fact that the middle school achieved the Met Standard for 2018, staff recommends the proposed site be found eligible under 10 TAC §10.101(a)(3)(C)(vii) of the Uniform Multifamily Rules; and

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Category 4 and subject to the conditions as noted herein after review and discussion by the Executive Award and Review Advisory Committee (“EARAC”);

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$435,623 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Kathy White Apartments, and conditioned upon the following, is hereby approved as presented to this meeting:

1. HACEP or the management company contracted by HACEP is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department by December 31, 2018.



2. HACEP is required to designate agreed upon persons to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Developments subject to TDHCA LURAs over which HACEP has the power to exercise control.

3. HACEP is required to ensure that agreed upon persons attend the training listed in (A) and review the webinar trainings listed in (B) below and provide TDHCA with a certification of attendance for (A) and a certification of completion for (B) no later than December 31, 2018.

(A) Housing Tax Credit Training sponsored by the Texas Apartment Association; and

(B) Review the TDHCA Compliance Training webinars:

- (i) 2015 Tenant Selection Criteria Webinar Video;
- (ii) 2015 Tenant Selection Criteria Presentation;
- (iii) 2015 Tenant Selection Criteria- Q and As;
- (iv) §10.610 – Tenant Selection Criteria;
- (v) 2015 Affirmative Marketing Requirements Webinar Video;
- (vi) 2015 Affirmative Marketing Requirements Presentation;
- (vii) 2015 Affirmative Marketing Requirements- Q and As.

4. HACEP is required to submit the Written Policies and Procedures for all developments subject to a TDHCA LURA for Department review no later than December 31, 2018.

5. HACEP agrees that for future applications submitted through December 31, 2018, a qualified third party accessibility specialist will review the entire development site to confirm compliance with TDHCA accessibility standards and that such documentation be submitted 14 days prior to Board approval.

6. The Executive Director, for good cause, may grant one extension of these conditions for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

### **BACKGROUND**

*General Information:* The Kathy White Apartments is located at 2500 Mobile Avenue, El Paso, El Paso County, and consists of 78 units. The subject property was originally constructed in 1972, and the units are occupied and operating as public housing. The property is currently owned by HACEP and is part of a two property bond financing, including DeWetter Apartments, which is also on the Board agenda for consideration today. The property will be converted from public housing to Section 8 rental assistance through the Rental Assistance Demonstration program administered by HUD. The Development will serve the general population and conforms to current zoning, with the exception of the parking requirements which the city has determined to be legal non-conforming. All of the units will be rent and income restricted at 60% of the Area Medium Family Income. The census tract (0009.00) has a median household income of \$39,260, is in the second quartile, and has a poverty rate of 27%.

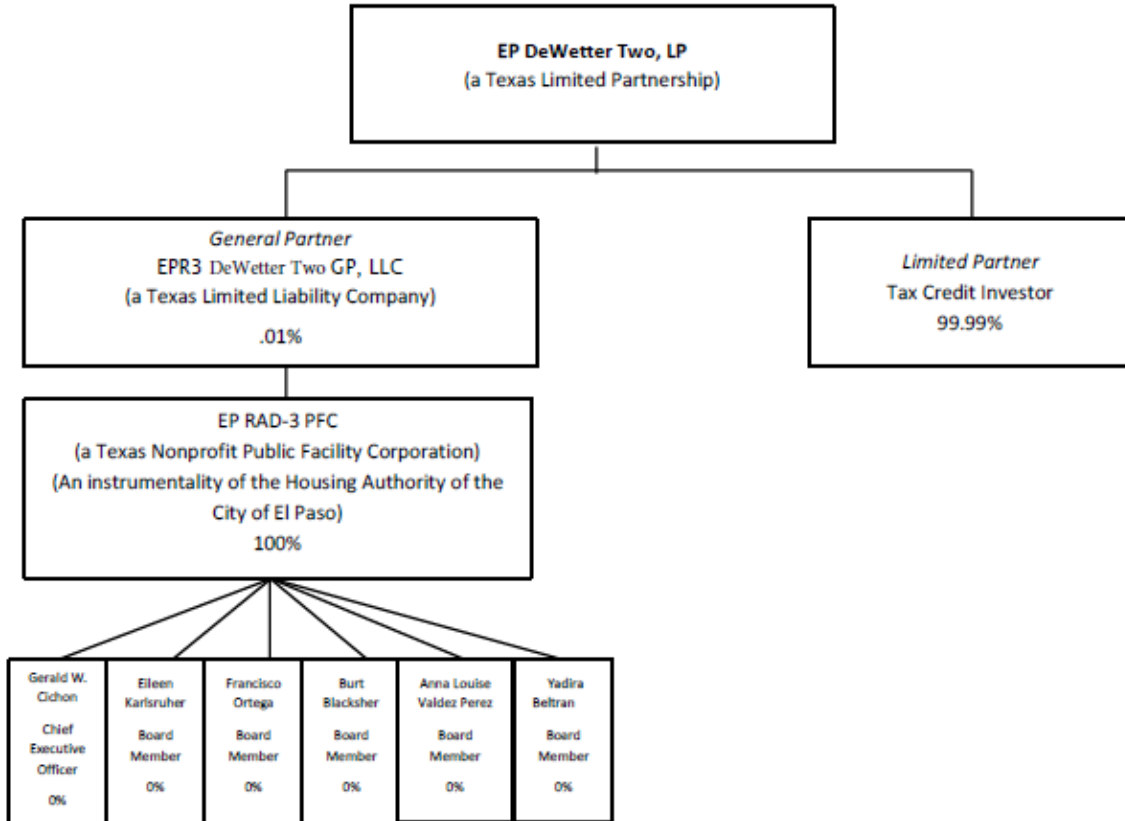
*Site Analysis:* The presence of undesirable neighborhood characteristics under 10 TAC §10.101(a)(3) requires additional site analysis. The Kathy White Apartments are located in El Paso ISD and the majority of the students living in the development are in the attendance zone of Bassett Middle School (“Bassett”); which

did not achieve a Met Standard rating based on the 2017 TEA Accountability Ratings; however, staff reviewed the TEA Accountability Standard Rating for the previous 3 years and Bassett achieved a Met Standard rating in each of those years. Furthermore, the 2018 TEA Accountability Ratings were released in August 2018, and Bassett achieved a Met Standard rating. Based on the prior years and the recently released 2018 ratings, staff recommends the site be found eligible.

*Organizational Structure:* The Borrower is EP DeWetter Two, LP and includes the entities and principals as indicated in the organization chart in Exhibit A. The applicant's portfolio is considered a Category 4 and the previous participation was deemed acceptable by EARAC, with the aforementioned conditions, after review and discussion.

*Public Comment:* There were no letters of support or opposition received by the Department.

## EXHIBIT A



# 18434 Kathy White - Application Summary

REAL ESTATE ANALYSIS DIVISION  
October 29, 2018

PROPERTY IDENTIFICATION	
Application #	18434
Development	Kathy White
City / County	El Paso / El Paso
Region/Area	13 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1971)

RECOMMENDATION			
TDHCA Program	Request	Recommended	
LIHTC (4% Credit)	\$454,747	\$435,623	\$7,810/Unit \$0.95

KEY PRINCIPAL / SPONSOR			
Housing Authority of the City of El Paso (HACEP)			
Miller Valentine - Brian McGeedy (Developer)			
Alamito PFC (Related-Party Issuer)			
Affordable Housing Enterprises (Contractor)			
Gerald ("Jerry") W. Cichon			
Related Parties	Contractor - Yes	Seller - Yes	

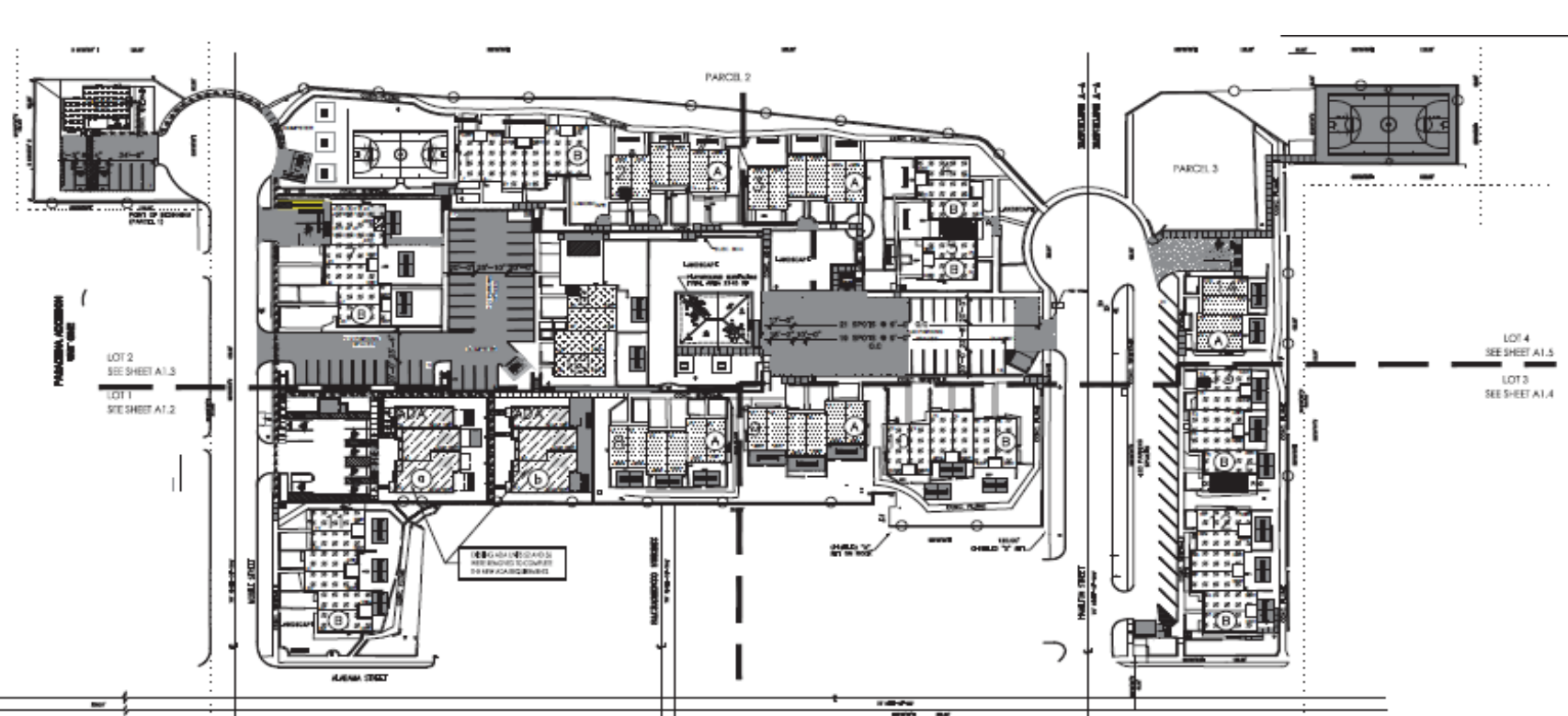
## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
1	2	1%	30%	-	0%
2	30	20%	40%	-	0%
3	40	55%	50%	-	0%
4	6	21%	60%	78	100%
5		2%	MR	-	0%
<b>TOTAL</b>	<b>78</b>	<b>100%</b>	<b>TOTAL</b>	<b>78</b>	<b>100%</b>

COMBINED PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	48.7%
Breakeven Occ.	88.2%	Breakeven Rent	\$660
Average Rent	\$712	B/E Rent Margin	\$52
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$3,988/unit	Controllable	\$2,842/unit

## SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	0.8%		
Highest Unit Capture Rate	3%	3 BR/50%	40
Dominant Unit Cap. Rate	3%	3 BR/50%	40
Premiums (↑60% Rents)	N/A	N/A	
Rent Assisted Units	78	100% Total Units	

COMBINED DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	1,003 SF	Density	6.9/acre
Acquisition	\$133K/unit	\$10,340K	
Building Cost	\$69.16/SF	\$162K/unit	\$12,623K
Hard Cost	\$229K/unit		\$17,823K
Total Cost	\$512K/unit		\$39,919K
Developer Fee	\$4,480K (31% Deferred)	Paid Year: 10	
Contractor Fee	\$2,282K	30% Boost	Yes

REHABILITATION COSTS / UNIT				
Site Work	\$5K	5%	Finishes/Fixture	\$10K 10%
Building Shell	\$15K	14%	Amenities	\$15K 14%
HVAC	\$3K	3%	Total Exterior	\$23K 25%
Appliances	\$1K	1%	Total Interior	\$14K 15%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
PNC Real Estate - Construction/Freddie	15/35	5.50%	\$9,850,000	1.16	HACEP Seller Note	50/0	3.00%	\$10,340,000	1.16	PNC Tax Credit Capital	\$13,090,840
					Paisano Gap Loan	50/0	3.00%	\$5,270,460	1.16	Paisano Housing Redevelopment Corp	\$1,367,801
										<b>TOTAL EQUITY SOURCES</b>	\$14,458,641
										<b>TOTAL DEBT SOURCES</b>	\$25,460,460
<b>TOTAL DEBT (Must Pay)</b>			<b>\$9,850,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$15,610,460</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$39,919,101</b>

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
  - a: HUD approval of RAD conversion including a commitment to enter into the Housing Assistance Payment contract (or executed CHAP or similar agreement), HUD approved rents and operating budget.
  - b: Reconciliation of the \$936K of costs characterized as site demolition in the PCA supplements and the "select demolition" costs included in the Development Cost Schedules.
- 2 Receipt and acceptance by Cost Certification:
  - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
  - b: Certification of comprehensive testing for asbestos and lead-based paint; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	Alamito PFC
Expiration Date	1/11/2019
Bond Amount	\$11,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Freddie TEL
% Financed with Tax-Exempt Bonds	53.3%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Cross collateralization
▫	10% construction contingency & available
▫	Minimal lease up risk
▫	Pro forma based on historical expenses
▫	100% rental assistance

WEAKNESSES/RISKS	
▫	Potential cost overruns associated with rehab
▫	Deal structure could create management

AREA MAP	



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#18437 Ventura at Tradewinds, Midland)

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Ventura at Tradewinds, sponsored by Dominion and the THF Housing Development Corporation, was submitted to the Department on July 27, 2018;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on August 15, 2018, and will expire on January 12, 2019;

**WHEREAS**, the proposed issuer of the bonds is the Texas State Affordable Housing Corporation; and

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an extra large Category 3 and deemed acceptable by Executive Award and Review Advisory Committee (“EARAC”), with conditions, after review and discussion;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$1,904,088 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Ventura at Tradewinds, and the conditions noted below, is hereby approved as presented to this meeting.

1. THF Housing Development Corporation agrees to have a qualified third party ADA and Fair Housing accessibility specialist review all architectural plans to confirm compliance with applicable accessibility standards including but not limited to: 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 FR 29671, and as modified by 10 TAC Chapter 1, Subchapter B, HUD’s Fair Housing Act Design Manual for housing designed and constructed for first occupancy after March 31, 1991, and Development Accessibility Requirements as identified in 10 TAC §10.101(8), by the time the 60-day post closing documents are submitted to the Department, and along with all applications submitted for consideration through December 31, 2018.

2. An independent third-party ADA and Fair Housing specialist(s) will conduct an inspection confirming full compliance of developments in the portfolio currently under construction (including 17151, 17157, 17158,



17159, 17161, 17604, 17605, and 17606) and for any multifamily 2018 award through the Department. Evidence of the inspections must be submitted when requesting a Final Construction Inspection from the Department. The TDHCA Housing Accessibility Checklist for Common Facilities and Dwelling Units can be utilized to fulfill this requirement and available at: <https://www.tdhca.state.tx.us/pmcomp/inspections/construction.htm>

3. Upon request, from the Department, THF Housing Development Corporation will provide documentation that reflects the implementation of these measures.

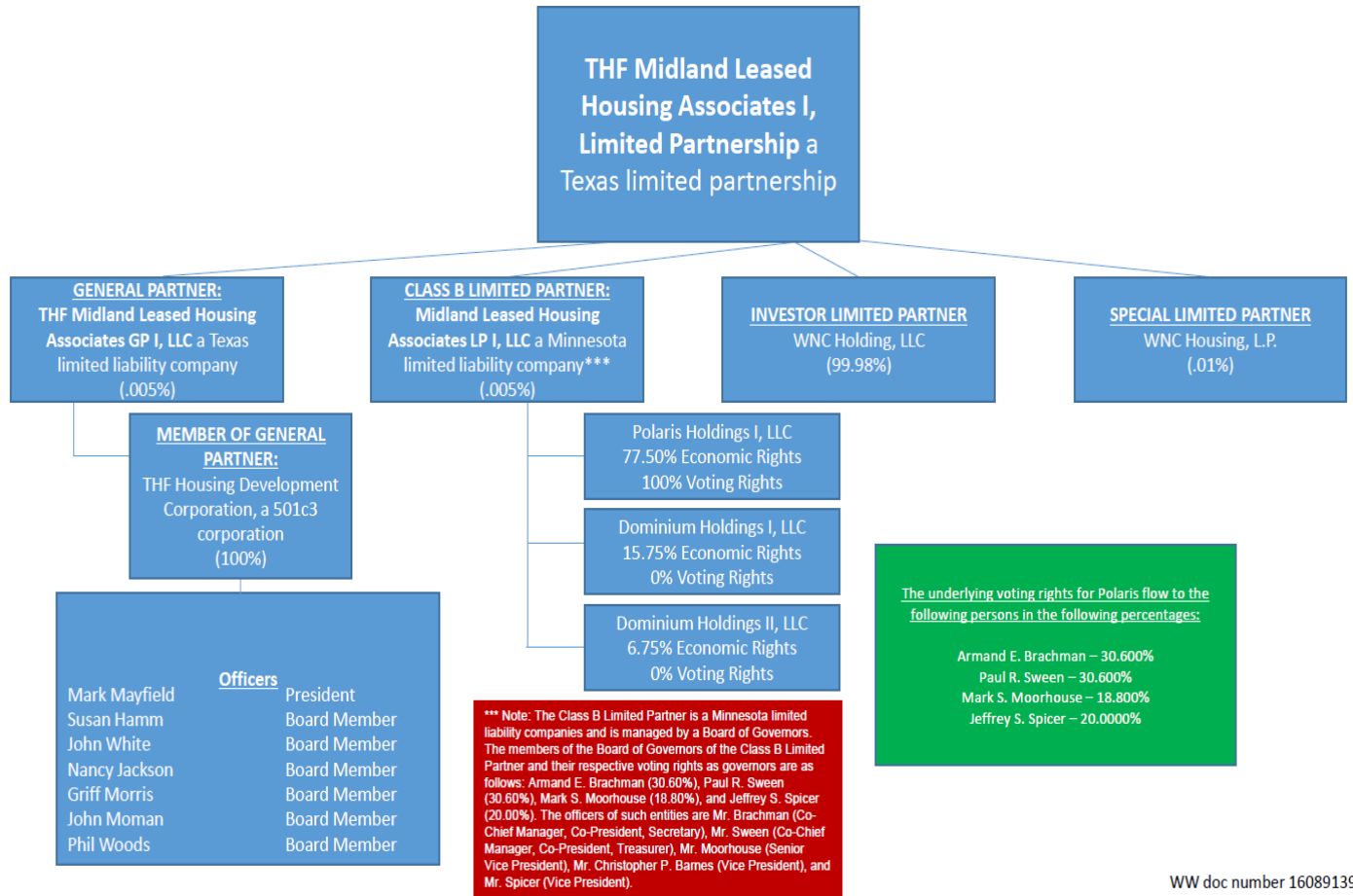
### **BACKGROUND**

*General Information:* Ventura at Tradewinds, proposed to be located at 1811 Tradewinds Boulevard, Midland, Midland County, involves the new construction of 204 units, all of which will be rent and income restricted at 60% of the Area Median Family Income. The development will serve the general population and the applicant has submitted a request to the City of Midland to change the current zoning designation to allow for multifamily housing development. The census tract (0101.14) has a median household income of \$71,661, is in the first quartile, and has a poverty rate of 7.7%.

*Organizational Structure and Previous Participation:* The Borrower is THF Midland Leased Housing Associates I, Limited Partnership, and includes the entities and principals as indicated in Exhibit A. The applicant's portfolio is considered an extra large Category 3 and the previous participation was deemed acceptable by the EARAC, with the aforementioned conditions.

*Public Comment:* The Department received a letter of support from J. Ross Lacy, Councilman for the City of Midland.

## EXHIBIT A



WW doc number 16089139



J. Ross Lacy – Councilman District 4

June 26, 2018

Mr. Mark Mayfield, President  
Texas Housing Foundation  
1110 Broadway  
Marble Falls, TX 78654

RE: Proposed new affordable multi-family housing development in Midland, Texas

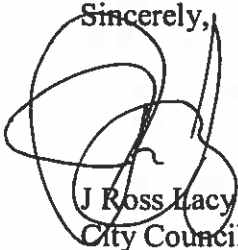
Mr. Mayfield;

I have received notification of your organization's intentions to develop a new multi-family housing development located in District 4 off Starboard Drive in Midland, Texas. It is my understanding that this development will consist of approximately 200 units of multi-family housing.

As the member of the Midland City Council representing District 4, I would be supportive of the development of this much needed property. I believe the development will be a great benefit to our City as sound affordable rental housing is a need that can help our citizens and stimulate economic growth. It is my hope that your team will receive the funding to develop this apartment complex.

If I may be of further assistance to you, please do not hesitate to contact me.

Sincerely,



J. Ross Lacy  
City Councilman

# 18437 Ventura At Tradewinds - Application Summary

REAL ESTATE ANALYSIS DIVISION

January 0, 1900

PROPERTY IDENTIFICATION	
Application #	18437
Development	Ventura At Tradewinds
City / County	Midland / Midland
Region/Area	12 / Urban
Population	General
Set-Aside	General
Activity	New Construction

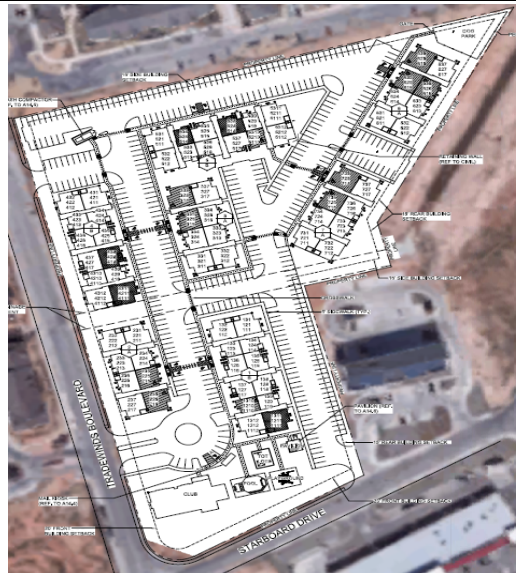
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,908,262	\$1,904,088	\$9,334/Unit	\$0.94

KEY PRINCIPAL / SPONSOR		
Texas Housing Foundation / Dominion Jeff Spicer - Domimium		
Related Parties	Contractor - TBD	Seller - No

## TYPICAL BUILDING ELEVATION/PHOTO



## SITE PLAN



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	36	18%	40%	-	0%
2	84	41%	50%	-	0%
3	84	41%	60%	204	100%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>204</b>	<b>100%</b>	<b>TOTAL</b>	<b>204</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS					
Pro Forma Underwritten			Applicant's Pro Forma		
Debt Coverage	1.15		Expense Ratio	31.7%	
Breakeven Occ.	84.2%		Breakeven Rent	\$1,104	
Average Rent	\$1,214		B/E Rent Margin	\$111	
Property Taxes	Exempt		Exemption/PILOT	100%	
Total Expense	\$4,343/unit		Controllable	\$3,098/unit	

MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	7.8%		
Highest Unit Capture Rate	58%	3 BR/60%	84
Dominant Unit Cap. Rate	25%	2 BR/60%	84
Premiums (↑60% Rents)			
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	1,097 SF	Density	22.5/acre
Acquisition		\$13K/unit	\$2,750K
Building Cost	\$106.75/SF	\$117K/unit	\$23,890K
Hard Cost		\$138K/unit	\$28,068K
Total Cost		\$234K/unit	\$47,729K
Developer Fee	\$5,565K	(39% Deferred)	Paid Year: 7
Contractor Fee	\$3,928K	30% Boost	Yes



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Jones Lang LaSalle	15/35	4.92%	\$27,660,000	1.15						Aegon	\$17,894,850
										Dominium & TX Housing Foundation	\$2,173,995
<b>TOTAL DEBT (Must Pay)</b>			<b>\$27,660,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$20,068,846</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$27,660,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$47,728,846</b>

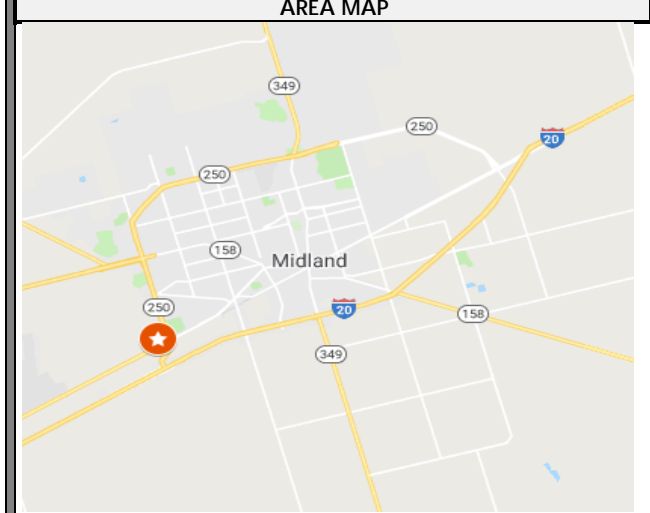
**CONDITIONS**

- Receipt and acceptance by Cost Certification:
  - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
  - b: Executed ground lease with Texas Housing Foundation clearly specifying all terms and conditions, including who will retain ownership of land and improvements at the end of the lease.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TSAHC
Expiration Date	1/12/2019
Bond Amount	\$30,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Freddie Mac Unfunded Forward
% Financed with Tax-Exempt Bonds	75.0%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Partnership with Texas Housing Foundation
▫	Low expense ratio
▫	Breakeven occupancy at 35 units
WEAKNESSES/RISKS	
▫	High construction costs
▫	Dependent on property tax exemption



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#18439 Tays North Apartments, El Paso)

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Tays North, sponsored by the Housing Authority of the City of El Paso (“HACEP”), was submitted to the Department on July 30, 2018;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on August 22, 2018, and will expire on January 19, 2019;

**WHEREAS**, the proposed issuer of the bonds is the Alamito Public Facilities Corporation;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics, applicants are required to disclose to the Department the existence of certain characteristics of a proposed development site;

**WHEREAS**, the applicant has disclosed the presence of two undesirable neighborhood characteristics, including that the middle school in the attendance zone of the proposed development failed to achieve a Met Standard rating based on the 2017 Accountability Ratings by the Texas Education Agency (“TEA”), and the poverty rate in the census tract in which the proposed development is located has a poverty rate above 55 percent in Region 13;

**WHEREAS**, staff has conducted a further review of the proposed development site and surrounding neighborhood and based on the documentation provided and discussed herein relating to each undesirable neighborhood characteristic, recommends the proposed site be found eligible under 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules; and

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as an Extra Large Category 4 and subject to the conditions as noted herein after review and discussion by the Executive Award and Review Advisory Committee (“EARAC”);

**NOW, therefore, it is hereby**

**RESOLVED**, that the site for Tays North is hereby found to be eligible; and

**FURTHER RESOLVED**, that the issuance of a Determination Notice of \$1,524,799 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Tays North, and conditioned upon the following, is hereby approved as presented to this meeting:

1. Correction of uncorrected "Noncompliance with utility allowance requirements in §10.614" Event of Noncompliance at Twelve Oaks (ID 4383-060092) by **November 1, 2018**.

2. HACEP or the management company contracted by HACEP is required to prepare or update its internal procedures to improve compliance outcomes and to provide copies of such new or updated procedures to the Department by **December 31, 2018**.

3. HACEP is required to designate the CEO and the Asset Manager to receive Compliance correspondence and ensure that this person or persons will provide timely responses to the Department for and on behalf of the proposed Development and all other Developments subject to TDHCA LURAs over which HACEP has the power to exercise control.

4. HACEP is required to ensure that the Asset Manager and the Regional Managers (4) attend the training listed in (A) and review the webinar trainings listed in (B) below and provide TDHCA with a certification of attendance for (A) and a certification of completion for (B) no later than **December 31, 2018**.

(A) Housing Tax Credit Training sponsored by the Texas Apartment Association; and

(B) Review the TDHCA Compliance Training webinars:

- (i) 2015 Tenant Selection Criteria Webinar Video;
- (ii) 2015 Tenant Selection Criteria Presentation;
- (iii) 2015 Tenant Selection Criteria- Q and As;
- (iv) §10.610 – Tenant Selection Criteria;
- (v) 2015 Affirmative Marketing Requirements Webinar Video;
- (vi) 2015 Affirmative Marketing Requirements Presentation;
- (vii) 2015 Affirmative Marketing Requirements- Q and As.

5. HACEP is required to submit the written policies and procedures for all developments subject to a TDHCA LURA for Department review no later than **December 31, 2018**.

6. HACEP agrees that for future applications submitted through **December 31, 2018** a qualified third party accessibility specialist will review the entire development site to confirm compliance with TDHCA accessibility standards and that such documentation be submitted 14 days prior to Board approval.

7. The Executive Director, for good cause, may grant one extension of these conditions for up to six months if requested prior to the deadline; any subsequent extensions, or extensions requested after the deadline, must be approved by the Board.

## **BACKGROUND**

*General Information:* The subject property is located at 2114 Magoffin Avenue, El Paso, El Paso County. Tays North, also referred to as Tays (I and II) North, is occupied and the application proposes the acquisition and rehabilitation of 278 units as part of HACEP's portfolio conversion under the Rental Assistance

Demonstration (“RAD”) program administered by HUD. The development will continue to serve the general population and conforms to current zoning except as it relates to parking where the city has determined it is legal non-conforming. All of the units will be rent and income restricted at 60% of the Area Medium Family Income. The Tays Housing Complex was originally constructed in 1941 and was comprised of 359 units. HACEP was awarded 9% Housing Tax Credits in 2014 for Tays (a different site) and 198 units were newly constructed while 81 of the 359 existing units were demolished. The remaining public housing units at Tays constitute the 278 units that are part of the current application. Part of the financing for Tays includes federal and state historical tax credits to assist in the rehabilitation of the development and the Part I approval has already been received. The census tract (0028.00) has a median household income of \$16,861, is in the fourth quartile, and has a poverty rate of 62.2%.

*Site Analysis:* The presence of undesirable neighborhood characteristics under 10 TAC §10.101(a)(3) requires additional site analysis and those characteristics attributable to Tays North include the middle school’s failure to achieve a Met Standard rating in 2017 and the development is located in a census tract that has a poverty rate above 55 percent (constitutes the threshold rate for Region 13).

*School:* Tays North is located in the attendance zone of the Guillen Middle School (“Guillen”) which received an Improvement Required rating based on the 2017 TEA Accountability Ratings. Guillen missed the Met Standard rating by 2 points under Index 3, relating to Closing Performance Gaps. In August 2018, TEA released the 2018 TEA Accountability Ratings and staff confirmed that Guillen achieved a Met Standard rating for 2018. The applicant has represented that a new principal with 22 years of experience working in the El Paso ISD (“EPISD”) has been hired, a school food pantry has been opened to support the families located in south El Paso, and that EPISD recently received a Transformation Zone Planning Grant from TEA to academically transform eight low-performing campuses. Staff believes the improvement in the TEA rating as evident in the 2018 Accountability Ratings provides sufficient mitigation under the rule and believes the application should be found eligible pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules.

*Poverty:* The development is located in a census tract that has a poverty rate of 62.2% which exceeds the threshold allowed under 10 TAC §10.101(a)(3). The poverty rate for the subject tract was 65.5% in 2017, demonstrating a decrease over the prior year; however, it has exceeded 58% for the past five years. The percentage of households residing in the census tract with incomes greater than \$40,000 (median income for the El Paso MSA is \$44,416) increased by approximately 2% over the most recent 5-year period. The applicant believes this may be attributed to Tays and Tays North being located in the census tract and that the RAD conversion program and revitalization occurring in the Downtown El Paso are having a positive effect on the area. Although staff could not confirm the applicant’s claim regarding revitalization, census data does reflect an increase in the median income for the subject census tract of approximately 21% over the most recent 5-year period which demonstrates continued improvement that would be indicative of the downward trend in the poverty rate over the prior year.

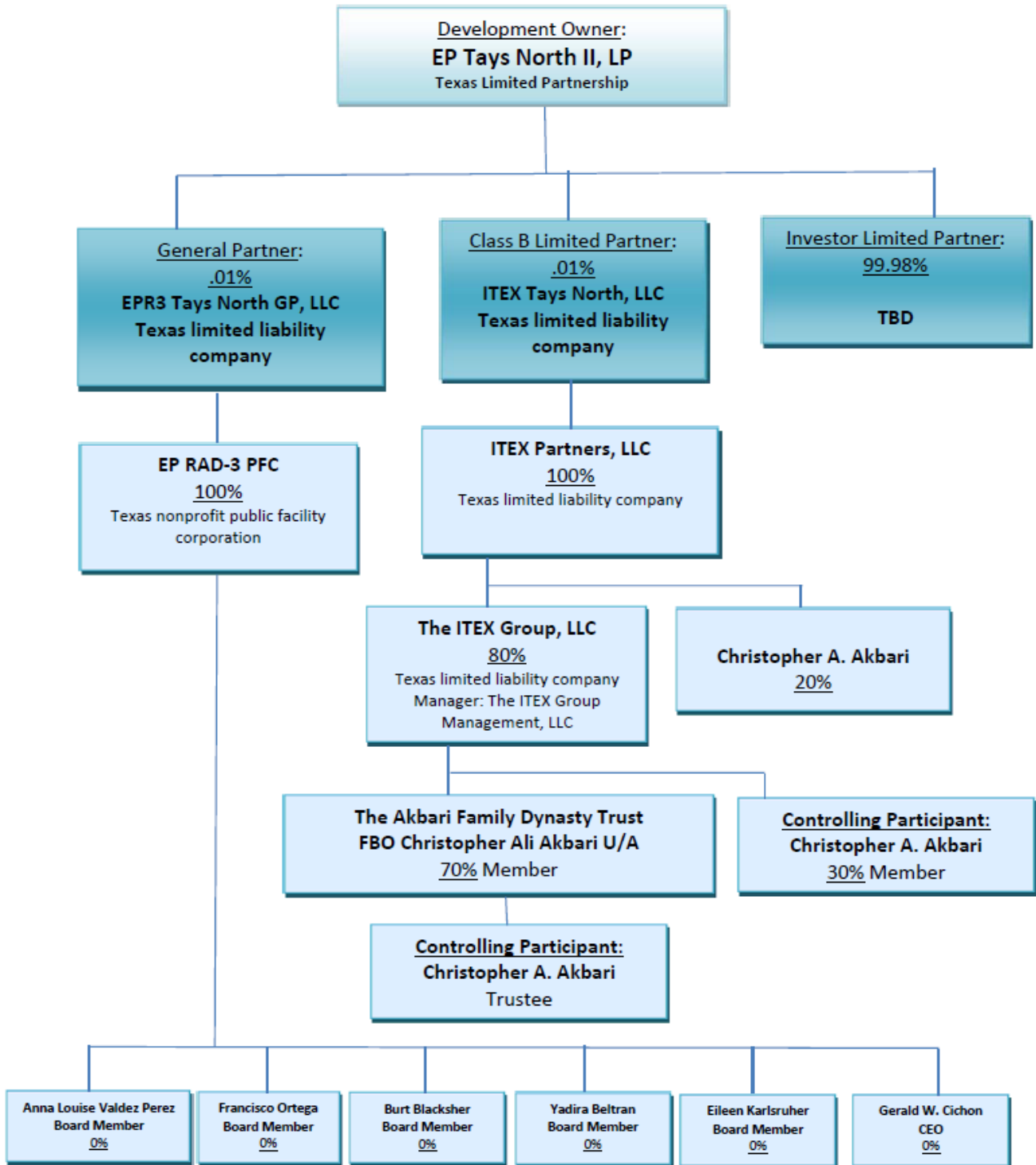
Based on the aforementioned information staff believes the undesirable neighborhood characteristics are sufficiently mitigated and are not of a nature or severity that should render the proposed development site ineligible and; therefore, recommends the site be considered eligible pursuant to 10 TAC §10.101(a)(3).

*Organizational Structure:* The Borrower is EP Tays North II, LP and includes the entities and principals as indicated in the organization chart in Exhibit A. The applicant’s portfolio is considered a Category 4 and the previous participation was deemed acceptable by EARAC, with the aforementioned conditions, after review and discussion.



Public Comment: There were no letters of support or opposition received by the Department.

**EXHIBIT A**



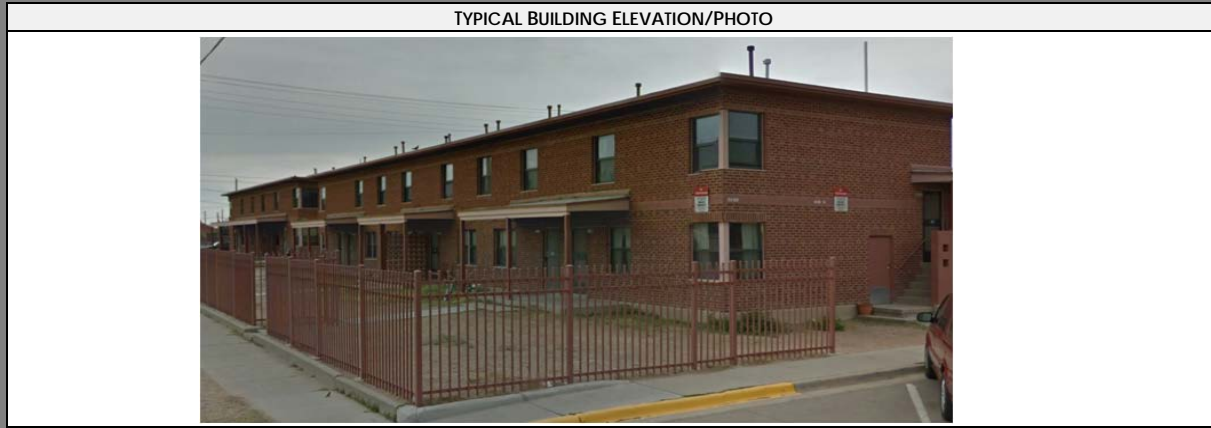
# 18439 Tays North - Application Summary

REAL ESTATE ANALYSIS DIVISION  
November 1, 2018

PROPERTY IDENTIFICATION	
Application #	18439
Development	Tays North
City / County	El Paso / El Paso
Region/Area	13 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1941)

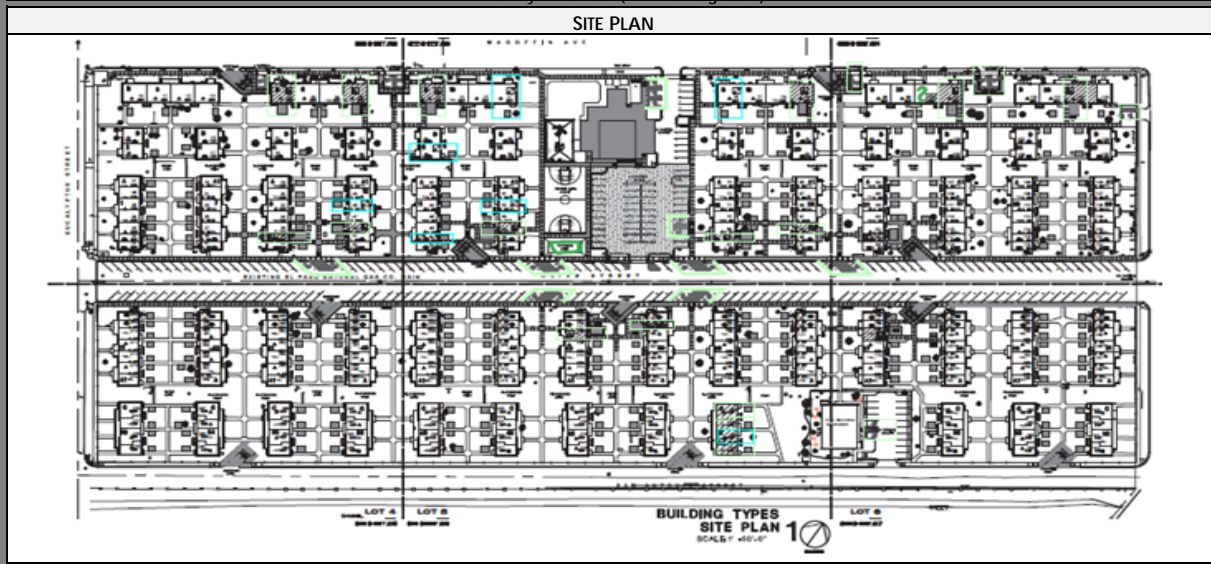
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$1,524,799	\$1,524,799	\$5,485/Unit	\$0.94

KEY PRINCIPAL / SPONSOR		
Housing Authority of the City of El Paso (HACEP)		
ITEX Development - Chris Akbari (Developer)		
Alamito PFC (Related-Party Issuer)		
Affordable Housing Enterprises (Contractor)		
Gerald ("Jerry") W. Cichon		
Related Parties	Contractor - Yes	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	77	28%	40%	-	0%
2	99	36%	50%	-	0%
3	85	31%	60%	278	100%
4	17	6%	MR	-	0%
<b>TOTAL</b>	<b>278</b>	<b>100%</b>	<b>TOTAL</b>	<b>278</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	1.33	Expense Ratio	65.8%
Breakeven Occ.	86.9%	Breakeven Rent	\$468
Average Rent	\$512	B/E Rent Margin	\$44
Property Taxes	Exempt	Exemption/PILOT	0%
Total Expense	\$3,880/unit	Controllable	\$2,790/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			#N/A
Highest Unit Capture Rate	#N/A	#N/A	#N/A
Dominant Unit Cap. Rate	#N/A	2 BR/50%	99
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	278	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	780 SF	Density	17.5/acre
Acquisition		\$39K/unit	\$10,800K
Building Cost	\$83.08/SF	\$65K/unit	\$18,010K
Hard Cost		\$79K/unit	\$22,005K
Total Cost		\$174K/unit	\$48,342K
Developer Fee	\$5,772K	(17% Deferred)	Paid Year: 7
Contractor Fee	\$3,081K	30% Boost	Yes

REHABILITATION COSTS / UNIT			
Site Work	\$5K	6%	Finishes/Fixtures \$22K 28%
Building Shell	\$32K	40%	Amenities \$2K 3%
HVAC	\$8K	10%	Total Exterior \$39K 54%
Appliances	\$3K	3%	Total Interior \$33K 46%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
CITI - Tranche A	15/35	4.93%	\$7,000,000	1.33	HACEP Seller Note	50/0	3.00%	\$10,800,000	1.33	RBC	\$14,330,127
					Paisano Gap Loan	50/0	3.00%	\$1,312,008	1.33	RBC - Federal Historic Tax Credits	\$6,131,982
										FOSS - State Historic Tax Credits	\$7,794,397
										Paisano Housing Redevelopment Corp	\$973,941
										<b>TOTAL EQUITY SOURCES</b>	\$29,230,447
										<b>TOTAL DEBT SOURCES</b>	\$19,112,008
<b>TOTAL DEBT (Must Pay)</b>			<b>\$7,000,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$12,112,008</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$48,342,455</b>

#### CONDITIONS

- 1 Receipt and acceptance before Determination Notice:
  - a: HUD approval of RAD conversion including a commitment to enter into the Housing Assistance Payment contract (or executed CHAP or similar agreement), HUD approved rents and operating budget.
  - b: Certification that the Owner will provide flood insurance coverage for the buildings and for the residents' personal property until such time that the site is officially designated to be no longer in the floodplain.
- 2 Receipt and acceptance by Cost Certification:
  - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
  - b: Certification of comprehensive testing for asbestos and lead-based paint (Sherman only); that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-containing materials or lead-based paint are being managed in accordance with an acceptable Operations and Maintenance (O&M) program.
  - c: Certification that the Owner has provided flood insurance coverage for the buildings and for the residents' personal property or certification that the site is officially designated to be no longer in the floodplain.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

#### BOND RESERVATION / ISSUER

Issuer	Alamito PFC
Expiration Date	1/19/2019
Bond Amount	\$40,000,000
BRB Priority	Priority 3
Close Date	TBD
Bond Structure	Tax-Exempt "Back-to-Back"
% Financed with Tax-Exempt Bonds	58.8%

#### RISK PROFILE

##### STRENGTHS/MITIGATING FACTORS

- 10% construction contingency & available
- Minimal lease up risk
- Pro forma based on historical expenses
- 100% rental assistance

##### WEAKNESSES/RISKS

- Potential cost overruns associated with rehab
- expense to income ratio

#### AREA MAP



#### AERIAL PHOTOGRAPH(S)



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer (#18440 Bayshore Towers, Pasadena)

**RECOMMENDED ACTION**

**WHEREAS**, a 4% Housing Tax Credit application for Bayshore Towers, sponsored by Urban Cowboy Housing, LLC/Richard Siebert, was submitted to the Department on August 7, 2018;

**WHEREAS**, the Certification of Reservation from the Texas Bond Review Board was issued on August 14, 2018, and will expire on January 11, 2019;

**WHEREAS**, the proposed issuer of the bonds is the Southeast Texas Housing Finance Corporation;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules related to Undesirable Site Features, Development Sites that contain one or more pipelines, situated underground or aboveground, or are adjacent to a pipeline easement, which carry highly volatile liquids will be considered ineligible unless they are a Rehabilitation development with ongoing and existing federal assistance, in which case an exemption may be granted by the Board;

**WHEREAS**, Bayshore Towers is located adjacent to a pipeline easement containing pipelines carrying highly volatile liquids (“HVL”);

**WHEREAS**, staff has conducted a further review of the proposed development site and based on the documentation provided and discussed herein, recommends the exemption as it relates to the pipeline pursuant to 10 TAC §10.101(a)(2) of the Uniform Multifamily Rules;

**WHEREAS**, the applicant has requested a waiver of 10 TAC §10.101(b)(3)(B) of the Uniform Multifamily Rules relating to rehabilitation costs per unit;

**WHEREAS**, the applicant has asserted and the Property Condition Assessment (“PCA”) supports the assertion that the property has been maintained in good condition; and

**WHEREAS**, based on the information provided by the applicant and discussed herein, staff recommends that a waiver of 10 TAC §10.101(b)(3)(B) of the Uniform Multifamily Rules be granted;

**NOW, therefore, it is hereby**

**RESOLVED**, that the exemption relating to the pipeline in proximity to Bayshore Towers is hereby granted and a waiver associated with 10 TAC §10.101(b)(3)(B) is hereby granted; and

**FURTHER RESOLVED**, that the issuance of a Determination Notice of \$572,245 in 4% Housing Tax Credits, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Bayshore Towers, is hereby approved as presented to this meeting.

### **BACKGROUND**

*General Information:* Bayshore Towers is the proposed acquisition and rehabilitation of a development located at 3219 Burke Road in Pasadena, Harris County. The subject property consists of 100 units which will serve an elderly population (elderly preference). All of the units will be rent and income restricted at 60% of the Area Median Family Income. The property also has an existing Project Based Section 8 Housing Assistance Payments ("HAP") contract that is expected to continue for all 100 units. Bayshore Towers also contains space on the ground floor that is leased for commercial use, currently including a nonprofit organization and a dental office. The development was originally constructed in 1978 and conforms to current zoning with the exception of a legal nonconforming use for parking. The census tract (3237.01) has a median household income of \$51,140, is in the third quartile, and has a poverty rate of 12.5%.

*Site Analysis:* The presence of undesirable site features under 10 TAC §10.101(a)(2) requires additional site analysis, and the feature attributable to Bayshore Towers is a pipeline easement containing two pipes which carry propane located approximately 129' from the subject property. The development site is located adjacent to Burke Road, which includes a center median containing the two pipelines. According to the applicant, Bayshore Towers is located in excess of 100 feet from the outer edge of the median and the distance is in compliance with HUD's Acceptable Separation Distance assessment. Staff notes that HUD's Acceptable Separation Distance is not the Department's standard by which pipelines are evaluated. Pursuant to §10.101(a)(2), rehabilitation developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs may be granted an exemption by the Board. The existing Section 8 HAP contract for the development is expected to continue. The financing structure includes a HUD 221(d)(4) loan as well. Despite the exemption allowed under the rule, staff may condition the award upon the rehabilitation, to the extent applicable, conforming to the Pipelines and Informed Planning Alliance ("PIPA") as reflected in the rule. As it relates to this specific situation, given the locations of the pipelines in relation to the development, along with information provided by the Environmental Site Assessment provider, staff does not believe a PIPA report is required, and recommends the exemption be granted and the site be eligible under 10 TAC §10.101(a)(2).

*Waiver Request:* The applicant requested a waiver of 10 TAC §10.101(b)(3)(B) of the Uniform Multifamily Rules relating to rehabilitation costs per unit. As previously stated, the development was originally constructed in 1978, and pursuant to the rule properties greater than 20 years old are required to spend a minimum of \$30,000 per unit in building costs and site work. The PCA for Bayshore Towers reflected \$24,500 per unit was necessary based on the current condition of the property. The applicant's request for the waiver stated there were previous repairs made to the property that, when combined with the current request, would exceed the minimum \$30,000 per unit requirement. The timeline for these repairs included some performed in 2009 in response to damages sustained from Hurricane Ike (\$600,000), general repairs in 2014 (\$100,000), and damages sustained from Hurricane Harvey in 2017 (\$175,000). While the applicant contends that these prior repairs and capitalized costs should be factored into the scope of work to meet the



minimum, staff disagrees. Staff contends that the rationale for the minimum rehab requirements in the rules is to establish thresholds that justify use of federal resources on properties that need a significant level of rehabilitation. In this case, the prior repairs (mostly capitalized costs of the seller) already improved conditions at the property to the point that the threshold level of rehabilitation is not necessary. Therefore staff would question the extent to which applying for housing tax credits is necessary at this time.

It is important to note that the prior repairs and improvements to the property likely factored into the sales price of the property. Through the tax credit award underwriting, eligible basis is partly derived on the sales price (as well as the amount of eligible developer fee). As such and if the purchase price effectively includes value for the prior repairs, some amount of tax credits are essentially being used to finance a portion of those prior repairs and provide for additional developer fee for the applicant. In this case, staff has not factored this situation in the underwriting or tax credit sizing but it might be a consideration of future policy discussion.

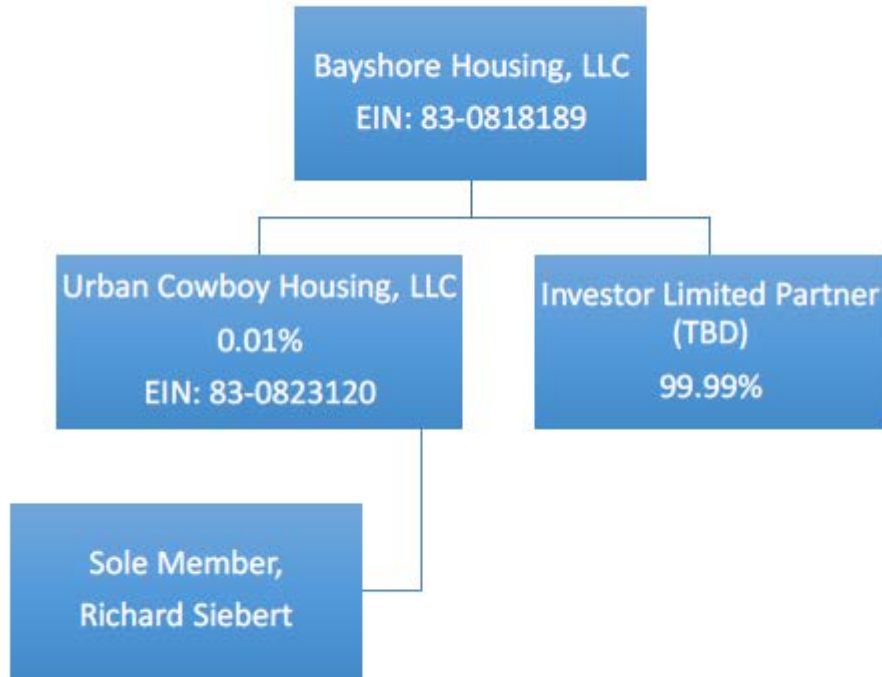
In reviewing the PCA and overall condition of the property, staff believes the property is in relatively good condition, but still questioned the applicant regarding some items omitted from the scope of work that are considered typical replacement items (i.e. painting, bathroom fixtures, cabinets, sinks, toilets, etc. along with accessibility requirements) and whether any of these items can be included in the scope of work such that the minimum threshold is achieved. The applicant confirmed that the scope of work has been carefully reviewed by the PCA provider and discussed at length during the plan and cost review prior to submitting the FHA loan application. Specifically, as it relates to the aforementioned replacement items, the applicant indicated that some of these items were recently replaced over the past four years. The applicant provided inspection results from the most recent REAC inspection which reflected a score of 99b, which as the applicant indicated, is considered “exceptional.”

Based on a submitted PCA that reflected a scope of work that, in the professional opinion of the PCA provider and substantiated by the applicant, reflects the true needs of the property at this time, and in the context of 10 TAC §10.207 and Tex. Gov’t Code §2306.001(3) the housing tax credit funding would contribute to the preservation of government-assisted housing (i.e. Section 8) occupied by low-income elderly residents, staff recommends the waiver be granted.

*Organizational Structure:* The Borrower is Bayshore Housing, LLC and includes the entities and principals as indicated in the organization chart in Exhibit A. The applicant’s portfolio is considered a Category 1.

*Public Comment:* There were no letters of support or opposition received by the Department.

**EXHIBIT A**



# 18440 Bayshore Towers - Application Summary

REAL ESTATE ANALYSIS DIVISION

November 1, 2018

PROPERTY IDENTIFICATION	
Application #	18440
Development	Bayshore Towers
City / County	Pasadena / Harris
Region/Area	6 / Urban
Population	Elderly Preference
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1978)

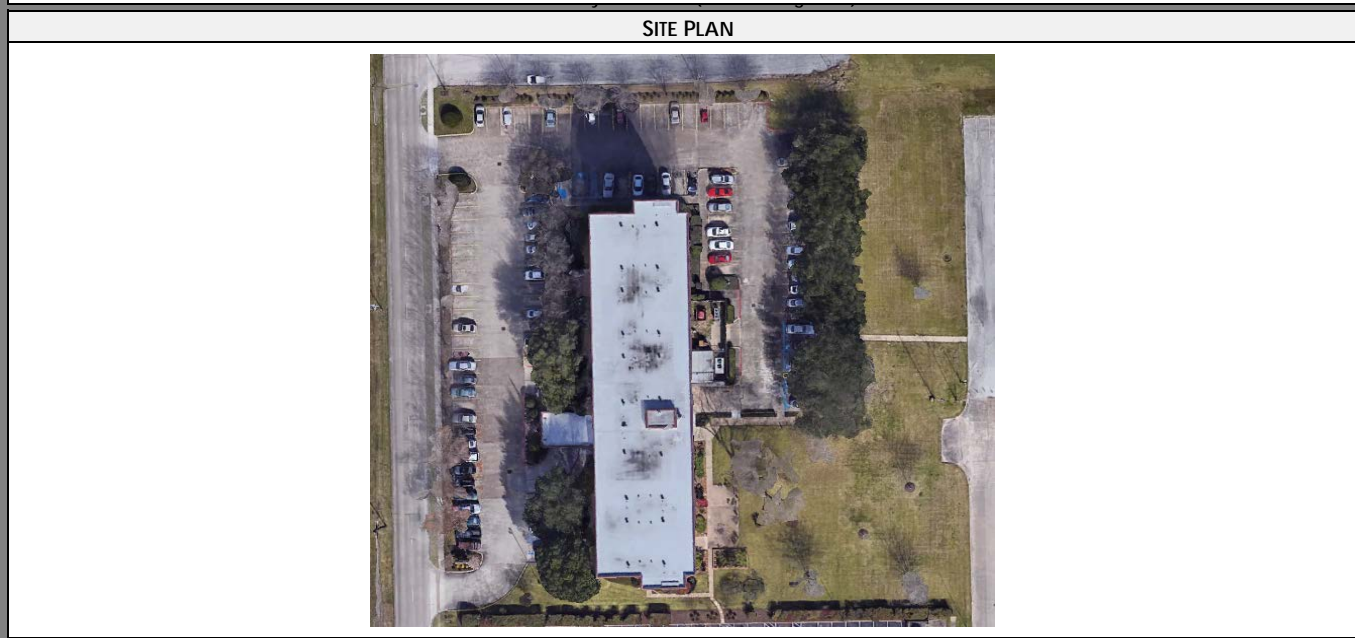
RECOMMENDATION				
TDHCA Program	Request	Recommended		
LIHTC (4% Credit)	\$572,245	\$572,245	\$5,722/Unit	\$0.93

KEY PRINCIPAL / SPONSOR		
SDG Housing Partners, LLC		
June Park		
Janna Cormier (Consultant)		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	100	100%	40%	-	0%
2	-	0%	50%	-	0%
3	-	0%	60%	100	100%
4	-	0%	MR	-	✓
<b>TOTAL</b>	<b>100</b>	<b>100%</b>	<b>TOTAL</b>	<b>100</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	🟡 1.15	Expense Ratio	🟢 49.3%
Breakeven Occ.	🟡 88.7%	Breakeven Rent	\$1,118
Average Rent	\$1,200	B/E Rent Margin	🟡 \$82
Property Taxes	\$2,150/unit	Exemption/PILOT	0%
Total Expense	\$6,947/unit	Controllable	\$3,457/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			🟢 2.8%
Highest Unit Capture Rate	🟢 5%	1 BR/50%	100
Dominant Unit Cap. Rate	🟢 5%	1 BR/50%	100
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	100	100% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	544 SF	Density	33.4/acre
Acquisition		\$120K/unit	\$12,000K
Building Cost	\$42.36/SF	\$23K/unit	\$2,306K
Hard Cost		\$27K/unit	\$2,689K
Total Cost		\$200K/unit	\$20,017K
Developer Fee	\$2,247K	(59% Deferred)	Paid Year: 11
Contractor Fee	\$342K	30% Boost	No

REHABILITATION COSTS / UNIT			
Site Work	\$1K	5%	Finishes/Fixtures \$12K 46%
Building Shell	\$8K	29%	Amenities
HVAC	\$3K	9%	Total Exterior \$9K 37%
Appliances	\$K	1%	Total Interior \$15K 63%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
PNC - FHA Loan	40/40	4.60%	\$10,980,400	1.14	NOI During Construction	0/0	0.00%	\$537,187	1.15	City Real Estate Advisors (CREA)	\$5,321,289
Adjustment to Debt Per §10.302(c)(2)	40/40	4.60%	(\$140,000)	1.15						SDG Housing Partners	\$1,318,015
Seller Financing	41/0	3.00%	\$2,000,000	1.15						<b>TOTAL EQUITY SOURCES</b>	\$6,639,304
<b>TOTAL DEBT (Must Pay)</b>			<b>\$12,840,400</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$537,187</b>		<b>TOTAL DEBT SOURCES</b>	<b>\$13,377,587</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$20,016,891</b>

**CONDITIONS**

- Receipt and acceptance before Determination Notice:
  - Revised ESA conforming to REA rules in 10.305 (b)(7).
- Receipt and acceptance by Cost Certification:
  - Certification of comprehensive testing for asbestos; that any appropriate abatement procedures were implemented by a qualified abatement company; and that any remaining asbestos-

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**BOND RESERVATION / ISSUER**

Issuer	The Southeast Texas HFC
Expiration Date	1/10/2015
Bond Amount	\$15,000,000
BRB Priority	Priority 3
Close Date	11/26/2018
Bond Structure	Short Term Bonds
% Financed with Tax-Exempt Bonds	79.3%

**RISK PROFILE**

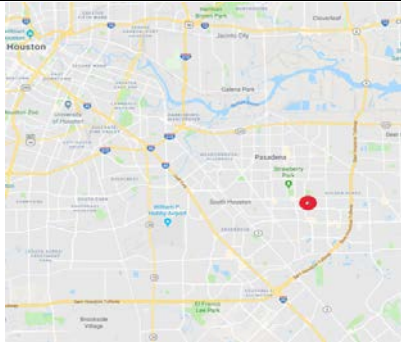
**STRENGTHS/MITIGATING FACTORS**

- All units covered by Section 8 Contract
- 100% occupied
- Building in good shape, confirmed by PCA

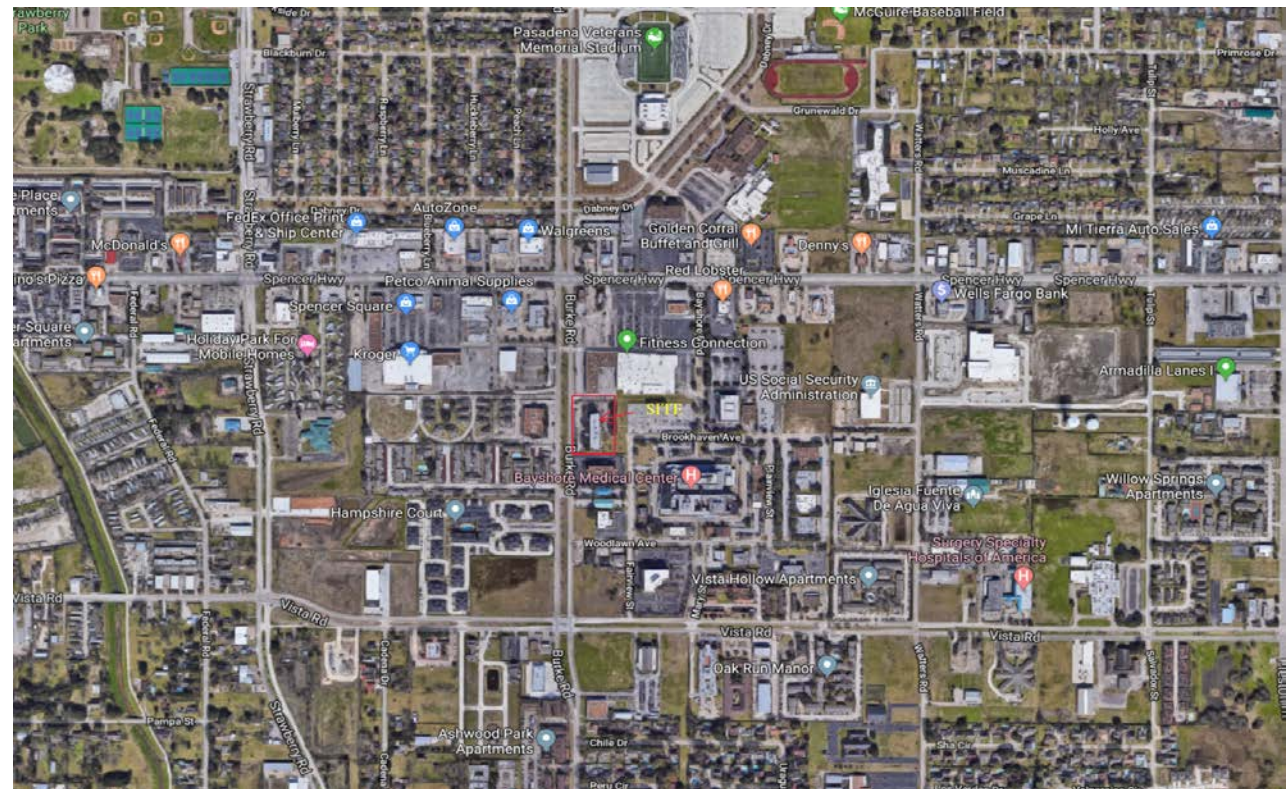
**WEAKNESSES/RISKS**

- Submitted DCR at 1.15
- DCR at 1.01 if seller note considered hard debt

**AREA MAP**



**AERIAL PHOTOGRAPH(S)**



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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on the Third Amendment to the 2018-1 Multifamily Direct Loan Notice of Funding Availability

**RECOMMENDED ACTION**

**WHEREAS**, the Board previously approved the 2018-1 Multifamily Direct Loan Notice of Funding Availability (“2018-1 NOFA”), which included \$12,746,231 million in Tax Credit Assistance Program loan repayments (“TCAP RF”), \$11,116,514 in HOME funds, and \$5 million in NSP Round 1 Program Income (“NSP1 PI”);

**WHEREAS**, the Board previously approved the First Amendment to the 2018-1 NOFA which added \$7,972,864 in National Housing Trust Fund (“NHTF”) from Program Year 2017, and \$1,169,554 in HOME Program Income;

**WHEREAS**, the Board previously approved the Second Amendment to the 2018-1 NOFA which added \$9,247,936 of the Program Year 2018 HOME funds and all \$11,051,177 of the Program Year 2018 NHTF funds;

**WHEREAS**, the Board ratified reprogramming \$9,086,316 in deobligated funds for single family activities under the Disaster Relief set-aside at the Board meeting of October 12, 2017, bringing the then total of that set aside to roughly \$11,000,000, of which \$9,606,694 has not been requested and remain available as of October 24, 2018;

**WHEREAS**, staff recommends reprogramming \$4 million currently programmed for single family activities under the Disaster Relief set-aside to the General Set-Aside in the 2018-1 NOFA for multifamily activities, which will still leave approximately \$5,606,994 for single family activities under the Disaster Relief set-aside; and

**WHEREAS**, adding \$4,000,000 to the 2018-1 NOFA may help the Department to more quickly meet the commitment deadline that this source of funds is bound by;

**NOW, therefore, it is hereby**

**RESOLVED**, that \$4,000,000 in HOME funds is authorized to be moved from the Single Family Disaster Set-Aside and added to the Multifamily General Set-Aside in the 2018-1 NOFA effective November 8, 2018, along with necessary conforming amendments reflected in the proposed amended NOFA; and

**FURTHER RESOLVED**, the Executive Director and staff as designated by the Executive Director are authorized, empowered, and directed, for and on behalf of the Department to execute such documents, instruments, and writings and perform such acts and deeds as may be necessary to effectuate the foregoing.

## **BACKGROUND**

On December 14, 2017, the Board approved the 2018-1 NOFA which was subsequently published in the *Texas Register* on December 29, 2017, announcing the availability of up to \$28,862,745, composed of \$11,116,514 in HOME funds, \$12,746,231 in TCAP RF, and \$5 million in NSP1 PI – for the development of affordable multifamily rental housing. The \$12,746,231 in TCAP RF was derived from principal (\$9,446,231) and interest (\$3,300,000) payments received on TCAP loans through November 2017.

On March 22, 2018, the Board approved the First Amendment to the 2018-1 NOFA, which was subsequently published in the *Texas Register* on April 6, 2018, announcing the availability of an additional \$7,972,864 in NHTF and \$1,169,554 in HOME funds.

On July 12, 2018, the Board approved the Second Amendment to the 2018-1 NOFA, which was subsequently published in the *Texas Register* on July 27, 2018, announcing the availability of an additional \$11,051,177 in NHTF and \$9,247,936 in HOME funds. 20 Applications (including those before the Board today) have requested \$36,745,000 in Direct Loan funds.

In response to Hurricane Harvey and other recent natural disasters impacting the State of Texas through October of 2017, the Department increased its set aside from deobligated funds for single family activities in areas impacted by declared disaster from the traditional level of \$1 million to roughly \$11 million. The Board ratified this reprogramming at the meeting on October 12, 2017. While some movement of these funds has occurred as a result of the extensive outreach to impacted areas conducted by HOME staff over the past 12 months, the majority of funds have not been requested. Staff believes that the large unutilized balance of funds could safely be adjusted toward multifamily activity that is in high demand.

With this addition of \$4,000,000 in HOME funds, staff anticipates being able to make one to four more awards of Direct Loan funds under the General Set-Aside. The HOME funds added as a result of this Third Amendment are not subject to a Regional Allocation Formula.

Staff will continue to monitor the demand for Direct Loan funds and plans on presenting the 2019-1 Multifamily Direct Loan NOFA at the Board meeting on December 6, 2018.



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**MULTIFAMILY DIRECT LOAN**  
**2018-1 NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**THIRD AMENDMENT**  
**EFFECTIVE NOVEMBER 8, 2018**

**THIS AMENDMENT ADDS \$4,000,000 OF PREVIOUSLY DEOBLIGATED HOME FUNDS TO THE GENERAL SET-ASIDE. THIS AMENDMENT REPLACES IN ITS ENTIRETY SECTIONS 1 AND 3. ALL OTHER SECTIONS OF THE 2018-1 NOFA REMAIN AS ORIGINALLY PUBLISHED.**

- 1) Summary.** The Texas Department of Housing and Community Affairs (the “Department”) announces the availability of up to **\$62,304,276** in Multifamily Direct Loan funding for the development of affordable multifamily rental housing for low-income Texans. The availability and use of these funds are subject to 10 TAC Chapters 1 (“Administration”), 2 (“Enforcement”), 10 (“Uniform Multifamily Rules”), 13 (“Multifamily Direct Loan Rule”), and Chapters 11 (“Qualified Allocation Plan”) and 12 (“Multifamily Housing Revenue Bonds”) as applicable, as well as Chapter 2306 of the Texas Government Code. Applications proposing development of affordable multifamily rental housing will be subject to the Department of Housing and Urban Development (“HUD”) HOME regulations governing the HOME program found at 24 CFR Part 92 (“HOME Final Rule”) and/or National Housing Trust Fund (“NHTF”) regulations governing the NHTF program found at 24 CFR Part 93. Other Federal regulations that apply to HOME and NHTF funds include, but are not limited to fair housing (42 U.S.C. 3601-3619), environmental requirements (42 U.S.C. 4321; and 24 CFR part 50 or part 58 depending on the type of activity), Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD Handbook 1378, Section 104(d) of Housing and Community Development Act of 1974. HOME funds are further regulated by Davis-Bacon and Related Labor Acts for labor standards (40 U.S.C. §3141-3144 and 3146-3148, 24 CFR §92.354, and HUD Handbook Federal Labor Standards Compliance in Housing and Community Development Programs). HOME-funded developments must comply with HUD Section 3 requirements (24 CFR Part 135). Section 3 requires HOME and NHTF funded housing and community development activities to give, to the greatest extent feasible (and consistent with existing Federal, State and local laws and regulations) job training, employment, contracting and other economic opportunities to Section 3 residents and business concerns.

**Except as otherwise noted in this NOFA,** Applicants proposing development of affordable multifamily rental housing should assume that HOME, NSP and/or NHTF funds will be awarded and should likewise be prepared to comply with the applicable regulations. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules that



govern the program. If HOME, NSP and/or NHTF funds are used and Federal regulations or subsequent guidance imposes additional requirements, such Federal regulations or guidance shall govern.

All Applicants proposing refinance *without* rehabilitation, or supplemental funds for Applications that have received funding or allocation in a previous year, generally will only receive Tax Credit Assistance Program Repayment Funds (“TCAP RF”), but, except as otherwise noted in this NOFA, may receive HOME, NSP and/or NHTF funds if it is an eligible activity. Awards to refinance or of supplemental financing will not exceed an amount necessary to replace lost funding or maintain original anticipated levels of feasibility as determined by staff.

**3) Set-Asides.** HOME, TCAP RF, and NSP1 PI will be subject to the first Regional Allocation Formula (“RAF,” located in Attachment A) until 5:00 pm February 9, 2018, and then available on a statewide basis within each set-aside. The 2018 Grant Year HOME allocation added to this NOFA as a result of the Second Amendment will be subject to the second Regional Allocation Formula (“RAF,” located in Attachment D) from July 27, 2018, until 5:00 pm August 27, 2018, and then be available on a statewide basis within each set-aside. **The HOME funds added to this NOFA as a result of the Third Amendment are not subject to a RAF.** NHTF funds will be subject to the RAF located in Attachment B until May 7, 2018. The 2018 Grant Year NHTF allocation being added to this NOFA as a result of this Second Amendment will be subject to the Regional Allocation Formula (“RAF,” located in Attachment E) from July 27, 2018, until 5:00 pm August 27, 2018, and then be available on a statewide basis within the Supportive Housing/ Soft Repayment set-aside. Applications under any and all set-asides may or may not be layered with 9% or 4% Housing Tax Credits (“HTC”). Within each set-aside, Applications not layered with 9% HTC in counties designated for Individual Assistance as a result of Hurricane Harvey will be prioritized after the RAF collapses until February 28, 2018, and then again from April 3, 2018, through June 29, 2018. Except for Applications proposing rehabilitation submitted under the Supportive Housing/Soft Repayment Set-Aside, all Applications in any Set-Aside submitted between July 27, 2018 through August 27, 2018, that are above the amounts available in region or subregion (as applicable) will get a date of receipt of August 28, 2018. The funds made available under this NOFA are available under three set-asides:

Set-Aside	Amount Available as of October 24, 2018		Maximum Request**
CHDO (HOME only)	\$8,215,058		\$4,000,000
Supportive Housing/ Soft Repayment	TCAP RF	\$3,300,000	\$2,000,000
	NHTF	\$19,024,041	
General	\$31,765,177		
	New Construction		\$4,000,000
	Rehabilitation		\$3,000,000
	Harvey Rehabilitation*		\$3,000,000
	Harvey Reconstruction*		\$4,000,000

\* For Applications received on or after April 3, 2018, through June 29, 2018.

\*\* The maximum request is inclusive of any prior awarded TDHCA Direct Loan funds that have not yet closed or that are outstanding loans.

- a. **CHDO Set-Aside.** At least \$8,215,058 in HOME funds are set aside for eligible Community Housing Development Organizations (“CHDO”).
- b. **Supportive Housing/ Soft Repayment Set-Aside.** Up to \$22,324,041 (\$3,300,000 in TCAP RF and \$19,024,041 in NHTF) is available in this set-aside. Applicants proposing new construction within this set-aside must restrict all Direct Loan-assisted units to 30% AMI. An Applicant that was previously awarded funds under this NOFA within this set-aside for new construction that qualified under 10 TAC §13.4(a)(1)(A)(i) with some Direct Loan units targeted for households above 30% AMI may apply for additional Direct Loan funds within this set-aside only if the Applicant proposes additional Direct Loan units and agrees to convert those Direct Loan units previously awarded but targeted for households above 30% AMI to 30% AMI or below with the corresponding at or below NHTF rent limit.
- c. **General Set-Aside.** All remaining TCAP RF, HOME, and NSP1 PI funds available, currently anticipated to be \$31,765,177.
- d. **Harvey Priority** - After the first Regional Allocation Formula collapses until February 28, 2018, and then again from April 3, 2018, until June 29, 2018, Applications received in all set asides for rehabilitation or reconstruction of properties damaged by Hurricane Harvey and related severe weather and flooding in a county declared by the Federal Emergency Management Agency to be eligible for individual assistance, will take priority over applications from other parts of the State. Such Applications will be considered to be received first and will receive first consideration for award of MFDL funds.

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**BOARD ACTION REQUEST**

**HOME AND HOMELESSNESS PROGRAMS DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 7 Subchapter C, Emergency Solutions Grants, and proposed new 10 TAC Chapter 7 Subchapter C, Emergency Solutions Grants, and directing publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, staff proposes repeal and a proposed new rule to incorporate federal guidance previously communicated through Notices of Funding Availability and contracts and to incorporate into the ESG rule changes adopted to 10 TAC Chapter 7, Subchapter A, General Policies and Procedures for Homelessness Programs;

**WHEREAS**, staff recommends to the Board that there is a need for these rule sections to be codified to assist applicants for ESG funding in planning and preparation of requests for funds, and to assist subrecipients of ESG funds in administration of their grants; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment and subsequently returned to the Board for final adoption, and such public comment received on the rule, as it relates to method of distribution of funds, will be considered public comment made for the 2019 One Year Action Plan;

**NOW, therefore, it is hereby**

**RESOLVED**, that the proposed repeal and a proposed new 10 TAC Chapter 7 Subchapter C, Emergency Solutions Grants, together with the preamble presented to this meeting, are hereby approved for publication in the *Texas Register* for public comment including consideration as public comment for purposes of the 2019 One Year Action Plan; and

**FURTHER RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal of 10 TAC Chapter 7, Subchapter C, §§7.31 – 7.44, Emergency Solutions Grants and proposed new 10 TAC Chapter 7, Subchapter C, §§7.31 – 7.44, Emergency Solutions Grants; and directing that they be published for public comment in the *Texas Register*, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles.

## **BACKGROUND**

The new 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants rule is proposed to clarify requirements for the Emergency Solutions Grant (“ESG”) Program. The Board previously approved on June 28, 2018, adoption of a new 10 TAC Chapter 7, Subchapter A, General Provisions which governs the Homeless Housing and Services Program, the Ending Homelessness Fund, and ESG. These programs, collectively, compose the Department’s homelessness programs. Adoption of the new 10 TAC Subchapter A necessitates substantial changes to 10 TAC Subchapter C, Emergency Solutions Grant. Additionally, inclusion of several requirements and administrative provisions within the ESG rule which were previously included in Notices of Funding Availability and the ESG contract itself will assist the Department and subrecipients of ESG with consistent, transparent application for and administration of the grant.

In preparing this proposed new rule, Staff conducted extensive outreach, including four roundtable discussions in Austin, Dallas, and Houston, as well as at the Texas Homeless Network Conference in September 2018. Staff also hosted an online forum to solicit opinions on a staff draft of the rule from stakeholder from September 21, 2018, to October 1, 2018.

Staff recommends repeal of the existing rule and a new proposed rule rather than amendments to the existing rule due to the substantial changes proposed, as summarized below.

**§7.31. Purpose.** This section of the rule provides information related to the purpose of the rule and the federal implementing regulations. The previous rule included this information in 10 TAC §7.2001, Background. Reorganization of this rule more closely aligns ESG with other HUD programs administered by the Department.

**§7.32. Use of Funds.** This section of the rule replaces the existing 10 TAC §7.2002, Purpose and Use of Funds, more clearly and thoroughly outlines the allowed uses of ESG funding, and codifies policy related to subgrants of ESG funds.

**§7.33. Apportionment of ESG Funds.** This section of the rule replaces the existing 10 TAC §7.2003, Availability, Distribution and Redistribution of ESG Funds. The proposed rule codifies the ESG Allocation Formula and elaborates on how the ESG funds will be distributed to Continuum of Care (“CoC”) regions. The proposed rule also makes allowance for the Department to retain ESG funds and directly subgrant funds for specific activities for which a cross-CoC region network may be appropriate, such as the provision of legal services.

**§7.34. Local Competition for Funds.** This section of the rule codifies information previously included in Notices of Funding Availability (“NOFA”). This proposed rule allows TDHCA to procure entities in each CoC region to administer a local competition for funds. Although administration of a local competition is not required in any CoC region, this rule provides an option for greater customization of ESG to meet the needs of each community.

**§7.35. Eligible Applicants.** This section of the rule replaces the existing 10 TAC §7.2004, Eligible Applicants. The proposed rule eliminates duplicative requirements, includes recent federal guidance, and specifies entities which are eligible to apply for ESG funds from the Department.

**§7.36. General Threshold Criteria under a Department NOFA.** This section of the rule codifies information previously included in NOFAs. The section identifies requirements common to all applications made to the Department for ESG funds, outlines the circumstances in which those requirements may be waived, and requires that an applicant for ESG funds demonstrate their

agreement to abide by the ESG regulations.

**§7.37. Application Review and Administrative Deficiency Process for Department NOFAs.**

This section clarifies the process by which applicants for ESG funding will be notified of errors and omissions to the ESG Application, sets forth deadlines for resolution of errors and omissions, and sets forth circumstances under which an application for ESG funds may be terminated for non-responsiveness.

**§7.38. Award and Funding Process for Allocated Funds.** This section of the rule codifies information previously included in NOFAs. The section informs the public and ESG Applicants of the process for an award of ESG funds allocated to a CoC region. The proposed rule describes the procedures that will be utilized to score and rank applications, as well as how applications will be selected for an award recommendation by the Department.

**§7.39. Uniform Selection Criteria.** This section of the rule includes the scoring criteria that will be utilized by applicants for all ESG activity types that apply directly to the Department for ESG funds. These criteria include participation by homeless populations in the applicant organization, experience managing federal or State programs, previous performance in administration of ESG contracts, and priority for serving colonias or previously unserved areas.

**§7.40. Program Participant Services Selection Criteria.** This section of the rule includes the scoring criteria that will be utilized by the Department to determine the score of an application for ESG funding made directly to the Department for each eligible activity type, including street outreach, emergency shelter, homeless prevention, and rapid re-housing. The scoring criteria aim to achieve substantial, measurable results related to securing housing and providing needed services to those experiencing homelessness.

**§7.41. Contract Term, Expenditure Benchmarks, and Return of Funds.** This section of the rule includes administrative requirements that govern the terms of contracts and the program's expenditure requirements to ensure that subrecipients make adequate progress in administration of the ESG funds. The rule outlines circumstances in which funds may be deobligated or voluntarily returned to the Department. The proposed rule also contains provisions for award of deobligated funds and program income which seek to maintain the level of funding allocated to each CoC region when funds are not fully expended by subrecipients within the region.

**§7.42. General Administrative Requirements.** This section of the rule includes general requirements for administration of the ESG grant; incorporates the existing requirements of 10 TAC §7.2006, Environmental Clearance, and 10 TAC §7.2007, VAWA requirements; and also incorporates provisions that were not previously codified, but which were included in the contract.

**§7.43. Program Income.** This section of the rule replaces the existing 10 TAC §7.2005, Program Income. The proposed rule outlines which funds must be included as program income, how program income must be accounted for and expended in accordance with the federal requirements for the ESG Program, and when funds are not considered program income and may be retained by the Subrecipient.

**§7.44. Program Participant Eligibility and Program Participant Files.** This section of the rule includes requirements for recordkeeping related to eligibility of ESG Program Participants.

Because of the extent of revisions, a blackline rule is not provided. Attached are the proposed preambles and the proposed amendments to 10 TAC, Chapter 7, Subchapter C, Emergency Solutions Grants.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC §§7.2001-7.2007, Emergency Solutions Grants**

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC §§7.2001-7.2007, Emergency Solutions Grants. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

1. Mr. Irvine has determined that, for the first five years the proposed repeal would be in effect, the proposed repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, the administration of the Emergency Solutions Grant ("ESG") Program.
2. The proposed repeal does not require a change in work that would require the creation of new employee positions, nor is the proposed repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The proposed repeal does not require additional future legislative appropriations.
4. The proposed repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The proposed repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The proposed action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, administration of the ESG Program.
7. The proposed repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The proposed repeal will not negatively nor positively affect this state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated this proposed repeal and determined that the proposed repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The proposed repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the proposed repeal as to its possible effects on local economies and has determined that for the first five years the proposed repeal would be in effect there would be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the proposed repeal is in effect, the public benefit anticipated as a result of the repealed section would be an updated and more transparent reflection of the program's requirements. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the proposed 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to January 2, 2019, at 5:00 p.m. Austin local time, to receive input on the proposed repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [abigail.versyp@tdhca.state.tx.us](mailto:abigail.versyp@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, JANUARY 2, 2019.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants**

<b>§7.2001</b>	<b>Background</b>
<b>§7.2002</b>	<b>Purpose and Use of Funds</b>
<b>§7.2003</b>	<b>Availability, Distribution, and Redistribution of ESG Funds</b>
<b>§7.2004</b>	<b>Eligible Applicants</b>
<b>§7.2005</b>	<b>Program Income</b>
<b>§7.2006</b>	<b>Environmental Clearance</b>
<b>§7.2007</b>	<b>VAWA Requirements</b>

**Attachment 2: Preamble for proposed new 10 TAC §§7.31 – 7.44 Emergency Solutions Grant**

The Texas Department of Housing and Community Affairs (the “Department”) proposes new 10 TAC §§7.31 – 7.44, Emergency Solutions Grants. The purpose of the proposed new section is to provide compliance with Tex. Gov’t Code §2306.094 and to update the rule to clarify the eligible uses of the grant, codify the formula utilized to allocate funds, establish selection criteria for Applications for ESG funds, outline Contract terms and requirements, and provide guidance for requirements for administration of the ESG funds.

Tex. Gov’t Code §2001.0045(b) does not apply to the rule being adopted under item (4) of that section, relating to its necessity to receive a source of federal funds or to comply with federal law. Despite this exception, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.**

Mr. Irvine has determined that, for the first five years the proposed new rule would be in effect:

1. The proposed new rule does not create or eliminate a government program. This rule provides for clarification and guidelines for administration of the ESG grant, and codifies requirements previously provided in notices of funding availability. Inclusion in rule will allow for greater transparency and opportunity for public comment, as well as consistency in administration of the grant which benefits the subrecipients and beneficiaries of the ESG Program.
2. The proposed new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed new rule does not require additional future legislative appropriations.
4. The proposed new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The proposed new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The proposed new rule will not limit or repeal an existing regulation, but can be considered to “expand” the existing regulations on this activity because the proposed rule now reflects requirements previously elaborated only in notices of funding availability and contracts. However, the added requirements were applicable through rules and contracts so are not new requirements in most cases. These changes are necessary to ensure compliance with federal requirements governing the ESG Program.
7. The proposed new rule will not increase nor decrease the number of individuals subject to the rule’s applicability.
8. The proposed new rule will not negatively nor positively affect the state’s economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV’T CODE §2006.002.** The Department, in drafting this proposed rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov’t Code, §2306.094.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that because this rule is only applicable to nonprofits and local governments that are eligible subrecipients of ESG funds; there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed rule has no economic effect on local employment because the rule only applies to administration of an established grant; therefore no local employment impact statement is required to be prepared for the rule.

Tex. Gov't Code §2001.022(a) states that this “impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule...” Considering that the amount of funding is not decreased or increased, and this rule only provides clarification for administration of an existing grant program, there are no “probable” effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule. There will not be any economic cost to any individuals required to comply with the new section because the processes described by the rule have already been in place through notices of funding availability and contractual requirements.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because this rule only provides clarification for administration of an existing grant program.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to January 2, 2019, to receive input on the new proposed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Abigail Versyp, Rule Comments, P.O. Box 13941, Austin, Texas 77113-3941, by fax to (512) 475-0220, or email [abigail.versyp@tdhca.state.tx.us](mailto:abigail.versyp@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, JANUARY 2, 2019.

STATUTORY AUTHORITY. The new sections are proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.



## **10 TAC CHAPTER 7, SUBCHAPTER C, EMERGENCY SOLUTIONS GRANT**

§7.31. Purpose.

§7.32. Use of Funds.

§7.33. Apportionment of ESG Funds.

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§7.42. General Administrative Requirements.

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§7.44. Program Participant Eligibility and Program Participant Files.

### **§7.31. Purpose.**

(a) The purpose of this rule is to provide guidance and procedures for the Emergency Solutions Grant ("ESG") Program as authorized by Tex. Gov't Code §2306.053. ESG funds are federal funds awarded to the State of Texas by HUD and administered by the Department.

(b) The regulations in this subchapter govern the administration of ESG funds and establish policies and procedures for use of ESG funds to meet the purposes contained in Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. §§11371 - 11378) (the "Act"), as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act ("HEARTH Act").

(c) In addition to this subchapter, an ESG Subrecipient shall comply with the regulations applicable to the ESG Program as set forth in Chapters 1 and 2 of this title, (relating to Administration and Enforcement, respectively), Subchapter A of Chapter 7 of this title, (relating to General Policies and Procedures) and as set forth in 24 CFR Part 91 and 24 CFR Part 576 (the "Federal Regulations"). ESG Subrecipients must also follow all other applicable federal and state statutes and the regulations established in this chapter, as amended or supplemented.

(d) In the event that Congress, the Texas Legislature, or HUD add or change any statutory or regulatory requirements, special conditions, or waivers, concerning the use or administration of these funds, an ESG Subrecipient shall comply with such requirements at the time they become effective.

### **§7.32. Use of ESG Funds.**

(a) The purpose of ESG is to assist people in regaining stability in permanent housing quickly after experiencing a housing crisis and/or Homelessness.

(b) ESG Applications for provision of Program Participant services under emergency shelter, street outreach, homeless prevention and/or rapid re-housing may include a request for funds for Homeless Management Information Systems ("HMIS") activities. Applications proposing to provide only HMIS activities are not eligible for an award of funds.

(c) Subrecipients may not Subgrant funds, but may Subcontract for the provision of services. Such Subcontracts are subject to applicable procurement requirements.

(d) The Department's Governing Board of Directors, Executive Director, or his/her designee may limit activities in a Notice of Funding Availability, or by Contract.

(e) Program Participant services may be provided under street outreach, emergency shelter, homeless prevention or rapid re-housing, as described in this subsection or otherwise permitted in Federal Regulations.

(f) The street outreach component may be provided to unsheltered Homeless persons as defined in 24 CFR §576.101(a). Eligible costs for Program Participants of street outreach include the following services:

- (1) Engagement costs to locate, identify, and build relationships with unsheltered Homeless persons, including assessment of needs, crisis counseling, addressing urgent physical needs, provision of information and referrals;
- (2) Case management costs to assess housing and service needs and coordinate delivery of services;
- (3) Emergency health services to the extent that other health services are inaccessible or unavailable in the area;
- (4) Emergency mental health services to the extent that other mental health services are inaccessible or unavailable in the area; and
- (5) Transportation for outreach workers and Program Participants.

(g) The emergency shelter component may be provided to Homeless persons per 24 CFR §576.102. Eligible emergency shelter costs are for Program Participant services and costs related to the shelter building, relocation, and operation.

(1) Eligible costs for Program Participants of emergency shelter services include:

- (A) Case management to coordinate individualized services;
- (B) Child care for children under the age of 13, and for disabled children under the age of 18;
- (C) Education services providing instruction or training to enhance their ability to obtain and maintain housing, including but not limited to literacy, English literacy, General Educational Requirement (GED) preparation, consumer education, health education, and substance abuse prevention;
- (D) Employment assistance and job training services;
- (E) Outpatient health services to the extent that other health services are inaccessible or unavailable in the area;
- (F) Legal services, to the extent that legal services are unavailable or inaccessible within the community, to assist with housing needs, excluding immigration and citizenship matters, matters related to mortgages, legal retainers and contingency fees;
- (G) Life skills training including budgeting resources, managing money, managing a household, resolving conflict, shopping for food and need items, improving nutrition, using public transportation, and parenting;
- (H) Outpatient mental health services to the extent that other mental health services are inaccessible or unavailable in the area;
- (I) Outpatient substance abuse treatment services up to 30 days, excluding inpatient treatment; and

(J) Transportation for staff and Program Participants related to the provision of essential services.

(2) Eligible emergency shelter costs related to the shelter building, relocation, and operation include:

(A) Renovation, rehabilitation or conversion of buildings for use as emergency shelter;

(B) Certain costs for operation of emergency shelters, including provision of hotel or motel vouchers to Program Participants when no appropriate emergency shelter is available; and

(C) Assistance required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(h) The homelessness prevention component may be provided to Homeless persons and persons At-risk of Homelessness per 24 CFR §576.103, and the rapid re-housing component may be provided to Homeless persons per 24 CFR §576.104. Homelessness prevention and rapid re-housing may be provided for up to 24 months of assistance in a 36-month period. Eligible costs for homelessness prevention and rapid re-housing include housing relocation and stabilization for financial assistance, housing relocation and stabilization services, and rental assistance.

(1) Housing relocation and stabilization for financial assistance include:

(A) Rental application fees;

(B) Security deposits (equal to not more than two month's rent) and last month's rent;

(C) Utility deposits and/or utility payments;

(D) Moving costs, such as truck rental or hiring a moving company. Payment of arrearages for temporary storage is not an eligible cost; and

(E) Costs to break a lease to effect an emergency transfer per 24 CFR §5.2005(e), if Program Participant is receiving rental assistance under ESG.

(2) Housing relocation and stabilization services include:

(A) Housing search and placement costs to assist in locating, obtaining, and retaining suitable permanent housing;

(B) Housing stability case management for assessing, arranging, coordinating and monitoring the delivery of individual services to facilitate housing stability;

(C) Mediation between the Program Participant and the landlord/owner to prevent loss of current housing;

(D) Legal services for housing needs excluding immigration and citizenship matters, matters related to mortgages, legal retainers and contingency fees; and

(E) Credit repair and resolution, excluding payment or modification of debts.

(3) Non-duplicative rental assistance may be provided for up to 24 months within any 36-month period. Late payment penalties during the term of assistance are not eligible ESG expenses. Rental assistance includes:

(A) Short-term rental assistance which is up to three months of rent, inclusive of arrearages, late fees, last month's rent; and

(B) Medium-term rental assistance which is more than three months of rent but not more than 24 months of rent, inclusive of up to six months of arrearages, late fees, last month's rent.

- (i) Costs to participate in HMIS are eligible ESG costs. Eligible costs related to HMIS include:
  - (1) Hardware, software, equipment, office space, utility costs;
  - (2) Salary and staff costs for operation of HMIS, including technical support;
  - (3) HMIS training and overhead costs, including travel to HUD sponsored and approved HMIS training programs and travel costs for staff to conduct intake;
  - (4) HMIS participation fees charged by the HMIS lead agency; and
  - (5) HMIS-comparable databases for victim services providers or legal services providers.
- (j) Eligible administrative costs for ESG are:
  - (1) General management and oversight of the ESG award, excluding cost to purchase office space;
  - (2) Provision of ESG training and costs to attend HUD-sponsored ESG training; and
  - (3) Costs to carry out required environmental reviews.

### **§7.33. Apportionment of ESG Funds.**

- (a) The Department will retain funds for Administrative activities. A portion of these Administrative funds in an amount not to exceed .25 percent of the Department's total allocation of ESG funds may be retained by TDHCA to procure entities to administer a Local Competition for funding within a CoC region. Funds for Administrative or Program Participant services may be retained by TDHCA to subgrant specific ESG activities, such as legal services. Additionally, if the Department receives ESG funding from HUD that has additional activity or geographic restrictions, the Department may elect not to use the Allocation Formula. Retained funds are not subject to the Allocation Formula.
- (b) ESG funds not retained for the purposes outlined above will be made available by CoC region based on an Allocation Formula. Allocation Formula factors noted in paragraphs (1)-(4) of this subsection will be used to calculate distribution percentages for each CoC region as follows:
  - (1) Fifty percent weight will be apportioned to renter cost burden for Households with incomes less than 30 percent Area Median Family Income ("AMFI"), as calculated in the U.S. Department of Housing and Urban Development's ("HUD") Comprehensive Housing Affordability Strategy;
  - (2) Fifty percent weight will be apportioned for the number of persons in poverty from the most recent five-year estimate of the American Community Survey released by the U.S. Census Bureau;
  - (3) Fifty percent weight will be apportioned to point-in-time counts, which are annual counts of sheltered and unsheltered persons experiencing homelessness on one day during the last two weeks of January as required by HUD for CoCs; and
  - (4) Negative fifty percent weight will be apportioned based on a total of all ESG funding allocated by HUD to local jurisdictions within the CoC region, and ESG funding awarded by the Department within the region from the previous fiscal year.
- (c) Each CoC region is allocated a minimum amount of \$100,000. This is accomplished by taking the amounts of all regions with over \$100,000 during the initial allocation and redistributing a proportional share to the regions with less than \$100,000. If the Department distributes by Allocation Formula less than the amount required to provide all regions with \$100,000, then the funds will be split evenly among the COC regions.

(d) Those ESG funds allocated based on the formula in subsection (b) of this section will be made available for the provision of Program Participant services, and will be made available through a NOFA which may be released on an annual or biennial basis.

(1) Not more than 60 percent of allocated funds may be awarded for the provision of street outreach and emergency shelter activities.

(2) Contract funding limits include the funding request for all Program Participant services proposed in the Application, HMIS, and Administrative funds.

(A) Applicant must apply for an award amount of at least \$50,000 and not more than \$300,000 for all Program Participant services proposed in the Application.

(B) Funds awarded for HMIS are limited to 12 percent of the amount of funds awarded for Program Participant services.

(C) Administrative activities are limited to three percent of the amount of funds awarded for Program Participant services.

(e) ESG funds that have been deobligated by the Department or that have been voluntarily returned from an ESG Contract may be reprogrammed at the discretion of the Department, and are not included in the Allocation Formula or award process detailed in subsections (b)-(d) of this section.

#### **§7.34. Local Competition for Funds.**

(a) TDHCA may procure contractors for the purpose of administering a local competition within a CoC. The contractor selected will be the designated ESG Coordinator for the COC region or COC regions in which a contract is awarded.

(b) Application materials, other than those created by the Department that will be utilized by an ESG Coordinator during a CoC Local Competition are subject to Department review prior to the Application acceptance period, and must not conflict with §7.33(d) of this subchapter. Applicants recommended to the Department by the ESG Coordinator after a CoC Local Competition must satisfy the general threshold criteria established in §7.36 of this subchapter, and establish performance targets as required by §7.40 of this subchapter.

(c) The ESG Coordinator must submit Applications recommended for funding under the CoC Local Competition to the Department prior to award recommendations being made by the Department to its Board. The recommendations must utilize all funding available in the region, unless all eligible Applications received are funded, and there is a remaining balance in the region. An Applicant that applies in a Local Competition for funding is not eligible to be awarded funding in the TDHCA funding competition.

(d) Applications not recommended by the ESG Coordinator for funding must be retained by the ESG Coordinator for a minimum of five years in accordance with 24 CFR §576.500 and must be made available to the Department upon request.

#### **§7.35. Eligible Applicants.**

(a) An eligible Subrecipient is a Unit of Local Government as defined by HUD in CPD Notice 17-10, or a Private Nonprofit Organization.

(b) The Department reserves the option to limit eligible Subrecipient entities in a given NOFA.

### **§7.36. General Threshold Criteria under a Department NOFA.**

(a) Applications submitted to the Department in response to a NOFA are subject to general threshold criteria. Applications which do not meet the general threshold criteria or which cannot resolve an administrative deficiency related to general threshold criteria are subject to termination. Applicants applying directly to the Department to administer the ESG Program must submit an Application on or before the deadlines specified in the NOFA, and must include items in paragraphs (1)-(13) of this subsection:

- (1) Application materials as published by the Department including, but not limited to, program description, budget, and performance statement.
- (2) An ESG budget that does not exceed the total amount available within the CoC region or other geographic limitation, as applicable.
- (3) A copy of the Applicant's written standards that comply with the requirements of 24 CFR §576.400 and certification of compliance with these standards. Any occupancy standard set by the Subrecipient must not conflict with local regulations or Texas Property Code §92.010.
- (4) A copy of the Applicant's policy for termination of assistance that complies with the requirements of 24 CFR §576.402 and certification of compliance with these standards.
- (5) For a NOFA under the Allocation Formula, a Service Area which consists of at least the entirety of one county or multiple counties within the CoC region under which Application is made, unless a CoC region does not include an entire county. When the CoC region does not encompass at least the entirety of one county, the Service Area must encompass the entire CoC region. The Service Area selected within an Application must be fully contained within one CoC region.
- (6) Commitment in the budget to the provision of 100 percent Match, or request for a Match waiver, as applicable. Match waivers will be considered by the Department based on the rank of the Application. Applicants requesting an award of funds in excess of \$50,000 are not eligible to request or receive a Match waiver. In the event that the Match waivers requested exceed \$100,000, the waivers will be considered only for the highest scoring eligible Applications, subject to availability of excess match provided by ESG Applicants. Applicants that do not receive the waiver and are unable to provide a source of Match funding will be ineligible for an ESG award.
- (7) For a NOFA under the Allocation Formula, evidence from the CoC Lead Agency in the region that the Applicant consulted with the CoC in the preparation of their ESG application and that the CoC Lead Agency agrees that the Application meets CoC priorities for serving persons experiencing homelessness and/or persons At-risk of Homelessness.
- (8) Applicant certification of compliance with State and federal laws, rules and guidance governing the ESG Program as provided in the Application.
- (9) Evidence of Data Universal Numbering System (DUNS) number for Applicant.
- (10) Documentation of existing Section 501(c) tax-exempt status, as applicable;
- (11) Completed previous participation review materials, as outlined in 10 TAC Chapter 1, Subchapter C of this title (relating to Previous Participation) for Applicant.
- (12) Local government approval per 24 CFR §576.202(a)(2) for Applicant that will be providing shelter activities with ESG or as ESG Match, as applicable. This documentation must be submitted no later than 30 calendar days after the Application submission deadline as specified in the NOFA. If the documentation is not received by the Department within 30 calendar days of the Application submission deadline, the emergency shelter funding components in the Application will be removed from consideration in the Application review; the amount requested

will be reduced by the amount that had been designated for emergency shelter funding; any points requested for emergency shelter activities will be deducted from the self-score and final score; and performance for emergency shelter component will be removed from expected deliverables.

(13) A resolution or other governing body action from the Applicant's direct governing body which includes:

(A) Authorization of the submission of the Application;

(B) Title of the person authorized to represent the entity and who also has signature authority to execute a Contract; and

(C) Date that the resolution was passed by the governing body, which must be within 12 months preceding the date the Application is submitted.

(b) An Application must be substantially complete when received by the Department. An Application may be terminated if the Application is so unclear or incomplete that a thorough review cannot reasonably be performed, as determined by the Department. Such Application will be terminated without being processed as an administrative deficiency. Specific reasons for a Department termination will be included in the notification sent to the Applicant but, because the termination may occur prior to completion of the full review, will not necessarily include a comprehensive list of all deficiencies in the Application. Termination of an Application may be subject to §1.7 of this title, (relating to the Appeals Process).

### **§7.37. Application Review and Administrative Deficiency Process for Department NOFAs.**

(a) The Department will accept Applications on an ongoing basis during the Application acceptance period as specified in the NOFA. Applications will be reviewed for threshold criteria and selection criteria, administrative deficiencies, and then ranked based upon the score of the Application as determined by the Department upon completion of the review.

(b) The administrative deficiency process allows the Applicant to provide additional information with regard to an Application after the Application acceptance period has ended, but only if it is requested in writing by Department staff. Staff may request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via email and responses must be in kind unless otherwise defined in the notice. A review of the Applicant's response may reveal that additional administrative deficiencies are exposed or that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are in fact matters of a material nature not susceptible to be resolved. For example, a response to an administrative deficiency that causes a new inconsistency which cannot be resolved without reversing or eliminating the need for the first deficiency response would be an example of an issue that is beyond the scope of an administrative deficiency. Department staff will make a good faith effort to provide an Applicant confirmation that an administrative deficiency response has been received and/or that such response is satisfactory. Communication from staff that the response was satisfactory does not establish any entitlement to points, eligibility status, or to any presumption of a final determination that the Applicant has fulfilled any other requirements as such is the sole determination of the Department's Board.

(c) An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, except in response to a direct written request from the Department to remedy an administrative deficiency or by amendment of an Application after the Board approval of an ESG award. An administrative deficiency may not be cured if it would, in the

Department's determination, substantially change an Application including score, or if the Applicant provides any new unrequested information to cure the deficiency.

(d) The time period for responding to a deficiency notice commences on the first day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the seventh calendar day following the date of the deficiency notice, then one point shall be deducted from the selection criteria score for each additional day the deficiency remains unresolved. If administrative deficiencies are not resolved by 5:00 p.m. Austin local time on the fourteenth calendar day following the date of the deficiency notice, then the Application shall be terminated.

### **§7.38. Award and Funding Process for Allocated Funds.**

(a) An Applicant recommended to the Department by the ESG Coordinator after a Local Competition may be awarded funding, pending Previous Participation Review and Board approval. If the Applicant does not meet the requirements of the Previous Participation Review or the Board does not approve the recommendations of the ESG Coordinator, if there is another scheduled Board meeting before the Department must commit funding in accordance with 24 CFR §576.203(a)(1)(i), the Department will provide the ESG Coordinator the option to revise the list of recommended Applicants and recommended award amounts in order to still recommend awards for the full amount of funding in the region. If there are any funds in a CoC region for which an ESG Coordinator administered the CoC Local Competition process that are not recommended for an award by the ESG Coordinator or not approved by the Board, and there are no other Applicants in the COC region or the Department must commit funding in accordance with 24 CFR §576.203(a)(1)(i), these funds will be added into other resources as described in subsection (j) of this section.

(b) An Application may be submitted requesting funds for Program Participant services under street outreach, emergency shelter, homeless prevention, and/or rapid re-housing, per §7.33(d) of this subchapter. Each Application submission will include one uniform Application with information applicable across all Program Participant service types, and then information on each Program Participant service requested. Each Program Participant service reflected in an Application will be treated as a separate Application, assigned a separate Application number per service type, and will be scored and ranked separately for each service type selected. Applicants may be awarded funds for one or more Program Participant services in accordance with this section. Because each Program Participant service is reviewed separately and competes separately, an award of funds for provision of one Program Participant service does not affect an award of funds in any other Program Participant service reflected in that same Application submission.

(c) Applications submitted directly to the Department for consideration in COC areas in which there is not an ESG Coordinator will receive points based on experience, program design, budget, previous performance, collaboration, and performance measures. Applications will be scored and ranked based on selection criteria described in this subchapter.

(d) Applicants will be required to submit a self-score within the Application. In no event will the points awarded to the Applicant exceed the point value of the self-score in any selection criterion.

(e) Tie breakers. Each Application submitted to the Department shall be assigned a number between one and the total number of applications. The number assignment will be determined in a random selection process to occur immediately following the close of the application acceptance period, and Applicants will be notified of said number assignment as soon as possible thereafter. The randomly assigned numbers will be used to resolve ties, with the highest assigned number having the highest priority.



(f) Partial awards. In order to maintain funding within the Allocation Formula amounts designated for each COC region as determined in this subchapter, an Applicant may be offered a partial award of their requested funds. An Applicant offered a partial award of funds must confirm their acceptance of a partial award, and submit updated information related to the reduction within seven calendar days following the date of notification. Scoring criteria may be updated based on the reduced funding request, but any changes to the scoring criteria must allow the Application to maintain its rank.

(g) Funding will be recommended first for Applicants within the CoC region up to the Allocation Formula amount designated for the COC region as determined in this subchapter.

(1) Eligible Applications will be ranked in descending order by score within the CoC region which the Application proposes to serve. Paragraph (e) of this section will be used to determine the priority of tied scores.

(2) ESG funds allocated to each CoC region will be awarded starting with the highest ranking Application and continue until the funds allocated for that CoC region are fully utilized, but not exceeded, or until the Applicant for the last application to be recommended in the region declines an offer of a partial award.

(3) Applications proposing street outreach or emergency shelter will be ranked alongside all Applications in the region, however a recommendation for a full award of an Application for street outreach or emergency shelter will not be made through the first level of funding if funding recommendations in the CoC region for street outreach and emergency shelter will exceed 60 percent of the funding available in the CoC region. Applications proposing street outreach and emergency shelter services but causing awards for such services in the region to exceed 60 percent of the available funding in the region, will be offered a partial award of up to the amount remaining to reach 60 percent for the region. If no funds remain available that would not exceed 60 percent at the regional level for a partial award, or if they decline such partial award, the Application will be passed over and recommendation of funding would proceed to the next highest scoring application(s) in the region in order to fully fund the Formula Allocation amount for the region. Applications that were passed over for funding may be eligible to compete in the second level of the award process described in subsection (h) of this section, if no more than 60 percent of funds have been awarded for street outreach and emergency shelter in the total allocated funds.

(4) A partial award may be offered to the last highest ranking Application which is otherwise eligible for funding within the CoC region to ensure that the amount of funds recommended for a region does not initially exceed the amount identified in the Formula Allocation.

(A) The Applicant or Applicants that accept an offer of a partial award may be required to amend the Application if the reduction in funds is expected to impact scored items and to adjust performance deliverables based on the reduced amount of funding. The revised score based on the partial award must still ensure the Application ranking would not be affected. If a partial award or the Applicant's subsequent adjustments results in a reduced score that alters their scoring rank within the CoC region, the opportunity to be funded from the first level of funding recommendations will not be offered to the Application.

(B) The Applicant may decline the partial award of funds and instead request to be included for consideration in the second level of funding recommendations.

(h) The second level of recommendations is available only to Applications in CoC regions where the initially allocated funds were not fully awarded under the first level of recommendations. Remaining funds after the completion of the first level of funding will be collapsed from CoC regions which had insufficient eligible Applications to utilize the entire Allocation Formula amount.

This collapse of funds will be made available to Applicants within each of the CoC regions that are determined to be underfunded based on total award recommendations within the CoC, and their respective Allocation Formula amount. Applications eligible for an award will be ranked first by the degree to which their CoC region was underfunded, and then by Application score.

(1) The Department will determine the degree to which a CoC region is underfunded by dividing the total funds recommended through the first level of funding recommendation by the amount of funds that were initially allocated to the CoC region according to the Allocation Formula. Regions where this percentage is greater than zero and less than 100 will be ranked in order, such that the lowest percentage funded is the highest degree underfunded and therefore has the highest priority. Subsection (e) of this section will be used to determine the outcome of tied scores. The highest ranking unfunded Applicant in the most underfunded region will be recommended for an award of full funding if sufficient funds remain available for funding or a partial award of funds if an insufficient statewide balance remains.

(2) Applications proposing street outreach or emergency shelter will be ranked alongside all Applications. If 60 percent of the total allocated funding available has been awarded to Applications proposing street outreach and emergency shelter, Applications proposing these activities will not be recommended, and will be passed over to fund Applications proposing homeless prevention or rapid re-housing.

(A) An Application which is otherwise eligible for funding within the second level, except that requested funds exceed the amount available for street outreach and emergency shelter, may be offered a partial award of funds. In no event shall the partial award cause the Department to award funds in excess of 60 percent of allocated funds for street outreach and emergency shelter.

(B) An Applicant that accepts an offer of a partial award may be required to amend the Application if the reduction in funds is expected to impact scored items and to adjust performance deliverables based on the reduced amount of funding. The revised score based on the partial award must still ensure the Applications ranking would not be affected. If a partial award or the Applicant's subsequent adjustments result in a reduced score that alters their scoring rank within this second level of funding recommendations, the opportunity to be funded from this second level of recommendations will not be offered to this Applicant.

(3) As long as collapsed funds remain available, the process continues with the next highest ranked unfunded Application within the highest underfunded region receiving a recommendation for an award. When more than one CoC region is equally underfunded, the CoC region with the highest ranked unfunded Application will first be offered the funding. It is anticipated that only one Application will be funded per underserved CoC region during the second level of recommendations, but the process will continue until the earlier of all CoC regions with sufficient eligible Applicants are recommended for funding up to their Allocation Formula amount, or no collapsed funds remain. If an Applicant declines the final offer of a partial award, or is unable to maintain their rank within their region, then the next highest ranked unfunded Application in the region will have an option to receive the remaining funds. This offer will be made only one time per region in the second level of recommendations. If no other eligible Application exist, the next most underfunded regions highest application will be offered the funds. Any funds remaining after all underfunded regions have had the opportunity to be fully funded will be utilized in the third level of funding recommendations.

(i) If any funds remain after recommendations for all eligible Applications in the second level of recommendations is completed, such funds shall collapse and be made available statewide.

- (1) All eligible Applications not recommended to be awarded under the first two levels of funding recommendations will be ranked in descending order of score with the highest scoring unfunded Application, regardless of region, having the highest priority rank. Paragraph (e) of this section will be used to determine the outcome of tied scores.
- (2) Funds will be awarded in this level of funding starting with the highest ranked Application and continuing until no funds remain available to award or until there are no eligible Applications left to be recommended for funding.
- (3) Applications proposing street outreach or emergency shelter will be ranked alongside all Applications. If the 60 percent of the allocated funds has been awarded to Applications proposing street outreach and emergency shelter, Applications proposing these activities will not be recommended and will be passed over to fund Applications proposing homeless prevention or rapid re-housing. (4) The final award in the third level of recommendations and the 60 percent capped street outreach and emergency shelter funding may be a partial award if an Application cannot be fully funded.
  - (A) An Applicant that accepts an offer of a partial award may be required to amend the Application if the reduction in funds is expected to impact scored items and to adjust performance deliverables based on the reduced amount of funding. The revised score based on the partial award must still ensure the Application's ranking would not be affected
  - (B) The Applicant may decline a partial award of funds. Applicants that decline a partial award of funding within the statewide competition will be withdrawn from competition, as there are not sufficient remaining funds to award the Application.
  - (C) If a partial award or the Applicant's subsequent adjustments result in a reduced score that alters the scoring rank or an Applicant declines a partial award, the next highest ranked Application will be presented with the opportunity to be funded. This offer will be made only one time per region in the third level of recommendations.
- (j) If there are still funds available after the third level of recommendations, the Department may offer and recommend award amounts in excess of the funds requested and in excess of the award amount limits identified in §7.33(c) of this subchapter (relating to Apportionment of ESG Funds), starting with the highest scoring Applications already identified to be recommended for an award, not to exceed an award more than 50 percent greater than their original request. The Department will provide notice of the proposed increase to the impacted Applicants. The budget and Performance targets would increase proportionally to the additional funding received. An Applicant will have the opportunity to accept or reject the recommendation for increased funding prior to final award by the Department.
- (k) In the event that the Department elects to include a provision to award funds biennially, the distribution of funding for the second funding cycle is contingent upon the amount of the ESG allocation granted to the Department in the subsequent federal fiscal year. An ESG Subrecipient that does not satisfy the requirements of the Previous Participation Review or is not approved by the Department's Governing Board is ineligible for funding. An ESG Subrecipient may have the right to appeal funding decisions per 10 TAC §1.7 (relating to the Appeals Process). When the total amount of ESG funding in the subsequent year is less than 100 percent of the first year's funding, awards will be reduced proportionally.
  - (1) When the total amount of ESG funding in the subsequent year's Allocation Formula is greater than 100 percent of the first year funding or if there are funds available from reduced awards, the additional funding will be used first to increase any partial awards to ESG Subrecipients that have met their first Expenditure benchmark. The funds will be divided by the number of ESG Subrecipients with partial awards who met the first Expenditure benchmark in year one. This

amount or the amount needed to increase the partial awards up to the original Application request, whichever is less, will be offered to these Subrecipients. If this process results in one or more Subrecipients receiving funds adequate to fulfill the original Application request, the funds in excess of the full award amount will be offered again to the remaining Subrecipients with a partial award. This process will continue until all partial awards of these Subrecipients are funded up to the original Application request, or until funds are exhausted.

(2) Funds remaining after the partial award increase under paragraph (1) of this subsection will be awarded to ESG Subrecipients in proportion to the ESG allocation. The budget and Performance targets would be adjusted proportionally to the funding. If the subsequent year allocation (after subtracting the amounts allocated under subparagraph (1) of this section) is equal to or less than 150 percent of the first year of allocation, ESG Subrecipients may be offered an award of funds not to exceed 150 percent of their first award of funding under the NOFA.

(3) Funds remaining after increasing ESG Subrecipients to 150 percent of their original award will be offered to fully or partially fund the next highest ranking Applications from the ESG competition for a 12-month period

(l) The Department reserves the right to negotiate the final Contract amount and local Match with a Subrecipient.

#### **§7.39. Uniform Selection Criteria.**

(a) An Application for funding allocated in accordance with §7.33(b) (relating to Apportionment of ESG Funds) and made to the Department may be awarded points under the following uniform selection criteria. The total of the score under this part will be the uniform Application score. The uniform Application score will be comprised of points awarded under each of the following criteria:

(1) Homeless participation. An Application may receive a maximum of three points for the participation of persons who are Homeless in the Applicant's program design. Points may be earned under subparagraphs (A) and (B) of this paragraph for a total of up to three points.

(A) An Application may receive a maximum of two points when at least one person who is Homeless or formerly Homeless is a member of or consults with the Applicant's policy-making entity for facilities, services, or assistance under ESG; and

(B) An Application may receive a maximum of one point when at least one person who is Homeless or formerly Homeless assists in constructing, renovating, or maintaining the Applicant's ESG facilities.

(2) Organizational or management experience. An Application may receive a maximum of eight points for the Applicant's or its management's experience administering federal or State programs.

(A) An Application may receive a maximum of six points for Applicant's or its management staff with one to five years of experience; or

(B) An Application may receive a maximum of eight points for an Applicant or its management staff with six or more years of experience.

(3) Percentage of prior ESG awarded funds expended. An Application may receive a maximum of five points for the Applicant's past expenditure performance of ESG funds proportionate to the award of funds from TDHCA to the Applicant. This will apply to any and all ESG Contract(s) administered by the Applicant that were subject to the second Expenditure benchmark or closed within 12 months prior to the date of the Application deadline established in the by the Department. Contract Expenditures will be averaged among all ESG Contracts that were closed within 12 months of the Application deadline, or met the second Expenditure benchmark

without requiring an amendment if the Applicant was awarded multiple Contracts. The percentage of ESG funds expended will be calculated utilizing the amount of the Contract as of its closing or the second Expenditure benchmark as stated in the Contract prior to amendments, except where the Applicant voluntarily return funds in accordance with this subchapter. Expenditure will be defined as the Applicant having reported the funds as expended. Applications may receive:

(A) Three points if the Applicant expended 91-94 percent of its prior ESG Contract funds as of its closing or the second Expenditure benchmark as stated in the Contract prior to amendments;

(B) Four points if the Applicant expended 95 percent to less than 100 percent of its prior ESG Contract funds as of its closing or the second Expenditure benchmark as stated in the Contract prior to amendments; or

(C) Five points if the Applicant expended 100 percent of its prior ESG Contract funds as of its closing or the second Expenditure benchmark as stated in the Contract prior to amendments.

(4) Contract History on Reporting and percentage of Outcomes. An Applicant may receive a maximum of five points for its prior timeliness of reports and performance achieved for previously awarded ESG Contract(s) that met the second Expenditure benchmark or closed within 12 months prior to the date of the Application deadline established by the Department. Points may be requested under all of the subparagraphs (A) to (E) of this paragraph not to exceed a total of five points. The Outcome percentages will be averaged among all prior ESG Contracts that met the second Expenditure benchmark or closed within 12 months prior to the date of the Application deadline to determine the final percentage amount for this scoring criterion. Applications may receive points as follows:

(A) One point if the Applicant submitted the last three reports on or before the Contract end date within the reports' respective reporting deadlines;

(B) One point if the Applicant met 100 percent or more of their street outreach target of persons exiting to temporary or transitional or permanent housing destination;

(C) One point if the Applicant met 100 percent or more of their emergency shelter exits to permanent housing;

(D) One point if the Applicant met 100 percent or more of their Homeless prevention target for maintaining housing for three months or more; and

(E) One point if the Applicant met 100 percent or more of their rapid re-housing target for maintaining housing for three months or more.

(5) Monitoring history. Applications may receive a maximum of five points for the Applicant's previous monitoring history. The Department will consider the monitoring history for three years before the date that Applications are first accepted under the NOFA when determining the points awarded under this criterion. Findings that were subsequently rescinded will not be considered Findings for the purposes of this scoring criterion. Applications may be limited to a maximum of:

(A) Five points if the Applicant has not received any monitoring Findings, including Applicants with no previous monitoring history;

(B) Not more than three points if the monitoring history has a close-out letter that included Findings but the Findings were not related to Household eligibility or violations of procurement requirements;

(C) Not more than two points if the monitoring history has a close-out letter that included Findings related to Household eligibility; or

(D) Not more than one point if the monitoring history has a monitoring close-out letter that included Findings related to violations of procurement requirements.

(E) Zero points may be requested under this criterion if the Applicant received a Finding resulting in disallowed costs in excess of \$5,000 which required repayment to the Department.

(6) Priority for certain communities. Applications may receive two points if at least one Colonia, as defined in Tex. Gov't Code §2306.083, is included in the Service Area identified in the Application. Applicants awarded points under this criterion will be contractually required to maintain a Service Area that includes at least one Colonia as identified on the Office of Attorney General's website.

(7) Previously unserved areas. Applications may receive a maximum of 10 points for provision of ESG services if at least one county in the Service Area included in the Application has not received ESG funds from the Department or directly from HUD within the previous federal funding year for services. Applications may receive a maximum of:

(A) Five points if at least one county within the Service Area as stated in the Application did not receive an award of ESG funds from the Department within the previous federal funding year; or

(B) Ten points if no portion of the Service Area has received ESG funds within the previous federal funding year.

#### **§7.40. Program Participant Services Selection Criteria.**

(a) An Application for funding allocated under §7.33(b) of this subchapter (relating to Apportionment of ESG Funds), and made to the Department, may be awarded points for Program Participant services under each category. Points awarded for Program Participant services will be separately tabulated and added to the uniform Application score to determine a score for each of the Program Participant services Applications submitted. All scoring criteria that are based upon measurable future performance expectations will be measured and expected to be fulfilled by being included as a performance requirement in the Contract should the Application be awarded funds.

(b) Street outreach. An Application proposing street outreach may receive points under the following criteria:

(1) Street outreach CoC collaboration. Applications may receive up to 10 points for support from the CoC under which the Application is submitted. Applications may receive a maximum of:

(A) Three points based on an "approved" rating from the CoC;

(B) Seven points based on "recommended" rating from the CoC; and

(C) Ten points based on a "strongly recommended" rating from the CoC.

(2) Matching funds for street outreach. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110 percent of the total ESG funds requested for street outreach.

(3) Street outreach serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(b)(34) of this chapter (relating to Definitions). An Applicant providing street outreach may receive a maximum of:

(A) One point based on a minimum target of 70 percent of persons served who are in one or more Homeless Subpopulation;

- (B) Two points based on a minimum target of 80 percent of persons served who are in one or more Homeless Subpopulation;
  - (C) Three points based on a minimum target of 90 percent of persons served who are in one or more Homeless Subpopulation;
  - (D) Four points based on a minimum target of 95 percent of persons served who are in one or more Homeless Subpopulation;
  - (E) Five points based on a minimum target of 100 percent of persons served who are in one or more Homeless Subpopulation;
- (4) Street outreach temporary/transitional/permanent housing. An Application may receive a maximum of five points based on the percentage of persons targeted to be served with street outreach who will be placed in temporary, transitional or permanent housing. An Application may receive a maximum of:
- (A) Two points based on a minimum target of 25 percent of persons served with street outreach who will be placed in temporary housing;
  - (B) Three points based on a minimum target of 35 percent of persons served with street outreach who will be placed in temporary housing;
  - (C) Four points based on a minimum target of 45 percent of persons served with street outreach who will be placed in temporary housing; or
  - (D) Five points based on a minimum target of 55 percent of persons served with street outreach who will be placed in temporary housing.
- (5) Street outreach services. An Application may receive a maximum of five points based on the number of street outreach services provided through ESG or other funds including engagement, case management, emergency health services, emergency mental health services, and transportation services. Emergency health services and emergency mental services may only be provided by ESG funds if these services are inaccessible or unavailable within the area. An Application may receive a maximum of:
- (A) Two points if the Applicant provides street outreach engagement and case management;
  - (B) Three points if the Applicant provides street outreach engagement and case management, and one other service;
  - (C) Four points if the Applicant provides street outreach engagement and case management, and two other services; or
  - (D) Five points if the Applicant provides street outreach engagement and case management, and three other services.
- (6) Experience providing street outreach. An Application may receive a maximum of 10 points based on the Applicant's experience providing street outreach services.
- (A) Two points if the Applicant has provided street outreach for up to two years;
  - (B) Four points if the Applicant has provided street outreach for up to four years;
  - (C) Six points if the Applicant has provided street outreach for up to six years;
  - (D) Eight points if the Applicant has provided street outreach for up to eight years; or
  - (E) Ten points if the Applicant has provided street outreach for 10 or more years.
- (c) Emergency shelter. An Application proposing emergency shelter may receive points under the following criteria:

(1) Emergency shelter CoC collaboration. Applications may receive up to 10 points for support from the CoC under which the Application is submitted. Applications may receive a maximum of:

- (A) Three points based on an “approved” rating from the CoC;
- (B) Seven points based on “recommended” rating from the CoC; and
- (C) Ten points based on a “strongly recommended” rating from the CoC.

(2) Matching funds for emergency shelter. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110 percent of the total ESG funds requested for emergency shelter.

(3) Emergency Shelter serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(b)(34) of this chapter (relating to Definitions). An Applicant providing emergency shelter may receive a maximum of:

- (A) One point based on a minimum target of 70 percent of persons served who are in one or more Homeless Subpopulation;
- (B) Two points based on a minimum target of 80 percent of persons served who are in one or more Homeless Subpopulation;
- (C) Three points based on a minimum target of 90 percent of persons served who are in one or more Homeless Subpopulation;
- (D) Four points based on a minimum target of 95 percent of persons served who are in one or more Homeless Subpopulation; or
- (E) Five points based on a minimum target of 100 percent of persons served who are in one or more Homeless Subpopulation;

(4) Emergency shelter permanent housing. An Applicant may receive a maximum of five points based on the percentage of persons served with emergency shelter targeted to be placed in permanent housing. An Application may receive a maximum of:

- (A) Two points based on a minimum target of 25 percent of persons served with emergency shelter who will be placed in permanent housing;
- (B) Three points based on a minimum target of 35 percent of persons served with emergency shelter who will be placed in permanent housing;
- (C) Four points based on a minimum target of 45 percent of persons served with emergency shelter who will be placed in permanent housing; or
- (D) Five points based on a minimum target of 55 percent of persons served with emergency shelter who will be placed in permanent housing.

(5) Emergency shelter services. An Applicant may receive a maximum of five points based on the number of emergency shelter services provided through ESG or other funds, as listed in 24 CFR §576.102. Emergency shelter services include case management, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, outpatient mental health services, outpatient substance abuse treatment services, and transportation. Outpatient health services, mental services, and substance abuse treatment services should only be provided by ESG funds if these services are otherwise inaccessible or unavailable within the Service Area. This selection criterion will become a contractual requirement if the Applicant is awarded a Contract. An Application may receive a maximum of:



- (A) Two points if the Applicant provides case management and two of the other services;
  - (B) Three points if the Applicant provides case management and three of the other services;
  - (C) Four points if the Applicant provides case management and four of the other services; or
  - (D) Five points if the Applicant provides case management and five of the other services.
- (6) Experience providing emergency shelter. An Application may receive a maximum of 10 points based on the Applicant's experience providing emergency shelter services.
- (A) Two points if the Applicant has provided emergency shelter for up to two years;
  - (B) Four points if the Applicant has provided emergency shelter for up to four years;
  - (C) Six points if the Applicant has provided emergency shelter for up to six years;
  - (D) Eight points if the Applicant has provided emergency shelter for up to eight years; or
  - (E) Ten points if the Applicant has provided emergency shelter for 10 or more years.
- (d) Homeless prevention. An Application proposing homeless prevention may receive points under the following criteria:
- (1) Homeless prevention CoC collaboration. An Application may receive a maximum of 10 points for support from the CoC under which the Application is submitted. An Application may receive a maximum of:
    - (A) Three points based on an "approved" rating from the CoC;
    - (B) Seven points based on "recommended" rating from the CoC; and
    - (C) Ten points based on a "strongly recommended" rating from the CoC.
  - (2) Matching funds for homeless prevention. An Application may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110 percent of the total ESG funds requested for homelessness prevention.
  - (3) Homelessness prevention serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in §7.2(b)(34) of this Chapter (relating to Definitions). An Applicant providing homelessness prevention may receive a maximum of:
    - (A) One point based on a minimum target of 70 percent of persons served who have one or more special needs;
    - (B) Two points based on a minimum target of 80 percent of persons served who have one or more special needs;
    - (C) Three points based on a minimum target of 90 percent of persons served who have one or more special needs;
    - (D) Four points based on a minimum target of 95 percent of persons served who have one or more special needs; or
    - (E) Five points based on a minimum target of 100 percent of persons served who have one or more special needs.
  - (4) Homeless prevention maintaining housing. An Application may receive a maximum of five points based on the percentage of persons served with Homelessness prevention who are targeted to maintain their housing for three months or more after program exit. Applications may receive a maximum of:

- (A) Two points based on a minimum target of 40 percent of persons served with homelessness prevention maintaining housing for three months;
- (B) Three points based on a minimum target of 50 percent of persons served with homelessness prevention maintaining housing for three months;
- (C) Four points based on a minimum target of 60 percent of persons served with homelessness prevention maintaining housing for three months; or
- (D) Five points based on a minimum target of 70 percent of persons served with homelessness prevention maintaining housing for three months.

(5) Homeless prevention services and rental assistance. An Application may receive a maximum of five points based on the number of homeless prevention services and type of rental assistance provided through ESG or other funds. Homeless prevention services and rental assistance include rental application fees, security deposits and last month's rent, utility payments/deposits, moving costs, housing search and placement, housing stability case management, mediation, legal services, credit repair, short-term rental assistance, and medium-term rental assistance. An Application may receive a maximum of:

- (A) Two points if the Applicant provides housing stability case management and three of the other services or rental assistance;
- (B) Three points if the Applicant provides housing stability case management and four of the other services or rental assistance;
- (C) Four points if the Applicant provides housing stability case management and five of the other services or rental assistance;
- (D) Five points if the Applicant provides housing stability case management and six of the other services or rental assistance;

(6) Experience providing homeless prevention or rental assistance services. An Application may receive a maximum of 10 points based on the Applicant's experience providing homeless prevention or tenant-based rental assistance services.

- (A) Two points if the Applicant has provided homeless prevention or tenant-based rental assistance services for up to two years;
- (B) Four points if the Applicant has provided homeless prevention or tenant-based rental assistance services for up to four years;
- (C) Six points if the Applicant has provided homeless prevention or tenant-based rental assistance services for up to six years;
- (D) Eight points if the Applicant has provided homeless prevention or tenant-based rental assistance services for up to eight years; or
- (E) Ten points if the Applicant has provided homeless prevention or tenant-based rental assistance services for 10 or more years.

(e) Rapid re-housing. An Application proposing rapid re-housing may receive points under the following criteria:

(1) Rapid re-housing CoC collaboration. An Application may receive up to 10 points for support from the CoC under which the Application is submitted. Applications may receive a maximum of:

- (A) Three points based on an "approved" rating from the CoC;
- (B) Seven points based on "recommended" rating from the CoC; and

(C) Ten points based on a “strongly recommended” rating from the CoC.

(2) Matching funds for rapid re-housing. Applications may receive a maximum of three points if the Applicant commits Matching funds equal to or greater than 110 percent of the total ESG funds requested for rapid re-housing.

(3) Rapid re-housing serving Homeless Subpopulations. An Application may receive a maximum of five points by proposing to serve persons who are in a Homeless Subpopulation, as defined in 10 TAC §7.2(b)(34) (relating to Definitions). Applicants providing rapid re-housing may receive a maximum of:

(A) One point based on a minimum target of 70 percent of persons served who are in one or more Homeless Subpopulation;

(B) Two points based on a minimum target of 80 percent of persons served who are in one or more Homeless Subpopulation;

(C) Three points based on a minimum target of 90 percent of persons served who are in one or more Homeless Subpopulation;

(D) Four points based on a minimum target of 95 percent of persons served who are in one or more Homeless Subpopulation; or

(E) Five points based on a minimum target of 100 percent of persons served who are in one or more Homeless Subpopulation.

(4) Rapid re-housing maintaining housing. Applicants may receive a maximum of five points based on the percentage of persons served with rapid re-housing targeted to maintain their housing for three months or more after program exit. Applications may receive a maximum of:

(A) Two points based on a minimum target of 40 percent of persons served with rapid re-housing maintaining housing for three months;

(B) Three points based on a minimum target of 50 percent of persons served with rapid re-housing maintaining housing for three months;

(C) Four points based on a minimum target of 60 percent of persons served with rapid re-housing maintaining housing for three months; or

(D) Five points based on a minimum target of 70 percent of persons served with rapid re-housing maintaining housing for three months.

(5) Rapid re-housing services and rental assistance. Applicants may receive a maximum of five points based on the number of rapid re-housing services and type of rental assistance provided through ESG or other funds. Rapid re-housing services and rental assistance include rental application fees, security deposits/last month’s rent, utility payments/deposits, moving costs, housing search and placement, housing stability case management, mediation, legal services, credit repair, short-term rental assistance, medium-term rental assistance. Applications may receive a maximum of:

(A) Two points if the Applicant provides housing stability case management and three of the other services or rental assistance;

(B) Three points if the Applicant provides housing stability case management and four of the other components;

(C) Four points if the Applicant provides housing stability case management and five of the other components; or

(D) Five points if the Applicant provides housing stability case management and six of the

other components.

(6) Experience providing rapid re-housing or tenant-based rental assistance services. Applications may receive a maximum of 10 points based on the Applicant's experience providing homeless prevention or tenant-based rental assistance services.

(A) Two points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to two years;

(B) Four points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to four years;

(C) Six points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to six years;

(D) Eight points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for up to eight years; or

(E) Ten points if the Applicant has provided rapid re-housing or tenant-based rental assistance services for 10 or more years.

**§7.41. Contract Term, Expenditure Benchmarks, and Return of Funds.**

(a) The Contract Term for allocated funds may not exceed twelve months under a one-year funding cycle. The initial Contract Term for allocated funds and may not exceed 12 months under a two-year funding cycle, but may be amended to include an additional 12 months if allocated funds are awarded to the Applicant in the second year of the funding cycle. The Contract Term for a two-year funding cycle shall not exceed 24 months, as amended, unless an extension has been granted in accordance with this section.

(b) Expenditure benchmarks are ineligible for extension, except that an extension may be granted for expenditure benchmark two or four. A request to extend an expenditure benchmark must support that the extension is necessary to provide services required under the Contract, must evidence good cause for failure to meet the benchmark, and is subject to approval by the Department.

(1) The Division Director or his or her designee may approve an extension to the Contract Term or Expenditure benchmark two or four that do not exceed one month.

(2) The Executive Director or his or her designee may approve an extension to the Contract Term or Expenditure benchmark two or four that does not exceed three months.

(3) If the Subrecipient requests to extend the Contract Term or Expenditure benchmark for more than three months, but less than six months, Board approval is required. Extensions for greater than six months may not be granted.

(4) Extensions will be considered on a cumulative basis.

(c) Expenditure benchmarks for 12 or 24 month Contracts are listed in paragraphs (1)–(4) of this paragraph, unless otherwise stated in the Contract as amended. For Contracts with a 12-month term, the third and fourth Expenditure benchmarks do not apply.

(1) Expenditure benchmark one: Subrecipient is required to have reported expenditures in its Monthly Expenditure Reports reflecting at least 50 percent of the Contracted funds by month nine of the original Contract Term. A Subrecipient that has not met the first Expenditure benchmark must submit a plan to the Department evidencing the ability of the Subrecipient to expend the remaining funds by month twelve of the original Contract Term.

(2) Expenditure benchmark two: A Subrecipient is required to have reported expenditures in its

first 12 Monthly Expenditure Reports reflecting at least 100 percent of the Contracted funds. A Subrecipient that has not met the second Expenditure benchmark, or that has not timely submitted Monthly Expenditure Reports, is subject to deobligation of funds.

(3) Expenditure benchmark three: A Subrecipient awarded funds in the second year of a two-year funding cycle is required to have reported expenditures in its Monthly Expenditure Reports reflecting at least 75 percent of the Contracted funds by month 21 of the amended Contract. Subrecipients that have not met the third Expenditure benchmark evidencing the ability of the Subrecipient to expend the remaining funds by end of the amended Contract Term.

(4) Expenditure benchmark four: Subrecipients awarded funds in the second year of a two-year funding cycle are required to have reported expenditures in its last Monthly Expenditure Report reflecting at least 100 percent of the Contracted funds expended. Funds remaining after the deadline for submission of the last Monthly Expenditure Report are subject to deobligation of funds.

(d) Funds remaining at the end of Contract's close out period will be automatically deobligated. Deobligation of funds may affect future funding recommendations.

(e) Prior to the Expenditure benchmarks two and four, as applicable, a Subrecipient may submit a written request to voluntarily return some or all of its funds to the Department, if the Subrecipient expects it will not fully expend and wishes to avoid deobligation or a reduced second funding cycle if awarded during a two-year cycle. Voluntary return of funds prior to the Expenditure benchmark will not impact future funding recommendations.

(f) The Department may request information regarding the performance or status of a Contract prior to a Contract benchmark, or at various times during the term of a Contract. Subrecipient must respond within the time limit stated in the request. Prolonged or repeated failure to respond may result in suspension of funds, default of the Contract, and ultimately in termination of the Contract by the Department.

(g) If additional funds become available through deobligated amounts from an award made under the allocation formula or program income generated from an award made under the allocation formula, the funds will be offered to the ESG Subrecipients with active contracts with the highest expenditure rate, as of the most recent Monthly Expenditure Report. These funds will be offered first to the ESG Subrecipients within the CoC region from which the additional funds became available, and then available statewide. The funds may increase the Contract of an ESG Subrecipient one time by up to 25 percent of the original Contract amount. Upon Board Approval, the Department may elect to reallocate retained funds by this method.

#### **§7.42. General Administrative Requirements.**

(a) Subrecipient must have written policies and procedures to ensure that sufficient records are established and maintained to enable a determination that ESG requirements are met. The written standards must be applied consistently for all Program Participants. Written policies must include, but not be limited to Inclusive Marketing outlined in §7.10 of this chapter.

(b) Subrecipient must obtain the correct level of environmental clearance prior to expenditure of ESG funds. Activities for which the Subrecipient does not properly complete the Department's environmental review process are ineligible, and funds will not be reimbursed or will be required to be repaid.

(c) Subrecipient is prohibited from charging occupancy fees for emergency shelter supported by funds covered by this subchapter.

(d) If a Private Nonprofit Organization ESG Subrecipient wishes to expand the geographic scope of its emergency shelter activities after Contract execution, an updated certification of approval

from the Unit of General Purpose Local Government with jurisdiction over the updated Service Area must be submitted to the Department before funds are spent on emergency shelter in those areas.

(e) Subrecipient must document compliance with the shelter and housing standards per 24 CFR §576.500(j) and (k), including but not limited to maintaining sufficient construction and shelter inspection reports.

(f) Rental developments must comply with all construction or operational requirements governing the development or program to which ESG funds are comingled, and must comply with local health and safety codes.

(g) Subrecipient may be required to complete Contract orientation training prior to submission of the first Monthly Expenditure Report. Subrecipient must also complete training as requested by the Department in response to Findings or other issues identified while managing the Contract.

(h) Subrecipient must report on all measures in the Monthly Performance Report for demographics and Program Participant Services for which they are awarded.

(i) Subrecipient must develop and establish written procurement procedures that comply with federal, State, and local procurement requirements. A conflict of interest related to procurement is prohibited by 2 CFR §200.317-318 or Chapter 171 of the Local Government Code, as applicable.

(j) In instances where a potential conflict of interest exists related to a beneficiary of ESG assistance, Subrecipient must submit a request to the Department to grant an exception to any conflicts prohibited using the procedures at 24 CFR §576.404. The request submitted to the Department must include a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict, a description of how the public disclosure was made, and an attorney's opinion that the conflict does not violate State or local law. No ESG funds will be committed to assist a Household until HUD, has granted an exception.

(k) Subrecipient will comply with the requirements under 24 CFR §576.409, "Protection for victims of domestic violence, dating violence, sexual assault, or stalking."

(1) Compliance with 24 CFR §576.409 includes, but is not limited to, providing two Departmental forms called "Notice of Occupancy Rights under the Violence Against Women Act" based on HUD form 5380 and "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking," HUD form 5382, to each of the following:

(A) All applicants for short- and medium-term rental assistance at the time of admittance or denial;

(B) Program Participants of short- and medium-term rental assistance prior to execution of a Rental Assistance Agreement;

(C) Program Participants of short- and medium-term rental assistance with any notification of eviction or notification of termination of assistance; and

(D) Program Participants of short- and medium-term rental assistance either during an annual recertification or lease renewal process, whichever is applicable.

(2) Subrecipient will adopt and follow an Emergency Transfer Plan based on HUD's model Emergency Transfer Plan by no later than June 14, 2017, pursuant to 24 CFR §5.2005(e). Within three calendar days after Program Participants request transfers, Subrecipients will inform Program Participants of their eligibility under their Emergency Transfer Plan and keep records of all outcomes.

#### **§7.43. Program Income.**

(a) Program income is gross income received by the Subrecipient or its Affiliates directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period.

(b) Program income received and expended during the Contract Term will count toward meeting the Subrecipient's Matching requirements, per 24 CFR §576.201(f), provided the costs are eligible ESG costs that supplement the ESG program.

(c) Security and utility deposits paid on behalf of a Program Participant should be treated as a grant to the Program Participant. The deposit must remain with the Program Participant, and if returned, is to be returned only to the Program Participant. If the deposit is returned to the Subrecipient, it is program income, and must be treated as described in this subsection.

(d) In accounting for program income, the Subrecipient must accurately reflect the receipt of such funds separate from the receipt of federal funds and Subrecipient funds.

(e) Program income that is received after the end of the Contract Term, or not expended within the Contract Term, along with program income received two years following the end of the Contract Term must be returned to the Department within 10 calendar days of receipt. Income directly generated by a grant-supported activity after the two year period is no longer program income and may be retained by the Subrecipient.

#### **§7.44. Program Participant Eligibility and Program Participant Files.**

(a) Program participants must meet the applicable definitions of Homeless or At-risk of Homelessness. Proof of the eligibility or ineligibility for Program Participants must be maintained in accordance with 24 CFR §576.500, Recordkeeping and reporting requirements.

(1) The Applicant must keep income documentation for Program Participants receiving homelessness prevention or being re-certified for rapid re-housing. The Department offers Income Certification and Income Screening Tool forms, which may be used by the Applicant.

(2) The Department's Declaration of Income Statement (DIS) form must be utilized if income cannot be documented for Program Participants receiving homelessness prevention or being recertified for rapid re-housing. The DIS must be completed and signed by Program Participants for activities that have an income requirement. The DIS is not subject to provisions in HUD Handbook 4350.

(b) The Subrecipient must document eligibility before providing services after a break-in-service. A break-in-service occurs when a previously assisted Household has exited the program and is no longer receiving services through Homeless Programs. Upon reentry into ESG, the Household is required to complete a new intake application and provide updated source documentation, if applicable.

(c) The ESG Subrecipient must utilize the rental assistance agreement promulgated by the Department if providing rental assistance. The rental assistance agreement does not take the place of the lease agreement between the landlord/property manager and the tenant.

(d) The Subrecipient must retain a copy of the signed Disclosure Information on Lead Based Paint and/or Lead-Based Hazards for housing built before 1978 in the Program Participant's file in accordance with 24 CFR §576.403(a).

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**BOARD ACTION REQUEST**

**HOME AND HOMELESSNESS PROGRAMS DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action regarding proposed amendments to 10 TAC Chapter 23, Single Family HOME Program Rules Subchapter B, Availability of Funds, Application Requirements, Review and Award Procedures, General Administrative Requirements, and Resale and Recapture of Funds, §23.24 concerning Administrative Deficiency Process, and Subchapter E, Contract for Deed Program, §23.51 concerning Contract for Deed General Requirements, and directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs; and

**WHEREAS**, the Department has identified certain areas in Subchapter B and Subchapter E that require further clarification and revision, and necessitate the proposal of amendments that allow for ease in program administration;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed amendments to 10 TAC Chapter 23, Subchapter B, §23.24 Administrative Deficiency Process and Subchapter E, §23.51 Contract for Deed ("CFD") General Requirements to be approved; and directing that they be published for public comment 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 purpose of amending the State HOME Investment Partnerships Program ("HOME") Rule at 10 TAC §23.24 Administrative Deficiency Process is to reduce the likelihood that obtaining a corrected local resolution of authority to apply for the funds does not inadvertently cause an application to be terminated. Currently, the HOME Rules state that administrative deficiencies of a HOME application that are not resolved to the Department's satisfaction by the deficiency cure period support termination of the application. The Department may identify deficiencies in an applicant's resolution; however, the applicant may need to have such corrections to the deficient Resolutions approved by their Board or governing body, such as a council. The scheduling of the applicant's next Board or Council meeting may not occur during the Department's deficiency cure period, creating the possibility that the deficiency would not be able to be susceptible to timely cure. The proposed amendment to 10 TAC §23.24 allows a corrected Resolution in response to a deficiency to be submitted, without penalty, to the Department outside of the deficiency response period, thereby avoiding the termination of an application because of a relatively minor and non-substantive error that applicants may not resolve before the application deficiency deadline.

The purpose of amending the HOME Rule under 10 TAC §23.51 Contract for Deed (“CFD”) General Requirements is to allow the funds dedicated to CFD activities to be expended statewide (subject to the statutory limitations on the use of HOME funds in Participating Jurisdictions) and to increase applicant eligibility from 60% of AMFI to 80% AMFI. Currently, the CFD Program is restricted to activities located in areas that meet the definition of a colonia as defined in Texas Government Code, Ch. 2306, and to households at 60% AFMI. One of the Department’s subrecipients, Community Development Corporation of Brownsville (“CDCB”), has stated that the older established colonias as defined by Chapter 2306 are mostly paid off, and newer very large subdivisions that share characteristics of a colonia but do not meet the Chapter 2306 definition would benefit from CFD funding but are unable to be funded because they are not located in a state designated colonia. CDCB states they are able to layer funds with other rehabilitation program funding in the newer colonias, but they are unable to transfer the lots using HOME funds under the current CFD rule. The proposed amendment to 1- TAC §23.51 continues to limit CFD funding to areas that meet the definition of a colonia but only for a period of time; after that time, the rule would allow CFD funding in non-colonia areas. The rule also increases the pool of eligible households by increasing the AMFI requirement.

Attached are the proposed preambles and the proposed amendments to 10 TAC §23.24 and §23.51.

**Attachment 1: Preamble, including required analysis, for proposed amendment of 10 TAC, §23.24, Administrative Deficiency Process**

The Texas Department of Housing and Community Affairs (the “Department”) proposes amendments to 10 TAC Chapter 23, Single Family HOME Program, Subchapter B, §23.24, Administrative Deficiency Process. The purpose of the proposed amended section is to update the rule to allow the submission of a corrected Resolution after the application review deficiency deadline for all HOME applications to prevent termination of the application. The current HOME Rules state that administrative deficiencies of a HOME application that are not resolved to the Department’s satisfaction by the deficiency cure period substantiate termination of the application. The proposed amendments to §23.24 allow a corrected Resolution in response to a deficiency to be submitted to the Department without penalty and avoid the termination of an application because of a minor clerical error that applicants may not resolve before the application deficiency deadline.

Tex. Gov’t Code §2001.0045(b) does not apply to the rule proposed for action because it has been determined that no costs are associated with this amendment, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.**

Mr. Irvine has determined that, for the first five years the proposed rulemaking would be in effect:

1. The proposed rule amendment does not create or eliminate a government program, but relates to the amending of this rule which makes changes to one narrow aspect of an existing activity, the acceptance of resolutions as it relates to the administration of the HOME Program.
2. The proposed amendment does not require a change in work that would require the creation of new employee positions, nor are the amendment changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed amendment does not require additional future legislative appropriations.
4. The proposed amendment does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The proposed amendment is not creating a new regulation. .
6. The proposed amendment will not expand, limit, or repeal an existing regulation, but merely clarifies an acceptable timeframe for receiving a corrected resolution from a subrecipient.
7. The proposed amendment will not increase or decrease the number of individuals subject to the rule’s applicability.
8. The proposed amendment will not negatively nor positively affect this state’s economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV’T CODE §2006.002.** The Department has evaluated this proposed amendment and determined that none of the adverse affect strategies outlined in Tex. Gov’t Code §2006.002(b) are applicable.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV’T CODE §2007.043.** The

proposed rule amendment does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the proposed amendment has no economic effect on local employment because this rule only applies to the administrative process of application review; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the amended section will be an updated and more flexible rule. There will not be any economic cost to any individuals required to comply with the amended section because the processes described by the rule have already been in place.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments because this rule only applies to a deficiency process already in place for applicants pursuing HOME funding.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to December 26, 2018, to receive input on the amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp, HOME and Homeless Programs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220 or by email to the following address: HOME@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, on December 26, 2018. A copy of the amended section will be available on the Department's website at <http://www.tdhca.state.tx.us/public-comment.htm> under Items Open for Public Comment during the public comment period.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

**§23.24. Administrative Deficiency Process.**

(a) The administrative deficiency process allows staff to request that an Applicant provide clarification, correction, or non-material missing information to resolve inconsistencies in the original Application or to assist staff in evaluating the Application. Staff will request such information via a deficiency notice. Staff will send the deficiency notice via an email or if an email address is not provided in the Application, by facsimile to the Applicant. Responses are required to be submitted electronically to the Department. A review of the Applicant's response may reveal that issues initially identified as an administrative deficiency are actually determined to be beyond the scope of an administrative deficiency process, meaning that they are in fact matters of a material nature not susceptible to being resolved. Department staff may in good faith provide an Applicant

confirmation that an administrative deficiency response has been received or that such response is satisfactory. Communication from staff that the response was satisfactory does not establish any entitlement to points, eligibility status, or to any presumption of having fulfilled any requirements. Final determination regarding the sufficiency of documentation submitted to cure an administrative deficiency as well as the distinction between material and non-material missing information are reserved for the Director of the HOME Program, Executive Director, and Board, as applicable.

(b) An Applicant may not change or supplement any part of an Application in any manner after submission to the Department, and may not add any set-asides, except in response to a direct request from the Department to remedy an administrative deficiency or by amendment of an Application after the Board approval of a HOME award. An administrative deficiency may not be cured if it would, in the Department's determination, substantially change an Application, or if the Applicant provides any new unrequested information to cure the deficiency.

(c) Administrative deficiencies for HOME Applications under an open application cycle NOFA, including an Application for an RSP Agreement. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m., Austin local time, on the fifth business day following the date of the deficiency notice, the application shall be terminated. The Department may accept a corrected Board Resolution submitted after the deficiency deadline on the condition that the corrected Board Resolution resolves the deficiencies to the satisfaction of the Department, but the Board Resolution must be received and deemed satisfactory by the Department before the RSP Agreement or Contract start date. Applicants that have been terminated may reapply, and the application fee shall be waived for an Application submitted within 30 days of the termination of an Application.

(d) Administrative deficiencies for HOME Applications under a Competitive Application Cycle NOFA. The time period for responding to a deficiency notice commences on the first business day following the deficiency notice date. If an administrative deficiency is not resolved to the satisfaction of the Department by 5:00 p.m. on the fifth business day following the date of the deficiency notice, then one ~~(4)~~ point shall be deducted from the selection criteria score for each additional business day the deficiency remains unresolved. If administrative deficiencies are not resolved by 5:00 p.m., Austin local time, on the seventh business day following the date of the deficiency notice, then the Application shall be terminated. The Department may accept a corrected Board Resolution submitted after the deficiency deadline on the condition that the corrected Board Resolution resolves the deficiencies to the satisfaction of the Department, but the Board Resolution must be received and deemed satisfactory by the Department before the Contract start date.

## **Attachment 2: Preamble and amendment of Subchapter E, §23.51, Contract For Deed (CFD) General Requirements**

The Texas Department of Housing and Community Affairs (the “Department”) proposes an amendment to 10 TAC Chapter 23, Single Family HOME Program, Subchapter F, §23.51, Contract for Deed (“CFD”) General Requirements.

The purpose of amending this rule is to expand the funding of CFD activities statewide, and to increase the AMFI for eligible households from 60 percent to 80 percent. Currently, the CFD Program is restricted to areas that meet the definition of a colonia as defined in Tex. Gov’t Code, Chapter 2306. Newer, very large subdivisions that share characteristics of a colonia, but do not meet the Chapter 2306 definition would benefit from CFD funding but are unable to be funded under the current rule. Proposed amendments to §23.51 would continue to limit CFD funding to areas that meet the definition of a colonia, but only for a period of time; the CFD funds would then be made available in non-colonia areas. Because funds are currently not fully utilized it is hoped that by expanding the AMFI, more households in a contract for deed will be eligible to participate.

Tex. Gov’t Code §2001.0045(b) does not apply to the rule proposed for action because it has been determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.**

Mr. Irvine has determined that, for the first five years the proposed rulemaking would be in effect:

1. The proposed rule amendment does not create or eliminate a government program, but relates to amending this rule which makes narrow changes to adjust the eligibility within an existing activity, the Contract for Deed activity within the HOME Program.
2. The proposed amendment does not require a change in work that would require the creation of new employee positions, nor are the amendment changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The proposed amendment does not require additional future legislative appropriations.
4. The proposed amendment does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The proposed amendment is not creating a new regulation.
6. The proposed amendment will not expand, limit, or repeal an existing regulation.
7. The proposed amendment will not increase or decrease the number of individuals subject to the rule’s applicability.
8. The proposed amendment will not negatively nor positively affect this state’s economy.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV’T CODE**

§2006.002. The Department has evaluated this proposed amendment and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed rule amendment does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the proposed amendment as to its possible effects on local economies and has determined that for the first five years the amended rule will be in effect the proposed rule amendment may provide a possible positive economic effect on local employment. This amendment provides the possibility that program applicants not currently accessing these funds may do so, which could infuse funds into the local financial market. However because location of where program funds or development are directed is not determined in rule, that impact is not able to be quantified for any given community.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the amended section will be to allow CFD funds to be used in Contract for Deed situations that occur outside of a colonia and to assist households up to 80 percent AMFI. There will not be any economic cost to any individuals required to comply with the amended section because the processes described by the rule have already been in place.

f. FISCAL NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the amendment does not have any foreseeable implications related to costs or revenues of the state or local governments because this rule only applies to expanded opportunities for eligibility to apply for funding.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to December 26, 2018, to receive input on the amended section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Abigail Versyp, HOME and Homeless Programs, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220 or by email to the following address: HOME@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, on December 26, 2018. A copy of the amended section will be available on the Department's website at <http://www.tdhca.state.tx.us/public-comment.htm> under Items Open for Public Comment during the public comment period.

STATUTORY AUTHORITY. The amendment is proposed pursuant to Tex Gov 't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

### **§23.51. Contract for Deed (CFD) General Requirements.**

(a) Program funds may be used for the following under this subchapter:

(1) ~~acquisition~~ Acquisition or acquisition and Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance; or

(2) ~~refinance~~ Refinance with Rehabilitation, Reconstruction, or New Construction of single family housing units occupied by the purchaser as shown on an executory contract for conveyance provided construction costs exceed the amount of debt that is to be refinanced;

(b) An MHU is not an eligible property type for Rehabilitation. MHUs must be installed according to the manufacturer's installation instructions and in accordance with Federal and State laws and regulations.

(c) The Household's income must not exceed ~~60-80~~ percent (“AMFI”) and the Household must complete a homebuyer counseling program/class.

(d) ~~The property assisted must be located in a Colonia as defined in Texas Government Code, Chapter 2306. The Colonia must have a Colonia Classification Number, as assigned by the Office of the Texas Secretary of the State. The Department shall limit the availability of funds for CFD for a minimum of 60 calendar days for Activities proposing to serve Households whose income does not exceed 60 percent “AMFI”, and for properties located in a Colonia as defined in Tex. Gov’t Code §2306.083.~~

(e) The Department will require a first lien position.

(f) Direct Activity Costs, exclusive of Match funds, are limited to:

(1) ~~refinance~~ Refinance, acquisition and closing costs: \$35,000. In the case of a contract for deed housing unit that involves the refinance or acquisition of a loan on an existing MHU and/or the loan for the associated land, the Executive Director may grant an exception to exceed this amount, however, the Executive Director will not grant an exception to exceed \$40,000 of assistance;

(2) Reconstruction and New Construction of site-built housing: the lesser of \$90 per square foot of conditioned space or \$100,000, or for Households of five or more Persons the lesser of \$90 per square foot of conditioned space or \$110,000 for a four-bedroom unit;

(3) ~~replacement~~ Replacement with an energy efficient MHU: \$75,000; and

(4) Rehabilitation that is not Reconstruction: \$60,000, or up to \$100,000 for properties listed in or identified as eligible for listing in the National Register of Historic Places.

(g) In addition to the Direct Activity Costs allowable under subsection (d) of this section, a sum not to exceed \$10,000 may be used to pay for any of the following:

(1) ~~necessary~~ Necessary environmental mitigation as identified during the Environmental review process;

(2) ~~installation~~ Installation of an aerobic septic system; or

(3) ~~homeowner~~ Homeowner requests for accessibility features.

(h) Activity soft costs eligible for reimbursement for Activities of the following types are limited to:



- (1) ~~acquisition~~ Acquisition and closing costs: no more than \$1,500 per housing unit;
  - (2) Reconstruction or New Construction: no more than \$10,000 per housing unit;
  - (3) ~~replacement~~ Replacement with an MHU: no more than \$3,500 per housing unit;
  - (4) Rehabilitation that is not Reconstruction: \$7,000 per housing unit. This limit may be exceeded for lead-based remediation and only upon prior approval of the Division Director. The costs of testing and assessments for lead-based paint are not eligible Activity soft costs for housing units that are reconstructed or if the existing housing unit was built after December 31, 1977.
- (i) Funds for administrative costs are limited to no more than ~~4~~ four percent of the Direct Activity Costs, exclusive of Match funds.
- (j) The assistance to an eligible Household shall be in the form of a loan in the amount of the Direct Activity Costs excluding Match funds. The loan will be at zero percent interest and include deferral of payment and annual pro rata forgiveness with a term based on the federal affordability requirements as defined in 24 CFR §92.254. For refinancing activities, the minimum loan term and affordability period is ~~fifteen~~ (15) years, regardless of the amount of HOME assistance.
- (k) To ensure affordability, the Department will impose resale and recapture provisions established in this Chapter.
- (l) For Reconstruction and New Construction, site-built housing units must meet or exceed the 2000 International Residential Code and all applicable local codes, standards, ordinances, and zoning requirements. In addition, Reconstruction and New Construction housing is required to meet 24 CFR §92.251(a)(2) as applicable. Housing that is Rehabilitated under this ~~Chapter~~ chapter must meet the Texas Minimum Construction Standards (TMCS) and all other applicable local codes, Rehabilitation standards, ordinances, and zoning ordinances in accordance with the HOME Final Rule. Housing units that are provided assistance for acquisition only must meet all applicable state and local housing quality standards and code requirements. In the absence of such standards and requirements, the housing units must meet the Housing Quality Standards (HQS) in 24 CFR §982.401.
- (m) Each unit must meet the design and quality requirements described in paragraphs (1) - (4) of this subsection:
- (1) ~~include~~ Include the following amenities: Wired with RG-6 COAX or better and CAT3 phone cable or better to each bedroom and living room; Blinds or window coverings for all windows; Oven/Range; Exhaust/vent fans (vented to the outside) in bathrooms; Energy-Star or equivalently rated lighting in all rooms, which may include compact florescent bulbs. The living room and each bedroom must contain at least one ceiling lighting fixture and wiring must be capable of supporting ceiling fans;
  - (2) ~~contain~~ Contain no less than two bedrooms. Each unit must contain complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation;
  - (3) ~~each~~ Each bedroom must be no less than 100 square feet; have a length or width no less than 8 ~~eight~~ feet; be self contained with a door; have at least one window that provides exterior access; and have at least one closet that is not less than 2 ~~two~~ feet deep and 3 ~~three~~ feet wide and high enough

to contain at least ~~5~~five feet of hanging space; and

(4) ~~be~~Be no less than 800 total net square feet for a two bedroom home; no less than 1,000 total net square feet for a three bedroom and two bathroom home; and no less than 1,200 total net square feet for a four bedroom and two bathroom home.

(n) Housing proposed to be constructed under this subchapter must meet the requirements of Chapters 20 and 21 of this title (relating to Single Family Programs Umbrella Rule and Minimum Energy Efficiency Requirements for Single Family Construction Activities, respectively) and must be certified by a licensed architect or engineer.

(1) The Department will reimburse only for the first time a set of architectural plans are used, unless any subsequent site specific fees are paid to a Third Party architect, or a licensed engineer; and

(2) A NOFA may include incentives or otherwise require architectural plans to incorporate "green building" elements.

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BOARD ACTION REQUEST

EXECUTIVE DIVISION

NOVEMBER 8, 2018

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §5.801, Project Access Initiative, and an order proposing new 10 TAC §5.801, Project Access Initiative, and directing publication for public comment in the Texas Register.

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, 10 TAC §5.801, Project Access Initiative, requires edits to bring it up to date, to streamline the language, and to make clear how recently awarded Mainstream Voucher Program vouchers are handled within the Project Access program; and

WHEREAS, such proposed rulemaking will be published in the Texas Register for public comment from November 23, 2018, through December 27, 2018, and will be returned to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the order adopting the proposed repeal of 10 TAC §5.801, Project Access Initiative, and order adopting the proposed new 10 TAC §5.801, Project Access Initiative, are approved for publication in the Texas Register for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department to cause the proposed repeal of 10 TAC §5.801, Project Access Initiative, and proposed new 10 TAC §5.801, Project Access Initiative, in the form presented to this meeting, to be published in the Texas Register and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.

BACKGROUND

Authority: Tex. Gov't Code §2306.053, authorizes the Department to adopt rules governing the administration of the Department and its programs. The Project Access Program, which is a program included within the Department's Section 8 Housing Choice Voucher Program, is approved by HUD through its PHA Plan. The Pilot Program addressed in the rule has also been specifically authorized by HUD.

Department Policy: While Tex. Gov't Code §2306.053 does not explicitly require that the Department have rules for this subject area, the statute does allow for that ability. Further, this rule provides participants in the Department's programs, and service providers/housing referral agents, with the expectations and rights relating to participating in the Project Access program.

Consistency with Executive Direction and Proposed Changes: Staff recommends that this rule be retained, but done so through repeal and proposal of a new rule. This action allows the Department to continue to provide clear guidance on the Project Access program, while updating the rule to make changes that bring the rule up to date, streamline language, provide for one definition of disability for consistency and equity in handling client eligibility, and to specify the unique federal criteria required of two funding sources within the program - Mainstream Voucher Program vouchers and Non-Elderly Disable Vouchers.

The Department applied for and was recently awarded Mainstream Voucher Program ("MVP") funds that allow for the issuance of approximately 50 vouchers. These vouchers were applied for with the specific intent of serving Project Access clients, allowing the Department to try to reduce the size of the Project Access waiting list. This rule will make clear how the MVP vouchers are considered as it relates to the Project Access Program.

Upon Board approval, the proposed rule actions will be published in the Texas Register and released for public comment from November 23, 2018, through December 27, 2018. Behind the preamble is a clean copy of the rule is provided, followed by a copy of the rule in blackline form reflecting the changes being proposed from the current version of the rule.

Attachment 1: Preamble, including required analysis, for the proposed repeal of 10 TAC §5.801, Project Access Initiative

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC §5.801, Project Access Initiative. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Timothy K. Irvine, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing the Project Access Program.
2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce work load to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for the Project Access program.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Irvine has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to December 27, 2018, to receive input on the repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time DECEMBER 27, 2018.

STATUTORY AUTHORITY. The repeal is proposed pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

10 TAC §5.801, Project Access Initiative

Attachment B: Preamble, including required analysis, for proposed new 10 TAC §5.801, Project Access Initiative

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC §5.801, Project Access Initiative. The purpose of the proposed new section is to make changes that bring the rule up to date, streamline language, provide for one definition of disability for consistency and equity in handling client eligibility, and to specify the unique federal criteria required of two funding sources within the program - Mainstream Voucher Program vouchers and Non-Elderly Disable Vouchers.

Tex. Gov't Code §2001.0045(b) does apply to the rule being adopted because no exceptions apply, however it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Timothy K. Irvine, Executive Director, has determined that, for the first five years the proposed new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rule that governs the Project Access program.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The proposed new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule does not increase nor decrease the number of individuals to whom this rule applies; and
8. The new rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. This rule relates to the procedures in place for the Project Access Program which provides Section 8 Housing Choice Vouchers for persons with disabilities exiting institutions so that they can live in community-based settings. The Program assists individuals directly, therefore no small or micro-businesses are subject to the rule.



3. The Department has determined that because this rule relates only to a revision to a program rule that applies only to the recipients of the voucher, and the rule changes primarily make minor edits and add consideration for how the Mainstream Voucher Program will incorporate into the Project Access program, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates only to individuals who may receive a voucher; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." The Project Access program is a statewide program so there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Irvine has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the proposed new rule will be a more clear rule for recipients and assurance of the program having compliant regulations that reflect how the Mainstream Voucher Program is addressed within the Project Access program. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

REQUEST FOR PUBLIC COMMENT. The Department will accept public comment from November 23, 2018, through December 27, 2018. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 pm Austin local time, December 27, 2018.

STATUTORY AUTHORITY. The rule review is adopted pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

10 TAC §5.801, Project Access Initiative

## **Proposed 10 TAC §5.801, Project Access Initiative – Clean Version Reflecting Changes**

(a) Purpose. The Project Access Program ("PA Program") is a program that utilizes federal Section 8 Housing Choice Vouchers, Non Elderly Disabled Vouchers, and Mainstream Vouchers administered by the Texas Department of Housing and Community Affairs (the "Department") to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. This rule provides the parameters and eligibility standards for this program.

(b) Definitions.

(1) At-Risk Applicant--A household that applies to the Department's Section 8 program that was a prior resident of an Institution.

(2) HUD--The U.S. Department of Housing and Urban Development.

(3) Institution--congregate settings populated exclusively or primarily with individuals with disabilities; congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or settings that provide for daytime activities primarily with other individuals with disabilities. This definition includes but is not limited to a nursing facility, state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD. The definition for Institution is further limited for vouchers funded with NED as further provided for in section (e)(2)(C) of this section. This definition does not include a prison, jail, halfway house, or other setting that persons reside in as part of a criminal proceeding.

(4) Mainstream Vouchers ("MVP") --HUD's Mainstream Voucher Program.

(5) Non Elderly Disabled ("NED")--HUD's Non Elderly Disabled Program.

(6) Section 8--HUD's Section 8 Housing Choice Voucher Program administered by the Department.

(c) Regulations Governing Program. All Section 8 Program rules and regulations, including but not limited to criterion at 24 CFR Part 982, apply to the program.

(d) Project Access in the Department's PHA Plan. Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan. The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan.

(e) Eligibility for the Project Access Program.

(1) A household that participates in the Project Access Program must meet all Section 8 eligibility criteria, and one member of the household must meet all of the eligibility criteria in subparagraphs (A) and (B) of this paragraph.

(A) Must have a disability as defined in 24 CFR §5.403; and

(B) Must meet one of the criteria in clauses (i) or (ii) of this subparagraph:

(i) An At-Risk Applicant that meets the criteria of subclause (I) or (II) of this clause:

(I) A current recipient of Tenant-Based Rental Assistance ("TBRA") from a HOME Investment Partnership Program and within six (6) months prior to expiration of that TBRA assistance; or

(II) A household with a household member who meets the criteria of an At-Risk Applicant and has lost their Tenant Based Rental Assistance from a HOME Investment Partnership Program due to lack of available funding.

(ii) be a resident of an Institution at at the time of voucher issuance.

(2) NED and Mainstream Vouchers have these additional eligibility criteria which are:

(A) The household member with the disability as defined in 24 CFR §5.403, must be 18 but under 62 years of age at the time of voucher issuance;

(B) For NED only, the head of household, spouse, co-head, or sole member, must be a person with a disability; and

(C) For NED only, the qualifying household member must not be an At-Risk Applicant as described in this subsection, must be residing in a nursing facility, Texas state psychiatric hospital, or intermediate care facility immediately prior to voucher issuance, and must also be referred by the applicable HHSC funded agency.

(f) Waiting List and Allocation of Vouchers.

(1) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of the vouchers used in the Project Access Program will be reserved for households with a household member eligible for a pilot program in partnership with the Health and Humans Services Commission ("HHSC") for Texas state psychiatric hospitals who otherwise meets the criteria of the Project Access Program at the time of voucher issuance.

(2) The Department's Waiting List for PA vouchers will be kept "open" and the Department will accept an application for the PA Program at any time. An applicant for the PA Program is placed on a Waiting List until a voucher becomes available. An applicant who qualifies for the Project Access HHSC Pilot Program in subsection (f)(1) of this section is placed on a Waiting List for Project Access HHSC Pilot Program, and also for the general PA Program Waiting List.

(3) The Department will select applicants off the Waiting List for the Project Access HHSC Pilot Program, and for the general PA Program waitlist to ensure that the Department is utilizing all NED and Mainstream Vouchers before issuing other Section 8 Vouchers.

(4) Maintaining Status on the Project Access Waiting List. A household on the Project Access waiting list may maintain their order and eligibility for a Project Access voucher if the household:

(A) applied for the PA Program and was placed on the waiting list prior to transition out of the institution; and

(B) received continuous Tenant Based Rental Assistance from a HOME Investment Partnership Program or other Department funding for rental assistance from the time of exit from the institution until the issuance of the Project Access voucher.

## 10 TAC §5.801, Project Access Initiative – Shown with Changes Tracked from Current Rule

(a) Purpose. The Project Access Program ("PA Program") is a program with a preference in the Department's Annual Public Housing Agency ("PHA") Plan that utilizes federal Section 8 Housing Choice Vouchers, Non Elderly Disabled Vouchers, and Mainstream Vouchers administered by the Texas Department of Housing and Community Affairs (the "Department") to assist low-income persons with disabilities in transitioning from institutions into the community by providing access to affordable housing. This rule provides the parameters and eligibility standards for this program.

(b) Definitions.

(1) At-Risk Applicant--A household that applies to the Department's Section 8 program that was a prior resident of an Institution.

(2) HUD--The U.S. Department of Housing and Urban Development.

(3) Institution--congregate settings populated exclusively or primarily with individuals with disabilities; congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or settings that provide for daytime activities primarily with other individuals with disabilities. This definition includes but is not limited to a nursing facility, state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD. The definition for Institution is further limited for vouchers funded with NED as further provided for in section (e)(2)(C) of this section. This definition does not include a prison, jail, halfway house, or other setting that persons reside in as part of a criminal proceeding.

(4) Mainstream Vouchers ("MVP") --HUD's Mainstream Voucher Program.

(5) Non Elderly Disabled ("NED")--HUD's Non Elderly Disabled Program.

(6) Section 8--The U.S. Department of Housing and Urban Development ("HUD's") Section 8 Housing Choice Voucher Program administered by the Department.

(c) Regulations Governing Program. All Section 8 Program rules and regulations, including but not limited to criterion at 24 CFR Part 982, apply to the program.

(d) Project Access in the Department's PHA Plan. Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan. The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan.

(d) Program Design-

–(1) At least 90 percent of Project Access Vouchers will be reserved for households with a household member who meets the eligibility criteria of subsection (e)(1) and (2) of this section.

–(2) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of Project Access Vouchers will be reserved for households with a household member eligible for a pilot program in partnership with the Department of State Health Services ("DSHS") for Texas state psychiatric hospitals who meets the criteria of subsection (e)(1) and (3) of this section at the time of voucher issuance. If not permitted by HUD, the percentage in paragraph (1) of this subsection goes up to 100%.

–(3) The total number of Project Access Vouchers will be determined each year in the Department's PHA Plan. The number of vouchers allocated to each sub-population listed in paragraphs (1) and (2) of this subsection will be determined by the Department.

~~–(4) The Project Access households have a preference in the Department's Section 8 Program, as designated in the Department's Annual PHA Plan.~~

~~(e) Project Access Eligibility Criteria for the Project Access Program.~~

~~–(1) A Project Access voucher household that participates in the Project Access Program must meet all Section 8 eligibility criteria, and one member of the household must meet all of the eligibility criteria in subparagraphs (A) and (B) of this (1) of this subsection and either paragraph (2) or (3) of this subsection:~~

~~–(1A) Must have a disability as defined in 24 CFR §5.403 have a permanent disability as defined in §223 of the Social Security Code or be determined to have a physical, mental, or emotional disability that is expected to be of long-continued and indefinite duration that impedes one's ability to live independently; and~~

~~–(2B) Must meet one of the criteria in clauses (i) subparagraphs (A) or (iiB) of this subparagraph:~~

~~–(iA) An At-Risk Applicant. At-Risk applicants must be a previous resident of a nursing facility, Texas state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD and that meets the criteria of subclause (I) or (II) of this clausesubparagraph:~~

~~–(I) A current recipient of Tenant-Based Rental Assistance ("TBRA") from a HOME Investment Partnership Program and within six (6) months prior to expiration of that TBRA assistance; or~~

~~–(II) A household with a household member who meets the criteria of an At-Risk Applicant subsection (f) of this section, or clause (i) of this subparagraph and has lost their Tenant Based Rental Assistance from a HOME Investment Partnership Program due to lack of available funding from the Participating Jurisdiction.~~

~~–(iiB) be a current resident of an Institution at nursing facility, Texas state psychiatric hospital, intermediate care facility, or board and care facility as defined by HUD at the time of voucher issuance, unless otherwise determined by HUD which may extend Project Access to all state regulated institutions; or~~

~~–(2) NED and Mainstream Vouchers have these additional eligibility criteria which are:~~

~~–(A) The household member with the disability as defined in 24 CFR §5.403, must be 18 but under 62 years of age at the time of voucher issuance;~~

~~–(B) For NED only, the head of household, spouse, co-head, or sole member, must be a person with a disability; and~~

~~–(C) For NED only, the qualifying household member must not be an At-Risk Applicant as described in this subsection, must be residing in a nursing facility, Texas state psychiatric hospital, or intermediate care facility immediately prior to voucher issuance, and must also be referred by the applicable HHSC funded agency.~~

~~–(3) be eligible for the DSHS pilot program for Texas state psychiatric hospitals at the time of placement on the waiting list.~~

~~(f) Maintaining Status on the Project Access-Waiting List and Allocation of Vouchers.~~

~~–(1) Unless no longer authorized as a set-aside by HUD, no more than 10 percent of the vouchers used in the Project Access Program will be reserved for households with a household member eligible for a pilot program in partnership with the Health and Humans Services Commission ("HHSC") for Texas state psychiatric hospitals who otherwise meets the criteria of the Project Access Program at the time of voucher issuance.~~

~~–(2) The Department's Waiting List for PA vouchers will be kept "open" and the Department will accept an application for the PA Program at any time. An applicant for the PA Program is placed on a Waiting List until a voucher becomes available. An applicant who qualifies for the Project Access~~

HHSC Pilot Program in subsection (f)(1) of this section is placed on a Waiting List for Project Access HHSC Pilot Program, and also for the general PA Program Waiting List.

(3) The Department will select applicants off the Waiting List for the Project Access HHSC Pilot Program, and for the general PA Program waitlist to ensure that the Department is utilizing all NED and Mainstream Vouchers before issuing other Section 8 Vouchers.

(4) Maintaining Status on the Project Access Waiting List. A household on the Project Access waiting list may maintain their ~~order and status on the waiting list and~~ eligibility for a Project Access voucher if the household:

~~(1A)~~ applied for ~~the PA Program a Project Access Voucher~~ and was placed on the waiting list prior to transition out of the institution; and

~~(2B)~~ received continuous Tenant Based Rental Assistance from a HOME Investment Partnership Program or other Department funding for rental assistance from the time of exit from the institution until the issuance of the Project Access voucher.

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BOARD ACTION REQUEST  
EXECUTIVE DIVISION  
NOVEMBER 8, 2018

Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations; proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations; and directing publication for public comment in the Texas Register.

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations, requires changes to bring it up to date, to remove outdated examples, and to streamline the requirements;

WHEREAS, Department staff met with the Disability Advisory Workgroup on October 10, 2018, to garner feedback on these rules, such feedback having been taken into consideration in the draft proposed rule; and

WHEREAS, such proposed rulemaking will be published in the Texas Register for public comment to be received and returned to the Board for final adoption;

NOW, therefore, it is hereby

RESOLVED, that the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations, and the proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations, are approved for publication in the Texas Register for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations and the proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations, in the form presented to this meeting, to be published in the Texas Register for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.

BACKGROUND

Authority: Tex. Gov't Code §2306.053, authorizes the Department to adopt rules governing the administration of the Department and its programs. The authority for this rule is also provided by Tex.



Gov't Code §2306.066(e), which requires the Executive Director to prepare a written plan to provide persons with disabilities an opportunity to participate in the Department's programs. This rule also provides for compliance with the Fair Housing Act and other federal and state civil rights laws. One type of disability discrimination is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations are necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling or program/activity. This rule provides for how Subrecipients and Development Owners of properties in the Department's portfolio should handle requests from individuals who are seeking reasonable accommodations. It also identifies the Construction Standards that Developments must use for accessible units and common areas and amenities.

Department Policy: While Tex. Gov't Code §2306.053 does not explicitly require that the Department have rules for this subject area, the statute does allow for such rules. Further, this rule provides participants in the Department's programs, Subrecipients, and Development Owners with the expectations and rights relating to development of accessible units and for how a reasonable accommodation request should be handled.

In proposed 10 TAC §1.207(c) the Department is going beyond federal mandates. As proposed, the Department is continuing to state that all rehabilitation developments funded after January 1, 2014, are to be treated as Substantial Alteration, maintaining consistency with the Uniform Multifamily Rule, which requires those properties, even if a rehabilitation of existing residential units, must have a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments (in addition, common areas and amenities must be accessible). While it is not federally required to treat all such rehabilitation projects as Substantial Alterations, the federal alternative to this option could be onerous and complicated. If a rehabilitation project were not subject to this rule-based requirement as proposed, then every improvement made on such a property must be made accessible until the 5% of fully accessible Units was achieved. The result could be a patchwork of accessible items within inaccessible units (e.g., an accessible shower in a bathroom with an inaccessible door width to access that shower). Overall, that would be a patchwork and likely less desirable approach from the owner's perspective. The proposed rule requirements, which have been in place since 2014, will continue to result in additional fully accessible units.

Consistency with Executive Direction and Proposed Changes: Staff recommends that this rule be retained but done so through repeal and proposal of a new rule. This action allows the Department to continue to ensure compliance with the applicable state and federal requirements and provide guidance to Subrecipients/Development Owners on what is expected in the handling of an applicant/program participant/tenant wanting to make a reasonable accommodation request. The new rule being proposed reflects notable changes that include:

- Changes to citations and references throughout when they are not applicable to all programs, or were not reflective of all applicable programs.
- In 10 TAC §1.201, Purpose, added the Ending Homelessness Fund to covered programs.
- In 10 TAC §1.204, Reasonable Accommodations:
  - Added a new section (a) clearly reflecting the applicability of this rule to those requesting an accommodation of programs and properties of the Department (as opposed to reasonable accommodation requests of the Department itself, which is covered in 10 TAC §1.1); and
  - Added a new section (b) providing an initial general direction in the handling of reasonable accommodations to assist property and program management staff.

- Removed specific examples from 10 TAC §1.204(b) and (f) to remove the perception that examples may have been an exhaustive list, and created a new section within 10 TAC §1.207 that provides a list of possible non-exhaustive examples.
- Deleted 10 TAC §1.209(a) because there are no longer any Developments in the construction or Development process that require the exceptions that had been provided by this clause.
- Moved 10 TAC §1.209(b) that provided that all developments funded after January 1, 2014, must be treated as Substantial Alteration, to 10 TAC §1.207(c) and expanded on it, bringing it into consistent with the Uniform Multifamily Rule, to make it clear that all Multifamily Housing Developments that submit full applications after January 1, 2014, must have a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments. In addition, common areas and amenities must be accessible as identified in the 2010 American with Disabilities Act (“ADA”) standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 Federal Register 29671.
- Deleted 10 TAC §1.210, Renovation of Elements for Multifamily Housing Developments, to provide consistency with changes in the Uniform Multifamily Rules which now require that all developments awarded by the Department – even if for rehabilitation – be considered Substantial Alteration, thereby requiring that they must have a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments (in addition, common areas and amenities must be accessible). Because of that requirement, this section at 10 TAC §1.210, which had provided for doing some accessibility modifications other than having a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments is removed, to be consistent with the standard that has existed for all Multifamily Development applications since 2014. In association with this section no longer being in the rule, the definition for Replacement Cost was also removed.
- Deleted 10 TAC §1.212, Resources, as such as statement is not a regulation, nor does it need to be included in rule.

Upon Board approval, the proposed rule actions will be published in the Texas Register and released for public comment from November 23, 2018, through December 27, 2018. Behind the preamble is a clean copy of the new rule followed by a copy of the rule in blackline form reflecting the changes being proposed from the current version of the rule.

Attachment 1: Preamble, including required analysis, for the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations

The Texas Department of Housing and Community Affairs (the "Department") proposes the repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations. The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

1. Timothy K. Irvine, Executive Director, has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous adoption making changes to the rule governing Accessibility and Reasonable Accommodations.

2. The repeal does not require a change in work that will require the creation of new employee positions, nor will the repeal reduce work load to a degree that any existing employee positions are eliminated.

3. The repeal does not require additional future legislative appropriations.

4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.

5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.

6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to the existing procedures for accessibility and accommodation activity.

7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.

8. The repeal will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Irvine has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated

rule under separate action. There will be no economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also 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.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held November 23, 2018, to December 27, 2018, to receive input on the repealed section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or email [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time December 27, 2018.

STATUTORY AUTHORITY. The repeal is proposed pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed repealed sections affect no other code, article, or statute.

10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations

Attachment B: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations

The Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations. The purpose of the proposed new section is to make changes that revise citations and references, add the Ending Homelessness Fund to covered programs, provide the statutory authority and purpose of the rule, add a section clarifying applicability of the rule, add a new section providing initial general direction in the handling of reasonable accommodations to assist property management staff, remove specific examples and create a new section that provides a list of possible non-exhaustive examples, delete §1.209(a) because there are no longer any Developments in the construction or Development process that require the exceptions that had been provided by this clause, moves §1.209(b) to §1.207(c) and bring that into compliance with the Uniform Multifamily Rule, and delete 10 TAC §1.210, Renovation of Elements for Multifamily Housing Developments, to provide consistency with changes in the Uniform Multifamily Rules which now require that all developments awarded by the Department – even if for rehabilitation – will be considered Substantial Alterations, and by association removes the definition for Replacement Cost.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted under items (4) and (9) of that section. The rule ensures Department compliance with the Fair Housing Act and other federal civil rights laws. In spite of these exceptions, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Timothy K. Irvine, Executive Director, has determined that, for the first five years the proposed new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to the rules that govern accessibility and reasonable accommodations.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor will it reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The proposed new rule will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule does not increase nor decrease the number of individuals to whom this rule applies; and
8. The new rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures in place for properties and subrecipients that have been funded by the Department. Other than in the case of a small or micro-business that participate in such programs, no small or micro-businesses are subject to the rule. If a small or micro-business does participate in the program, the rule provides a clear set of regulations for the handling of reasonable accommodations and accessibility.

3. The Department has determined that because this rule relates only to a revision to a rule subrecipients/owners and tenants of an existing program, and the rule changes primarily make minor edits and remove examples, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment because this rule relates only to the processes used in existing multifamily properties and other portfolio subrecipients; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rule relates only to the continuation of the rules in place there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Irvine has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the proposed new rule will be a clearer rule for Recipients and assurance of the program having transparent compliant regulations. There will be no economic cost to any individuals required to comply with the proposed new rule because the activities described by the rule has already been in existence.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments as this rule relates only to a process that already exists and is not being significantly revised.

REQUEST FOR PUBLIC COMMENT. The Department will accept public comment from November 23, 2018, through December 27, 2018. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 pm Austin local time, December 27, 2018.

STATUTORY AUTHORITY. The rule review is adopted pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new sections affect no other code, article, or statute.

## 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations – Clean Version

### §1.201 Purpose

(a) The purpose of this subchapter is to establish a framework for informing compliance with the requirements of Tex. Gov't Code §§2306.6722, 2306.6725, and 2306.6730, and the requirements of the Americans with Disabilities Act, Section 504 of the 1973 Rehabilitation Act ("Section 504") and the Fair Housing Act for Recipients of awards from the Texas Department of Housing and Community Affairs (the "Department") including but not limited to:

- (1) Community Services Block Grant;
- (2) Low Income Home Energy Assistance Program (LIHEAP) (including the two (2) programs utilizing this funding source: the LIHEAP Weatherization Assistance Program and the Comprehensive Energy Assistance Program);
- (3) Emergency Solutions Grant ("ESG");
- (4) State Housing Trust Fund;
- (5) Low Income Housing Tax Credit;
- (6) Multifamily Bond Programs ("Bond");
- (7) National Housing Trust Fund;
- (8) Neighborhood Stabilization Program ("NSP");
- (9) HOME;
- (10) TCAP;
- (11) TCAP- Returned Funds;
- (12) Section 8;
- (13) Department of Energy Weatherization Assistance Program;
- (14) Homeless Housing and Services Program ("HHSP"); and
- (15) Ending Homelessness Fund ("EH").

(b) Unless otherwise indicated in the applicable notice of funding availability or required by contract, this subchapter does not apply to contracts for the procurement of goods or services by the Department.

### §1.202 Definitions

Capitalized words in this Subchapter have the meaning assigned in the specific Chapter and Rules of the Title that govern the program associated with matter or assigned by federal or state law. In addition, the following terms are used for the purposes of this Subchapter:

(1) 2010 ADA Standards--The term 2010 ADA Standards refers to the 2010 ADA Standards for Accessible Design implementing Title II of the Americans with Disabilities Act of 1990, including the ADA Amendments of 2008, found at 28 CFR Part 35. This term includes both the Title II (28 CFR §35.151) and 2004 ADAAG (36 CFR Part 1991). If there is a conflict between 2004 ADAAG and Title II the requirements of Title II prevail.

(2) Accessible Route--A continuous unobstructed path connecting accessible elements and spaces in a facility or building that complies with the space and reach requirements of the applicable accessibility standard.

(3) Alteration--Any physical change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in

structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems.

(4) Disability--A physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Nothing in this definition requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Included in this meaning is the term handicap as defined in the Fair Housing Act, and the term disability as defined in the Americans with Disabilities Act.

(5) Multifamily Housing Development--A project that includes five or more dwelling units. A project may consist of five single family homes, a single building with five or more units, or five or more units in multiple buildings each with one or more units. A project includes the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application, or which are treated as a whole for processing purposes, whether or not located on a common site.

(6) Reasonable Accommodation--An accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, policy, service, building, or dwelling unit, that will allow a qualified person with a Disability to:

- (A) Participate fully in a program;
- (B) Take advantage of a service;
- (C) Live in a dwelling; or
- (D) Use and enjoy a dwelling.

(7) Recipient--Includes a Subrecipient or Administrator and means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to whom assistance or an award is extended for any program or activity directly or through another Recipient, including any successor, assignee, or transferee of a Recipient, but excluding the ultimate beneficiary of the assistance. Recipients include private entities in partnership with Recipients to own or operate a program or service. This term includes Development Owner.

### §1.203 General Requirements and Effect of Non Compliance

(a) No individual with a Disability shall, by reason of their Disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any Department awarded program or activity.

(b) There are additional requirements for compliance with Section 504 of the 1973 Rehabilitation Act; Title VI of the Civil Rights Act of 1964; the Fair Housing Act; the Americans with Disabilities Act; and other civil rights laws, regulations and Executive Orders by Recipients of Department program or activities. This subchapter addresses only the requirements relating to physical accessibility, and reasonable accommodations under Section 504, the American with Disabilities Act, and the Fair Housing Act. Other disability-related requirements include but are not limited to:

(1) Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order;

(2) Providing auxiliary aids and services necessary for effective communication with persons with disabilities; and

(3) Operating programs in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(c) Compliance with accessibility requirements, as applicable, including compliance with the Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973, other civil rights laws, regulations and Executive Orders; and Chapters 2105 and 2306 of the Texas Government Code



is the sole responsibility of the Recipient. By providing guidance and monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Recipient.

(d) Failure to comply with the provisions of this subchapter may result in the assessment of administrative penalties and/or debarment, as further outlined in this Title.

#### §1.204 Reasonable Accommodations

(a) Applicability. This policy relates to a request for Reasonable Accommodations made by an applicant or participant of a Department program to a Recipient, or made by an applicant or occupant to a property funded by the Department to the property. The policy regarding a request for Reasonable Accommodation by the Department is found at 10 TAC §1.1 of this Chapter.

(b) General Considerations in Handling of Reasonable Accommodations. An applicant, participant, or occupant who has a disability may request an accommodation and, depending on the program funding the property or activity and whether the accommodation requested is a reasonable accommodation, their request must be timely addressed.

(1) When the Department monitors a property or activity for how reasonable accommodation requests have been handled, it will consider such things as whether the person working on behalf of the program or property which the Department is monitoring:

(A) Timely received the request and recorded it;

(B) Took into consideration how action on the request would impact the person making the request and worked to avoid responding in a manner that was prejudicial to the requestor in a way that could have been avoided; and

(C) Engaged in communication with the requestor to understand the nature of their request and whether there was a reasonable way to make an accommodation.

(2) If the person responsible for responding to a request for an accommodation needs assistance or clarification as to how the requirement may apply to their program or property they should contact the Compliance Division immediately to discuss the matter. The Compliance Division cannot provide legal advice or direct the person to respond in any specific manner, but they can, in some instances, point to appropriate federal guidance or other resources such as the Texas Workforce Commission Civil Rights Division. A person who contacts the Compliance Division or anyone else for such reasons should document such contact in their files because the process of obtaining guidance may impact the timeliness of their response.

(3) Unless there is a clear documented need for a lengthier process or there is a controlling federal statute or regulation specifying a different deadline, when a person requests an accommodation they should be given a response as soon as possible but not later than three (3) business days.

(c) To show that a requested Reasonable Accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's Disability.

(d) Responses to Reasonable Accommodation requests must be provided within a reasonable amount of time, not to exceed three (3) business days. The response must either be to grant the request, deny the request, offer alternatives to the request, or request additional information to clarify the Reasonable Accommodation request. Should additional information be required and an interactive process be necessary, this process must also be completed within a reasonable amount of time. An undue delay in responding to a Reasonable Accommodation request may be deemed by the Department to be a failure to provide a Reasonable Accommodation.

(e) When a participant, applicant, or occupant requires an accessible unit, feature, space or element, or a policy modification, or other Reasonable Accommodation to accommodate a Disability, the Recipient must provide and pay for the requested accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. A fundamental alteration is an accommodation that is so significant that it alters the essential nature of the Recipient's operations. A

Recipient that owns a tax credit or Multifamily Bond Development with no federal or state funds awarded before September 1, 2001, must allow but may not need to pay for the Reasonable Accommodation, except if the accommodation requested should have been made as part of the original design and construction requirements under the Fair Housing Act, or is a Reasonable Accommodation identified by the U.S. Department of Justice or the U.S. Department of Housing and Urban Development with a de minimis cost (e.g., assigned existing parking spot and no deposit for service/assistance animals).

(f) A Recipient may not charge a fee or place conditions on a participant, occupant, or applicant in exchange for making the accommodation.

(g) A Reasonable Accommodation request of an individual with a Disability that amounts to an Alteration should be made to meet the needs of the individual with a Disability, rather than being limited by any particular accessible code specification.

(1) Recipients are not required to make structural changes where other methods, which may not cost as much, are effective in making programs or activities readily accessible to and usable by persons with Disabilities.

(2) In choosing among available methods for meeting the requirements of this section, the Recipient must give priority to those methods that offer programs and activities to qualified individuals with Disabilities in the most integrated setting appropriate.

(3) Undue burden.

(A) The determination of undue financial and administrative burden will be made by the Department on a case-by-case basis, involving various factors, such as the cost of the Reasonable Accommodation, the financial resources of the Development, the benefits the accommodation would provide to the requester, and the availability of alternative accommodations that would adequately meet the requester's Disability-related needs.

(B) In considering whether an expense would constitute an undue burden the Department may, as applicable, consider the following items (though it may consider factors not on this list):

(i) Payment for Alteration from operating funds, residual receipts accounts, or reserve replacement accounts must be sought using appropriate approval procedures.

(ii) The approved amount must normally be able to be replenished through property rental income within one year without a corresponding raise in rental rates.

(iii) A projected inability to replenish an operating fund account or the reserve for replacement account within one year for funds spent in providing alterations under this subchapter is some evidence that the Alteration would be an undue financial and administrative burden.

(C) If providing accessibility would result in an undue financial and administrative burden, the Recipient must still take other reasonable steps to achieve accessibility.

(D) If a structural change would constitute an undue financial and administrative burden, and the tenant/requestor still wants that particular change to be made, the tenant/requestor must be allowed to make and pay for the accommodation.

(4) Recipients are not required to install an elevator solely for the purpose of making units accessible as a Reasonable Accommodation.

(5) Recipients do not have to make mechanical rooms and similar spaces accessible when, because of their intended use, they do not require accessibility by the public, by tenants, or by employees with physical disabilities.

(6) Recipients are not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member, as a Reasonable Accommodation.

(h) If a Recipient refuses to provide a requested accommodation because it is either an undue financial and administrative burden or would result in a fundamental alteration to the nature of the program, the Recipient must make a reasonable attempt to engage in an interactive dialogue with the requester to determine if there is an alternative accommodation that would adequately address the requester's Disability-

related needs. If an alternative accommodation would meet the individual's needs and is reasonable, the Recipient must provide it.

(i) Examples of reasonable accommodations, while not exhaustive, include moving the due date for rent to coincide with the date the requestor receives their social security disability check; providing a designated accessible parking space from existing parking spaces; creating an accessible parking space to accommodate a wheelchair-equipped van; allowing a service animal in spite of a no pets policy; modifying door knobs to levers; providing assistance in filling out a program application for the activity or unit; in the case of a service provider providing computer lab classes with laptops, providing a loan of the laptop computer with the training software; in the case of a weatherization provider serving a family with a child with asthma, seeing if an alternative sealant could be used when the sealant typically used may trigger an asthma attack; installing grab bars; providing an accessible entrance to a resident's current unit, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so; and providing a ramp in excess of usual specifications for such alternations to accommodate a scooter type wheelchair, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.

(j) Recipients must follow federal and state regulations regarding service/assistance animals. A housing provider may not require an applicant, participant, or occupant to pay a pet deposit if the animal is a service/assistance animal.

#### §1.205 Compliance with the Fair Housing Act

(a) Generally, housing designed and constructed for first occupancy after March 13, 1991, must comply with the Fair Housing Act. This includes Units, common areas, and amenities added to existing buildings, or on land under common ownership and contiguous with housing otherwise exempt from the Fair Housing Act.

(b) Compliance with the Fair Housing Act makes it unlawful to discriminate based on a person's disability, race, color, religion, sex, familial status, or national origin unless there is an exception in federal law.

(c) The Department requires compliance with HUD's Fair Housing Act Design Manual, including the ability to claim exemptions or exceptions provided for therein.

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

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

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

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submitted a full application for funding before January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that were awarded after September 1, 2001, and submitted a full application before January 1, 2014.

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

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

(2) All Multifamily Housing Developments that submit a full application for funding after January 1, 2014.

(d) Recipients of ESG, EH, and HHSP funds must comply with the 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 Federal Register 29671 and not otherwise modified in this subchapter.

(d) Effect on LURAs. These rules do not serve to amend contractual undertakings memorialized in a recorded LURA but may, by operation of law, place requirements on a property owner beyond those contained in the LURA.

#### §1.207 General Requirements for Multifamily Housing Developments

(a) All Units that are accessible to persons with mobility impairments must be on an Accessible Route.

(b) Recipients must give priority to methods that offer housing in the most integrated setting possible (i.e., a setting that enables qualified persons with Disabilities and persons without Disabilities to interact to the fullest extent possible). This means the distribution will provide individuals requiring accessible units with a choice of location, layout, and price that is substantially equivalent to the choice available to others. Distribution of accessible units may be further described in federal law, regulation, or governing Rules in this Title. To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

(1) Distributed throughout the Development and site; and

(2) Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program.

(c) All Multifamily Housing Developments that submit full applications after January 1, 2014, must have a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments. In addition, common areas and amenities must also be accessible as identified in the 2010 ADA standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 Federal Register 29671.

10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations –  
Blackline Version

§1.201 Purpose

(a) The purpose of this subchapter is to establish a framework for informing compliance with the requirements of Tex. Gov't Code §§2306.6722, 2306.6725, and 2306.6730, and provide guidance regarding the requirements of the Americans with Disabilities Act, §Section 504 of the 1973 Rehabilitation Act ("Section 504") and the Fair Housing Act for by all Recipients of awards from the Texas Department of Housing and Community Affairs ("the "Department"") including but not limited to:

- (1) Community Services Block Grant (~~CSBG~~);
- (2) Low Income Home Energy Assistance Program (LIHEAP) (including the two (2) programs utilizing this funding source: the LIHEAP Weatherization Assistance Program (~~LIHEAP-WAP~~) and the Comprehensive Energy Assistance Program (~~CEAP~~);
- (3) Emergency Solutions Grant ("ESG");
- (4) State Housing Trust Fund (~~SHTF~~);
- (5) Low Income Housing Tax Credit (~~LIHTC~~);
- (6) Multifamily Bond Programs ("Bond");
- (7) National Housing Trust Fund (~~NHTF~~);
- (8) Neighborhood Stabilization Program ("NSP");
- (9) HOME;
- (10) TCAP;
- (11) TCAP- Returned Funds (~~TCAP-RF~~);
- (12) Section 8;
- (13) Department of Energy Weatherization Assistance Program (~~DOE-WAP~~); and
- (14) Homeless Housing and Services Program ("HHSP"); and
- (15) Ending Homelessness Fund ("EH").

(b) Unless otherwise indicated in the applicable notice of funding availability announcement or required by contract, this subchapter does not apply to contracts for the procurement of goods or services by the Department.

§1.202 Definitions

Capitalized words in this Subchapter have the meaning assigned in the specific Chapter and Rules of the Title that govern the program associated with matter or assigned by federal or state law. In addition, the following terms are used for the purposes of this Subchapter:

(1) 2010 ADA Standards--The term 2010 ADA Standards refers to the 2010 ADA Standards for Accessible Design implementing Title II of the Americans with Disabilities Act of 1990, including the ADA Amendments of 2008, found at 28 CFR Part 35. This term includes both the Title II (28 CFR §35.151) and 2004 ADAAG (36 CFR Part 1991). If there is a conflict between 2004 ADAAG and Title II the requirements of Title II prevail.

(2) Accessible Route--A continuous unobstructed path connecting accessible elements and spaces in a facility or building that complies with the space and reach requirements of the applicable accessibility standard.

(3) Alteration--Any physical change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems. (~~Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of Alteration~~)

(4) Disability--A physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Nothing in this definition requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. Included in this meaning is the term handicap as defined in the Fair Housing Act, and the term disability as defined in the Americans with Disabilities Act. ~~(Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of Individual with Handicaps. 24 CFR §100.201 and §100.202(d), 28 CFR §35.108)~~

(5) Multifamily Housing Development--A project that includes five or more dwelling units. A project may consist of five single family homes, a single building with five or more units, or five or more units in multiple buildings each with one or more units. A project includes the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application, or which are treated as a whole for processing purposes, whether or not located on a common site. ~~(Source: 24 CFR Subtitle A Subpart A §8.3 Definitions. Definition of multifamily housing project and definition of project)~~

(6) Reasonable Accommodation--An accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, policy, service, building, or dwelling unit, that will allow a qualified person with a Disability to:

- (A) Participate fully in a program;
- (B) Take advantage of a service;
- (C) Live in a dwelling; or
- (D) Use and enjoy a dwelling.

(7) Recipient--Includes a Subrecipient or Administrator and means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to whom assistance or an award is extended for any program or activity directly or through another Recipient, including any successor, assignee, or transferee of a Recipient, but excluding the ultimate beneficiary of the assistance. Recipients include private entities in partnership with Recipients to own or operate a program or service. This term includes Development Owner.

~~(8) Replacement Cost The total development cost for construction and equipment for a newly constructed housing facility of the size and type being altered. Construction and equipment costs do not include the cost of land, demolition, site improvements, non-dwelling facilities or administrative costs for project development activities. (Source: 24 CFR Subtitle A Subpart A §8.4 Definitions. Definition of replacement cost)~~

#### §1.203 General Certifications-Requirements and Effect of Non Compliance

(a) No individual with a Disability shall, by reason of their Disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any Department awarded program or activity.

(b) There are additional requirements for compliance with §Section 504 of the 1973 Rehabilitation Act; Title VI of the Civil Rights Act of 1964; the Fair Housing Act; the Americans with Disabilities Act; and other civil rights laws, regulations and Executive Orders by Recipients of Department program or activities. This subchapter addresses only the requirements relating to physical accessibility in new construction, alterations, and reasonable accommodations under §Section 504, the American with Disabilities Act, and the Fair Housing Act. Other disability-related requirements include but are not limited to:

- (1) Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order;
- (2) Providing auxiliary aids and services necessary for effective communication with persons with disabilities; and

(3) Operating programs in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

(c) Compliance with accessibility requirements, as applicable, including compliance with the Fair Housing Act, the Americans with Disabilities Act, and §Section 504 of the Rehabilitation Act of 1973, other civil rights laws, regulations and Executive Orders; and Chapters 2105 and 2306 of the Texas Government Code is the sole responsibility of the Recipient. By providing guidance and monitoring for compliance, the Department in no way assumes any liability whatsoever for any action or failure to act by the Recipient.

(d) Failure to comply with the provisions of this subchapter may result in the assessment of administrative penalties and/or debarment, as further outlined in this Title.

#### §1.204 Reasonable Accommodations

(a) Applicability. This policy relates to a request for Reasonable Accommodations made by an applicant or participant of a Department program to a Recipient, or made by an applicant or occupant to a property funded by the Department to the property. The policy regarding a request for Reasonable Accommodation by the Department is found at 10 TAC §1.1 of this Chapter.

(b) General Considerations in Handling of Reasonable Accommodations. An applicant, participant, or occupant who has a disability may request an accommodation and, depending on the program funding the property or activity and whether the accommodation requested is a reasonable accommodation, their request must be timely addressed.

(1) When the Department monitors a property or activity for how reasonable accommodation requests have been handled, it will consider such things as whether the person working on behalf of the program or property which the Department is monitoring:

(A) Timely received the request and recorded it;

(B) Took into consideration how action on the request would impact the person making the request and worked to avoid responding in a manner that was prejudicial to the requestor in a way that could have been avoided; and

(C) Engaged in communication with the requestor to understand the nature of their request and whether there was a reasonable way to make an accommodation.

(2) If the person responsible for responding to a request for an accommodation needs assistance or clarification as to how the requirement may apply to their program or property they should contact the Compliance Division immediately to discuss the matter. The Compliance Division cannot provide legal advice or direct the person to respond in any specific manner, but they can, in some instances, point to appropriate federal guidance or other resources such as the Texas Workforce Commission Civil Rights Division. A person who contacts the Compliance Division or anyone else for such reasons should document such contact in their files because the process of obtaining guidance may impact the timeliness of their response.

(3) Unless there is a clear documented need for a lengthier process or there is a controlling federal statute or regulation specifying a different deadline, when a person requests an accommodation they should be given a response as soon as possible but not later than three (3) business days.

(c) To show that a requested Reasonable Accommodation may be necessary, there must be an identifiable relationship between the requested accommodation and the individual's Disability.

(d) Responses to Reasonable Accommodation requests must be provided within a reasonable amount of time, not to exceed three (3) business~~14 calendar~~ days. The response must either be to grant the request,

deny the request, offer alternatives to the request, or request additional information to clarify the Reasonable Accommodation request. Should additional information be required and an interactive process is necessary, this process must also be completed within a reasonable amount of time. An undue delay in responding to a Reasonable Accommodation request may be deemed by the Department to be a failure to provide a Reasonable Accommodation.

~~–(1) EXAMPLE: A resident requests to move their rent due date to coincide with their social security disability check. It would not be considered reasonable to wait 14 calendar days to respond to this request.~~

~~–(2) EXAMPLE: A resident requests a designated accessible parking space. An individual's Disability status and the connection to the Reasonable Accommodation request are not clear. Documentation must be requested within 14 calendar days to clarify the resident's request, engaging in an interactive process to determine the nature of the request and the needs of the resident.~~

~~–(3) EXAMPLE: An applicant with a Disability requires a service animal to alert of impending seizures. The shelter has a no pets policy. It would not be reasonable to wait 14 calendar days to respond to this request.~~

~~–(4) EXAMPLE: A person with a Disability requests modifying door knobs to levers. The property must respond to the request within 14 calendar days, although it is reasonable that it may take additional time to install the modified door knobs.~~

~~–(5) EXAMPLE: A housing provider requires that tenants sign 12-month leases. A household signs the lease, but after a few months has to move out in order to live in a nursing home. The household requests a reasonable accommodation to be let out of his lease early without a fee. The property may request additional information if the Disability and relationship between the request is not clear, but must ask for this information within 14 calendar days.~~

~~–(6) EXAMPLE: An applicant requests a reasonable accommodation to have assistance in filling out a program application for the Housing Trust Fund Program. It would not be reasonable to wait 14 calendar days to respond to this request.~~

(ee) When a participant, resident or applicant, or occupant requires an accessible unit, feature, space or element, or a policy modification, or other Reasonable Accommodation to accommodate a Disability, the Recipient must provide and pay for the requested accommodation, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden. A fundamental alteration is an accommodation that is so significant that it alters the essential nature of the Recipient's operations. A Recipient that owns a tax credit LHTC or Multifamily Bond Development with no federal or state funds awarded before September 1, 2001, must allow but may not need to pay for the Reasonable Accommodation, except if the accommodation requested should have been made as part of the original design and construction requirements under the Fair Housing Act, or is a Reasonable Accommodation identified by the U.S. Department of Justice or the U.S. Department of Housing and Urban Development with a de minimis cost (e.g., assigned existing parking spot, and no deposit for service/assistance animals, etc).

(fd) A Recipient may not charge a fee or place conditions on a participant, resident, occupant, or applicant in exchange for making the accommodation. ~~For example, while housing providers may require applicants or residents to pay a pet deposit they may not require applicants and residents to pay a deposit for a service/assistance animal.~~

(ge) A Reasonable Accommodation request of an individual with a Disability that amounts to an Alteration should be made to meet the needs of the individual with a Disability, rather than being limited by any particular accessible code specification.

(1) Recipients are not required to make structural changes where other methods, which may not cost as much, are effective in making programs or activities readily accessible to and usable by persons with Disabilities.



(2) In choosing among available methods for meeting the requirements of this section, the Recipient ~~must~~<sup>shall</sup> give priority to those methods that offer programs and activities to qualified individuals with Disabilities in the most integrated setting appropriate.

(3) Undue burden.

(A) The determination of undue financial and administrative burden will be made by the Department on a case-by-case basis, involving various factors, such as the cost of the ~~R~~<sup>reasonable</sup> ~~A~~<sup>accommodation</sup>, the financial resources of the Development, the benefits the accommodation would provide to the requester, and the availability of alternative accommodations that would adequately meet the requester's Disability-related needs.

(B) In considering whether an expense would constitute an undue burden the Department may, as applicable, consider the following items (though it may consider factors not on this list):

(i) Payment for Alteration from operating funds, residual receipts accounts, or reserve replacement accounts must be sought using appropriate approval procedures.

(ii) The approved amount must normally be able to be replenished through property rental income within one year without a corresponding raise in rental rates.

(iii) A projected inability to replenish an operating fund account or the reserve for replacement account within one year for funds spent in providing alterations under this subchapter is some evidence that the Alteration would be an undue financial and administrative burden. ~~(Source: HUD Handbook 4350.3, §2-43(C), and §2-43(D, Example A))~~

(C) If providing accessibility would result in an undue financial and administrative burden, the Recipient must still take other reasonable steps to achieve accessibility.

(D) If a structural change would constitute an undue financial and administrative burden, and the tenant/requestor still wants that particular change to be made, the tenant/requestor must be allowed to make and pay for the accommodation.

(4) Recipients are not required to install an elevator solely for the purpose of making units accessible as a ~~R~~<sup>reasonable</sup> ~~A~~<sup>accommodation</sup>. ~~(Source: HUD Handbook 4350.3, §2-37(E))~~

(5) Recipients do not have to make mechanical rooms and similar spaces accessible when, because of their intended use, they do not require accessibility by the public, by tenants, or by employees with physical disabilities. ~~(Source: HUD Handbook 4350.3, §2-37(D))~~

(6) Recipients are not required to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member, as a ~~R~~<sup>reasonable</sup> ~~A~~<sup>accommodation</sup>. ~~(Source: 24 CFR §8.32(c). HUD Handbook 4350.3, §2-37(B))~~

~~(hf)~~ If a Recipient refuses to provide a requested accommodation because it is either an undue financial and administrative burden or would result in a fundamental alteration to the nature of the program, the Recipient must make a reasonable attempt to engage in an interactive dialogue with the requester to determine if there is an alternative accommodation that would adequately address the requester's Disability-related needs. If an alternative accommodation would meet the individual's needs and is reasonable, the Recipient must provide it.

~~(i) Examples of reasonable accommodations, while not exhaustive, include moving the due date for rent to coincide with the date the requestor receives their social security disability check; providing a designated accessible parking space from existing parking spaces; creating an accessible parking space to accommodate a wheelchair-equipped van; allowing a service animal in spite of a no pets policy; modifying door knobs to levers; providing assistance in filling out a program application for the activity or unit; in the case of a service provider providing computer lab classes with laptops, providing a loan of the laptop computer with the training software; in the case of a weatherization provider serving a family with a child with asthma, seeing if an alternative sealant could be used when the sealant typically used may trigger an asthma attack; installing grab bars; providing an accessible entrance to a resident's current unit, unless it would be an undue~~

financial and administrative hardship or a fundamental alteration of the program to do so; and providing a ramp in excess of usual specifications for such alternations to accommodate a scooter type wheelchair, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.

~~–(1) EXAMPLE: A resident requires an accessible parking space that will accommodate her wheelchair-equipped van. A Reasonable Accommodation includes relocating and enlarging an existing parking space that will serve the van.~~

~~–(2) EXAMPLE: A Colonia Self Help Center provides computer lab classes with laptops at the Center for eligible Colonia residents to learn computer skills. A participant with a Disability is unable to leave their home to participate in the class due to their Disability. The participant requests a reasonable accommodation to borrow a laptop computer to participate in the class from home. Providing a loan of the laptop computer with the training software is a reasonable accommodation because it allows the prospective participant with a disability to fully participate in the Colonia Self Help Center program. However, it would be fundamental alteration to renovate the participant's home for broadband (unless the home is being rehabilitated for other reasons).~~

~~–(3) EXAMPLE: A family has a young child with asthma. A certain sealant used by a weatherization provider has been known to trigger asthma attacks. The weatherization provider should see if a comparable sealant could be used that would not trigger asthma.~~

~~–(4) EXAMPLE: A Development has five parking spaces located outside the main entrance to the building and another parking lot with 20 spaces a half block away. All five of the parking spaces near the entrance to the building have been assigned to residents with Disabilities who need a parking space near their door because of their Disabilities. A sixth tenant with difficulty in walking long distances moves into the Development and requests a parking space near his door. The Recipient has explored the options and concluded that the only way to provide more parking spaces near the door would be to widen the parking area by purchasing valuable real estate next door. It would be an undue financial and administrative burden for the Recipient to provide the sixth tenant with a parking space near the entrance. An alternative accommodation could be to provide the sixth tenant with an assigned parking space in the lot half block away until such time as one of the five spaces near the door becomes available.~~

~~–(5) EXAMPLE: A resident needs grab bars at the toilet in her bathroom. She does not require other accessible features. The Recipient must install grab bars consistent with the resident's needs in the bathroom.~~

~~–(6) EXAMPLE: A resident needs a ramped entrance to her ground floor unit to accommodate her wheelchair. She does not wish to move to an accessible unit. The Recipient must provide an accessible entrance at the resident's current unit, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.~~

~~–(7) EXAMPLE: A resident uses a scooter type wheelchair which is 38 inches in width. She requests a ramp to enter her ground floor unit. The ramp which she requests must be at least 40 inches wide, it must have a slope of no more than 3%, and the landing at the front door, which opens outward, must be enlarged to provide adequate maneuvering space to enter the doorway. The changes must be provided, even though they may exceed the usual specifications for such alterations, unless it would be an undue financial and administrative hardship or a fundamental alteration of the program to do so.~~

~~–(8) EXAMPLE: A resident with quadriplegia requests replacement of a bathtub in his unit with a roll-in shower. Due to the location of existing plumbing in the building and the size of the existing bathroom, a plumber confirms that installation of a roll-in shower in that unit is impossible. The on-site manager should meet with the resident to explain why the roll-in shower cannot be installed and to explore alternative accommodations with the resident.~~

(jg) Recipients must follow federal and state regulations regarding service/assistance animals. A housing provider may not require an applicant, participant, or occupant to pay a pet deposit if the animal is a service/assistance animal.

#### §1.205 Compliance with the Fair Housing Act

(a) Generally, housing designed and constructed for first occupancy after March 13, 1991, must comply with the Fair Housing Act. This includes Units, common areas, and amenities added to existing buildings, or on land under common ownership and contiguous with housing otherwise exempt from the Fair Housing Act.

(b) Compliance with the Fair Housing Act makes it unlawful to discriminate based on a person's disability, race, color, religion, sex, familial status, or national origin unless there is an exception in federal law.

(c) ~~Although HUD recognizes seven safe harbors for compliance with the design and construction requirements,~~ The Department requires compliance with HUD's Fair Housing Act Design Manual, including the ability to claim exemptions or exceptions provided for therein.

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

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

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

(2) Rehabilitation HOME and NSP Multifamily Housing Developments that submitted a full application for funding before January 1, 2014; and

(3) All Housing Tax Credit and Tax Exempt Bond Developments that were awarded after September 1, 2001, and submitted a full application before January 1, 2014.

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

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

(2) All Multifamily Housing Developments that submit a full application for funding after January 1, 2014.

(cd) ~~After March 12, 2012,~~ Recipients of ESG, EH, and HHSP funds must comply with the 2010 ADA Standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" ~~Federal Register 79 FR~~ Federal Register 29671 and not otherwise modified in this subchapter.

(d) Effect on LURAs. These rules do not serve to amend contractual undertakings memorialized in a recorded LURA but may, by operation of law, place requirements on a property owner beyond those contained in the LURA.

#### §1.207 General Requirements for Multifamily Housing Developments

(a) All Units that are accessible to persons with mobility impairments must be on an Accessible Route. ~~(Source: HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs, §2-22(C)(4))~~

(b) Recipients must give priority to methods that offer housing in the most integrated setting possible (i.e., a setting that enables qualified persons with Disabilities and persons without Disabilities to interact to the fullest extent possible). This means the distribution will provide individuals requiring accessible units with a

choice of location, layout, and price that is substantially equivalent to the choice available to others. Distribution of accessible units may be further described in federal law, regulation, or governing Rules in this Title. To the maximum extent feasible and subject to reasonable health and safety requirements, accessible units must be:

(1) Distributed throughout the Development and site; and

(2) Made available in a sufficient range of sizes and amenities so that the choice of living arrangements of qualified persons with Disabilities is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. (Source: 24 CFR §8.26)

(c) All Multifamily Housing Developments that submit full applications after January 1, 2014, must have a minimum of 5% of Units that are accessible to persons with mobility impairments, and a minimum of 2% of the Units must be accessible to persons with visual and hearing impairments. In addition, common areas and amenities must also be accessible as identified in the 2010 ADA standards with the exceptions listed in "Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities" 79 Federal Register 29671.

~~EXAMPLE 207(1): A Development has 80 units with a total of 4 mobility accessible units, meeting the 5% requirement ( $80 \times 5\% = 4$ , always rounded up if not a whole number). The bedroom mix includes 15 one-bedroom/one bath units ( $15 \times 5\% = .75$  accessible units), 25 two bedroom/one bath units ( $5\% = 1.25$  accessible units), 25 two bedroom/two bath units ( $5\% = 1.25$  accessible units) and 15 four bedroom units/two bath ( $5\% = .75$  accessible unit). The mobility accessible unit requirement is met with 4 accessible units, and the distribution requirement is met with each of the bedroom/bath types having one accessible unit. EXAMPLE 207(2): A Development has 60 units with a total of 3 mobility accessible units, meeting the 5% requirement. The bedroom mix includes 10 one bedroom/one bath units ( $5\% = .5$  units), 20 two bedroom/two bath units ( $5\% = 1$  accessible unit), 20 three bedroom/two bath units ( $5\% = 1$  accessible unit), and 10 four bedroom/two bath units ( $5\% = .5$  accessible unit). Because this development is not required to provide more than 3 mobility units, only 3 of the 4 bedroom types are required to provide 1 accessible unit. In this case, the Development provides an accessible two bedroom and three bedroom unit, and has the option of providing either an accessible one bedroom or an accessible four bedroom unit to meet the 3 unit minimum requirement. EXAMPLE 207(3): A Development with several buildings must not have all of its accessible units in one building, but, to the maximum extent feasible, the accessible units must be distributed throughout the Development.~~

~~(c) Multifamily Housing Developments covered by this subchapter and built after July 11, 1988 must have a minimum of 5% of the units that are fully accessible and an additional 2% that are accessible to persons with visual and hearing impairments. This obligation is an absolute requirement. For buildings that fall within this category, a Development Owner may not justify a failure to have met these requirements because of an undue financial and administrative burden. This requirement also applies to units that are newly constructed to replace demolished or uninhabitable units.~~

### §1.209 Substantial Alteration of Multifamily Housing Developments

~~(a) When a Recipient undertakes Alterations to one or more structural elements in a Development that contains fifteen or more units, which was built before July 11, 1988 and which lacks the required minimum of 5% of units that are accessible to persons with mobility impairments, it must meet accessibility requirements. If the total cost of the alterations is 75% or more of the Replacement Cost of the completed property, then the Recipient must make a minimum of 5% of the units in the property accessible for persons with mobility impairments, and a minimum of 2% of the units accessible for persons with visual and hearing impairments. (Source: 24 CFR §8.23 (a).) EXAMPLE: The total development cost for a planned alteration of a 40 unit apartment building with no accessible unit amounts to \$80,000 per unit and the Replacement Cost per unit is \$100,000. Because the cost of the alterations is more than 75% of the~~

~~Replacement Cost of the unit, the Recipient must make a minimum of 5% of the 40 units, or at least two, of the units accessible to persons with mobility impairments and at least 2%, or one unit, accessible to people with visual and hearing impairments.~~

~~(b) All Rehabilitation of Multifamily Housing Developments that submit full applications after January 1, 2014, will be treated as substantial alteration.~~

### ~~§1.210 Renovation of Elements for Multifamily Housing Developments~~

~~(a) This section is not applicable for Developments that submitted full applications after January 1, 2014.~~

~~(b) When a Recipient has a Development which was built before July 11, 1988 and that contains five or more units but lacks the required 5% of units that are accessible to people with mobility impairments, when the recipient undertakes Alterations to a structural element that are not substantial as defined in §1.209 of this subchapter (relating to Substantial Alteration of Multifamily Housing Developments):~~

~~—(1) Those Alterations must be accessible, to the maximum extent feasible, until at least 5% of the units are fully accessible for persons with mobility impairments. If the 5% requirement is met, no other structural Alterations are required to units except to provide reasonable accommodations to individuals with disabilities.~~

~~—(2) If Alterations of single elements (such as replacement of a bathtub or a door) or spaces (such as kitchens or bathrooms) occur in a single unit and when the alterations are considered as a group amount to an alteration of the entire unit, the Recipient must make the entire dwelling unit accessible until 5% of the units are accessible to persons with mobility impairments.~~

~~—(3) When the Recipient is not altering the entire unit, all of the single elements or spaces that are being altered must be made accessible unless at least 5% of the units in the project already comply fully with the UFAS requirements for persons with mobility impairments. If at least 5% of the units comply with UFAS, no additional single elements need be made accessible except to provide Reasonable Accommodation for an individual with a Disability.~~

~~—(4) Recipients are encouraged to examine existing units for compliance with UFAS and ensure that at least 5% of the units in a property are accessible. When at least 5% of the units comply with UFAS requirements for accessibility, individual elements need not comply with accessibility requirements when they are altered.~~

~~—(5) Recipients are encouraged, but not required, to make at least an additional 2% of the units being altered comply with UFAS requirements for persons with hearing and vision impairments, if such units do not already exist.~~

~~—(6) Completion of minor maintenance required to maintain a property in a decent, safe and sanitary condition is generally considered to be normal. (24 CFR §8.3, Definition of Alteration)~~

~~—(A) EXAMPLE: A Development is remodeling all of the bathrooms throughout the property by replacing plumbing, fixtures, and cabinets. Remodeling the bathroom is an alteration to a space. Unless the property already has a minimum of 5% of its units that comply with UFAS to serve people with mobility impairments, 100% of the bathrooms remodeled must be made accessible until the property has a minimum of 5% of its units compliant with UFAS.~~

~~—(B) EXAMPLE: A Development is remodeling all of the kitchens throughout a property by replacing stoves and refrigerators. Because this is not an alteration to a structural element, no structural elements must be made accessible.~~

~~—(C) EXAMPLE: A Development is renovating its heating system by replacing furnaces, ductwork and vents. This is not an alteration that triggers compliance with this section because it is the replacement of a mechanical system.~~

~~—(D) EXAMPLE: A Development has 100 units and 6 of the units are for persons with mobility impairments. They comply with UFAS and are on an Accessible Route. The property is remodeling all of the bathrooms throughout the property by replacing plumbing, fixtures, and cabinets. None of the~~

~~remodeled bathrooms need be made accessible because the property already has at least 5% of its units that comply with UFAS.~~

~~—(E) EXAMPLE: A Development that was built before 1988 has 100 units and none of them comply with the UFAS requirements. The Development is replacing all of the roofs as part of regularly scheduled maintenance and repair. No units are required to be made accessible because the work being performed is regular maintenance and repair. Reroofing is specifically not considered an alteration.~~

~~—(F) EXAMPLE: A Development has 100 units and only three of those units (or 3%) comply with UFAS for persons with mobility impairments. The property is renovating 10 units, but the cost of renovation is only 50% of the cost of replacing the completed property, so this is not a substantial alteration. Because the entire unit is being renovated, two of the renovated units must comply with UFAS in order to provide a minimum of 5% of the total number of units that are accessible to people with mobility impairments.~~

#### ~~§1.212 Resources~~

~~Materials on the Department's website are available as resources for the underlying topic of this subchapter.~~

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BOARD ACTION REQUEST  
COMMUNITY AFFAIRS DIVISION  
NOVEMBER 8, 2018

Presentation, discussion, and possible action on an order proposing new 10 TAC, Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, Tex. Gov't Code Chapter 2105 specifically identifies the Department as being subject to its requirements as it relates to the administration of Block Grants;

WHEREAS, the programs administered by the Department that are subject to Tex. Gov't Code Chapter 2105 are the Community Services Block Grant ("CSBG") program, the Low Income Home Energy Assistance Program ("LIHEAP") and the Community Development Block Grant ("CDBG") Program, which funds the Colonia Self-Help Centers, and the Department is proposing to provide clear rule-based guidance for Subrecipients and Administrators relating to the provisions of the chapter;

WHEREAS, upon Board approval, the proposed rule will be submitted to the Texas Register to be released for public comment which will be accepted from November 23, 2018, through December 27, 2018;

NOW, therefore, it is hereby

RESOLVED, that the proposed new §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code, is approved for publication in the Texas Register for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed new §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code, in the form presented to this meeting, to be published in the Texas Register for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.



## BACKGROUND

Tex. Gov't Code Chapter 2105 ("Chapter 2105") governs the administration of federal block grants and specifically names the Department (among others) as an agency to which this rule applies. A block grant program, as defined in Tex. Gov't Code §2015.001(2), is: "a program resulting from the consolidation or transfer of separate federal grant programs, including federal categorical programs, so that the state determines the amounts to be allocated or the method of allocating the amounts to various agencies or programs from the combined amounts, including a program consolidated or transferred under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35)." For the Department the programs that meet that definition include the Community Services Block Grant ("CSBG") program, the Low Income Home Energy Assistance Program ("LIHEAP") and the Community Development Block Grant ("CDBG") Program, which funds the Colonia Self-Help Centers.

While the Department has interspersed certain facets or requirements of Chapter 2105 into some program rules, practices and policies, the Department has not provided one uniform rule that provides Subrecipients and Administrators under CDBG, LIHEAP and CSBG with the clear rule-based guidance relating to Chapter 2105. With this action the Department is doing so.

The majority of the attached proposed rule reflects a compilation of those aspects of Chapter 2105 that are applicable to the Administrators or Subrecipients and the Department does not exceed the state law, but merely provides the information to Subrecipients and Administrators in one streamlined location. In two instances the Department provides further specificity:

- Tex. Gov't Code §2105.202 specifically requires that the Department adopt rules that define good cause for nonrenewal of a Subrecipient or Administrator's contract or reduction of funding. In proposed 10 TAC §1.411(XXX), the Department defines those good cause reasons which include the six reasons provided for in Chapter 2105 as well as several other reasons that the Department believes are applicable.
- As provided for in Tex. Gov't Code §2105.201(b) the notification and hearing requirements provided for in Chapter 2105 for reduction of funding or nonrenewal do not apply if a Subrecipient or Administrator's block grant funding becomes subject to the Department's competitive bidding rules. The Department specifies in 10 TAC §1.411(XXX) that this type of competitive bidding for awarding block grant funding to Administrators or Subrecipients includes the competitive release of Notices of Funding Availability and competitive Requests for Providers.

Once approved in draft form, this rule will be published in the Texas Register for public comment and will be returned to the Board for final adoption.

Attachment 1: Preamble for proposing new 10 TAC §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code.

The Texas Department of Housing and Community Affairs (the "Department") proposes new §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code. The purpose of the proposed section is to provide compliance with Tex. Gov't Code Chapter 2105 which governs the administration of federal block grants, and provide one uniform rule that provides Subrecipients and Administrators under the Community Services Block Grant ("CSBG") program, the Low Income Home Energy Assistance Program ("LIHEAP") and the Community Development Block Grant ("CDBG") Program, which funds the Colonia Self-Help Centers, with clear rule-based guidance relating to Chapter 2105.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted under item (9) of that section, ensuring Department compliance with legislation. Despite this exception, it should be noted that no costs are associated with this action that would have prompted a need to be offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Irvine has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but provides guidance for how the Department and its subrecipients of certain federal funds, will comply with Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants.
2. The new rule does not reduce work load such that any existing employee positions can be eliminated nor does it create work that require new employee positions.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is creating a new regulation, but only to the extent that it provides clear guidance to Subrecipient on adherence to Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants.
6. The new rule will not expand or repeal an existing regulation.
7. The new rule will neither increase nor decrease the number of individuals subject to the rule, as Administrators and Subrecipients are already subject to the provisions of Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants.
8. The new rule will not negatively nor positively affect this state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code Chapter 2306, Subchapter E.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. There are no small or micro-businesses subject to the rule for which the economic impact of the rule is projected to impact. There are no rural communities subject to the rule for which the economic impact of the rule is projected to impact.
  3. The Department has determined that because this rule is only applicable to nonprofits and local governments that are designated as community action agencies that are already subject to Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants, there will be no economic effect on small or micro-business or rural communities.
- c. **TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.
  - d. **LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**  
The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that this rule merely provides guidance on how subrecipients and administrators will be subject to Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants, and that the rule is applied statewide, the rule does not change issues affecting employment, and there are no "probable" effects of the new rule on particular geographic regions.

- e. **PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5).** Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be clear guidance provided to Subrecipients and Administrators on compliance with Tex. Gov't Code, Chapter 2105, regarding Administration of Block Grants.
- f. **FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments.
- g. **REQUEST FOR PUBLIC COMMENT** The public comment period will be held November 23, 2018, to December 27, 2018, to receive input on the proposed new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220, or email [brooke.boston@tdhca.state.tx.us](mailto:brooke.boston@tdhca.state.tx.us). **ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time DECEMBER 27, 2018.**

**STATUTORY AUTHORITY.** The new section is adopted pursuant to TEX GOV'T CODE, §2306.053, which authorizes the Department to adopt rules and Chapter 2105. Except as described herein the new section affects no other code, article, or statute.

## §1.411 Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code

(a) Purpose. The purpose of this rule is to inform compliance with Tex. Gov't Code Ch. 2105, Administration of Block Grants.

(b) Applicability. This rule applies to all funds administered by the Department that are subject to Tex. Gov't Code Ch. 2105. The activities administered by the Department that are currently subject to Tex. Gov't Code Chapter 2105 are those funded by the Community Services Block Grant ("CSBG") funds that are required to be distributed to Eligible Entities, the Low Income Home Energy Assistance Program ("LIHEAP") funds that are distributed to Subrecipients, and the funds that the Department administers and distributes to Subrecipients from the annual allocation from the Community Development Block Grant ("CDBG") Program. If additional block grant funds that would be subject to Tex. Gov't Code Ch. 2105 by its terms are assigned to the Department, they too would be subject to this rule. Capitalized terms used in this section are defined in the applicable Rules or Chapters of this Title or as assigned by federal or state law.

(c) Hearings required to be held by Subrecipients. Consistent with Tex. Gov't Code §2105.058, Subrecipients that receive more than \$5,000 from one or more of the programs noted in subsection (b) of this section must annually submit evidence to the Department that a public meeting or hearing was held solely to seek public comment on the needs or uses of block grant funds received by the Subrecipient. This meeting or hearing may be held in conjunction with another meeting or hearing if the meeting or hearing is clearly noted as being for the consideration of the applicable block grant funds under this subsection.

(d) Complaints. The Department will notify a Subrecipient of any complaint received concerning the Subrecipient services. As authorized by Tex. Gov't Code §2105.104, the Department shall consider the history of complaints regarding a Subrecipient in determining whether to award, increase, or renew a Contract with a Subrecipient.

(e) Right to Request a Hearing on Denial of Services or Benefits. As provided for in Tex. Gov't Code §§2105.151 and 2105.154, an affected person who alleges that a Subrecipient has denied all or part of a service or benefit funded by funds under a program that is subject to this subchapter in a manner that is unjust, discriminatory, or without reasonable basis in law or fact may request and have a timely hearing provided by the Department in the Service Area of the Subrecipient, and the requested hearing will be an administrative hearing under Tex. Gov't Code Ch. 2001.

(f) Nonrenewal or Reduction of Block Grant Funds to a Specific Subrecipient.

(1) As required by Tex. Gov't Code §2105.202(a), this section defines "good cause" for nonrenewal of a Subrecipient contract or a reduction of funding. Good cause may include any one or more of the following:

(A) consistent and repeated corroborated complaints about a Subrecipient's failure to follow substantive program requirements, as provided for in subsection (d) of this section;

(B) lack of compliance with 10 TAC §1.403 regarding Single Audit Requirements;

(C) statute, rule, or contract violations that have not been timely corrected and have prompted the Department to initiate proceedings under 10 TAC Chapter 2, Enforcement, and have resulted in a final order confirming such violation(s);

(D) disallowed costs in excess of \$10,000 that have not been timely repaid;

(E) failure by Subrecipient to select an option as provided for in §1.410 of this Title (as proposed) by the deadline;

- (F) the ineffective rendition of services to clients, which may include a Subrecipient's failure to perform on a Contract, and which may include materially failing to expend funds;
- (G) a failure to address an identified material lack of cost efficiency of programs;
- (H) a material failure of the services of the Subrecipient to meet the needs of groups or classes of individuals who are poor or underprivileged or have a disability;
- (I) providing services that are adequately addressed by other programs in that area;
- (J) the extent to which clients and program recipients are involved in the Subrecipient's decision making;
- (K) providing services in a manner that unlawfully discriminates on the basis of protected class status; or
- (L) providing services outside of the designated geographic scope of the Subrecipient.

(2) Notification of Reduction, Termination, or Nonrenewal of a Contract and Opportunity for a Hearing. As required by Tex. Gov't Code §§2105.203 and 2105.301, the Department will send a Subrecipient a written statement specifying the reason for the reduction, termination, or nonrenewal of funds no later than the 30<sup>th</sup> day before the date on which block grant funds are to be reduced, terminated, or not renewed, unless excepted for by paragraph (4) of this subsection. After receipt of such notice for reduction or nonrenewal, a Subrecipient may request an administrative hearing under Tex. Gov't Code Ch. 2001 if the Subrecipient is alleging that the reduction is not based on good cause as identified in paragraph (f)(1) of this section or is without reasonable basis in fact or law. If a Subrecipient requests a hearing, the Department may, at its election, enter into an interim contract with either the Subrecipient or another provider for the services formerly provided by the provider while administrative or judicial proceedings are pending.

(3) Notification of Reduction of Block Grant funds for a Geographical Area. If required by Tex. Gov't Code §§2105.251 and 2105.252, the Department will send a Subrecipient a written statement specifying the reason for the reduction of funds no later than the 30<sup>th</sup> day before the date on which block grant funds are to be reduced.

(4) Exceptions. As authorized by Tex. Gov't Code §2105.201(b), the notification and hearing requirements for reduction or nonrenewal of funding provided for in paragraphs (2) and (3) of this subsection do not apply if a Subrecipient's block grant funding becomes subject to the Department's competitive bidding rules. The Department will require such competitive bidding for awarding block grant funding subject to Tex. Gov't Code Ch. 2105 for Subrecipients and in the Department's procuring of Subrecipients or contractors to administer or assist in administering such block grant funds, which includes the competitive release of Notices of Funding Availability and competitive Requests for Subrecipients or Providers. The criteria for evaluation of competitive responses shall be set forth in the applicable notices of funds availability, requests, or other procurement invitation document.

(5) Nothing in this section supersedes or is intended to conflict with the rights and responsibilities outlined in §2.203 concerning Termination and Reduction of Funding for CSBG Eligible Entities, in this Title.

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BOARD ACTION REQUEST  
COMMUNITY AFFAIRS DIVISION  
NOVEMBER 8, 2018

Presentation, discussion, and possible action on an order proposing new 10 TAC, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.410 Determination of Alien Status for Program Beneficiaries

RECOMMENDED ACTION

WHEREAS, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

WHEREAS, Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1986 ("PRWORA") provides that an alien who is not a qualified alien is not eligible for any federal public benefit, and Department of Justice ("DOJ") guidance provides that each federal agency is required to identify which of their programs are considered federal public benefits for this purpose;

WHEREAS, the U.S. Department of Health and Human Services ("USHHS") has determined that the Low Income Home Energy Assistance Program ("LIHEAP") is a federal public benefit and is subject to PRWORA, and the Department of Energy ("DOE") has directed states that as it relates to Qualified Aliens Eligibility for Benefits, they should review guidance provided by HHS under the LIHEAP;

WHEREAS, the Department needs to clearly provide in rule how PRWORA will be adhered to by Department subrecipients administering programs that have been determined by the cognizant federal agency to be federal public benefits that trigger the PRWORA requirements and how those subrecipients, if private nonprofits, will handle verification of eligible status for any clients served under applicable programs, and therefore staff has drafted a rule for such consideration and public comment; and

WHEREAS, upon Board approval, the proposed rule will be submitted to the Texas Register to be released for public comment which will be accepted from November 23, 2018, through December 27, 2018;

NOW, therefore, it is hereby

RESOLVED, that the proposed new §1.410 Determination of Alien Status for Program Beneficiaries, is approved for publication in the Texas Register for public comment; and

FURTHER RESOLVED, that the Executive Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed new §1.410 Determination of Alien Status for Program Beneficiaries, in the form presented to this meeting, to be published in

the Texas Register for public comment and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including the preparation of the subchapter specific preambles and any requested changes to the preambles.

## BACKGROUND

Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1986 ("PRWORA"), provides that an alien who is not a qualified alien is not eligible for any federal public benefit. The Department of Justice ("DOJ") provided guidance that each federal agency is required to identify which of their programs are considered federal public benefits for this purpose. That determination is not in the purview of the State of Texas. For the federal programs for which such guidance has been given, the Department needs to provide a rule that gives clear indication to subrecipients of how the requirement to verify eligible status will be complied with. It is noted that not all cognizant federal agencies have made their determinations as provided for in the DOJ guidance, and as a result the PRWORA requirements have not been triggered for those programs for which such determinations have not been made. Should such agencies determine that other programs constitute federal public benefits, thereby triggering the PRWORA requirements, such programs will be subject to these rules.

The U.S. Department of Health and Human Services ("USHHS") determined that the Low Income Home Energy Assistance Program ("LIHEAP") is a federal public benefit and is subject to PRWORA. Following that path the Department of Energy ("DOE") indicated in directions to state Grantees in December 2017 that Weatherization Assistance Program ("DOE-WAP") subrecipients should adhere to the same guidance as that provided by HHS.

Of the 37 providers of utility assistance with LIHEAP funds, 10 are units of local government and 27 are private nonprofit organizations; of the 22 provider of weatherization assistance, 5 are units of local government and 17 are private nonprofit organizations. The units of local government in both cases already comply with the federal requirement by determining eligible status of applicants and household members via the Systematic Alien Verification for Entitlements ("SAVE") system.

This intersection of the requirement to verify status while the majority of the program networks are private nonprofits has become a challenge for the Department. As noted above approximately 72% of the current LIHEAP providers and 77% of the WAP providers (funded by both LIHEAP and DOE WAP) are private nonprofits. Under a portion of PRWORA private nonprofits organizations cannot be required to determine eligible status. However, this exception creates a significant problem when HHS expects the Department to assure that a determination of lawful status for most activities is happening. After looking at all of this, the Department identified several possible options:

- To have the Department provide the verification, directly or through a third party contractor, which would require the Subrecipient to gather and transmit – but not verify - the appropriate client level information and documentation; or
- To have the private nonprofit voluntarily agree to participate in using the SAVE system, which is the option that creates the least delay in time for the clients; or
- To allow the private nonprofit subrecipients to voluntarily procure a separate party to perform such verification services on their behalf.



Unfortunately, if a current nonprofit subrecipient is not willing to agree to perform under one of these options, the Department will have no other way to ensure eligible status as required by HHS. Because HHS has affirmed that the Department (and the Subrecipient) take on financial liability for any potential disallowed costs associated with serving an ineligible household, the Department cannot allow Subrecipients to opt out of all options and have no verifications performed. The Department would therefore be compelled to identify an alternate subrecipient that can ensure such verification. This would require rebidding those portions of the network that do not elect one of these options to find an alternate provider.

Staff would note several considerations. While willing to do so in the short to mid-term to bring the network into compliance, staff believes that the first option, to have the Department or a third-party provider perform verifications, would be an inefficient approach in the long term. Not only would it significantly slow down the approval process for clients and require additional FTEs, it would direct funding to additional administrative costs that would otherwise have been used for assistance to clients.

The first option also would require that the nonprofits “gather and transmit” the client information for verification by TDHCA or a third party. However HHS has not confirmed that this method is in fact a compliant option. If determined by HHS to not be a compliant option, this would likely narrow down the options to the remaining two. The rule as currently reflected for public comment will retain that option until information is received to the contrary from HHS.

Once approved in draft form, this rule will be published in the Texas Register for public comment and will be returned to the Board for final adoption.

Attachment 1: Preamble for proposing new 10 TAC §1.410 Determination of Alien Status for Program Beneficiaries.

The Texas Department of Housing and Community Affairs (the "Department") proposes new §1.410 Determination of Alien Status for Program Beneficiaries. The purpose of the proposed section is to address concerns identified by the U.S. Department of Health and Human Services ("HHS") in a recent monitoring of the Department for the Low Income Home Energy Assistance Program ("LIHEAP") and to provide clear guidance to any private nonprofit subrecipients doing business with the Department that receive funds from the Department for a federal program for which the federal oversight agency has indicated that legal status is required to receive a benefit as further provided for in Personal Responsibility and Work Opportunity Reconciliation Act of 1986 ("PRWORA").

Tex. Gov't Code §2001.0045(b) does not apply to the new rule because it is exempt under §2001.0045(c)(4), which exempts rule changes necessary to receive a source of federal funds or to comply with federal law. Compliance with the new rule is intended to ensure adherence to federal law, Tex. Gov't Code Chapter 2306, Subchapter E, and provide for the implementation of this activity.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Irvine has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but provides interpretation and guidance for how the Department, and its subrecipients of certain federal funds, will comply with PRWORA.
2. The new rule does not reduce work load such that any existing employee positions can be eliminated. The new rule may create a change in work that could require the temporary or permanent creation of new employee positions. The rule as drafted provides options for how the Department will ensure verification of legal status is occurring, if required by the federal oversight agency, when the Department's subrecipient organization is a private nonprofit, who is exempt under PRWORA from having to perform such verification. One of the options provided for how a private nonprofit subrecipient might elect to ensure compliance is occurring with the households they serve would be for the nonprofit to gather and transmit client information to the Department (or a third party procured by the Department) so that verification can occur. If the Department in fact is unable to identify a third party to perform such verifications, it may have to perform them which would require staffing. It is estimated that this option could require from two to four FTEs.
3. The new rule does not require additional future legislative appropriations. If employee positions are needed as noted above, resources to cover the costs of those positions would come from federal LIHEAP administrative funds, not additional appropriations. If a third party is procured by the Department as referenced above, that also would be funded through federal LIHEAP administrative funds.
4. The new rule does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.

5. The new rule is creating a new regulation, but only to the extent that it formalizes the methods by which a federal program requirement is implemented. The requirement prompting the rule is a condition of receiving federal LIHEAP and DOE funds.
  6. The new rule will not expand or repeal an existing regulation, but formalizes the methods by which a federal program requirement is implemented. The federal program requirement could be considered to “limit” this activity because the new rule will require verification of legal status of household members applying for assistance from certain programs. Those programs are federally limited to be provided only to those applicants who are United States Citizens, United States Nationals, or Qualified Aliens. Applicants not able to provide proper documentation of United States legal status (i.e., Unqualified Aliens) will not receive assistance and households containing Unqualified Aliens may receive a lesser amount of assistance, or be denied assistance altogether depending on the income level of the household. This potentially limiting action of verification is necessary to ensure compliance with §2605(b)(2) of the Low Income Home Energy Assistance Act (42 U.S.C. § 8624(b)(2)) which was identified by HHS in a recent monitoring of the Department.
  7. The new rule will potentially decrease the number of individuals subject to the rule as described in 6 above.
  8. The new rule will not negatively nor positively affect this state’s economy. While some households currently eligible for the program may no longer qualify for assistance, there are other qualified households who will be eligible, so no reduction in actual program funding expended in communities is expected.
- b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV’T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov’t Code Chapter 2306, Subchapter E.
1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov’t Code §2006.002(b) are applicable.
  2. There are no small or micro-businesses subject to the rule for which the economic impact of the rule is projected to impact. There are no rural communities subject to the rule for which the economic impact of the rule is projected to impact.
  3. The Department has determined that because this rule is only applicable to nonprofits and local governments that are designated as community action agencies there will be no economic effect on small or micro-business or rural communities.
- c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV’T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.
- d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV’T CODE §2001.024(a)(6).  
 The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule has no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov’t Code §2001.022(a) states that this “impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule...”

Considering that this rule merely provides guidance on how existing subrecipients of the Department will handle a particular step in verification of household eligibility, and that the rule is applied statewide, the rule does not change issues affecting employment, there are no “probable” effects of the new rule on particular geographic regions.

- e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be changes needed to address concerns identified by the U.S. Department of Health and Human Services (“HHS”) in a recent monitoring and to ensure compliance with federal PRWORA requirements that ensure that no federal benefits are provided to Unqualified Aliens.

There may be a possible small economic cost to participating network organizations if they opt to bring their operations and processes into compliance with §2605(b)(2) of the Low Income Home Energy Assistance Act (42 U.S.C. § 8624(b)(2)) which was identified by HHS in a recent monitoring of the Department. If a current subrecipient is unable to agree to perform under one of the options provided by the rule, the Department will have no other way to ensure verification is occurring as required by HHS. Because HHS has affirmed that the Department (and the Subrecipient) take on financial liability for any potential disallowed costs associated with serving an ineligible household, the Department cannot allow Subrecipients to opt out of all options and have no verifications performed as this increases the potential liability for the state. The Department would therefore be compelled to identify an alternate subrecipient that can ensure such verification. This would require rebidding those portions of the network that do not elect one of these options. If such a rebidding occurred, some costs would be involved as the new replacement provider is trained, and clients transitioned; however, such costs would be eligible federal program expenses covered by program administrative funds.

- f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because any such costs related to this rule discussed above will be paid for with federal funds.
- g. REQUEST FOR PUBLIC COMMENT The public comment period will be held November 23, 2018, to December 27, 2018, to receive input on the proposed new section. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by fax to (512) 475-0220, or email brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. Austin local time DECEMBER 27, 2018.
- h. STATUTORY AUTHORITY. The new section is adopted pursuant to TEX GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute.

## §1.410 Determination of Alien Status for Program Beneficiaries

(a) Purpose. The purpose of this section is to provide uniform Department guidance on Section 401(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1986 ("PRWORA"), which provides that an alien who is not a Qualified Alien is not eligible for any federal or state public benefit.

(b) Definitions. The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Title that govern the program under which program eligibility is seeking to be determined, or assigned by federal or state law.

(1) Nonprofit Charitable Organization--An entity that is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders; and is organized and operated for charitable purposes.

(2) Public Organization--An entity that is a Unit of Government or an organization established by a Unit of Government.

(3) Qualified Alien--A person that is not a U.S. Citizen or a U.S. National and is described at 8 U.S.C. §1641(b).

(4) State--The State of Texas or the Department, as indicated by context.

(5) Subrecipient--An entity that receives federal or state funds passed through the Department.

(6) Systematic Alien Verification for Entitlements ("SAVE")--Automated intergovernmental database that allows authorized users to verify the immigration status of program applicants.

(c) Applicability for Federal Funds.

(1) Applicability. The determination of whether a federal program, or activity type under a federal program, is a federal public benefit for purposes of PRWORA is made by the federal agency with administration of a program or activity, not by the Department. Only in cases in which the federal agency has given clear interpretation that it requires PRWORA to be applicable to a program or activity will this rule be applied by the Department.

(2) The requirements of this section are applicable to Subrecipients of federal funds passed through the Department for which the federal program has made a determination that the activity performed by the Subrecipient requires compliance with PRWORA, even if certain exemptions under PRWORA may exist as further provided in this rule.

(d) Applicability for State Funds.

The Department has determined that State Housing Trust Funds that are provided to a Subrecipient that is a Public Organization to be distributed directly to individuals, are a state public benefit.

(e) No Applicable Exemptions under PRWORA. If no exemptions under PRWORA are applicable to the Subrecipient or to the activity type, as further detailed in this section, then the Subrecipient must verify U.S. Citizen, U.S. National, or Qualified Alien status ("legal status") using SAVE and evaluate eligibility using the rules for the applicable program under this Title.

(f) Exemptions Under PRWORA.

(1) In accordance with 8 U.S.C. §1642(d) a Subrecipient that is a Nonprofit Charitable Organization receiving funds from the Department for which the federal program or activity requirement is that a

household be verified for eligibility status, is not required to verify that an individual is a U.S. Citizen, U.S. National, or Qualified Alien.

(2) For activities in the Low Income Housing Energy Assistance Program and the Department of Energy Weatherization Program performed by a Nonprofit Charitable Organization (identified as a Private Nonprofit Organization in the Subrecipient's Contract with the Department), where the Department must ensure that an individual is a U.S. Citizen, U.S. National, or Qualified Alien, a Subrecipient must ensure compliance with the verification requirement through electing to proceed under subparagraph (A), (B), or (C) of this paragraph. Subrecipients will submit in writing to the Director of Community Affairs or his/her designee no later than six months prior to the beginning of a Contract Term its election under one of the subparagraphs in this subsection. If no such election is made by the deadline, Subrecipient will no longer be eligible to perform as a Subrecipient in the program as further provided for in paragraph (3) of this subsection. Failure by Subrecipient to select an option by the deadline is good cause for nonrenewal of a Contract.

(A) Subject to affirmation by U.S. Health and Human Services, the Subrecipient may voluntarily elect to request from the household and transmit to the Department, or a party contracted by the Department, sufficient information or documentation so that the Department is able to ensure an individual is a U.S. Citizen, U.S. National, or Qualified Alien.

(i) The Nonprofit Charitable Organization must provide and maintain a sufficient method of electronic transmittal system that allows for such information to be provided to the Department or its contractor, and ensures the secure safekeeping of such paper and/or electronic files, and receipt of subsequent response back from the Department or its contracted party.

(ii) Upon receipt of the results of the verification performed by the Department, or its contracted party, the Nonprofit Charitable Organization must utilize those results in determining household eligibility, benefits, income, or other programmatic designations as required by applicable federal program guidance or as determined by other program rules under this Title.

(B) The Subrecipient may voluntarily elect to perform verifications through the SAVE system, as authorized through the Department's access to such system.

(C) The Subrecipient may voluntarily elect to procure an eligible qualified organization to perform such verifications on their behalf, subject to Department approval.

(i) The Nonprofit Charitable Organization and/or its procured provider must maintain sufficient evidence and documentation that verification has taken place so that such verification can be confirmed by the Department, and must ensure the secure safekeeping of such paper and/or electronic files.

(ii) Upon receipt of the results of the verification performed by the procured provider, the Nonprofit Charitable Organization must utilize those results in determining household eligibility, benefits, income, or other programmatic designations as required by applicable federal program guidance or as determined by other program rules under this Title.

(D) If no election is made by the deadline in paragraph (2) of this subsection, the Subrecipient will be provided notification under Tex. Gov't Code Chapter 2105 that the Department does not intend to renew the Contract with Subrecipient at the end of the current Contract Term. The Subrecipient may have a right to request a hearing under Tex. Gov't Code Chapter 2105.

(3) Other activities that do not require verification by Public Organizations or Nonprofit Charitable Organizations are described in the August 5, 2016, HUD, HHS, and DOJ Joint Letter Regarding Immigrant Access to Housing and Services.

(g) The Department may further describe Subrecipient's responsibilities under PRWORA, including but not limited to use of the SAVE system, in its Contract with Subrecipient. Nothing in this rule shall be construed to be a waiver, ratification, or acceptance of noncompliant administration of a program prior to the rule becoming effective.

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**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC §6.404 Distribution of Weatherization Assistance Program Funds, and an order adopting new 10 TAC §6.404 Distribution of Weatherization Assistance Program Funds, without changes, and directing that they be published for adoption in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the "Department") is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, at the Board meeting of September 6, 2018, the Board approved the publication of proposed amendments for public comment to 10 TAC §6.404 Distribution of WAP Funds, and they were published for public comment in the *Texas Register* on September 21, 2018; and

**WHEREAS**, public comment was accepted from September 21, 2018, through October 22, 2018, and no public comment was received;

**NOW, therefore, it is hereby**

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

**BACKGROUND**

Staff has identified a necessary revision within 10 TAC §6.404 that would allow for Department and subrecipient flexibility in the expenditure of LIHEAP funds. Currently, the Department's rule does not explicitly state that LIHEAP WAP funds can be transferred to the LIHEAP CEAP activity. At times it may become necessary to do so such as in the case of a subrecipient who is not able to fully expend their LIHEAP WAP funding due to a shortage in contractor capacity. Because utility assistance (i.e., CEAP) is often in high demand by low income Texans, it is reasonable to permit the transfer of WAP funds to CEAP in certain cases.

Based on the new rule, when a subrecipient has notified the Department they would like to undergo a transfer of WAP funds to CEAP, the Department will review the request and, if approved, will determine by the allocation formula written in 10 TAC §6.303 how the funds will be distributed among the CEAP subrecipients serving the counties in the service area for which the WAP funds are being reduced. The allocation formula will ensure that a proportional share of the funds are distributed among the subrecipients involved in CEAP provision in the counties served.



If approved by the Board, staff estimates this rule becoming effective December 2, 2018.

**Attachment 1: Preamble, including required analysis, for adopting the repeal of 10 TAC §6.404 Distribution of WAP Funds**

The Texas Department of Housing and Community Affairs (the “Department”) adopts the repeal of 10 TAC §6.404 Distribution of WAP Funds. The purpose of the repeal is to eliminate an outdated rule which warrants revision while adopting a new updated rule under separate action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Irvine has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making a change to an existing activity, of a rule governing the administration of the Low Income Home Energy Assistance Program (“LIHEAP”).
2. The repeal does not require a change in work that would require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, of the rules governing the administration of the LIHEAP.
7. The repeal will not increase nor decrease the number of individuals subject to the rule’s applicability.
8. The repeal will not negatively nor positively affect this state’s economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

- d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

- e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section will be unaffected as the repealed rule will be replaced with a similar rule. There will not be economic costs to individuals required to comply with the repealed section.
- f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also 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.
- g. SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment September 21, 2018 through October 22, 2018. There were no comments submitted regarding the repeal of 10 TAC §6.404 Distribution of WAP Funds.

The Board adopted the final order adopting the repeal on November 8, 2018.

- h. STATUTORY AUTHORITY. The repeal is adopted pursuant to TEX GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the repeal affects no other code, article, or statute.

#### **10 TAC §6.404 Distribution of WAP Funds**

## Attachment 2: Preamble for adopting new 10 TAC §6.404 Distribution of WAP Funds

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC §6.404, Distribution of WAP Funds without changes to the proposed text as published in the September 21, 2018 issue of the *Texas Register* (43 TexReg 6056). The purpose of the new section is to provide compliance with Tex. Gov’t Code §2306, Subchapter E, and to update the rule to provide greater clarity to Subrecipients on how Low Income Home Energy Assistance Program (“LIHEAP”) funds can be moved from one activity to another and explains how that request will be handled.

Tex. Gov’t Code §2001.0045(b) does not apply to the new rule because it is exempt under §2001.0045(c)(4), which exempts rule changes necessary to receive a source of federal funds or to comply with federal law. This rule establishes a method by which the Department may act upon a request by a subrecipient to transfer its LIHEAP WAP funds to LIHEAP Comprehensive Energy Assistance Program (“CEAP”). This is sometimes necessary such as in the case of a subrecipient who is not able to fully expend their LIHEAP WAP funding due to a shortage in contractor capacity. Because utility assistance (i.e., CEAP) is often in high demand by low income Texans, it is reasonable to permit the transfer of WAP funds to CEAP in certain cases. This revision will provide more clarity to the process that will be used in response to such a request. The Department does not anticipate any costs associated with this new rule. Tex. Gov’t Code Chapter 2306, Subchapter E, provides for the implementation of this new rule.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.

Mr. Irvine has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, the administration of the Low Income Home Energy Assistance Program (“LIHEAP”).
2. The new rule does not require a change in work that will require the creation of new employee positions, nor is the new rule significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The new rule does not require additional future legislative appropriations.
4. The new rule does not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not expand, limit, or repeal an existing regulation.
7. The new rule will not increase nor decrease the number of individuals subject to the rule’s applicability.

8. The new rule will not negatively nor positively affect this state's economy.
- b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306, Subchapter E.
    1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
    2. This rule relates to the Department ensuring that subrecipients of LIHEAP have the flexibility to pursue changing the activity type of those funds. Other than a LIHEAP subrecipient who may consider itself to be a small or micro-business, which would not generally be the case, no small or micro-businesses are subject to the new rule. However, if a LIHEAP subrecipient considers itself a small or micro-business, this rule provides greater flexibility in their opportunity to request changes in how their LIHEAP funds are used among activity types.
    3. The Department has determined that because this rule applies only to existing LIHEAP subrecipients, there will be no economic effect on small or micro-businesses or rural communities.
  - c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.
  - d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect there would be no economic effect on local employment because the rule relates only to flexibility to move LIHEAP funds among activities for existing LIHEAP providers; therefore no local employment impact statement is required to be prepared for the rule.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that this rule provides the same opportunity for changes to any LIHEAP recipient, regardless of location, there are no "probable" effects of the new rule on particular geographic regions.

- e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be greater flexibility for LIHEAP recipients in how they program their funds. There will not be economic costs to individuals required to comply with the new section because the processes described by the rule have already been in place through the rule found at this section being repealed.
- f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or

revenues of the state or local governments because this section only provides greater flexibility for subrecipients in a process that has been in effect for several years.

- g. SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 21, 2018 and October 22, 2018. There were no comments received regarding new 10 TAC §6.404 Distribution of WAP Funds.

The Board adopted the final order adopting the new rule on November 8, 2018.

- h. STATUTORY AUTHORITY. The new section is adopted pursuant to TEX GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new section affects no other code, article, or statute.

*[Note that this rule is shown in blackline form below for the purpose of the posting of Board materials but will be shown as clean new language when submitted to the Texas Register.]*

§6.404 *Distribution of WAP Funds*

(a) Except for the reobligation of deobligated funds, the Department distributes funds to Subrecipients by an allocation formula.

(b) The allocation formula allocates funds based on the number of Low Income Households in a service area and takes into account certain special needs of individual service areas, as set forth below. The need for energy assistance in an area is addressed through a weather factor (based on heating and cooling degree days). The extra expense in delivering services in sparsely populated areas is addressed by an inverse Population Density factor. The lack of additional services available in very poor counties is addressed by a county median income factor. Finally, the Elderly are given priority by giving greater weight to this population. The five factors used in the formula are calculated as follows:

(1) County Non-Elderly Poverty Household Factor--The number of Non-Elderly Poverty Households in the County divided by the number of Non-Elderly Poverty Households in the State;

(2) County Elderly Poverty Household Factor--The number of Elderly Poverty Households in the county divided by the number of Elderly Poverty Households in the State;

(3) County Inverse Household Population Density Factor--

(A) The number of square miles of the county divided by the number of Households of the county (equals the inverse Household population density of the county); and

(B) Inverse Household Population density of the county divided by the sum of inverse Household densities.

(4) County Median Income Variance Factor--

(A) State median income minus the county median income (equals county variance); and

(B) County variance divided by sum of the State county variances;

(5) County Weather Factor--

(A) County heating degree days plus the county cooling degree days, multiplied by the poverty Households, divided by the sum of county heating and cooling degree days of counties (equals County Weather); and

(B) County Weather divided by the total sum of the State County Weather.

(C) The five factors carry the following weights in the allocation formula: number of Non-Elderly Poverty Households (40%), number of poverty Households with at least one member who is 60 years of age or older (40%), Household density as an inverse ratio (5%), the median income of the county (5%), and a weather factor based on heating degree days and cooling degree days (10%). All demographic factors are based on the most current decennial U.S. Census. The formula is as follows:

(i) County Non-Elderly Poverty Household Factor (0.40) plus;

(ii) County Elderly Poverty Household Factor (0.40) plus;

(iii) County Inverse Household Population Density Factor (0.05) plus;

(iv) County Median Income Variance Factor (0.05) plus;

(v) County Weather Factor (0.10);

(vi) Total sum of clauses (i) - (v) of this subparagraph multiplied by total funds allocation equals the county's allocation of funds.

(vii) The sum of the county allocation within each Subrecipient service area equals the Subrecipient's total allocation of funds.

(c) To the extent that Contract funds have been deobligated, or should additional funds become available, those funds will be allocated using this formula or other method approved by the Department's Board to ensure full utilization of funds within a limited timeframe, including possible allocation of WAP funds to Subrecipients in varying populations from each funding source (DOE and LIHEAP), based on availability of the source.

(d) In the event that a Subrecipient who has been awarded LIHEAP WAP funds elects to voluntarily transfer some portion of their LIHEAP WAP funds to the LIHEAP CEAP activity, a request to do so must be submitted prior to August 1 of the first year of the federal LIHEAP award period. The amount of funds being voluntarily transferred will be returned to the Department and redistributed among LIHEAP CEAP providers to ensure appropriate coverage among counties. This may mean the LIHEAP funds are awarded to that same Subrecipient having made the request, but alternatively could mean that the funds may be awarded to one or more other CEAP Subrecipients providing CEAP services in the counties for which the WAP funds were transferred. The Department will distribute the funds proportionally to the affected counties and CEAP Subrecipients in the service area using the allocation formula in §6.303 of this Subchapter.

(e) Subrecipients that do not expend more than 20% of Program Year formula allocation (excluding any additional funds that may be distributed by the Department and any funds voluntarily transferred to LIHEAP CEAP) by the end of the first quarter of the year following the Program Year for two consecutive years will have funding recaptured. LIHEAP-WAP funding recapture will be consistent with Chapter 2105. The Subrecipient of the funds will be provided a Contract for the average percentage of funds that they expended over the last two years.

(fe) The cumulative balance of the funds made available through subsections (~~ed~~) above will be allocated proportionally by formula to the entities that expended 90% of the prior year's Contract, excluding adjustments made in subsection (e), by the end of the original Contract Term.

(gf) To the extent federal funding awarded to Texas is limited from one of the two WAP funding sources, possible allocations of funds to Subrecipients may be made in varying proportions from each source to maximize efficient program administration.

(hg) The Department may, in the future, undertake to reprocore the Subrecipients that comprise the network of Weatherization providers, in which case this allocation formula will be reassessed and, if material changes are needed, amended by rulemaking.



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**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

1v

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and an order adopting the new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing its publication in the *Texas Register*.

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the “Department”) is authorized to make awards of loans or grants to developers for the State of Texas; and

**WHEREAS**, the Department plans to administer the varying fund sources used in making these awards of loans and grants in a specific manner that necessitates this Multifamily Direct Loan Rule;

**WHEREAS**, pursuant to Tex. Gov’t Code §2306.053, the Department is authorized to adopt rules governing the administration of the Department and its programs; and

**WHEREAS**, such rulemaking is being adopted without changes for publication in the *Texas Register*;

**NOW, therefore, it is hereby**

**RESOLVED**, that the final order adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, and adopting new 10 TAC Chapter 13, Multifamily Direct Loan Rule, together with the preamble presented to this meeting, is hereby ordered and approved for publication 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 cause the 10 TAC Chapter 13, Multifamily Direct Loan Rule, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* and, in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing, including requested revisions to the preambles.

**BACKGROUND**

Attached to this Board Action Request is new 10 TAC Chapter 13, Multifamily Direct Loan Rule. Changes to the Multifamily Direct Loan Rules are generally clarifications that staff identified as necessary to provide clear information to Applicants. Due to changes to 10 TAC Chapter 10, the Uniform Multifamily Rules, and 10 TAC Chapter 11, the Qualified Application Plan, several citations were corrected.

The Board approved the proposed repeal and replacement of 10 TAC Chapter 13, Multifamily Direct Loan Rule, at the Board meeting on September 6, 2018, as published in the *Texas Register*

for public comment on September 21, 2018. Public comment, in accordance with the Citizen Participation Plan requirements in 24 CFR §91.105, was accepted between 8:00 a.m. Austin local time on September 10, 2018, and 5:00 p.m. Austin local time on October 12, 2018. In compliance with the requirements of the State Administrative Procedures Act, the public comment period started at 8:00 a.m. Austin local time on September 28, 2018, and ended at 5:00 p.m. Austin local time on October 12, 2018. No comments were received.

**Attachment A: Preamble, including required analysis, for adopting the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule**

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule. The purpose of the repeal is to provide for clarification of the existing rule through new rulemaking action.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX GOV'T CODE §2001.0221.**

1. Mr. Irvine has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.
2. The repeal does not require a change in work that will require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous readoption making changes to an existing activity, administration of the Multifamily Direct Loan Program.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.**

The repeal does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

**e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).**

Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be

increased clarity and improved access to the Multifamily Direct Loan funds. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).

Mr. Irvine also 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.

SUMMARY OF PUBLIC COMMENTS AND REASONED RESPONSE. The Department accepted public comment between September 21, 2018, and October 12, 2018. Comments regarding the proposed repeal were accepted in writing at the Texas Department of Housing and Community Affairs, Attn: Andrew Sinnott, Multifamily Direct Loan Administrator, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 and by email to [htc.public-comment@tdhca.state.tx.us](mailto:htc.public-comment@tdhca.state.tx.us). No public comments were received.

The Board adopted the final order adopting the repeal on November 8, 2018.

STATUTORY AUTHORITY. The repeal is adopted pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 13, Multifamily Direct Loan Rule**

**Attachment B: Preamble for adopting new 10 TAC Chapter 13, Multifamily Direct Loan Rule**

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC Chapter 13, Multifamily Direct Loan Rule with changes to the proposed text as published in the September 21, 2018, issue of the *Texas Register* (43 TexReg 6031). The purpose of the new section is to provide compliance with Tex. Gov’t Code §2306.111 and to update the rule to: clarify program requirements in multiple sections, codify rule practices of the division, and change citations to align with changes to other multifamily rules.

Tex. Gov’t Code §2001.0045(b) does not apply to the new rule because it was determined that no costs are associated with this adoption, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.**

Mr. Irvine has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the readoption of this rule which makes changes to an existing activity, administration of the Multifamily Direct Loan Program.
2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The rule will not expand, limit, or repeal an existing regulation.
7. The new rule will not increase nor decrease the number of individuals subject to the rule’s applicability; and
8. The new rule will not negatively nor positively affect the state’s economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV’T CODE §2006.002.** The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov’t Code, §2306.111.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov’t Code §2006.002(b) are applicable.
2. This rule relates to the procedures for multifamily direct loan applications and award through various Department fund sources. Other than in the case of a small or micro-business that is an applicant for such a loan product, no small or micro-businesses are subject to the rule. It is estimated that approximately 200 small or micro-businesses are such applicants; for those entities the new rule provides for a more clear, transparent process for doing so and does not result in a negative impact for those small or micro-businesses. There are not likely to be any rural communities subject to the new rule because this rule is applicable only to direct loan applicants



for development of properties, which are not generally municipalities. The fee for applying for a Multifamily Direct Loan product is \$1,000, unless the Applicant is a nonprofit that provides supportive services or the Applicant is applying for Housing Tax Credits in conjunction with Multifamily Direct Loan funds, in which case the application fee may be waived. These fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing.

There are 1,296 rural communities potentially subject to the new rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 13 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for MFDL resources that are located in rural areas is approximately fifteen. In those cases, a rural community securing a loan will experience an economic benefit, not least among which is the increased property tax revenue from a large multifamily Development.

3. The Department has determined that because there are rural MFDL awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive MFDL awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department, therefore no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule may provide a possible positive economic effect on local employment in association with this rule since MFDL Developments, layered with housing tax credits, often involve a typical minimum investment of \$10 million in capital, and more commonly an investment from \$20 million to \$30 million. Such a capital investment has direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to predict during rulemaking where these positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to be quantified for any given community until MFDL awards and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that significant construction activity is associated with any MFDL Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive MFDL awards.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).

Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be the improved clarity of program requirements in multiple sections, codification in rule practices of the division, and citation changes aligned with changes to other multifamily rules. There will not be any economic cost to any individuals required to comply with the new section because this rule does not have any new requirements that would cause additional costs to applicants.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new rule is in effect, enforcing or administering the new rule does not have any foreseeable implications related to costs or revenues of the state or local governments because it does not have any new requirements that would cause additional costs to applicants.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 21, 2018, and October 12, 2018. Comments regarding the new rule were accepted in writing at the Texas Department of Housing and Community Affairs, Attn: Andrew Sinnott, Multifamily Direct Loan Administrator, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 and by email to [htc.public-comment@tdhca.state.tx.us](mailto:htc.public-comment@tdhca.state.tx.us). No public comments were received.

The Board adopted the final order adopting the new rule on November 8, 2018.

STATUTORY AUTHORITY. The new rule is adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new sections affect no other code, article, or statute.

### **10 TAC Chapter 13, Multifamily Direct Loan Rule**

## CHAPTER 13 MULTIFAMILY DIRECT LOAN RULE

### §13.1. Purpose.

(a) Authority. The rules in this ~~Chapter~~ ~~chapter~~ apply to the funds provided to Multifamily Developments through the Multifamily Direct Loan Program ("MFDL" or "Direct Loan Program") by the Texas Department of Housing and Community Affairs (~~the~~ "Department"). Notwithstanding anything in this ~~Chapter~~ ~~chapter~~ to the contrary, loans and grants issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapter 2306 (sometimes referred to as the "State Act"), and federal law pursuant to the requirements of Title II of the Cranston-Gonzalez National Affordable Housing Act, Division B, Title III of the Housing and Economic Recovery Act ("HERA") of 2008 - Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes, Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act: Additional Assistance for Neighborhood Stabilization Programs, Title I of the Housing and Economic Recovery Act of 2008, Section 1131 (Public Law 110-289), and the implementing regulations 24 CFR Part 91, Part 92, Part 93, and Part 570 as they may be applicable to a specific fund source. The Department is authorized to administer Direct Loan Program funds pursuant to ~~Tex.~~ Gov't Code, Chapter 2306, Subchapter I, Housing Finance Division.

(b) General. This ~~Chapter~~ ~~chapter~~ applies to an award of MFDL funds by the Department and establishes the general requirements associated with the application and award process for such funds. Applicants pursuing MFDL assistance from the Department are required to certify, among other things, that they have familiarized themselves with all applicable rules that govern that specific program including, but not limited to this ~~Chapter~~ ~~chapter~~, Chapter 1 ~~of this title~~ (relating to Administration), Chapter 2 ~~of this title~~ (relating to Enforcement), Chapter 8 ~~of this title~~ (relating to Section 811 PRA Program), and Chapter 10 of this ~~Title~~ ~~title~~ (relating to Uniform Multifamily Rules), Chapter 11 of this ~~Title~~ ~~title~~ (relating to Housing Tax Credit Program Qualified Allocation Plan ("QAP")) and Chapter 12 of this ~~Title~~ ~~title~~ (relating to Multifamily Housing Revenue Bond Rules) will apply if MFDL funds are layered with those other Department programs. The Applicant is also required to certify that it is familiar with any other federal, state, or local financing sources that it identifies in its Application. Any conflict with rules regulations, or statutes will be resolved on a case by case basis that allows for compliance with all requirements. Conflicts that cannot be resolved may result in Application ineligibility.

(c) Waivers. Requests for waivers of any program rules or requirements must be made in accordance with 10 TAC §11.207 of this title (relating to Waiver of Rules for Applications) and as limited by the rules in this ~~Chapter~~ ~~chapter~~. In no instance will the Department consider a waiver request that would violate federal program requirements or state or federal statute.

(d) Applications for Multifamily Direct Loan funds must meet all applicable eligibility and threshold requirements of Chapter 11 of this ~~Title~~ ~~title~~, ~~(relating to~~ the Qualified Allocation Plan).

### §13.2. Definitions.

The following words and terms, when used in this ~~Chapter~~ ~~chapter~~, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Tex. Gov't Code, Chapter 2306, §§141, 142, and 145 of the Internal Revenue Code, 24 CFR Part 91, Part 92, Part 93, and 2 CFR Part 200 and 10 TAC Chapter 11, the Qualified Allocation Plan.

(1) Annual Income or Annual Incomes--"Annual income" as defined at 24 CFR §5.609, which includes but is not limited to the list of income in HUD Handbook 4350, and specifically

excludes those items listed in HUD's Updated List of Federally Mandated Exclusions from Income.

(2) Choice limiting activity--Any transfer of title or similar action that occurs prior to a Development obtaining environmental clearance after an application for federal funds (HOME and NSP) has been submitted. Choice limiting activities also include closing on loans including loans for interim financing, signing of a contract, and commencing construction.

(3) Construction Completion--That necessary title transfer requirements and construction work have been performed and the following documents have been issued for the Development: certificate(s) of occupancy (if New Construction), Certificate of Substantial Completion (AIA Form G704), and a Final Construction Inspection Letter from Department staff. In addition, for Developments not layered with Housing Tax Credits, Construction Completion means all modifications requested as a result of the Department's Final Construction Inspection were cleared as evidenced by receipt of the Closed Final Development Inspection Letter.

(4) Community Housing Development Organization ("CHDO")--A private nonprofit organization that has experience developing and/or owning affordable rental housing and that meets the requirements in 24 CFR Part 92 for purposes of receiving HOME funds under the CHDO set-aside. In addition, a member of a CHDO's board cannot be a Principal of the development beyond his/her role as a board member of the CHDO or be an employee of the development team, and may not receive financial benefit other than reimbursement of expenses from the CHDO (e.g., a voting board member cannot also be a paid executive).

(5) Federal Affordability Period--The period commencing on the date of Construction Completion and ending on the date which is the required number of years as defined by the federal program from the date of Construction Completion

(6) HOME Match-Eligible Unit-- a Unit in the Development that is not assisted with HOME Program funds, but would qualify as eligible for Match under 24 CFR Part 92. Unless otherwise identified by the provisions in the Notice of Funding Availability ("NOFA"), TCAP Repayment Funds ("TCAP RF") funds and matching contribution on NSP and NHTF Developments must be used on HOME-Match Eligible Units.

(7) Land Use Restriction ("LURA") Term--the period commencing on the effective date of the LURA and ending on the date which is the greater of the loan term or 30 years. The LURA may include both Federal Affordability Period and State requirements.

(8) Matching contribution ("Match")--A contribution to a Development from nonfederal sources that may be in the form of one or more of the following:

(A) Cash contribution (grant), except for cash contributions made by investors in a limited partnership or other business entity subject to pass through tax benefits in a tax credit transaction or owner equity (including deferred developer fee);

(B) Reduced fees or donated labor from certain eligible contractors, subcontractors, architects, attorneys, engineers, excluding any contributions from a party related to the Developer or Owner;

(C) Net present value of yield foregone from a below market interest rate loan as described in HUD Community Planning and Development ("CPD") Notice 97-03;

(D) Waived or reduced fees from cities or counties not related to the Applicant in connection with the proposed Development;

(E) Donated land or land sold by an unrelated third party at a price below market value,

as evidenced by a third party appraisal.

(9) Relocation Plan--A residential anti-displacement and relocation assistance plan which: ~~(A) includes~~ Includes provisions consistent with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§4601-4655), implementing regulations at 49 CFR Part 24, and policy guidance in Real Estate Acquisition and Relocation Policy and Guidance (HUD Handbook 1378) and the TDHCA Relocation Handbook; and in some HOME and NSP funded developments Section 104(d) of the Housing and Community Development Act of 1974, as amended, ~~and~~ 24 CFR Part 42 (as modified for NSP); ~~and~~

~~(B)~~ is in form and substance consistent with requirements of the Department.

(10) Section 234 Condominium Housing basic mortgage limits ("234 Condo Limits")--The per-unit subsidy limits for all MFDL funding. These limits take into account whether or not a Development is elevator served and any local conditions that may make development of multifamily housing more or less expensive in a given metropolitan statistical area. If the high cost percentage adjustment applicable to the 234 Condo Limits for HUD's Fort Worth Multifamily Hub is applicable for all Developments that TDHCA finances through the MFDL Program, and confirmation will be included in the applicable NOFA.

(11) State Affordability Period--The LURA Term as described in the MFDL contract and loan documents and as required by Department in accordance with the State Act which is usually an additional period after the Federal Affordability Period.

(12) Surplus Cash--When the first lien mortgage is a federally insured HUD or FHA mortgage, any cash remaining:

(A) After the payment of:

- (i) ~~All~~ all sums due or currently required to be paid under the terms of any superior lien;
- (ii) ~~All~~ all amounts required to be deposited in the reserve funds for replacement;
- (iii) ~~Operating~~ operating expenses actually incurred by the borrower for the Development during the period with an appropriate adjustment for an allocable share of property taxes and insurance premiums;
- (iv) ~~Recurring~~ recurring maintenance expenses actually incurred by the borrower for the Development during the period;
- (v) ~~All~~ all other obligations of the Development approved by the Department; and

(B) After the segregation of an amount equal to the aggregate of all special funds required to be maintained for the Development; and

(C) Excluding payment of:

- (i) ~~All~~ all sums due or currently required to be paid under the terms of any subordinate liens against the property;
- (ii) ~~Any~~ any development fees that are deferred including those in eligible basis; and

- (iii) ~~Any any~~ payments or obligations to the borrower, ownership entities of the borrower, ~~—~~ related party entities; any payment to the management company exceeding 5% of the effective gross income; incentive management fee; asset management fees; or any other expenses or payments that shall be negotiated between the Department and borrower.

### §13.3. General Loan Requirements.

(a) Direct Loan funds may be made available through a NOFA or other similar governing document that includes the basic Application and funding requirements.

(b) Direct Loan funds may not be awarded if an underwriting report that has been issued by the Department's Real Estate Analysis Division has become final and concludes that the Development does not need the MDFL funding for which it has applied because it is over sourced.

(c) Direct Loan funds are composed of annual HOME and National Housing Trust Fund allocations from HUD, repayment of TCAP loans, HOME Program Income, NSP Program Income, and any other similarly encumbered funding that may become available by Board action, except as otherwise noted in this ~~Chapter~~chapter. Similar funds include any funds that are required to be loaned or granted for the development of multifamily property and are not governed by another ~~Chapter~~chapter in this ~~Title~~title.

(d) Direct Loan funds may be used for the predevelopment, acquisition, new construction, reconstruction, rehabilitation, or preservation of affordable housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, or operating cost reserves, all subject to HUD guidance. Other expenses, such as financing costs, relocation expenses of any displaced persons, families, businesses, or organizations may be included. MDFL funds may be used to assist distressed developments previously funded by the Department when approved by specific action of the Department's Governing Board ("Board").

(e) While all costs associated with the Development and known by the sponsor must be disclosed as part of the Application, costs ineligible for reimbursement with Direct Loan funds in accordance with 24 CFR Part 91, Part 92, Part 93, Part 570, and 2 CFR Part 200, as federally required or identified in the NOFA include but are not limited to:

- (1) Offsite costs;
- (2) Stored Materials;
- (3) Site Amenities;
- (4) Detached Community Buildings;
- (5) Carports and/or garages;
- (6) ~~—~~Parking garages;
- (7) Swimming pools;
- (8) Commercial Space costs;
- (9) Reserve accounts not related to NHTF;

- (10) TDHCA fees;
- (11) Syndication and organizational costs;
- (12) Delinquent fees, taxes, or charges;
- (13) Costs incurred more than 24 months prior to the effective date of the Direct Loan Contract unless the Application is awarded TCAP RF;
- (14) Costs that have been allocated to or paid by another fund source;
- (15) Deferred Developer fee; and,
- (16) Other costs limited by Award or NOFA, or as established by the Board.

**§13.4. Set-asides, Regional Allocation, and Priorities.**

(a) Set-asides. Specific types of Applications or Developments for which a portion of MFDL funds may be reserved in a NOFA will be grouped in set-asides. The Supportive Housing/Soft Repayment set-aside, CHDO set-aside, and General set-aside, as described below, are fixed set-asides that will be included in the annual NOFA. The remaining set-asides described below are flexible set-asides and are applicable only when identified in the NOFA. The amount of a single award may be credited to multiple set-asides, in which case the depleted portion of funds may be repositioned into an oversubscribed set-aside prior to a defined collapse deadline. Applications under any and all set-asides may or may not be layered with other Department Multifamily programs except as provided in this section or as determined by the Board to address unique circumstances not addressed by these rules.

(1) Fixed Set-Asides:

(A) Supportive Housing/Soft Repayment Set-Aside. The Supportive Housing/Soft Repayment ("SH/SR") set-aside will be limited by the unencumbered interest revenue generated by multifamily loan payments and any amount under the NHTF allocation received by the Department and not otherwise programmed. Supportive Housing and Soft Repayment may be two independent set-asides in the NOFA, in order to accommodate fund source requirements. The SH/SR set-aside is reserved for developments that are not able to support amortizing debt due to higher costs for supportive services and/or extremely low income and rent restrictions. Soft repayment loans may be structured as deferred payable, deferred forgivable or cash flow loans. It is the responsibility of the Applicant to account for any Eligible Basis and/or taxable event implications when requesting any of the potential loan structures available in this set-aside. Applicants seeking to qualify under this set-aside must propose Developments that meet either:

- (i) the Supportive Housing requirements in 10 TAC §11.12(b) including the other underwriting consideration for Supportive Housing Developments 10 TAC §11.302(g)(3) of the Underwriting and Loan Policy; or
- (ii) the requirements in subclauses (1F) - (3HH), funding exclusively units targeting 30% ~~percent~~ Area Median Income (“AMI”) households;

(I) All units assisted with MFDL funds must be available for households earning

~~30%~~ percent AMI or less and have rents no higher than the rent limits for extremely low-income tenants in 24 CFR §93.302(b);

(II) Any Units assisted with MFDL funds may not also be receiving tenant-based voucher or tenant-based rental assistance to the extent that there are other available units within the Development that the voucher-holder may occupy; and

(III) Units assisted with MFDL may not be restricted to ~~30%~~ percent AMI by another Department program or any other fund source.

(B) CHDO Set-Aside. Unless waived by HUD, a portion of the Department's annual HOME allocation, equal to at least ~~15%~~ percent, will be set aside for eligible Community Housing Development Organizations ("CHDO") meeting the requirements of the definition of Community Housing Development Organization found in 24 CFR §92.2 and §13.2(4). Applicants under the CHDO Set-Aside must be proposing to develop housing in Development Sites located outside Participating Jurisdictions unless the award is made within a Persons with Disabilities ("PWD") set-aside or unless the requirement under Tex. Gov't Code §2306.111(c)(1) has been waived by the Governor as the result of a disaster declaration. CHDO funds are typically available as fully-repayable amortizing debt consistent with §13.8 of this Chapter relating to debt structure policy. In instances where an application submitted under the CHDO Set-Aside also qualifies under the SH/SR Set-Aside, CHDO funds may be structured in accordance with the SH/SR Set-Aside requirements. A CHDO operating expenses grant may be awarded in conjunction with an award of MFDL funds under the CHDO set-aside in accordance with 24 CFR §92.208. Applications under the CHDO set-aside may not have a for profit special limited partner within the ownership organization chart.

(C) General. The General set-aside is for all other applications that do not meet the requirements of the SH/SR, CHDO set-asides, or flexible set-asides, if any. A portion of the General set-aside may be repositioned into the CHDO set-aside in order to fully fund a CHDO award that meets or exceeds the set-aside amount.

(2) Flexible Set-Asides:

(A) 4% and Bond Layered. The 4% and Bond Layered set-aside is reserved for Applications meeting all MFDL requirements that are layered with 4% Housing Tax Credits and Private Bond funds that do not meet the definition of CHDO.

(B) Persons with Disabilities ("PWD"). The PWD set-aside is reserved for Developments restricting units for tenants who meet the requirements of Tex. Gov't Code §2306.111(c)(2). MFDL funds will be awarded in a NOFA for the PWD set-aside only to the extent sufficient funds are available to award to at least one Application within a Participating Jurisdiction under Tex. Gov't Code §2306.111(c)(1).

(C) 9% Layered. The 9% Layered set-aside is reserved for applications meeting all MFDL requirements that are layered with 9% Housing Tax Credits, and do not meet the definition of CHDO. Awards under this set-aside are dependent on the concurrent award of a 9% HTC allocation.

(D) Additional set-asides may be developed, subject to Board approval, to meet the requirements of specific funds sources, or to address Department priorities.



(b) Regional Allocation. All funds in the annual NOFA will be initially allocated to regions and potentially subregions based on a Regional Allocation Formula ("RAF") within the set-asides. The RAF methodology may differ by fund source. HOME funds will be allocated in accordance with Tex. Gov't Code Chapter 2306. The end date for the RAF will be identified in the NOFA, but in no instance shall it be less than 30 days from the date a link to the Board approved NOFA is published on the Department's website.

(1) After expiration of the RAF, funds collapse but may still be available within set-asides as identified in the NOFA. Remaining funds within one or more set-asides may collapse in accordance with the NOFA. All Applications received prior to these collapse period deadlines will continue to hold their priority unless they are withdrawn, terminated, or funded.

(2) Funds remaining after expiration of the RAF, which have not been requested in the form of a complete Application, will be available statewide on a first-come first-served basis to Applications submitted after the collapse dates.

(3) In instances where the RAF would result in regional or subregional allocations insufficient to fund an Application, the Department may use an alternative method of distribution, including an early collapse, revised formula or other methods as approved by the Board, and reflected in the NOFA.

(c) Priorities for the Annual NOFA. Complete Applications received during the period of the RAF will be prioritized for review and recommendation to the Board, to the extent that funds are available both in the region and in the set-aside under which the application is received. If insufficient funds are available in a region to fund all Applications then the oversubscribed Applications will be evaluated only after the RAF and/or set-aside collapse and in accordance with the additional priority levels below, unless an Application received earlier is withdrawn or terminated. If insufficient funds are available within a region or set-aside, the Applicant may request to be considered under another set-aside if they qualify, prior to the collapse. Applications will be reviewed and recommended to the Board to the extent funds are available in accordance with the order of prioritization described in (1) - (3) of this subsection.

(1) Priority 1: Applications not layered with current year 9% HTC that are received prior to the Market Analysis Delivery Date as described in 10 TAC §11.2 [of this title \(relating to Program Calendar for Competitive Housing Tax Credits\)](#). Priority 1 Applications will be prioritized based on score within their respective set-aside and subregion or region during the RAF period to the extent that two or more Applications are received in the same set-aside that request less than or equal to the amount available in the subregion or region. Once the RAF period has ended, Applications will be reviewed on a first-come first served basis within their set-aside, or as reflected in the NOFA.

(2) Priority 2: Applications layered with current year 9% HTC will be prioritized based on their recommendation status and score for an HTC allocation. All Priority 2 applications will be deemed received on the Market Analysis Delivery Date as described in 10 TAC §11.2 [of this title \(relating to Program Calendar\)](#). In order for an MFDL application layered with 9% HTC to be considered complete, Applications for both programs must be timely received. Priority 2 applications will be recommended for approval at the same meeting when the Board approves the 9% HTC allocations. Applications that are on the wait list for a 9% HTC allocation are not guaranteed the availability of MFDL funds. If the applicable NOFA

is over-subscribed for MFDL funds, the Applicant will be notified and may amend their Application to accommodate another fund source.

(3) Priority 3: Applications that are received after the Market Analysis Delivery Date as described in 10 TAC §11.2 [of this title \(relating to Program Calendar\)](#) for 9% HTC Applications on a first come first served basis for any remaining funds until the final deadline identified in the annual NOFA.

(d) Other Priorities. The Board may set additional priorities for the annual NOFA, and for one time or special purpose NOFAs.

### **§13.5. Award Process.**

(a) Notice of Funding Availability ("NOFA"). All MFDL funds from the annual allocation will be distributed pursuant to the terms of a published NOFA that provides the specific collapse dates and deadlines as well as set-aside and RAF amounts applicable to the MFDL program, along with scoring criteria, priorities, award limits, and other Application information. Other funds may be distributed by NOFA or through other lawful methods approved by the Board. Set-aside, RAF, and total funding amounts may increase or decrease in accordance with the provisions herein without further Board action as long as the NOFA itself did not require Board action.

(b) Date of Receipt. Applications will be considered received on the business day of receipt. If an application is received after 5pm Austin ~~Local~~ [Local Timezone](#), it will be determined to have been received on the following business day. Applications received on a non-business day will be considered received on the next day the Department is open. Applications will be considered complete at the time all required third party reports and application fee(s), in addition to the application, are received by the Department. Within certain set-asides, the date of receipt may be fixed, regardless of the earlier actual date a complete application is received. If multiple applications are received on the same date, in the same region, and within the same set-aside, then score and tiebreaker factors, as described in §13.6 [of this chapter \(relating to Selection Criteria\)](#) for MFDL or 10 TAC §11.7 and ~~§11.99~~ [of this title \(relating to Competitive HTC Selection Criteria\)](#) for Applications layered with 9% HTC, will be used to determine the Application's rank.

(c) Applications. MFDL Applicants must follow the applicable requirements in 10 TAC Chapter 11 Subchapter C, [\(relating to Application Submission Requirements, Ineligibility Criteria, Board Decisions and Waiver of Rules for Applications\)](#). Failure to timely respond to any notice of Deficiency will result in suspension of the Application and reestablishment of the date of receipt of the Application to the final date at which the cure to the notice was received by the Department. If the date of receipt of the Application is reestablished, an Application could be de-prioritized in favor of another Application received prior to the new submission date.

(d) Market Analysis. Applications proposing Rehabilitation that request MFDL as the only source of Department funding may be exempted from the Market Analysis requirement in 10 TAC §11.205(2) [\(relating to Required Third Party Reports\)](#) if the Development's rent rolls for the most recent six months reflect occupancy of at least 80 percent.

(1) All applicants for MFDL funds, regardless of whether or not the Development Site is in a Participating Jurisdiction, must include the following language in the purchase contract or site control agreement: "Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until the Department has provided Purchaser and/or Seller with a written notification that:

(4A) ~~It~~ has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other Contingencies in this Contract, ~~(a)~~ the purchase may proceed, or

~~(b)~~ the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property; or

~~(2B)~~ ~~It~~ has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. The Department shall use its best efforts to conclude the environmental review of the property expeditiously."

(2) Applications also requesting 9% HTC may have the ability to revise financing prior to award should MFDL funds be oversubscribed in a set-aside or for a fund source that has geographic limitations within a set-aside. The Department will provide notice to all impacted Applicants in the case of over-subscription.

(3) When determining the source of funds that an Application will receive when recommended for an award from a set-aside that has multiple sources of funds, the Department will prioritize sources of funds for recommended Applications in the order described in (A)-(C), which may be limited by the type of activity an Application is proposing and/or the Development Site of an Application. The funds may further be prioritized or assigned to an Application based on limiting repayment risk and other considerations:

(A) Federal funds that have commitment and expenditure deadlines;

(B) Federal funds that do not have commitment and expenditure deadlines;

(C) Nonfederal funds that do not have commitment and expenditure deadlines.

(e) Eligibility Criteria. The Department will evaluate the Application for eligibility and threshold at the time of full Application pursuant to the requirements of this ~~Chapter~~ ~~chapter~~ and Chapter 11 of this title (relating to the Qualified Allocation Plan). If there are changes to the Application at any point prior to MFDL loan closing that have an adverse effect on the score and ranking order and that would have resulted in the application being ranked below another application in the ranking, the Department may terminate the Application.

(1) Applicants requesting MFDL as the only source of Department funds may meet the Experience Requirement under 10 TAC §11.204(6) of this title (relating to Required Documentation for Application Submission) or by providing evidence of the successful development, and operation for at least ~~5~~ five years, of at least twice as many affordability restricted units as requested in the Application.

(2) Applications for Developments previously given awards from the Department, or where construction has already started or been completed, regardless of fund source and are not proposing acquisition and rehabilitation, must be found eligible by the Board. The Board may find other applicants eligible for good cause such as Developments assisted by the Department that have encountered adverse factors beyond their control that could materially impair their ability to provide the affordable housing. An application that requires a finding of eligibility by the Board must identify that fact in their application so that the staff may present the matter to the Board for an eligibility determination. A finding of eligibility under this section does not guarantee an award. In general, these applications will not be funded with HOME or NHTF funds.

(A) Requests for eligibility determinations under this paragraph must be received with the Application, so that staff may present the matter to the Board for an eligibility determination, and will not be considered more than 30 calendar days prior to the first Application acceptance date published in the NOFA.

(B) Criteria for the Board to consider would include (i) - (iii) of this subparagraph:

(i) evidence of circumstances beyond the Applicant's control which could not have been prevented by timely start of construction; or

(ii) Force Majeure events; and

(iii) evidence that no further exceptional conditions exist that will delay or cause further cost increases.

(C) Applications for Developments previously given awards from the Department that have not yet achieved Construction Completion, Applications will be evaluated at no more than the amount of Developer Fee proposed in the original Application. MFDL funds may not be used to fund increased Developer Fee, regardless of the allowability of the increase under other Department rules.

(f) The contractual terms of an award will be governed by and reflect the rules in effect at the time of application; provided, however, that any changes in federal requirements will be reflected in the contractual terms and further provided, that if, prior to execution of such contract, there are new rules in effect, the Applicant may elect to be governed by the new rules.

#### **§13.6. Scoring Criteria.**

The criteria identified in paragraphs (1) - (7) of this section will be used in the evaluation and ranking of applications to the extent that other applications were received on the same date *and* within the same set-aside and prioritization. There is no rounding of numbers in this section, unless rounding is explicitly indicated for that particular calculation or criteria. The scoring items used to calculate the score for a 9% HTC layered application will be utilized for scoring for an MFDL Application, and evaluated in the same manner except as specified below. Scoring criteria in Chapter 11 of this title will always be superior to Scoring Criteria in this ~~Chapter~~ chapter to the extent that an MFDL Application is also concurrently requesting 9% housing tax credits:

(1) Applicants eligible for points under 10 TAC §11.9(c)(4) (~~relating~~ to the Opportunity Index) (7 points).

(2) Tenant Services. Applicants eligible for points under 10 TAC §11.9(c)(3)(A) (~~relating~~ to Tenant Services) (9 points) Applicants eligible for points under 10 TAC §11.9(c)(3)(B) (~~related relating~~ to Tenant Services) (1 point).

(3) Underserved Area. Applicants eligible for points under 10 TAC §11.9(c)(6) (~~relating~~ to Underserved Area) (up to 5 points).

(4) Subsidy per Unit. An application that caps the per unit subsidy limit for all Direct Loan units regardless of unit size at:

(A) \$100,000 per MFDL unit (4 points).

(B) \$80,000 per MFDL unit (8 points).

(C) \$60,000 per MFDL unit (10 points).

(5) Rent Levels of Tenants. An Application may qualify to receive up to ~~thirteen~~ (13) points for placing the following rent and income restrictions on the proposed Development for the entire

Affordability Period. These Units may not be restricted to 30 percent or less of AMGI by another fund source.

(A) At least 20 percent of all low-income Units at 30 percent or less of AMGI (13 points);

(B) At least 10 percent of all low-income Units at 30 percent or less of AMGI or, for a Development located in a Rural Area, 7.5 percent of all low-income Units at 30 percent or less of AMGI (12 points); or

(C) At least ~~5~~five percent of all low-income Units at 30 percent or less of AMGI (7 points).

(6) Tenant Populations with Special Housing Needs. An Application may qualify to receive two ~~(2)~~ points by serving Tenants with Special Housing Needs. Points will be awarded as described in subparagraphs (A) - (B) of this paragraph. If pursuing these points, Applicants must try to score first with subparagraph (A) and then subparagraph (B), both of which pertain to the requirements of the Section 811 Project Rental Assistance Program (“Section 811 PRA Program”) (10 TAC Chapter 8).

(A) An Applicant or Affiliate that Owns or Controls an Existing Development that is eligible to participate in the Department’s ~~Section 811 Project Rental Assistance Program~~ (“Section 811 PRA Program”) will do so in order to receive two ~~(2)~~ points. In order to qualify for points, the Existing Development must commit to the Section 811 PRA Program at minimum 10 Section 811 PRA Program Units, unless the Integrated Housing Rule, 10 TAC §1.15, or the 811 Program Rental Assistance Rule (“811 Rule”), 10 TAC Chapter 8, limits the Development to fewer than 10 Section 811 PRA Program Units. The same Section 811 PRA Program Units cannot be used to qualify for points in more than one Application. The Applicant or Affiliate will comply with the requirements of 10 TAC Chapter 8.

(B) An Applicant or Affiliate that does not meet the Existing Development requirements of 10 TAC Chapter 8 but still meets the requirements of 10 TAC §8.3 ([relating to Participation as a Proposed Development](#)) is eligible to receive two ~~(2)~~ points by committing Units in the proposed Development to participate in the Department’s Section 811 PRA Program. In order to be eligible for points, Applicants must commit at least 10 Section 811 PRA Program Units in the proposed Development for participation in the Section 811 PRA Program unless the Integrated Housing Rule, 10 TAC §1.15, or the 811 Program Rental Assistance Rule (“811 Rule”), 10 TAC Chapter 8, limits the Development to fewer than 10 Section 811 PRA Program Units. The same Section 811 PRA Program Units cannot be used to qualify for points in more than one Application. The Applicant will comply with the requirements of 10 TAC Chapter 8.

(7) Tiebreaker. In the event that two or more Applications receives the same number of points based on the scoring criteria above, staff will recommend for award the Application that proposes the greatest percentage of ~~30% percent~~ AMGI MFDL units within the Development that would convert to households at ~~15% percent~~ AMGI in the event of a tie in the Tiebreaker Certification.

### **§13.7. Maximum Funding Requests.**

(a) The maximum funding request for all applications will be identified in the NOFA, and may vary by development type, set-aside, or fund source.

(b) Maximum Per-Unit Subsidy Limits. The 234 Condo limits with the applicable high cost

percentage adjustment in effect at the time of application are the maximum per-unit subsidy limits -that an applicant may use to determine the amount of MFDL funds or other federal funds that may subsidize a unit. Stricter per-unit subsidy limits are allowable and incentivized as point scoring items in §13.6 Scoring Criteria. Per-unit subsidy limits as well as cost allocation analysis - ensuring that the amount of MFDL units as a percentage of total units is greater than the percentage of MFDL funds requested as a percentage of total development costs - will determine the amount of MFDL units required.

### **§13.8. Loan Structure and Underwriting Requirements.**

(a) Except for awards made under the SH/SR set-aside, all Multifamily Direct Loans awarded will be underwritten as fully repayable (must pay) at a rate specified in the NOFA and approved by the Board, and a 30 year amortization with a term that matches the term of any superior loans (within 6 months) at the time of application. If the Department determines that the Development does not support this structure, the Department may recommend an alternative that makes the development feasible under all applicable sections of 10 TAC §11.300-302 ~~(related-relating~~ to Underwriting [Policy Rules and Guidelines](#), and §13.8(c). The interest rate, amortization period, and term for the loan will be fixed by the Board at Award, and can only be amended prior to closing by the process in §13.12 of this chapter ~~(relating to Pre-Closing Amendments to Direct Loan Terms)~~.

(b) Changes to the total development cost and/or other sources of funds from the publication of the initial Underwriting Report to the time of loan closing must be reevaluated by Real Estate Analysis staff, who may recommend changes to principal amount and/or repayment structure for the Multifamily Direct Loan that will allow the Department to mitigate any increased risk. Where the Department determines such risk is not adequately mitigated, the award may be terminated or reconsidered by the Board. Increases in the principal or payment amount of any superior loans after the initial Underwriting Report must be approved by the Board.

(c) Direct Loans through the Department must adhere to the following criteria as identified in paragraphs (1) - (7) of this subsection if being requested as construction-to-permanent loans:

(1) The term for permanent loans shall be no less than ~~ten (10)~~ years and no greater than ~~forty (40)~~ years and the amortization schedule shall be ~~thirty (30)~~ years. The Department's loan must mature at the same time or within six ~~(6)~~ months of the shortest term of any senior debt so long as neither exceeds ~~forty (40)~~ years and six ~~(6)~~ months.

(2) Amortized loans shall be structured with a regular monthly payment beginning on the first day of the 25th full month following the actual date of loan closing and continuing for the loan term.

(3) If the first lien mortgage is a federally insured HUD or FHA mortgage the Department may approve a loan structure with annual payments payable from Surplus Cash Flow provided that the debt coverage ratio, inclusive of the loan, continues to meet the requirements in this subchapter.

(4) If the proposed first lien is a federally insured HUD or FHA mortgage that requires the Direct Loan to be subject to ~~75% percent~~ of Surplus Cash Flow, staff will require the debt service coverage ratio on both the federally insured loan and the Department's loan – as restricted to ~~75% percent~~ of Surplus Cash Flow – to continue to meet the minimum 1.15 in accordance with 10 TAC §~~1011.302(d)(4)(D)~~ [\(relating to Underwriting Rules and Guidelines\)](#).

~~(5)~~ Loans shall be secured with a deed of trust with a permanent lien position that is superior to any other sources for financing including hard repayment debt that is less than or equal to the Direct Loan amount and superior to any other sources that have soft repayment structures, non-amortizing balloon notes, have deferred forgivable provisions or in which the



lender has an identity of interest with any member of the Development Team; and,

(6) If the Direct Loan amounts to more than 50 percent of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application must include the documents as identified in subparagraphs (A) - (B) of this paragraph:

(A) ~~a~~A letter from a Third Party CPA verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10 percent of the Total Housing Development Cost as a short term loan for the Development; or

(B) ~~evidence~~Evidence of a line of credit or equivalent tool equal to at least 10 percent of the Total Housing Development Cost from a financial institution that is available for use during the proposed Development activities.

(7) If the Direct Loan is the only source of permanent Department funding for the Development:

(A) The Development Owner must provide equity in an amount not less than 20 percent of Total Housing Development Costs.

(i) An Applicant for Direct Loan funds may request Board approval to have an equity requirement of less than ~~twenty-20~~percent ~~(20%)~~. The request must specify the proposed equity that will be provided and provide support for why that reduced level of equity will be sufficient to provide reasonable assurance that such owner will be able to complete construction and stabilization timely. This support case will be reviewed by staff, and staff will provide their assessment and recommendation to the Board. The Applicant's support should include all mitigating or supporting factors including, by way of example, and not by way of limitation, performance bonds or collateral, lines of credit, or intercreditor agreements. "Sweat equity" or other forms of equity that cannot be readily accessed will not be allowed to count toward the equity requirement.

(B) For Applicants proposing new construction, an "as completed" appraisal that reflects the prospective value of the completed property consistent with rent and income restrictions proposed in the Application pursuant to 10 TAC §11.304 of this title (relating to Appraisal Rules and Guidelines) which results in total repayable loan to value of not greater than ~~80%~~percent must be provided.

(C) For Applicants proposing rehabilitation, the "as is" appraisal required by 10 TAC §11.205(4) may meet this requirement without needing an "as completed" appraisal provided the loan to value is not greater than 80%.

(8) All Direct Loan applicants where other third-party financing entities are part of the sources of funding must submit a *pro forma* and lender approval letter evidencing review of the Development and the Principals as described in 10 TAC §11.9(e)(1) (relating to Competitive HTC Selection Criteria). Where no third-party financing exists, the Department reserves the right to procure a third-party evaluation which will be required to be prepaid by the applicant.

(d) Direct Loans through the Department must adhere to the following criteria as identified in paragraphs (1) - (3) of this subsection if being requested as construction only loans:

(1) The term of the construction loan must be coterminous with any superior construction loan. In the event that the Direct Loan is the only construction loan, the term may not

exceed 24 months;

(2) The interest rate will be specified in the NOFA and approved by the Board; and

(3) Up to 50% ~~percent~~ of the construction loan may be advanced at loan closing should there be sufficient costs to reimburse that amount.

### §13.9. Construction Standards.

All Developments financed with Direct Loans will be required to meet at a minimum all applicable state and local codes, ordinances, and standards; the 2012 International Existing Building Code ("IEBC") or International Building Code ("IBC") as applicable. Rehabilitation Developments must meet the requirements in paragraphs (1) - (6) of this section:—

(1) ~~recommendations~~ Recommendations made in the Environmental Assessment and any Physical Conditions Assessment with respect to health and safety issues, life expectancy of major systems (structural support; roofing; cladding and weatherproofing; plumbing; electrical; and heating, ventilation, and air conditioning) must be implemented;

(2) ~~for~~ For properties originally constructed prior to 1978, the Physical Conditions Assessment and rehabilitation scope of work must be provided to the party conducting the lead-based paint and/or asbestos testing, and the rehabilitation must implement the mitigation recommendations of the testing report;

(3) ~~all~~ All accessibility requirements pursuant to 10 TAC Subchapter B must be met;

(4) ~~the~~ The broadband infrastructure requirements described in 24 CFR §92.251(a)(2)(vi) or (b)(1)(x) or 24 CFR §93.301(a)(2)(vi) or 24 CFR 93.301(b)(2)(vi) as applicable;

(5) ~~properties~~ Properties located in the designated catastrophe areas specified in 28 TAC §5.4008 must comply with 28 TAC §5.4011 (relating to Applicable Building Code Standards in Designated Catastrophe Areas for Structures Constructed, Repaired or to Which Additions Are Made On and After January 1, 2008); and

(6) ~~should~~ Should IEBC be more restrictive than local codes, or should local codes not exist, then the Development must meet the requirements imposed by IEBC.

### §13.10. Development and Unit Requirements.

(a) The bedroom/bathroom/amenities and square footages for Direct Loan Units must be comparable to the bedroom/bathroom/amenities and square footages for the total number of Units in the Development based on the amount of Direct Loan funds requested as a percentage of total Direct Loan eligible costs. As a result of this requirement, the Department will always use the Proration Method as the Cost Allocation Method in accordance with CPD Notice 16-15 except as described in (b) of this section. Additionally, the amount of Direct Loan funds requested cannot exceed the per-unit subsidy limit included in the NOFA. Direct Loan units must be provided as a percentage of each unit type, in proportion to the percentage of total costs included in the Direct Loan.

(b) For HOME, NSP, and TCAP RF, Direct Loan Units must float throughout the Development unless the Development also contains public housing units that will receive Operating Fund or Capital Fund assistance under Section 9 of the 1937 Act as defined in 24 CFR §5.100. For NHTF, Direct Loan Units must float throughout the Development except as prohibited by 24 CFR §93.203. Floating Direct Loan units may only float among the Units as described in the Direct Loan Contract and Direct Loan Land Use Restriction Agreement ("LURA"), or as specifically approved in writing by the Department.



(c) The minimum affordability period for all Direct Loan Units awarded under a NOFA will match the greater of the term of the loan or 30 years unless a lesser period is approved by the Board and when assisting distressed developments.

(d) If the Department is the only source of funding for the Development, all Units must be restricted.

(e) If the Direct Loan funds are layered in a 9% Development that is electing Income Averaging to qualify under IRC §42, the Direct Loan units required by the LURA must continue to be provided at the income levels committed at the time of Application. ~~Unit~~ designations may not change to meet Income Averaging requirements.

### **§13.11. Post-Award Requirements.**

(a) Direct Loan awardees must execute an Award Letter and Loan Term Sheet provided by the Department within ~~thirty (30)~~ calendar days after receipt of the letter. The Award Letter and Loan Term Sheet will be conditional in nature and provide a basic outline of the terms and conditions approved by the Board.

(b) If a Direct Loan award is returned after Board approval, or if the Applicant or Affiliates fail to timely close the loan, begin and complete construction, or leave a portion of the Direct Loan award unexpended, penalties may apply under 10 TAC §~~11.9~~(f) [of this title \(relating to Competitive HTC Selection Criteria\)](#) and/or the Department may prohibit the Applicant and all Affiliates from applying for MFDL funds for a period of ~~2~~-two years.

(c) Direct Loan awardees must submit a fully completed environmental review (if applicable) including any applicable reports ~~to~~ the Department within 90 days after the Board approval date. Direct Loan awardees that commit any choice limiting activities prior to obtaining environmental clearance may lead to termination of the Direct Loan award.

(d) Direct Loan awardees must execute a Contract within ~~sixty (60)~~ days of environmental clearance being obtained, or, if environmental clearance is not required, within 60 days after the Board approval date.

(e) Loan closing must occur and construction must begin no later than three ~~(3)~~ months from the effective date of a Contract.

(f) The Development Owner is required to submit quarterly construction status reports to the Asset Management Division as described and by the deadlines specified in [10 TAC §10.402\(h\) \(relating to Housing Tax Credit and Tax Exempt Bond Developments\)](#).

(g) In addition to any other requirements as the result of any other Department funding sources, the Development Owner must submit a mid-construction development inspection request once the development has met ~~25%~~ percent construction completion as indicated on the G703 Continuation Sheet. Inspection staff will issue a mid-construction development inspection letter that confirms that work is being done in accordance with the applicable codes, the construction contract, and construction documents. Up to 50 percent of the Direct Loan award will be released prior to issuance of the mid-construction development inspection letter.

(h) Construction must be completed, as reflected by the development's certificate(s) of occupancy and Certificate of Substantial Completion (AIA Form G704), and a final development inspection request must be submitted to the Department within 18 months of the actual loan closing date, with the repayment period beginning on the first day of the 25th month following the actual date of loan closing. The final development inspection letter will verify committed amenities have been provided and confirm compliance with all applicable accessibility requirements.

(i) Receipt of a Closed Final Development Inspection Letter, indicating that all deficiencies

identified in the Final Inspection Letter have been corrected, must occur within 24 months of the actual date of loan closing. The Final Development Inspection may be conducted concurrently with a Uniform Physical Condition Standards ("UPCS") inspection. However, any letters associated with a UPCS inspection will not satisfy the Closed Final Development Inspection Letter requirement.

(j) Extensions to the benchmarks in subsections (a) ~~to~~ (i) of this section may only be approved by the Executive Director or authorized designee in accordance with §13.12 or §13.13 of this ~~Chapter~~ chapter as applicable;

(k) Initial occupancy of all MFDL assisted Units by eligible tenants shall occur within six ~~(6)~~ months of the final Direct Loan draw. Requests to extend the initial occupancy period must be accompanied by documentation of marketing efforts and a marketing plan. The marketing plan may be submitted to HUD for final approval, if required by the MFDL fund source;

(l) Repayment will be required on a per Unit basis for Units that have not been rented to eligible households within ~~eighteen (18)~~ months of the final Direct Loan draw.

(m) Termination of the Direct Loan award and repayment of all disbursed funds will be required for any Development that is not completed within four ~~(4)~~ years of the effective date of a Direct Loan Contract.

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(n) Loan Closing: In preparation for closing any Direct Loan, the Development Owner must submit the items described in paragraphs (1) - (7) of this subsection:

(1) Documentation of the prior closing or concurrent closing with all sources of funds necessary for the long-term financial feasibility of the Development.

(2) Due diligence determined by the Department to be prudent and necessary to meet the Department's rules and to secure the interests of the Department.

(3) Where the Department will have a first lien position and the Applicant provides personal guarantees from all principals, as well as documentation that closing on other sources is reasonably expected to occur within three ~~(3)~~ months, the Executive Director or authorized designee may approve a closing to move forward without the closing on other sources. The Executive Director as the authorized designee of the Department must require a personal guarantee, in form and substance acceptable to the Department, from a Principal of the Development Owner for the interim period.;

(4) When Department funds have a first lien position during the construction period, assurance of completion of the Development in the form of payment and performance bonds in the full amount of the construction contract or equivalent guarantee in the sole determination of the Department is required. Such assurance of completion will run to the Department as obligee. Development Owners utilizing the USDA §515 program are exempt from this requirement but must meet the alternative requirements set forth by USDA.;

(5) Documentation required for closing includes, but is not limited to:

(A) Draft Owner/General Contractor agreement and draft Owner/Architect agreement prior to closing with final executed copies required by the day of closing;

(B) ~~survey~~ Survey of the Property that includes a certification to the Department, Development Owner, Title Company, and other lenders;

(C) ~~plans~~ Plans and specifications for review by the Department's inspection staff. Inspection staff will issue a plan review letter that is intended to assist in identifying early concerns associated with the Department's final construction requirements;

(D) ~~if~~ If layered with Housing Tax Credits, a fully executed limited partnership agreement between the General Partner and the tax credit investor entity (may be provided concurrent with closing);

(E) ~~final~~ Final Development information, including but not limited to a final development cost schedule, sources and uses, operating *pro forma*, annual operating expenses, cost categories for the Direct Loan funds, updated written financial commitments or term sheets and any additional financing exhibits that have changed since the time of application.;

(6) If required by the fund source, prior to Contract Execution unless an earlier period is described in Chapter 10 or 11 of this title, the Development Owner must provide verification of:

(A) ~~environmental~~ Environmental clearance;

(B) Site and Neighborhood clearance;

(C) ~~documentation~~ Documentation necessary to show compliance with the Uniform Relocation Assistance and Property Act and any other relocation requirements that may apply; and

(D) ~~any~~ Any other documentation that is necessary or prudent to meet program requirements or state or federal law in the sole determination of the Department.

(7) The Direct Loan Contract as executed, which will be drafted by counsel or its designee for the Department. No changes proposed by the Developer or Developer's counsel will be accepted unless approved by the Department's Legal Division or its designee.

(o) Loan Documents. The Development Owner is required to execute all loan closing documents required by and in form and substance acceptable to the Department's Legal Division

(1) Loan closing documents include but are not limited to a promissory note, deed of trust, construction loan agreement (if the proceeds of the loan are to be used for construction), LURA, Architect and/or licensed engineer certification of understanding to complete environmental mitigation if such mitigation is identified in HUD's environmental clearance or the Real Estate Analysis Division (REA) Underwriting Report and assignment and security instruments whereby the Developer, the Development Owner, and/or any Affiliates (if applicable) grants the Department their respective right, title, and interest in and to other collateral, including without limitation the Owner/Architect agreement and the Owner/General Contractor agreement, to secure the payment and performance of the Development Owner's obligations under the loan documents. In the event the Development receives funding that requires the Department's funding to be in a subordinate position, the individual who is able to control the Development (all such individuals if more than one

possess such power jointly and severally) will execute a personal guaranty in favor of the Department that in the event that the Development fails to fulfill its requirements of affordability for the required period, and as a result the Department is required to repay funds to the U. S. Department of Housing and Urban Development using non-federal funds and the net proceeds available to the Department after a foreclosure, deed in lieu of foreclosure, or similar disposition of the Development are insufficient to make such repayment, the guarantor(s) will jointly and severally guarantee repayment of that amount.

(2) Repayment provisions will require repayment on a per unit basis for units that have not been rented to eligible households within ~~eighteen~~ (18) months of the final Direct Loan draw; termination and repayment of the Direct Loan award in full will be required for any Development that is not completed within four ~~(4)~~ years of the date of Direct Loan Contract execution.

(3) Loan terms and conditions may vary based on the type of Development, Real Estate Analysis underwriting report, and the set-aside under which the award was made.

(p) Disbursement of Funds. The Borrower must comply with the requirements in paragraphs (1) - (9) of this subsection in order to receive a disbursement of funds to reimburse eligible costs incurred. Submission of documentation related to the Borrower's compliance with these requirements may be required with a request for disbursement:

(1) All requests for disbursement must be submitted through the Department's Housing Contract System, using the MFDL draw workbook or such other format as the Department may require.

(2) Documentation of the total construction costs incurred and costs incurred since the last disbursement of funds must be submitted. Such documentation must be signed by the General Contractor and certified by the Development architect and is generally in the form of an AIA Form G702 or G703;

(3) Disbursement requests must include a down-date endorsement to the Direct Loan (mortgage) title policy or Nothing Further Certificate that includes a title search through the date of the Architect's signature on AIA form G702. For release of retainage the down-date endorsement to the Direct Loan title policy or Nothing Further Certificate must be dated at least ~~thirty~~ (30) calendar days after the date of the completion as certified on the Certificate of Substantial Completion (AIA Form G704) with \$0 as the work remaining to be completed. Disbursement requests for acquisition and closing costs are exempt from this requirement;

(4) At least 50 percent of the funds will be withheld from the initial disbursement of loan funds to allow for periodic disbursements;

(5) The initial draw request for the Development must be entered into the Department's Housing Contract System no later than ~~ten~~ 10 business days prior to the one year anniversary of the effective date of the Direct Loan Contract;

(6) Up to 75 percent of Direct Loan funds may be drawn before providing evidence of Match. Thereafter, the Borrower must provide evidence of Match being credited to the Development prior to release of the final 25 percent of funds;

(7) Developer fee disbursement shall be limited by Section 13.11(p)(9) of this chapter and

further conditioned upon:

(A) ~~for For~~ Developments in which the loan is secured by a first lien deed of trust against the Property, 75 percent shall be disbursed in accordance with percent of construction completed. 75 percent of the total allowable fee will be multiplied by the percent completion, as documented by the construction contract and as may be verified by an inspection by the Department. The remaining 25 percent shall be disbursed at the time of release of retainage; or

(B) ~~for For~~ Developments in which the loan is not secured by a first lien deed of trust or the Development is also utilizing Housing Tax Credits, developer fees will not be reimbursed by the Department except as follows. If all other lenders and syndicator in a Housing Tax Credit development (if applicable) provide written confirmation that they do not have an existing or planned agreement to govern the disbursement of developer fees and expect that Department funds shall be used to fund developer fees, they shall be reimbursed in the same manner as described in subparagraph (A) of this paragraph; and

(C) ~~the The~~ Department may reasonably withhold any disbursement in accordance with the Loan Documents and if it is determined that the Development is not progressing as reasonably necessary to meet the benchmarks for the timely completion of construction of the Development as set forth in the loan documents, or that cost overruns have put the Development Owner's ability to repay its Direct Loan or complete the construction at risk in accordance with the terms of the loan documents and within budget. If disbursement has been withheld under this subsection, the Development Owner must provide evidence to the satisfaction of the Department that the Development will be timely completed and occupied in order to continue receiving funds. If Disbursement is withheld for any reason, disbursement of any remaining developer fee will be made only after construction of the Development has been completed, and all requirements for expenditure and occupancy have been met;

(8) Expenditures must be allowable and reasonable in accordance with federal and state rules and regulations. The Department shall review each expenditure requested for reasonableness. The Department may request the Development Owner make modifications to the disbursement request and is authorized to modify the disbursement procedures set forth herein and to establish such additional requirements for payment of Department funds to Development Owner as may be necessary or advisable for compliance with all program requirements;

(9) Table funding requests will not be considered unless the Direct Loan Contract has been executed and all necessary documentation has been completed and submitted to the Department at least ~~ten (10)~~ calendar days prior to planned closing;

(10) Following ~~fifty-50~~ percent construction completion, any funds will be released in accordance with the percentage of construction completion. ~~40-Ten~~ percent of requested Hard Costs will be retained and will not be released until the final draw request. If the Development is receiving funds from more than one MFDL source, the retainage requirement will apply to each fund source individually. All of the items described in subparagraphs (A) - (G) of this paragraph are required in order to approve the final draw request:

(A) Fully executed Certificate of Substantial Completion (AIA Form G704) with \$0 as the cost estimate of work that is incomplete;

(B) A down date endorsement to the Direct Loan title policy or Nothing Further Certificate dated at least 30 calendar days after the date of completion as certified on the Certificate of Substantial Completion (AIA Form G704);

(C) For Developments not layered with Housing Tax Credits, a Closed Final Development Inspection Letter from the Department;

(D) For Developments subject to the Davis-Bacon Act, evidence from the Senior Labor Standards Specialist that the final wage compliance report was received and approved or confirmation that HUD maintains Davis-Bacon oversight as a result of a HUD-insured first lien loan;

(E) Certificate(s) of Occupancy (if New Construction);

(F) Development completion reports, which includes, but is not limited to, documentation of full compliance with the Uniform Relocation Act/104(d), Match Documentation requirements, and Section 3 of the Housing and Urban Development Act of 1968, as applicable to the Development, and any other applicable requirement; and

(G) If applicable to the Development, certification from Architect or a licensed engineer that all HUD and REA environmental mitigation conditions have been met.

(11) The final draw request must be submitted within 24 months from loan closing. Extensions to this deadline may only be granted in accordance with §13.12(3) of this ~~Chapter~~Chapter.

### **§13.12. Pre-Closing Amendments to Direct Loan Terms.**

The Executive Director or authorized designee may approve amendments to loan terms prior to closing as described in paragraphs (1) - (6) of this section. Board approval is necessary for any other changes prior to closing.

(1) ~~Extensions~~ of up to ~~6~~six months to the loan closing date required in §13.11(e) in of this ~~Chapter~~chapter. An Applicant must document good cause, which includes but is not limited to delays caused by circumstances outside the control of the applicant or constraints in arranging a multiple source closing. An extension will not be available if an Applicant has:

(A) ~~failed~~Failed to timely begin or complete processes required to close; including

(i) finalizing all equity and debt financing; or

(ii) the environmental review process; or

(B) ~~made~~Made changes to the Development that require additional underwriting by the Department without sufficient time to complete the review.

(2) ~~C~~changes to the loan maturity date to accommodate the requirements of other lenders or to maintain parity of term;

(3) ~~extensions~~Extensions of up to 12 months to §13.11(h) or (i) date based on documentation that the extension is necessary to complete construction and that there is good cause for the extension. Such a request will generally not be approved prior to initial loan closing~~;~~.

(4) Changes to the loan amortization or interest rate that cause the annual repayment amount to decrease less than 20 percent or any changes to the amortization or interest rate that increase the annual repayment amount;

(5) Decreases in the Direct Loan amount, provided the decrease does not jeopardize the financial viability of the Development. Increases will generally not be approved unless the Applicant competes for the additional funding under an open NOFA;

(6) Changes to other loan terms or requirements as necessary to facilitate the loan closing without exposing the Department to undue financial risk.

### **§13.13. Post-Closing Amendments to Direct Loan Terms.**

(a) The Executive Director or authorized designee may approve extensions of up to 12 months to §13.11(h), (i), or (p)(11) of this Chapter based on documentation that there is good cause for the extension.

(b) Except in cases of Force Majeure, changes to federal awards will only be processed after the Development is reported to the federal oversight entity as completed and the last of the MFDL funds have been drawn.

(c) The Executive Director or authorized designee may approve amendments to loan terms post-closing as described in paragraphs (1) - (3) of this section. Board approval is necessary for any other changes post-closing.

(1) Changes to the amortization or maturity date to accommodate the requirements of other lenders or maintain parity of term, provided the changes result in the Direct Loan continuing to meet the requirements of §13.8(c)(1) and (3);

(2) Resubordination of the Direct Loan in conjunction with refinancing provided the conditions in (A) – (E) are met:

(A) The Borrower is current with loan payments to the Department, and no notice has been given of any Event of Default on any MFDL loan. Histories of late or non-payment on any other MFDL loan may result in denial of the request;

(B) The refinance does not propose payment to any of the Development Owner or Developer parties (including the Limited Partners);

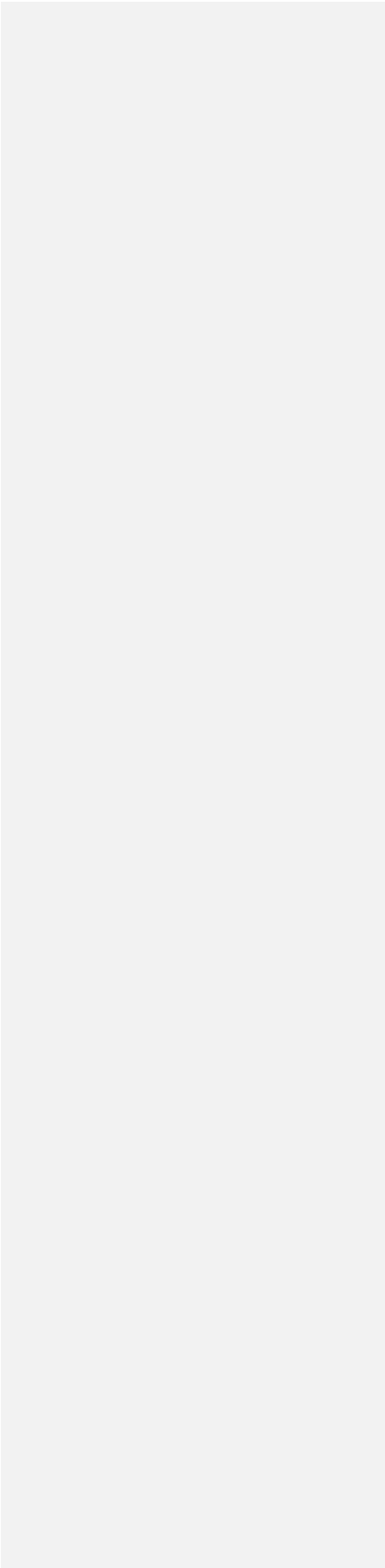
(C) A proposal for partial or full repayment of the MFDL lien is made with the request; and

(D) The new superior lien is in an amount that is equal to or less than the original senior lien and does not negatively affect the financial feasibility of the Development.

(E) Changes to accommodate refinancing with a new superior lien that is in an amount that exceeds the original senior lien and which will be directly applied to property improvements as evidenced by the loan or security agreements (exclusive of fees associated with the refinance and any required reserves) will be considered on a case by case basis.

(3) Changes required to the Department's loan terms or amounts that are part of an approved

Asset Management Division work out arrangement.





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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and an order adopting the new 10 TAC Chapter 12 concerning the Multifamily Housing Revenue Bond Rules, and directing its publication in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (“Department”) is authorized to issue multifamily housing revenue bonds for the State of Texas;

**WHEREAS**, the Department developed the Multifamily Housing Revenue Bond Rules to establish the procedures and requirements relating to the issuance of bonds;

**WHEREAS**, the proposed repeal and new 10 TAC Chapter 12 were published in the September 21, 2018, issue of the *Texas Register* for public comment; and

**WHEREAS**, the public comment period ended October 12, 2018, and no comment was received relating to this rule;

**NOW, therefore, it is hereby**

**RESOLVED**, that the final order adopting the repeal and new 10 TAC Chapter 12 regarding the Multifamily Housing Revenue Bond Rules, together with the preamble presented to this meeting, are approved for publication 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 cause the amendments to the Multifamily Housing Revenue Bond Rules, together with the preamble in the form presented to this meeting, to be published in the *Texas Register* and in connection therewith, make non-substantive technical corrections as they may deem necessary to effectuate the foregoing.

**BACKGROUND**

The Board approved the proposed changes to Chapter 12 regarding the 2019 Multifamily Housing Revenue Bond Rules (“Bond Rules”) at the Board meeting of September 6, 2018, to be published in the *Texas Register* for public comment. The Department did not receive any comments specific to the 2019 Bond Rules and no changes have been made beyond those that are purely clerical or those required for consistency with the Qualified Allocation Plan being adopted at this same Board meeting.

## **Attachment 1: Preamble, including required analysis, for adopting repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rule**

The Texas Department of Housing and Community Affairs (the "Department") adopts the repeal of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rule ("Bond Rule"). The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

1. Mr. Irvine has determined that, for the first five years the repeal will be in effect, the repeal does not create or eliminate a government program, but relates to the repeal, and simultaneous re-adoption making changes to an existing activity, the issuance of Private Activity Bonds ("PAB").
2. The repeal does not require a change in work that will require the creation of new employee positions, nor is the repeal significant enough to reduce work load to a degree that any existing employee positions are eliminated.
3. The repeal does not require additional future legislative appropriations.
4. The repeal does not result in an increase in fees paid to the Department nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The action will repeal an existing regulation, but is associated with a simultaneous re-adoption making changes to an existing activity, the issuance of PABs.
7. The repeal will not increase nor decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively nor positively affect this state's economy.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated this repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX GOV'T CODE §2007.043.** The repeal does not contemplate nor authorize a taking by the Department; therefore no Takings Impact Assessment is required.

### **d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal will be in effect there will be no economic effect on local employment; therefore no local employment impact statement is required to be prepared for the rule.

### **e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).**

Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed section would be an elimination of an outdated rule while adopting a new updated rule under separate action for administering the issuance of PAB. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also 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.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between September 21, 2018, and October 12, 2018. No comment was received.

The Board adopted the final order adopting the repeal on November 8, 2018.

STATUTORY AUTHORITY. The repeal is adopted pursuant to TEX. GOV'T CODE, §2306.053, which authorizes the Department to adopt rules. Except as described herein the repealed sections affect no other code, article, or statute.

## **10 TAC Chapter 12, Multifamily Housing Revenue Bond Rule**

## **Attachment 2: Preamble, including required analysis, for adopting new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules**

The Texas Department of Housing and Community Affairs (the “Department”) adopts new 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rule (“Bond Rule”). The purpose of the new section is to provide compliance with Tex. Gov’t Code §2306.359 and to update the rule to: clarify that taxable bonds are not eligible for housing tax credits, clarify that threshold requirements at full application are not reviewed at the time of pre-application, clarify how statements made by a state elected official would constitute support and ensures consistency with how such statements are evaluated under the Qualified Allocation Plan, update references to other rules that are used, clarify that rehabilitation developments may proceed with closing without providing the Department with evidence that building permits will be received prior to closing, so long as confirmation that lender and/or equity partners are comfortable with proceeding with closing, clarify that applications layered with housing tax credits may elect the income averaging set-aside but that bond restrictions are not eligible for income averaging, and clarify how the first year of the issuer administration fee and the ongoing issuer administration fee is calculated.

Tex. Gov’t Code §2001.0045(b) does not apply to the rule being adopted pursuant to item (9), which excepts rule changes necessary to implement legislation. The proposed rule provides compliance with Tex. Gov’t Code §2306.359, which requires the Department to provide for specific scoring criteria and underwriting considerations for multifamily private activity bond activities.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

### **a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV’T CODE §2001.0221.**

Timothy K. Irvine, Executive Director, has determined that, for the first five years the new rule will be in effect:

1. The new rule does not create or eliminate a government program, but relates to the re-adoption of this rule which makes changes to an existing activity, the issuance of Private Activity Bonds (“PAB”).
2. The new rule does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new rule changes do not require additional future legislative appropriations.
4. The new rule changes will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new rule is not creating a new regulation, except that it is replacing a rule being repealed simultaneously to provide for revisions.
6. The new rule will not limit, expand or repeal an existing regulation but merely revises a rule.
7. The new rule does not increase nor decrease the number of individuals subject to the rule’s applicability.
8. The new rule will not negatively nor positively affect the state’s economy.

### **b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL**

COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.359.

1. The Department has evaluated this rule and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. This rule relates to the procedures in place for entities applying for multifamily PAB. Only those small or micro-businesses that participate in this program are subject to this rule. There are approximately 100 to 150 businesses, which could possibly be considered small or micro-businesses, subject to the rule for which the economic impact of the rule would be a flat fee of \$8,500 which includes the filing fees associated with submitting a bond pre-application.

The Department bases this estimate on the potential number of Applicants and their related parties who may submit applications to TDHCA for PAB (and accompanying housing tax credits). There could be additional costs associated with pre-applications depending on whether the small or micro-businesses outsource how the application materials are compiled. The filing fees associated with a full application for PAB which is layered with LIHTC may range from \$480 to \$2,400 which is based on \$30 per unit, and all Applicants are required to propose constructing, at a minimum, 16 Units. The rule places a limit on the maximum number of Units that can be proposed, at 80 Units.

These fee costs are not inclusive of external costs required by the basic business necessities underlying any real estate transaction, from placing earnest money on land, conducting an Environmental Site Assessment, conducting a market study, potentially retaining counsel, hiring an architect and an engineer to construct basic site designs and elevations, and paying any other related, third-party fees for securing the necessary financing to construct multifamily housing.

There are 1,296 rural communities potentially subject to the new rule for which the economic impact of the rule is projected to be \$0. 10 TAC Chapter 12 places no financial burdens on rural communities, as the costs associated with submitting an Application are born entirely by private parties. In an average year the volume of applications for PAB that are located in rural areas is not more than 20% of all PAB applications received. In those cases, a rural community securing a PAB Development will experience an economic benefit, not least among which is the increased property tax revenue from a large multifamily Development.

3. The Department has determined that because there are rural PAB awardees, this program helps promote construction activities and long term tax base in rural areas of Texas. Aside from the fees and costs associated with submitting an Application, there is a probable positive economic effect on small or micro-businesses or rural communities that receive PAB awards and successfully use those awards to construct multifamily housing, although the specific impact is not able to be quantified in advance.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the rule as to its possible effects on local economies and has determined that for the first five years the rule will be in effect the new rule may provide a possible positive economic effect on local employment in association with this rule since PAB Developments, layered with housing tax credits, often involve a typical minimum investment of \$10 million in capital, and more commonly an investment from \$20 million to \$30 million. Such

a capital investment has direct, indirect, and induced effects on the local and regional economies and local employment. However, because the exact location of where program funds or developments are directed is not determined in rule, and is driven by real estate demand, there is no way to predict during rulemaking where these positive effects may occur. Furthermore, while the Department believes that any and all impacts are positive, that impact is not able to be quantified for any given community until PABs and LIHTCs are actually awarded to a proposed Development, given the unique characteristics of each proposed multifamily Development.

Texas Gov't Code §2001.022(a) states that this “impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule...” Considering that significant construction activity is associated with any PAB Development layered with LIHTC and each apartment community significantly increases the property value of the land being developed, there are no probable negative effects of the new rule on particular geographic regions. If anything, positive effects will ensue in those communities where developers receive PAB awards.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section will be an updated and more germane rule for administering the issuance of PABs and corresponding allocation of housing tax credits. There is no change to the economic cost to any individuals required to comply with the new section because the same processes described by the rule have already been in place through the rule found at this section being repealed. The average cost of filing a pre-application and application remain unchanged based on these rule changes. The proposed rules do not, on average, result in an increased cost of filing an application as compared to the existing program rules.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Irvine also has determined that for each year of the first five years the new section is in effect, enforcing or administering the new section does not have any foreseeable implications related to costs or revenues of the state or local governments because the same processes described by the rule have already been in place through the rule found at this section being repealed.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comments between September 21, 2018 and October 12, 2018. No comment was received.

The Board adopted the final order adopting the new on November 8, 2018.

STATUTORY AUTHORITY. The new sections are adopted pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new sections affect no other code, article, or statute.

### §12.1. General.

**(a) Authority.** The rules in this chapter apply to the issuance of multifamily housing revenue bonds ("Bonds") by the Texas Department of Housing and Community Affairs ("Department"). The Department is authorized to issue Bonds pursuant to Tex. Gov't Code, Chapter 2306. Notwithstanding anything in this chapter to the contrary, Bonds which are issued to finance the Development of multifamily rental housing are subject to the requirements of the laws of the State of Texas, including but not limited to Tex. Gov't Code, Chapters 1372 and 2306, and federal law pursuant to the requirements of Internal Revenue Code ("Code"), §142.

**(b) General.** The purpose of this chapter is to state the Department's requirements for issuing Bonds, the procedures for applying for Bonds and the regulatory and land use restrictions imposed upon Bond financed Developments. The provisions contained in this chapter are separate from the rules relating to the Department's administration of the Housing Tax Credit program. Applicants seeking a Housing Tax Credit Allocation should consult Chapter 11 of this title (relating to the Housing Tax Credit Program Qualified Allocation Plan) for the current program year. In general, the Applicant will be required to satisfy the eligibility and threshold requirements of the Qualified Allocation Plan ("QAP") in effect at the time the Certificate of Reservation is issued by the Texas Bond Review Board ("TBRB"). If the applicable QAP or Uniform Multifamily Rules contradict rules set forth in this chapter, the applicable QAP will take precedence over the rules in this chapter except in an instance of a conflicting statutory requirement, which shall always take precedence.

**(c) Costs of Issuance.** The Applicant shall be responsible for payment of all costs related to the preparation and submission of the pre-application and Application, including but not limited to, costs associated with the publication and posting of required public notices and all costs and expenses associated with the issuance of the Bonds, regardless of whether the Application is ultimately approved or whether Bonds are ultimately issued. At any point during the process, the Applicant is solely responsible for determining whether to proceed with the Application and the Department disclaims any and all responsibility and liability in this regard.

**(d) Taxable Bonds.** The Department may issue taxable Bonds and the requirements associated with such Bonds, including occupancy requirements, shall be determined by the Department on a case by case basis. Taxable bonds will not be eligible for an allocation of tax credits.

**(e) Waivers.** Requests for any permitted waivers of program rules must be made in accordance with §11.207 of this title (relating to Waiver of Rules).

### §12.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Any capitalized terms not specifically mentioned in this section shall have the meaning as defined in Tex. Gov't Code, Chapter 2306, §§141, 142, and 145 of the Internal Revenue Code, and Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan).

(1) Institutional Buyer--Shall have the meaning prescribed under 17 CFR §230.501(a), but excluding any natural person or any director or executive officer of the Department (17 CFR



§230.501(a)(4) - (6)), or as defined by 17 CFR §230.144(a), promulgated under the Securities Act of 1933, as amended.

(2) Persons with Special Needs--Shall have the meaning prescribed under Tex. Gov't Code, §2306.511.

(3) Bond Trustee--A financial institution, usually a trust company or the trust department in a commercial bank, that holds collateral for the benefit of the holders of municipal securities. The Bond Trustee's obligations and responsibilities are set forth in the Indenture.

### **§12.3. Bond Rating and Investment Letter.**

**(a) Bond Ratings.** All publicly offered Bonds issued by the Department to finance Developments shall have a debt rating the equivalent of at least an "A" rating assigned to long-term obligations by Standard & Poor's Ratings Services, or Moody's Investors Service, Inc. If such rating is based upon credit enhancement provided by an institution other than the Applicant or Development Owner, the form and substance of such credit enhancement shall be subject to approval by the Board, evidenced by a resolution authorizing the issuance of the credit enhanced Bonds.

**(b) Investment Letters.** Bonds rated less than "A" or Bonds which are unrated must be placed with one or more Institutional Buyers and must be accompanied by an investor letter acceptable to the Department. Subsequent purchasers of such Bonds must also be qualified as Institutional Buyers and must execute and deliver to the Department an investor letter in a form satisfactory to the Department. Bonds rated less than "A" and Bonds which are unrated shall be issued in physical form, in minimum denominations of one hundred thousand dollars (\$100,000), and must carry a legend requiring any purchasers of the Bonds to be Institutional Buyers and sign and deliver to the Department an investor letter in a form acceptable to the Department.

### **§12.4. Pre-Application Process and Evaluation.**

**(a) Pre-Inducement Questionnaire.** Prior to the filing of a pre-application, the Applicant shall submit the Pre-Inducement Questionnaire, in the form prescribed by the Department, so the Department can have a preliminary understanding of the proposed Development plan before a pre-application and corresponding fees are submitted. Information requested by the Department in the questionnaire includes, but is not limited to, the financing structure, borrower and key principals, previous housing tax credit or private activity bond experience, related party or identity of interest relationships and contemplated scope of work (if proposing Rehabilitation). After reviewing the pre-inducement questionnaire, Department staff will follow-up with the Applicant to discuss the next steps in the process and may schedule a pre-inducement conference call or meeting. Prior to the submission of a pre-application, it is essential that the Department and Applicant communicate regarding the Department's objectives and policies in the development of affordable housing throughout the State using Bond financing. The acceptance of the questionnaire by the Department does not constitute a pre-application or Application and does not bind the Department to any formal action regarding an inducement resolution.

**(b) Neighborhood Risk Factors.** If the Development Site has any of the characteristics described in §11.101(a)(3)(B) of this title (relating to Site and Development Requirements and Restrictions), the Applicant must disclose the presence of such characteristics to the Department. Disclosure may be done at time of pre-application and handled in connection with

the inducement or it can be addressed at the time of Application submission. The Applicant understands that any determination made by staff or the Board at the time of bond inducement regarding Site eligibility based on the documentation presented, is preliminary in nature. Should additional information related to any of the neighborhood risk factors become available while the full Application is under review, or the information by which the original determination was made changes in a way that could affect eligibility, then such information will be re-evaluated and presented to the Board. The Application may be subject to termination should staff conclude that the Development Site has any characteristics found in §11.101(a)(3)(B) of this title (relating to Site and Development Requirements and Restrictions) and the Applicant failed to disclose.

**(c) Pre-Application Process.** An Applicant who intends to pursue Bond financing from the Department shall submit a pre-application by the corresponding pre-application submission deadline, as set forth by the Department. The required pre-application fee as described in §12.10 of this chapter (relating to Fees) must be submitted with the pre-application in order for the pre-application to be accepted by the Department. Department review at the time of the pre-application is limited and not all issues of eligibility, fulfillment of threshold requirements in connection with the full Application, and documentation submission requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) are reviewed. The Department is not responsible for notifying an Applicant of potential areas of ineligibility or other deficiencies at the time of pre-application. If the Development meets the criteria as described in §12.5 of this chapter (relating to Pre-Application Threshold Requirements), the pre-application will be scored and ranked according to the selection criteria as described in §12.6 of this chapter (relating to Pre-Application Scoring Criteria).

**(d) Scoring and Ranking.** The Department will rank the pre-application according to score within each priority defined by Tex. Gov't Code, §1372.0321. All Priority 1 pre-applications will be ranked above all Priority 2 pre-applications which will be ranked above all Priority 3 pre-applications. This priority ranking will be used throughout the calendar year. The selection criteria, as further described in §12.6 of this chapter, reflect a structure which gives priority consideration to specific criteria as outlined in Tex. Gov't Code, §2306.359. Should two or more pre-applications receive the same score, the tie breaker will go to the pre-application with the highest number of points achieved under §12.6(8) of this chapter (relating to Underserved Area) to determine which pre-application will receive preference in consideration of a Certificate of Reservation.

**(e) Inducement Resolution.** After the pre-applications have been scored and ranked, the pre-application will be presented to the Department's Board for consideration of an inducement resolution declaring the Department's initial intent to issue Bonds with respect to the Development. Approval of the inducement resolution does not guarantee final Board approval of the Bond Application. Department staff may recommend that the Board not approve an inducement resolution for a pre-application or that an inducement resolution be approved despite the presence of neighborhood risk factors not fully evaluated by staff. The Applicant recognizes the risk involved in moving forward should this be the case and the Department assumes no responsibility or liability in that regard. Each Development is unique, and therefore, making the final determination to issue Bonds is often dependent on the issues presented at the time the full Application is considered by the Board.

#### **§12.5. Pre-Application Threshold Requirements.**

The threshold requirements of a pre-application include the criteria listed in paragraphs (1) - (8) of this section. As the Department reviews the pre-application the assumptions as reflected in

Chapter 11, Subchapter D of this title (relating to Underwriting and Loan Policy) will be utilized even if not reflected by the Applicant in the pre-application.

- (1) Submission of the multifamily bond pre-application in the form prescribed by the Department;
- (2) Completed Bond Review Board Residential Rental Attachment for the current program year;
- (3) Site Control, evidenced by the documentation required under §11.204(10) of this title (relating to Required Documentation for Application Submission). The Site Control must be valid through the date of the Board meeting at which the inducement resolution is considered and must meet the requirements of §11.204(10) of this title at the time of Application;
- (4) Boundary survey or plat clearly identifying the location and boundaries of the subject Property;
- (5) Organizational Chart showing the structure of the Development Owner and of any Developer and Guarantor, providing the names and ownership percentages of all Persons having an ownership interest in the Development Owner, Developer and Guarantor, as applicable. The List of Organizations form, as provided in the pre-application, must include all Persons identified on the organizational charts, and further identify which of those Persons listed exercise Control of the Development;
- (6) Distribution List Form, as provided in the pre-application, to include the anticipated financing participants;
- (7) Evidence of Entity Registration or Reservation with the Texas Office of the Secretary of State;
- (8) A certification, as provided in the pre-application, that the Applicant met the requirements and deadlines for public notifications as identified in §11.203 of this title (relating to Public Notifications (§2306.6705(9))). Notifications must not be older than three months prior to the date of Application submission. Re-notification will be required by Applicants who have submitted a change from pre-application to Application that reflects a total Unit increase of greater than 10 percent or a 5 percent increase in density (calculated as Units per acre) as a result of a change in the size of the Development Site. In addition, should the person holding any position or role identified in §11.203 of this title change between the submission of a pre-application and the submission of an Application, Applicants are required to notify the new person no later than the Full Application Delivery Date.

#### **§12.6. Pre-Application Scoring Criteria.**

This section identifies the scoring criteria used in evaluating and ranking pre-applications. The criteria identified below include those items required under Tex. Gov't Code, §2306.359 and other criteria considered important by the Department. Any scoring items that require supplemental information to substantiate points must be submitted in the pre-application, as further outlined in the Multifamily Bond Pre-Application Procedures Manual. Applicants proposing multiple sites will be required to submit a separate pre-application for each Development Site. Each Development Site will be scored on its own merits and the final score will be determined based on an average of all of the individual scores.

(1) Income and Rent Levels of the Tenants. Pre-applications may qualify for up to (10 points) for this item.

(A) Priority 1 designation includes one of clauses (i) - (iii) of this subparagraph. (10 points)

(i) Set aside 50 percent of Units rent capped at 50 percent AMGI and the remaining 50 percent of Units rent capped at 60 percent AMGI; or

(ii) Set aside 15 percent of Units rent capped at 30 percent AMGI and the remaining 85 percent of Units rent capped at 60 percent AMGI; or

(iii) Set aside 100 percent of Units rent capped at 60 percent AMGI for Developments located in a census tract with a median income that is higher than the median income of the county, MSA or PMSA in which the census tract is located.

(B) Priority 2 designation requires the set aside of at least 80 percent of the Units capped at 60 percent AMGI (7 points).

(C) Priority 3 designation. Includes any qualified residential rental development. Market rate Units can be included under this priority (5 points).

(2) Cost of Development per Square Foot. (1 point) For this item, costs shall be defined as either the Building Cost or the Hard Costs as represented in the Development Cost Schedule, as originally provided in the pre-application. This calculation does not include indirect construction costs. Pre-applications that do not exceed \$95 per square foot of Net Rentable Area will receive one point. Rehabilitation will automatically receive (1 point).

(3) Unit Sizes. (5 points) The Development must meet the minimum requirements identified in this subparagraph to qualify for points. Points for this item will be automatically granted for Applications involving Rehabilitation (excluding Reconstruction).

(A) Five-hundred-fifty (550) square feet for an Efficiency Unit;

(B) Six-hundred-fifty (650) square feet for a one Bedroom Unit;

(C) Eight-hundred-fifty (850) square feet for a two Bedroom Unit;

(D) One-thousand-fifty (1,050) square feet for a three Bedroom Unit; and

(E) One-thousand, two-hundred-fifty (1,250) square feet for a four Bedroom Unit.

(4) Extended Affordability. (2 points) A pre-application may qualify for points under this item for Development Owners that are willing to extend the State Restrictive Period for a Development to a total of 35 years.

(5) Unit and Development Construction Features. A minimum of (9 points) must be selected, as certified in the pre-application, for providing specific amenity and quality features in every Unit at no extra charge to the tenant. The amenities and corresponding point structure is provided in §11.101(b)(6)(B) of this title (relating to Site and Development Requirements and Restrictions). The points selected at pre-application and/or Application will be required to be identified in the LURA and the points selected must be maintained throughout the State Restrictive Period. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of (3 points).

(6) Common Amenities. All Developments must provide at least the minimum threshold of points for common amenities based on the total number of Units in the Development as provided in subparagraphs (A) - (F) of this paragraph. The common amenities include those

listed in §11.101(b)(5) of this title and must meet the requirements as stated therein. The Owner may change, from time to time, the amenities offered; however, the overall points as selected at Application must remain the same.

- (A) Developments with 16 to 40 Units must qualify for (4 points);
- (B) Developments with 41 to 76 Units must qualify for (7 points);
- (C) Developments with 77 to 99 Units must qualify for (10 points);
- (D) Developments with 100 to 149 Units must qualify for (14 points);
- (E) Developments with 150 to 199 Units must qualify for (18 points); or
- (F) Developments with 200 or more Units must qualify for (22 points).

(7) Resident Supportive Services. (7 points) By electing points, the Applicant certifies that the Development will provide supportive services, which are listed in §11.101(b)(7) of this title, appropriate for the residents and that there will be adequate space for the intended services. The provision and complete list of supportive services will be included in the LURA and must be maintained throughout the State Restrictive Period. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. The services provided should be those that will directly benefit the Target Population of the Development and be accessible to all. No fees may be charged to the residents for any of the services. Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. These services are intended to be provided by a qualified and reputable provider in the specified industry such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider.

(8) Underserved Area. An Application may qualify to receive up to (2 points) if the Development Site is located in an Underserved Area as further described in §11.9(c)(5)(A) - (E) of this title. The pre-application must include evidence that the Development Site meets this requirement.

(9) Development Support/Opposition. (Maximum +24 to -24 points) Each letter will receive a maximum of +3 to -3 points and must be received 10 business days prior to the Board's consideration of the pre-application. Letters must clearly state support or opposition to the specific Development. State Representatives or Senators as well as local elected officials must be in office when the pre-application is submitted and represent the district containing the proposed Development Site. Letters of support from State or local elected officials that do not represent the district containing the proposed Development Site will not qualify for points. Neutral letters that do not specifically refer to the Development or do not explicitly state support will receive (zero points). A letter that does not directly express support but expresses it indirectly by inference (i.e., "the local jurisdiction supports the Development and I support the local jurisdiction") counts as a neutral letter except in the case of State elected officials. A letter from a State elected official that does not directly indicate support by the official, but expresses support on behalf of the official's constituents or community (i.e., "My constituents support the Development and I am relaying their support") counts as a support letter.

- (A) State Senator and State Representative of the districts whose boundaries include the proposed Development Site;
- (B) Mayor of the municipality (if the Development is within a municipality or its extraterritorial jurisdiction);
- (C) All elected members of the Governing Body of the municipality (if the Development is

- within a municipality or its extraterritorial jurisdiction);
- (D) Presiding officer of the Governing Body of the county in which the Development Site is located;
- (E) All elected members of the Governing Body of the county in which the Development Site is located;
- (F) Superintendent of the school district in which the Development Site is located; and
- (G) Presiding officer of the board of trustees of the school district in which the Development Site is located.

(10) Preservation Initiative. (10 points) Preservation Developments, including Rehabilitation proposals on Properties which are nearing expiration of an existing affordability requirement within the next two years or for which there has been a rent restriction requirement in the past 10 years may qualify for points under this item. Evidence must be submitted in the pre-application.

(11) Declared Disaster Areas. (7 points) A pre-application may receive points if the Development Site is located in an area declared a disaster area under Tex. Gov't Code §418.014 at the time of submission, or at any time within the two-year period preceding the date of submission.

#### **§12.7. Full Application Process.**

**(a) Application Submission.** Once the inducement resolution has been approved by the Board, an Applicant who elects to proceed with submitting a full Application to the Department must submit the complete tax credit Application pursuant to §11.201 of this title (relating to Procedural Requirements for Application Submission).

**(b) Eligibility Criteria.** The Department will evaluate the Application for eligibility and threshold at the time of full Application pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan). If there are changes to the Application at any point prior to closing that have an adverse affect on the score and ranking order and that would have resulted in the pre-application being placed below another pre-application in the ranking, the Department will terminate the Application and withdraw the Certificate of Reservation from the Bond Review Board (with the exception of changes to deferred developer's fees and support or opposition points). The Development and the Applicant must satisfy the requirements set forth in Chapter 11 of this title in addition to Tex. Gov't Code, Chapter 1372, the applicable requirements of Tex. Gov't Code Chapter 2306, and the Code. The Applicant will also be required to select a Bond Trustee from the Department's approved list as published on its website.

**(c) Bond Documents.** Once the Application has been submitted and the Applicant has deposited funds to pay initial costs, the Department's bond counsel shall draft Bond documents.

**(d) Public Hearings.** The Department will hold a public hearing to receive comments pertaining to the Development and the issuance of the Bonds. The Applicant or member of the Development Team must be present at the public hearing and will be responsible for conducting a brief presentation on the proposed Development and providing handouts at the hearing that should include at minimum, a description of the Development, maximum rents and income restrictions. If the proposed Development is Rehabilitation, the presentation should include the proposed scope of work that is planned for the Development. The handouts must be submitted to the Department for review at least two days prior to the public hearing. Publication of all

notices required for the public hearing shall be at the sole expense of the Applicant, as well as any facility rental fees or required deposits.

**(e) Approval of the Bonds.** Subject to the timely receipt and approval of commitments for financing, an acceptable evaluation for eligibility, the satisfactory negotiation of Bond documents, and the completion of a public hearing, the Board, upon presentation by Department staff, will consider the approval of the final Bond resolution relating to the issuance, final Bond documents and in the instance of privately placed Bonds, the pricing, terms and interest rate of the Bonds. The process for appeals and grounds for appeals may be found under §1.7 of this title (relating to Appeals Process). To the extent applicable to each specific Bond issuance, the Department's conduit multifamily Bond transactions will be processed in accordance with 34 TAC Part 9, Chapter 181, Subchapter A (relating to Bond Review Board Rules) and Tex. Gov't Code, Chapter 1372.

**(f) Local Permits.** Prior to closing on the Bond financing, all necessary approvals, including building permits from local municipalities, counties, or other jurisdictions with authority over the Development Site must have been obtained or evidence that the permits are obtainable subject only to payment of certain fees must be submitted to the Department. For Rehabilitation Developments, in instances where such permits will be not received prior to bond closing, the Department may, on a limited and case-by-case basis allow for the closing to occur, subject to receipt of confirmation, acceptable to the Department, by the lender and/or equity investor that they are comfortable proceeding with closing.

#### **§12.8. Refunding Application Process.**

**(a) Application Submission.** Owners who wish to refund or modify tax-exempt bonds that were previously issued by the Department must submit to the Department a summary of the proposed refunding plan or modifications. To the extent such modifications constitute a re-issuance under state law the Applicant shall then be required to submit a refunding Application in the form prescribed by the Department pursuant to the Bond Refunding Application Procedures Manual.

**(b) Bond Documents.** Once the Department has received the refunding Application and the Applicant has deposited funds to pay initial costs, the Department's bond counsel will draft the necessary Bond documents.

**(c) Public Hearings.** Depending on the proposed modifications to existing Bond covenants a public hearing may be required. Such hearing must take place prior to obtaining Board approval and must meet the requirements pursuant to §12.7(d) of this chapter (relating to Full Application Process) regarding the presence of a member of the Development Team and providing a summary of proposed Development changes.

**(d) Rule Applicability.** Refunding Applications must meet the requirements pursuant to Chapter 11 of this title (relating to Housing Tax Credit Program Qualified Allocation Plan) with the exception of criteria stated therein specific to the Competitive Housing Tax Credit Program. At the time of the original award the Application would have been subject to eligibility and threshold requirements under the QAP in effect the year the Application was awarded. Therefore, it is anticipated the Refunding Application would not be subject to the site and development requirements and restrictions pursuant to §11.101 of this title (relating to Site and Development Requirements and Restrictions). The circumstances surrounding a refunding Application are unique to each Development; therefore, upon evaluation of the refunding

Application, the Department is authorized to utilize its discretion in the applicability of the Department's rules as it deems appropriate.

### **§12.9. Occupancy Requirements.**

**(a) Filing and Term of Regulatory Agreement.** A Bond Regulatory and Land Use Restriction Agreement will be filed in the property records of the county in which the Development is located for each Development financed from the proceeds of Bonds issued by the Department. The term of the Regulatory Agreement will be based on the criteria as described in paragraphs (1) - (3) of this subsection, as applicable:

- (1) The longer of 30 years, from the date the Development Owner takes legal possession of the Development;
- (2) The end of the remaining term of the existing federal government assistance pursuant to Tex. Gov't Code, §2306.185; or
- (3) The period required by the Code.

### **(b) Federal Set Aside Requirements.**

(1) Developments which are financed from the proceeds of Private Activity Bonds must be restricted under one of the two minimum set-asides as described in subparagraphs (A) and (B) of this paragraph. Regardless of an election that may be made under Section 42 of the Code relating to income averaging, a Development will be required under the Bond Regulatory and Land Use Restriction Agreement to meet one of the two minimum set-asides described in subparagraphs (A) and (B) of this paragraph.

(A) At least 20 percent of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 50 percent of the area median income; or

(B) At least 40 percent of the Units within the Development shall be occupied or held vacant and available for occupancy at all times by persons or families whose income does not exceed 60 percent of the area median income.

(2) The Development Owner must, at the time of Application, indicate which of the two federal set-asides will apply to the Development and must also designate the selected priority for the Development in accordance with Tex. Gov't Code, §1372.0321. Units intended to satisfy set-aside requirements must be distributed equally throughout the Development, and must include a reasonably proportionate amount of each type of Unit available in the Development.

(3) No tenant qualifying under either of the minimum federal set-asides shall be denied continued occupancy of a Unit in the Development because, after commencement of such occupancy, such tenant's income increases to exceed the qualifying limit. However, should a tenant's income, as of the most recent determination thereof, exceed 140 percent of the applicable federal set-aside income limit and such tenant constitutes a portion of the set-aside requirement of this section, then such tenant shall only continue to qualify for so long as no Unit of comparable or smaller size is rented to a tenant that does not qualify as a Low-Income Tenant.



**§12.10. Fees.**

**(a) Pre-Application Fees.** The Applicant is required to submit, at the time of pre-application, the following fees: \$1,000 (payable to TDHCA), \$2,500 (payable to the Department's bond counsel) and \$5,000 (payable to the Texas Bond Review Board (TBRB) pursuant to Tex. Gov't Code, §1372.006(a)). These fees cover the costs of pre-application review by the Department, its bond counsel and filing fees associated with the Certificate of Reservation to the TBRB.

**(b) Application Fees.** At the time of Application the Applicant is required to submit a tax credit application fee of \$30 per Unit based on the total number of Units and a bond application fee of \$20 per Unit based on the total number of Units. Such fees cover the costs associated with Application review and the Department's expenses in connection with providing financing for a Development. For Developments proposed to be structured as a portfolio the bond application fees may be reduced on a case by case basis at the discretion of Department staff.

**(c) Closing Fees.** The closing fee for Bonds, other than refunding Bonds is equal to 50 basis points (0.005) of the issued principal amount of the Bonds. The Applicant will also be required to pay at closing of the Bonds the first two years of the administration fee equal to 20 basis points (0.002) of the issued principal amount of the Bonds, with the first year prorated based on the actual closing date, and a Bond compliance fee equal to \$25/Unit (excludes market rate Units). Such compliance fee shall be applied to the third year following closing.

**(d) Application and Issuance Fees for Refunding Applications.** For refunding Applications the application fee will be \$10,000 unless the refunding is not required to have a public hearing, in which case the fee will be \$5,000. The closing fee for refunding Bonds is equal to 25 basis points (0.0025) of the issued principal amount of the refunding Bonds. If applicable, administration and compliance fees due at closing may be prorated based on the current billing period of such fees. If additional volume cap is being requested other fees may be required as further described in the Bond Refunding Applications Procedures Manual.

**(e) Administration Fee.** The annual administration fee is equal to 10 basis points (0.001) of the outstanding bond amount at the inception of each payment period and is paid as long as the Bonds are outstanding.

**(f) Bond Compliance Fee.** The Bond compliance monitoring fee is equal to \$25/Unit (excludes market rate Units), and is paid for the duration of the State Restrictive Period under the Regulatory Agreement.

# REPORT ITEMS

2a

## TDHCA Outreach Activities, October - November 2018

*A compilation of outreach and educational activities designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public.*

Activity	Event	Date	Location	Division
Conference	Austin Board of REALTORS®	October 17	Austin, TX	Homeownership
Public Hearing	Single Family Mortgage Revenue and Refunding Bonds	October 22	Austin, TX	Bond Finance
Quarterly Meeting	Housing and Health Services Coordination Council (HHSCC)	October 24	Austin, TX	HRC
Public Hearing	Draft 2019 One-Year Action Plan	October 25	Austin, TX	HRC
Training	HTC Compliance Training	October 30	El Paso, TX	Compliance

### Internet Postings of Note

*A list of new or noteworthy postings to the Department's website.*

#### **Amy Young Barrier Removal Program**

- Posted new Exhibit 9 form (Application/Compliance checklist)
- Posted new Nonprofit Owner/Builder Housing Provider certification application
- Added Request for Legal Document Preparation NOHP (preferred loan closing request form)

#### **Communications:**

- Updated TDHCA Program Brochure
- Added press announcement of TDHCA, Woodforest, Tolleson Private Bank, and Hancock Whitney in loan syndication agreement of \$12 million
- Added volunteer information (Ways You Can Help) to Disaster Resources
- Replaced TDHCA homepage article with "TDHCA marks Energy Awareness Month"
- Replaced TDHCA homepage slide show with new images/text
- Posted updated version of Consumer General Assistance handout, Program Brochure, and Disaster Resources for Communities and Nonprofits

#### **Community Affairs:**

- Added link for Staff Draft Posted for Rule 10 TAC, Section 1.410, Determination of Alien Status for Program Beneficiaries
- Added sample Unified Application
- Updated 2019 Service Delivery Plan Guidance
- Added CSBG Monthly Expenditure and Performance Report Instructions

#### **Compliance**

- Posted links for Section 811 PRA Program participating owners/agents, forms and materials

**Fair Housing**

- Added language regarding data use for the five-year Consolidated Plan for 2020-2024 (Analysis of Impediments report)

**HOME and Homeless:**

- Added 2018 ESG Implementation documents and video (Contract Highlights, Definitions)
- Added document for Recordkeeping of Homeless and At-Risk of Homelessness to 2018 ESG Implementation
- Updated Setup TBRA Certification Eligibility form
- Added Indirect Cost Rate Worksheet for ESG
- Posted updated HOME Program Intake Application
- Posted the collapsed funding for Persons with Disabilities for Rehabilitation, TBRA, Homebuyer Assistance
- Added Monthly ESG Opportunities webinars (Eligible ESG Activities, Eligible ESG Participants, ESG and Fair Housing)
- Added Homeless Housing and Services Program login to the Housing Contract System
- Added link for Application Intake and Waitlist Management
- 2018 HOME Single Family CFD and PWD Set-Aside NOFA

**Homeownership**

- Replaced Income and Purchase Price Limits chart
- Added new mortgage loan option, My Choice Texas Home, and relevant information to the lender page, realtor page, homebuyer intro and requirements pages
- Updated Available Funds/Rate Sheet
- Added updated purchase price table (duplexes)

**Multifamily:**

- Added link for Proposed New 10 TAC Chapter 11, Qualified Allocation Plan Blackline (pdf)
- Posted updated 2018-1 Multifamily Direct Loan Application Log dated October 4, 2018
- Added 2019 MF Uniform Application, 4% HTC Submission Deadline Form
- Added 2019 MF Uniform Application Supporting Information, DRAFT HTC Site Demographic Characteristics Report
- Added supporting 3<sup>rd</sup> party reports for 4% HTC application (#18450, #18448)

**Program Services**

- Posted updated Pre-Construction Conference Guide
- Updated CWHSSA daily liquidated damages amounts

**Public Comment:**

- Public comment period open for Proposed Repeal and New 10 Chapter 1, Subchapter C, Previous Participation and Executive Award Review and Advisory Committee
- Public comment period open for Draft Substantial Amendment to the 2015-2019 State of Texas Consolidated Plan
- Public comment period open for Draft 2019 State of Texas Consolidated Plan: One-Year Action Plan
- Public comment period open for Proposed Repeal and New 10 Chapter 10, Subchapter F, Compliance Monitoring

**Purchasing:**

- Updated list of No-Bid contracts as required by state
- Added Request for Offer: Mortgage Loan Origination and Process Software

## Frequently Used Acronyms

AMFI	Area Median Family Income	LURA	Land Use Restriction Agreement
AYBR	Amy Young Barrier Removal Program	MF	Multifamily
CEAP	Comprehensive Energy Assistance Program	MFTH	My First Texas Home Program
CFD	Contract for Deed Program	MRB	Mortgage Revenue Bond Program
CFDC	Contract for Deed Conversion Assistance Grants	NHTF	National Housing Trust Fund
CHDO	Community Housing Development Organization	NOFA	Notice of Funding Availability
CMTS	Compliance Monitoring and Tracking System	NSP	Neighborhood Stabilization Program
CSBG	Community Services Block Grant Program	OIG	Office of Inspector General
ESG	Emergency Solutions Grants Program	QAP	Qualified Allocation Plan
FAQ	Frequently Asked Questions	QCP	Quantifiable Community Participation
HBA	Homebuyer Assistance Program	REA	Real Estate Analysis
HHSCC	Housing and Health Services Coordination Council	RFA	Request for Applications
HHSP	Homeless Housing and Services Program	RFO	Request for Offer
HRA	Homeowner Rehabilitation Assistance Program	RFP	Request for Proposals
HRC	Housing Resource Center	RFQ	Request for Qualifications
HTC	Housing Tax Credit	ROFR	Right of First Refusal
HTF	Housing Trust Fund	SLIHP	State of Texas Low Income Housing Plan
HUD	U.S. Department of Housing and Urban Development	TA	Technical Assistance
IFB	Invitation for Bid	TBRA	Tenant Based Rental Assistance Program
		TICH	Texas Interagency Council for the Homeless
		TSHEP	Texas Statewide Homebuyer Education Program
		TXMCC	Texas Mortgage Credit Certificate
		VAWA	Violence Against Women Act
		WAP	Weatherization Assistance Program

2b

**BOARD REPORT ITEM**  
**FINANCIAL ADMINISTRATION DIVISION**  
**NOVEMBER 8, 2018**

Report on the Department's 4th Quarter Investment Report in accordance with the Public Funds Investment Act

**BACKGROUND**

The Department's investment portfolio consists of two distinct parts. One part is related to bond funds under trust indentures that are not subject to the Public Funds Investment Act ("PFIA"), and the remaining portion is related to accounts excluded from the indentures but covered by the PFIA. The Department's total investment portfolio is \$796,480,396, of which \$758,643,892 is not subject to the PFIA. This report addresses the remaining \$37,836,504 (See Page 1 of the Internal Management Report) in investments covered by the PFIA. These investments are deposited in the General Fund, Housing Trust Fund, Compliance, and Housing Initiative accounts, which are all held at the Texas Treasury Safekeeping Trust Company ("TTSTC"), primarily in the form of overnight repurchase agreements. These investments are fully collateralized and secured by U.S. Government Securities. A repurchase agreement is the purchase of a security with an agreement to repurchase that security at a specific price and date, which in this case was August 31, 2018, with an effective interest rate of 1.89%. These investments safeguard principal while maintaining liquidity.

**Below is a description of each fund group and its corresponding accounts.**

- The **General Fund** accounts maintain funds for administrative purposes to fund expenses related to the Department's ongoing operations. These accounts contain balances related to bond residuals, fee income generated from the Mortgage Credit Certificate ("MCC") Program, escrow funds, single family and multifamily bond administration fees, and balances associated with the Below Market Interest Rate ("BMIR") Program.
- The **State of Texas Housing Trust Fund** accounts maintain funds related to programs set forth by the Housing Trust Fund funding plan. The Housing Trust Fund provides loans and grants to finance, acquire, rehabilitate, and develop decent and safe affordable housing.
- The **Compliance** accounts maintain funds from compliance monitoring fees and asset management fees collected from multifamily developers. The number of low income units and authority to collect these fees is outlined in the individual Land Use Restriction Agreements ("LURAs") that are issued to each Developer. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the monitoring and administration of these properties.



- The **Housing Initiative** accounts maintain funds from fees collected from Developers in connection with the Department's Tax Credit Program. The majority of fees collected are application fees and commitment fees. The authority for the collection of these fees is outlined in the Department's Multifamily Rules. These fees are generated for the purpose of offsetting expenses incurred by the Department related to the administration of the Tax Credit Program.

This report is in the format required by the Public Funds Investment Act. It shows in detail the types of investments, their maturities, their carrying (face amount) values, and fair values at the beginning and end of the quarter. The detail for investment activity is on Pages 1 and 2.

During the 4th Quarter, as it relates to the investments covered by the PFIA, the carrying value increased by \$4,351,046 (See Page 1) for an ending balance of \$37,836,504. The increase is described below by fund groups.

**General Fund:** The General Fund increased by \$2,087,108. This consists primarily of \$274,642 received in multifamily bond administration fees, \$247,726 in loan repayments and \$314,630 in MCC Fees, and a \$1,162,500 transfer in from the Taxable Mortgage Program to fund the 2019 operating budget.

**The State of Texas Housing Trust Fund:** The Housing Trust Fund decreased by \$494,414. This consists primarily of \$865,776 received in loan repayments, offset by disbursements including \$1,405,377 for loans, grants and escrow payments.

**Compliance:** Compliance funds increased by \$1,689,741. This consists primarily of compliance fees received and interest earnings; there were no disbursements made to fund the operating budget during the 4th Quarter.

**Housing Initiative:** Housing Initiative funds increased by \$1,068,611. This consists primarily of fees related to tax credit activities and interest earnings; there were no disbursements made to fund the operating budget during the 4th Quarter.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
HOUSING FINANCE DIVISION**

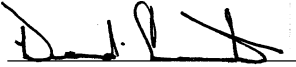
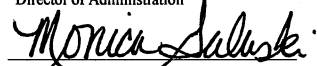
**PUBLIC FUNDS INVESTMENT ACT  
INTERNAL MANAGEMENT REPORT (SEC. 2256.023)  
QUARTER ENDING August 31, 2018**

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
HOUSING FINANCE DIVISION  
PUBLIC FUNDS INVESTMENT ACT  
Internal Management Report (Sec. 2256.023)  
Quarter Ending August 31, 2018

Investment Type	FAIR VALUE	CARRYING	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING	FAIR VALUE	CHANGE	ACCRUED	RECOGNIZED	
	(MARKET) @ 05/31/18	VALUE @ 05/31/18					VALUE @ 08/31/18	(MARKET) @ 08/31/18	IN FAIR VALUE (MARKET)	INT REC/VBL @ 08/31/18		GAIN
<b>NON-INDENTURE RELATED:</b>												
General Fund	Mortgage-Backed Securities	12,067.72	12,044.37	-	-	(8,169.53)	-	3,874.84	3,878.70	(19.49)	24.00	-
General Fund	Repurchase Agreements	5,269,332.63	5,269,332.63	3,075,982.10	(980,704.04)	-	-	7,364,610.69	7,364,610.69	-	387.00	-
Housing Trust Fund	Repurchase Agreements	9,052,748.12	9,052,748.12	685,329.05	(1,179,743.30)	-	-	8,558,333.87	8,558,333.87	-	450.00	-
Compliance	Repurchase Agreements	8,446,423.18	8,446,423.18	1,689,740.87	-	-	-	10,136,164.05	10,136,164.05	-	532.00	-
Housing Initiatives	Repurchase Agreements	10,704,909.69	10,704,909.69	1,068,610.78	-	-	-	11,773,520.47	11,773,520.47	-	621.00	-
<b>NON-INDENTURE RELATED TOTAL</b>		<b>33,485,481.34</b>	<b>33,485,457.99</b>	<b>6,519,662.80</b>	<b>(2,160,447.34)</b>	<b>(8,169.53)</b>	<b>0.00</b>	<b>37,836,503.92</b>	<b>37,836,507.78</b>	<b>(19.49)</b>	<b>2,014.00</b>	<b>0.00</b>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:  
David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 11, 2017  
Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 17, 2017

	Date <u>10/23/18</u>
David Cervantes Director of Administration	
	Date <u>10/25/18</u>
Monica Galuski Director of Bond Finance/Chief Investment Officer	

**Texas Department of Housing and Community Affairs  
Non-Indenture Related Investment Summary  
For Period Ending August 31, 2018**

Investment Type	Issue	Current Interest Rate	Current Purchase Date	Current Maturity Date	Beginning Carrying Value 05/31/18	Beginning Market Value 05/31/18	Accretions/ Purchases	Amortizations/ Sales	Maturities	Transfers	Ending	Ending	Change	Recognized
											Carrying Value 08/31/18	Market Value 08/31/18	In Market Value	Gain
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	386,236.04	386,236.04	243,069.29				629,305.33	629,305.33	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	34,155.51	34,155.51	125.83				34,281.34	34,281.34	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	1,590,375.80	1,590,375.80		(900,406.37)			689,969.43	689,969.43	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	740,765.31	740,765.31	2,328,007.52				3,068,772.83	3,068,772.83	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	785,119.53	785,119.53	489,032.82				1,274,152.35	1,274,152.35	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	627,893.22	627,893.22	2,797.83				630,691.05	630,691.05	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	244,824.37	244,824.37	1,087.45				245,911.82	245,911.82	-	0.00
GNMA	General Fund				1,023.03	1,021.12			(1,023.03)				1.91	0.00
GNMA	General Fund				326.00	325.89			(326.00)				0.11	0.00
GNMA	General Fund				1,380.85	1,382.19			(1,380.85)				(1.34)	0.00
GNMA	General Fund	7.50	01/01/90	12/20/18	2,566.58	2,571.17			(1,785.36)		781.22	779.68	(6.13)	0.00
GNMA	General Fund	7.50	03/30/90	01/20/19	1,812.96	1,816.21			(1,266.85)		546.11	546.08	(3.28)	0.00
GNMA	General Fund	7.50	05/29/90	04/20/19	4,934.95	4,951.14			(2,387.44)		2,547.51	2,552.94	(10.76)	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	761,268.44	761,268.44	11,861.36				773,129.80	773,129.80	-	0.00
Repo Agmt	General Fund	1.89	08/31/18	09/04/18	98,694.41	98,694.41		(80,297.67)			18,396.74	18,396.74	-	0.00
<b>General Fund Total</b>					<b>5,281,377.00</b>	<b>5,281,400.35</b>	<b>3,075,982.10</b>	<b>(980,704.04)</b>	<b>(8,169.53)</b>	<b>0.00</b>	<b>7,368,485.53</b>	<b>7,368,489.39</b>	<b>(19.49)</b>	<b>0.00</b>
Repo Agmt	Housing Trust Fund	1.89	08/31/18	09/04/18	156,844.72	156,844.72		(81,960.11)			74,884.61	74,884.61	-	0.00
Repo Agmt	Housing Trust Fund	1.89	08/31/18	09/04/18	2,541.39	2,541.39	840.83				3,382.22	3,382.22	-	0.00
Repo Agmt	Housing Trust Fund	1.89	08/31/18	09/04/18	142,437.68	142,437.68	77,999.20				220,436.88	220,436.88	-	0.00
Repo Agmt	General Revenue Appn	1.89	08/31/18	09/04/18	43,207.31	43,207.31	12,762.29				55,969.60	55,969.60	-	0.00
Repo Agmt	General Revenue Appn	1.89	08/31/18	09/04/18	646,302.54	646,302.54	166,001.75				812,304.29	812,304.29	-	0.00
Repo Agmt	General Revenue Appn	1.89	08/31/18	09/04/18	484,393.24	484,393.24		(286,406.32)			197,986.92	197,986.92	-	0.00
Repo Agmt	General Revenue Appn	1.89	08/31/18	09/04/18	177,511.66	177,511.66	21,724.98				199,236.64	199,236.64	-	0.00
Repo Agmt	General Revenue Appn	1.89	08/31/18	09/04/18	245,787.30	245,787.30	0.00				245,787.30	245,787.30	-	0.00
Repo Agmt	Housing Trust Fund-GR	1.89	08/31/18	09/04/18	3,893,169.02	3,893,169.02		(452,036.87)			3,441,132.15	3,441,132.15	-	0.00
Repo Agmt	Bootstrap -GR	1.89	08/31/18	09/04/18	1,237,276.91	1,237,276.91		(359,340.00)			877,936.91	877,936.91	-	0.00
Repo Agmt	Bootstrap -GR	1.89	08/31/18	09/04/18	2,023,276.35	2,023,276.35	406,000.00				2,429,276.35	2,429,276.35	-	0.00
<b>Housing Trust Fund Total</b>					<b>9,052,748.12</b>	<b>9,052,748.12</b>	<b>685,329.05</b>	<b>(1,179,743.30)</b>	<b>0.00</b>	<b>0.00</b>	<b>8,558,333.87</b>	<b>8,558,333.87</b>	<b>0.00</b>	<b>0.00</b>
Repo Agmt	Multi Family	1.89	08/31/18	09/04/18	868,313.57	868,313.57	244,046.81				1,112,360.38	1,112,360.38	-	0.00
Repo Agmt	Multi Family	1.89	08/31/18	09/04/18	888,775.45	888,775.45	150,287.04				1,039,062.49	1,039,062.49	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	1.89	08/31/18	09/04/18	6,689,334.16	6,689,334.16	1,295,407.02				7,984,741.18	7,984,741.18	-	0.00
<b>Compliance Total</b>					<b>8,446,423.18</b>	<b>8,446,423.18</b>	<b>1,689,740.87</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>10,136,164.05</b>	<b>10,136,164.05</b>	<b>0.00</b>	<b>0.00</b>
Repo Agmt	Asset Management	1.89	08/31/18	09/04/18	1,172,433.08	1,172,433.08	110,533.11				1,282,966.19	1,282,966.19	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	1.89	08/31/18	09/04/18	1,416,986.21	1,416,986.21	152,894.53				1,569,880.74	1,569,880.74	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	1.89	08/31/18	09/04/18	7,719,566.25	7,719,566.25	787,633.45				8,507,199.70	8,507,199.70	-	0.00
Repo Agmt	Low Income Tax Credit Prog.	1.89	08/31/18	09/04/18	395,924.15	395,924.15	17,549.69				413,473.84	413,473.84	-	0.00
<b>Housing Initiatives Total</b>					<b>10,704,909.69</b>	<b>10,704,909.69</b>	<b>1,068,610.78</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>11,773,520.47</b>	<b>11,773,520.47</b>	<b>0.00</b>	<b>0.00</b>
<b>Total Investment Summary</b>					<b>33,485,457.99</b>	<b>33,485,481.34</b>	<b>6,519,662.80</b>	<b>(2,160,447.34)</b>	<b>(8,169.53)</b>	<b>0.00</b>	<b>37,836,503.92</b>	<b>37,836,507.78</b>	<b>(19.49)</b>	<b>0.00</b>

2c

**BOARD REPORT ITEM**  
**BOND FINANCE DIVISION**  
**NOVEMBER 8, 2018**

**REPORT ITEM**

Report on the Department's 4<sup>th</sup> Quarter Investment Report relating to funds held under Bond Trust Indentures

**BACKGROUND**

- The Department's Investment Policy excludes funds invested under a bond trust indenture for the benefit of bond holders because the trustee for each trust indenture controls the authorized investments in accordance with the requirements of that indenture. Management of assets within an indenture is the responsibility of the Trustee. This internal management report is for informational purposes only and, while not required under the Public Funds Investment Act, it is consistent with the prescribed format and detail as required by the Public Funds Investment Act. It details the types of investments, maturity dates, carrying (face amount) values, and fair market values at the beginning and end of the quarter.
- Overall, the portfolio carrying value increased by approximately \$14.3 million (see page 3), resulting in an end of quarter balance of \$758,643,892. The increase reflects one new multifamily bond issuance.

The portfolio consists of those investments described in the attached Bond Trust Indentures Supplemental Management Report.

	<u>Beginning Quarter</u>	<u>Ending Quarter</u>
Mortgage Backed Securities ("MBS")	81%	78%
Guaranteed Investment Contracts/Investment Agreements	4%	4%
Repurchase Agreements	5%	7%
Money Markets and Mutual Funds	5%	6%
Treasury Bills	5%	5%

The decrease in MBS is due to the repayment of principal on the underlying mortgage loans. The increase in Repurchase Agreements is the result of MBS repayments that was used for Single Family debt service on September 1, 2018. The increase in Money Markets and Mutual Funds is due to the issuance of multifamily bonds.

**Portfolio activity for the quarter:**

- The maturities in MBS this quarter were \$14.2 million, which represent loan repayments or payoffs. The table below shows the trend in MBS activity.

	4th Qtr FY 17	1st Qtr FY 18	2nd Qtr FY 18	3rd Qtr FY 18	4th Qtr FY 18	Total
Purchases	\$ 104,005,338	\$ 34,700,000	\$ 50,000,000	\$ -	\$ -	\$ 188,705,338
Sales					\$ -	\$ -
Maturities	\$ 21,925,178	\$ 20,232,566	\$ 21,792,104	\$ 16,255,646	\$ 14,288,320	\$ 94,493,814
Transfers						\$ -

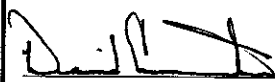

- The process of valuing investments at fair market value identifies unrealized gains and losses. These gains or losses do not impact the overall portfolio because the Department typically holds MBS investments until maturity.
- The fair market value (the amount at which a financial instrument could be exchanged in a current transaction between willing parties) decreased \$1.5 million (see pages 3 and 4), with fair market value being greater than the carrying value. The national average for a 30-year fixed rate mortgage, as reported by the Freddie Mac Primary Mortgage Market Survey as of August 31, 2018, was 4.52%, down from 4.56% at the end of May 2018. There are various factors that affect the fair market value of these investments, but there is a correlation between the prevailing mortgage interest rates and the change in market value.
- Given the current financial environment, this change in market value is to be expected. However, the change is cyclical and is reflective of a general movement toward higher yields in the bond market as a whole.
- The ability of the Department’s investments to provide the appropriate cash flow to pay debt service and eventually retire the related bond debt is of more importance than the assessed relative value in the bond market as a whole.
- The more relevant measures of indenture parity are reported on page 5 in the Bond Trust Indenture Parity Comparison. This report shows parity (ratio of assets to liabilities) by indenture with assets greater than liabilities in a range from 99.43% to 666.90% which would indicate the Department has sufficient assets to meet its obligations.

TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS  
 BOND FINANCE DIVISION  
 BOND TRUST INDENTURES  
 Supplemental Management Report  
 Quarter Ending August 31, 2018

INVESTMENT TYPE	FAIR VALUE (MARKET) @ 05/31/18	CARRYING VALUE @ 05/31/18	ACCRETION / AMORTIZATION/ PURCHASES SALES		MATURITIES	TRANSFERS	CARRYING VALUE @ 08/31/18	FAIR VALUE (MARKET) @ 08/31/18	CHANGE IN FAIR VALUE (MARKET)	RECOGNIZED GAIN
<b>INDENTURE RELATED:</b>										
Mortgage-Backed Securities	621,236,734.36	605,598,195.11	-	-	(14,288,320.35)	-	591,309,874.76	605,466,799.86	(1,481,614.15)	-
Guaranteed Inv Contracts	28,661,216.94	28,661,216.94	1,132,836.66	(1,806,723.22)	-	-	27,987,330.38	27,987,330.38	-	-
Investment Agreements	1,470,255.31	1,470,255.31	-	(1,002,970.22)	-	-	467,285.09	467,285.09	-	-
Treasury-Backed Mutual Funds	37,585,410.19	37,585,410.19	11,441,348.10	(4,183,327.09)	-	-	44,843,431.20	44,843,431.20	-	-
Repurchase Agreements	33,460,389.00	33,460,389.00	21,702,678.31	(5,609,390.08)	-	-	49,553,677.23	49,553,677.23	-	-
Treasury Note	37,385,749.62	37,502,946.45	18,290,022.92	(11,310,675.98)	-	-	44,482,293.39	44,297,821.25	(67,275.31)	-
<b>GRAND TOTAL</b>	<b>759,799,755.42</b>	<b>744,278,413.00</b>	<b>52,566,885.99</b>	<b>(23,913,086.59)</b>	<b>(14,288,320.35)</b>	<b>0.00</b>	<b>758,643,892.05</b>	<b>772,616,345.01</b>	<b>(1,548,889.46)</b>	<b>0.00</b>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:  
 David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 11, 2017  
 Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 17, 2017

	Date 10/26/18
David Cervantes Director of Administration	
	Date 10/26/18
Monica Galuski Director of Bond Finance/Chief Investment Officer	



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
 BOND FINANCE DIVISION  
 BOND TRUST INDENTURES  
 Supplemental Management Report  
 Quarter Ending August 31, 2018


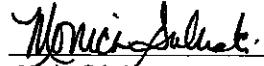
	FAIR VALUE (MARKET) @ 05/31/18	CARRYING VALUE @ 05/31/18	ACCRETION / PURCHASES	AMORTIZATION/ SALES	MATURITIES	TRANSFERS	CARRYING VALUE @ 08/31/18	FAIR VALUE (MARKET) @ 08/31/18	CHANGE IN FAIR VALUE (MARKET)	ACCRUED INT REC'BL @ 08/31/18	RECOGNIZED GAIN
<b>INDENTURE RELATED:</b>											
Single Family	393,363,186.63	378,750,304.15	20,634,394.00	(3,904,994.44)	(9,717,619.89)	-	385,762,083.82	398,574,030.62	(1,800,935.68)	1,266,534.00	-
RMRB	163,176,645.96	157,041,168.89	2,118,824.75	(3,229,975.40)	(4,126,275.63)	-	151,803,742.61	157,239,639.71	(699,579.97)	501,081.00	-
CHMRB	2,361,190.22	2,267,637.90	2.89	(144,999.53)	(134,099.48)	-	1,988,541.78	2,065,748.92	(16,345.18)	10,605.00	-
Taxable Mortgage Program	5,316,089.54	5,271,302.02	82,293.33	(1,139,114.15)	(70,570.38)	-	4,143,910.82	4,179,195.52	(9,502.82)	281,421.00	-
Multi Family	195,582,643.07	200,948,000.04	29,731,371.02	(15,494,003.07)	(239,754.97)	-	214,945,613.02	210,557,730.24	977,474.19	348,603.00	-
<b>TOTAL</b>	<b>759,799,755.42</b>	<b>744,278,413.00</b>	<b>52,566,885.99</b>	<b>(23,913,086.59)</b>	<b>(14,288,320.35)</b>	<b>0.00</b>	<b>758,643,892.05</b>	<b>772,616,345.01</b>	<b>(1,548,889.46)</b>	<b>2,408,244.00</b>	<b>0.00</b>

(b) (8) The Department is in compliance with regards to investing its funds in a manner which will provide by priority the following objectives: (1) safety of principal, (2) sufficient liquidity to meet Department cash flow needs, (3) a market rate of return for the risk assumed, and (4) conformation to all applicable state statutes governing the investment of public funds including Section 2306 of the Department's enabling legislation and specifically, Section 2256 of the Texas Government Code, the Public Funds Investment Act.

Per Section 2256.007(d) of the Texas Government Code, the Public Funds Investment Act:

David Cervantes completed 5.0 hrs. of training on the Texas Public Funds Investment Act on August 11, 2017

Monica Galuski completed 5.0 hrs. of training on the Texas Public Funds Investment Act on February 17, 2017

	Date 10/22/18
David Cervantes Director of Administration	
	Date 10/26/18
Monica Galuski Director of Bond Finance/Chief Investment Officer	

**Texas Department of Housing and Community Affairs**  
**Bond Finance Division**  
**Executive Summary**  
As of August 31, 2018

	Single Family Indenture Funds	Residential Mortgage Revenue Bond Indenture Funds	Collateralized Home Mortgage Revenue Bond Indenture Funds	Multi-Family Indenture Funds	Combined Totals
<b>PARITY COMPARISON:</b>					
<b>PARITY ASSETS</b>					
Cash	\$ 202,562	\$ 41,250		\$ 43,351,206	\$ 43,595,018
Investments <sup>(1)</sup>	\$ 57,097,016	\$ 17,568,498	\$ 161,164	\$ 213,609,606	\$ 288,436,284
Mortgage Backed Securities <sup>(1)</sup>	\$ 328,355,023	\$ 134,341,565	\$ 1,829,690	\$ -	\$ 464,526,278
Loans Receivable <sup>(2)</sup>	\$ 52,063			\$ 840,829,348	\$ 840,881,411
Accrued Interest Receivable	\$ 1,264,449	\$ 501,081	\$ 10,605	\$ 7,175,269	\$ 8,951,404
<b>TOTAL PARITY ASSETS</b>	<b>\$ 386,971,113</b>	<b>\$ 152,452,394</b>	<b>\$ 2,001,459</b>	<b>\$ 1,104,965,429</b>	<b>\$ 1,646,390,395</b>
<b>PARITY LIABILITIES</b>					
Loans Payable	\$ 12,000,000	\$ 10,000,000		\$ 87,532,219	\$ 109,532,219
Bonds and Notes Payable <sup>(1)</sup>	\$ 328,007,912	\$ 121,270,000	\$ 300,000	\$ 885,782,267	\$ 1,335,360,179
Accrued Interest Payable	\$ 3,724,651	\$ 885,581	\$ 114	\$ 7,262,387	\$ 11,872,733
Other Non-Current Liabilities <sup>(3)</sup>				\$ 130,702,605	\$ 130,702,605
<b>TOTAL PARITY LIABILITIES</b>	<b>\$ 343,732,563</b>	<b>\$ 132,155,581</b>	<b>\$ 300,114</b>	<b>\$ 1,111,279,478</b>	<b>\$ 1,587,467,736</b>
<b>PARITY DIFFERENCE</b>	<b>\$ 43,238,550</b>	<b>\$ 20,296,813</b>	<b>\$ 1,701,345</b>	<b>\$ (6,314,049)</b>	<b>\$ 58,922,659</b>
<b>PARITY</b>	<b>112.58%</b>	<b>115.36%</b>	<b>666.90%</b>	<b>99.43%</b>	<b>103.71%</b>

(1) Investments, Mortgage Backed Securities and Bonds Payable reported at par value not fair value. This adjustment is consistent with indenture cashflows prepared for rating agencies.

(2) Loans Receivable include whole loans only. Special mortgage loans are excluded.

(3) Other Non-Current Liabilities include "Due to Developers" (for insurance, taxes and other operating expenses) and "Earning Due to Developers" (on investments).

Note: Based on preliminary and unaudited financial statements, subject to change in audited financial statements.

3a

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

3b

**BOARD ACTION REQUEST**

**FINANCIAL ADMINISTRATION DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions in this regard

**RECOMMENDED ACTION**

**WHEREAS**, the Texas Department of Housing and Community Affairs (the “Department”), a public and official governmental agency of the State of Texas, was created and organized pursuant to and in accordance with the provisions of Tex. Gov’t Code, Chapter 2306 (the “Code”), as amended;

**WHEREAS**, the Code authorizes the Department, among other things: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the “State”); (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, 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 single family mortgage loans or participating interests, and to mortgage, pledge or grant security interests in such mortgages or participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds;

**WHEREAS**, on June 28, 2018, the Governing Board adopted a resolution designating signature authority to reflect the structure of the Department; and

**WHEREAS**, organizational and working title changes have occurred such that the Governing Board has now determined that its resolution adopted June 28, 2018, designating signature authority, should be superseded by a new resolution designating signature authority in order to conform to the Department’s current organizational structure, working titles, and operations;

**NOW, THEREFORE,** it is hereby

**RESOLVED** that the Governing Board hereby adopts the following designations or signature authority, superseding all prior actions in this regard including its resolution regarding designations of signature authority adopted on June 28, 2018.

**SECTION 1- Supersession of the Prior Signature Authority.** The Governing Board hereby supersedes its prior resolution, adopted June 28, 2018, designating signature authority by adopting this new resolution.

**SECTION 2 – Designation of Signature Authority for Bond and Indenture-Related Transactions.** The Governing Board hereby authorizes and designates the Board Secretary, the Assistant Board Secretary, the Acting Director, the Director of Administration, Director of Bond Finance and Chief Investment Officer, the Director of Texas Homeownership, and each of them as signatories for single family and multifamily bond and indenture-related transactions as well as transactions under the Department’s “to be announced” or TBA program including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such transactions. In addition, the Governing Board authorizes and designates the Manager of Single Family Finance and Senior Bond Financial Analysts within the Bond Finance Division as signatories for day-to-day operations activities related to advances taken through the Federal Home Loan Bank of Dallas (“FHLB”) for the purchase of loan participations from the Idaho Housing and Finance Association (“IHFA”), the Department’s Master Servicer, including directing the wiring of such advances from FHLB to IHFA.

**SECTION 3 – Designation of Signatory Authority for Real Estate Transactions.** The Governing Board hereby authorizes and designates the following persons holding the positions described and each of them to execute and deliver, as specified, earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions:

- (a) Acting Director, Director of Programs, Director of Program Controls and Oversight, Director of Administration, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions;
- (b) Director of Financial Administration: All real estate or real estate-related transactions administered by the Financial Administration Division;
- (c) Director of Multifamily Finance Division: All real estate or real estate-related transactions administered by the Multifamily Finance Division;
- (d) Director of Multifamily Asset Management: All real estate or real estate-related transactions administered by the Multifamily Asset Management Division;
- (e) Director of Bond Finance and Chief Investment Officer: All real estate or real estate-related transactions administered by the Bond Finance and Texas Homeownership Divisions;
- (f) Director of Texas Homeownership: All real estate or real estate-related transactions administered by the Texas Home Ownership Division;

- (g) Director of the HOME and Homelessness Programs and Director of Home and Homelessness and Special Initiatives: All real estate or real estate-related transactions administered under the HOME and Homelessness Programs;
- (h) Director of Neighborhood Specialization Program (“NSP”), Housing Trust Fund (“HTF”) and Office of Colonia Initiatives (“OCI”): All real estate or real estate-related transactions administered under the NSP, HTF and OCI Division; and
- (i) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Acting Director; provided however, that no person may be so designated other than the Acting Director, Director of Administration, or a Director.
- (j) Every reference to a signatory office or title herein includes any person serving in an acting or interim capacity.

**SECTION 4 – Designation of Signatory Authority for Fund Transfers.** The Governing Board hereby authorizes and designates the following persons and each of them to execute and deliver any necessary fund transfer documents, including letters of instruction, in the manner prescribed below.

Fund transfers require dual signatures, consisting of one signatory from each of the following two groups:

- (a) Director of Administration, or Director of Financial Administration; and
- (b) Acting Director, Director of Program Controls and Oversight, or Director of Programs.

**SECTION 5 – Execution of Documents.** The Governing Board hereby authorized the Acting Director, or in his absence the Director of Administration, the Director of Programs or the Director of Program Controls and Oversight, to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this resolution.

**SECTION 6 – Effective Date.** This Resolution shall be in full force and effect from and upon its adoption until and unless it is revoked or superseded.

### **BACKGROUND**

This Resolution updates and designates signature authority to reflect the current organizational structure of the Department and the current working titles for the positions designated.



## Incumbency Certificate

I, James "Beau" Eccles, the duly appointed and serving Secretary of the Texas Department of Housing and Community Affairs (the "Department"), do hereby certify that David Cervantes is the duly appointed Acting Director of the Department, appointed by its Governing Board on October 11, 2018, and set forth below opposite his name is his true and correct signature:

David Cervantes \_\_\_\_\_

Executed and seal of the Department affixed this \_\_\_\_ day of \_\_\_\_\_, 2018 at Austin, Texas.

\_\_\_\_\_  
James "Beau" Eccles

(S E A L)

**Certificate**

I, David Cervantes, the duly appointed Acting Director of the Texas Department of Housing and Community Affairs (the "Department"), do hereby certify that set forth below is a true and correct listing setting forth specific positions within the Department, the name of the person currently designated by me to hold each such position, and, opposite their name, their true and correct signature. Each person listed currently holds the position indicated:

Board Secretary	_____
	James "Beau" Eccles
Assistant Board Secretary	_____
	Michael Lyttle
Director of Administration	_____
	David Cervantes
Director of Financial Administration	_____
	Ernesto Palacios, III
Director of Bond Finance/Chief Investment Officer	_____
	Monica Galuski
Director of Multifamily Finance	_____
	Margaret L. Holloway
Director of Texas Homeownership	_____
	Cathy Gutierrez
Director of Programs	_____
	Brooke Boston
Director of Home and Homelessness and Special Initiatives	_____
	Tom Gouris
Director of Multifamily Asset Management	_____
	Rosalio Banuelos
Director of HOME and Homelessness Programs	_____
	Abigail Versyp
Director of Program Controls and Oversight	_____
	Homero V. Cabello, Jr.
Director of NSP, HTF and OCI	_____
	Raul Gonzalez

Executed this \_\_\_\_ day of \_\_\_\_\_, 2018 at Austin, Texas.

\_\_\_\_\_  
David Cervantes, Acting Director  
Texas Department of Housing and Community Affairs

3c

**BOARD ACTION REQUEST**

**COMPLIANCE DIVISION**

**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on initiation of proceedings to remove the eligible entity status of Cameron and Willacy Counties Community Projects, Inc. and terminate CSBG contracts and funding

**RECOMMENDED ACTION**

**WHEREAS**, Cameron and Willacy Counties Community Projects, Inc. (“CWCCP”) is the designated eligible entity for the Community Services Block Grant Program (“CSBG”) for Cameron and Willacy Counties; and

**WHEREAS**, as explained below, CWCCP has failed to submit a proper single audit required by Federal Office of Budget and Management (“OMB”) circulars and/or 2 CFR §200 et seq. (as applicable) since 2010; and

**WHEREAS**, CWCCP has been informed in writing of the requirement to submit the missing audits on numerous occasions and has failed to do so;

**NOW, therefore, it is hereby**

**RESOLVED**, the Executive Director and his staff are hereby authorized, empowered, and ordered to take all actions necessary to initiate termination proceedings to remove the eligible entity status of CWCCP under CSBG.

**BACKGROUND**

The Department has had a long history of compliance concerns with CWCCP that have resulted in termination of their contracts for the Low Income Home Energy Assistance and Department of Energy Weatherization programs. At this time, the only Department program administered by CWCCP is CSBG. Staff is recommending initiation of the process to remove that program as well.

In order to cease providing CSBG funds to this organization, its eligible entity status must be removed. Federally, TDHCA must follow the process outlined in Information Memorandum 116 (“IM 116”). In addition, the Department must follow the requirements of Tex Gov’t Code Chapter 2105 and 10 TAC, Chapter 2, Subchapter B, §2.203.

As required by IM 116, a monitoring has occurred and deficiencies have been identified. Although numerous deficiencies have been identified, staff is recommending pursuit of termination based on the lack of the required single audit. The long history of compliance concerns includes much back and forth with CWCCP. The lack of the single audit is straightforward, and their inability to produce several years of appropriate audits may be due to the other financial management problems that they have failed to correct.

A complication of the lack of single audits is related to the auditor selected by CWCCP to perform their audits for fiscal years 2011 through 2014. The auditor that completed those audits, Juan Rivera, has been sanctioned by the Texas Board of Public Accountancy and was not authorized to complete an audit without a proper peer review. Mr. Rivera failed to obtain the required peer review, resulting in invalid audits.

The Department first notified CWCCP that Mr. Rivera was not licensed to performs an audit (by the Texas State Board of Public Accountancy) on January 19, 2016. Despite repeated commitments from CWCCP and their counsel to deliver the required single audits, the deficiency remains uncorrected. On November 6, 2017, through their counsel Royston Razor, CWCCP represented that the 2016 Audit was expected to be completed by November 6, 2017, and would be approved by its Board on November 8, 2017. TDHCA still has not been provided a copy of the 2016 Audit and it is not in the Federal Audit Clearinghouse as required by federal regulations. On March 22, 2018, again through their counsel, CWCCP stated that the 2016 Audit is done and the required audits for 2011 through 2014 will be completed “around April or May 2018”. To date, TDHCA has not received these audits; the last information in the Federal Audit Clearinghouse is from 2012.

Though a single audit appears to have been prepared for FY 2015, the auditors did not provide an audit opinion due to the identification of significant questioned costs for federal grants administered in a fiscal year preceding the scope of the FY 2015 audit. Additionally, the FY 2015 audit was not submitted to the Federal Audit Clearinghouse.

The Department is required to provide technical assistance when appropriate. The Department’s training and technical assistance staff has provided training to CWCCP on a variety of issues. However, there is no appropriate training regarding the organization’s lack of a single audit.

If the Board concurs that termination proceedings should commence, the next step will be to set a hearing at the State Office of Administrative Hearings. After that hearing, the Board will determine if there is cause to terminate and if so, the Department will notify CWCCP subject to its right to seek a review by U.S. Health and Human Services (“HHS”).

4

**TO BE POSTED  
NOT LATER THAN  
THE THIRD DAY  
BEFORE THE  
DATE OF THE  
MEETING**

5a



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion and possible action on staff determinations regarding Undesirable Neighborhood Characteristics for Multifamily Direct Loan Application 18503, Eastern Oaks Apartments

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3) of the 2018 Uniform Multifamily Rules related to Undesirable Neighborhood Characteristics (“UNC”), if a Development Site has any of the characteristics described in subparagraph B of the subsection, the Applicant must disclose the presence of each such characteristic to the Department at the time the Application is submitted to the Department;

**WHEREAS**, the Applicant has disclosed the presence of Undesirable Neighborhood Characteristics, specifically the proposed Development is located in a census tract with a poverty rate above 40%, and it is in the attendance zone of a school that does not have a Met Standard rating;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), staff has conducted a further review of the proposed site and the surrounding neighborhood;

**WHEREAS**, pursuant to 10 TAC §10.101(a)(3), acceptable mitigation for the undesirable neighborhood characteristics, in accordance with the rule, was not submitted, and staff is unable to recommend that the Governing Board find the Development Sites eligible; and,

**WHEREAS**, the Applicant has also requested waiver of the UNC requirements pursuant to 10 TAC §10.101(a)(3)(E), but has failed to present information supporting a claim that the Development is necessary to enable the state, a participating jurisdiction, or an entitlement community to comply with its obligation to affirmatively further fair housing, a HUD approved Conciliation Agreement, or a final and non-appealable court order;

**NOW, therefore, it is hereby,**

**RESOLVED**, that the Board determines that the Applicant has failed to provide evidence of mitigation of the Undesirable Neighborhood Characteristics sufficient to support site eligibility under the requirements of 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules for Application 18503, Eastern Oak Apartments; and

**FURTHER RESOLVED**, that the waiver requested pursuant to 10 TAC §10.101(a)(3)(E) is hereby denied.

## BACKGROUND

Pursuant to 10 TAC §10.101(a)(3) of the 2018 Uniform Multifamily Rules (the “Rules”), related to Undesirable Neighborhood Characteristics (“UNC”), disclosure of such characteristics is required if one or more of the characteristics exists where the proposed Development Site is located. Applicants are required to provide an Undesirable Neighborhood Characteristics Report (“UNCR”), which includes information regarding mitigating factors and general description of the site and surrounding area.

Pursuant to 10 TAC §10.101(a)(3), the Department’s Governing Board has final decision making authority in making an affirmative determination or finding the Site ineligible. Should the Board make the determination that a Development Site is ineligible based on this report, the termination of the Application resulting from such Board action is not subject to appeal.

Review of the Development Site indicates an area dominated by single family housing and duplexes. Median household income for the census tract is \$31,691, which places the census tract in the fourth quartile. The poverty rate is 47.7%. The Development proposes the reconstruction of 30 one, two and three bedroom units serving households at or below 30% of AMI. The proposed development is in the southeast part of Austin, in the Franklin Park neighborhood, in the area commonly known as Dove Springs.

The Housing Authority of Travis County converted the property from public housing to 100% Section 8 Project-Based Rental Assistance in 2016, through the HUD Rental Assistance Demonstration (“RAD”) program. The RAD conversion did not include rehabilitation of the 36-year old property.

### Poverty

The UNCR seeks to address the poverty rate by pointing to the percentage of households with incomes over the County and/or MSA median of \$65,000, and points to higher incomes in the adjacent census tract. They also discuss the increase in median income within the census tract over the past 5 years, which has increased by 20.13% over the past 5 years, only if 2016 is included, as follows:

Median Income

Tract or Area	2012-2016 ACS	2011-2015 ACS	2010-2015 ACS	2009-2013 ACS	2008-2012 ACS	% Change over 5 yrs
48453002413	36,000	31,691	33,714	32,612	29,968	20.13%
Austin-Round Rock MSA	66,093	63,437	61,900	60,830	59,646	10.81%
Travis County	64,422	61,451	59,620	58,025	56,403	14.22%
48453002413 Poverty Rate*	NA	47.7%	43.5%	44.7%	41.5%	
48453002431 Poverty Rate*	NA	25.58%	22.1%	16.4%	14.30%	

\* This line added by staff

As shown above, while the median income has increased in the aggregate over 5 years, the poverty rate, which is the UNC measurement, has increased by more than 6% over the same period. Rather than showing a clear upward trend that would indicate the neighborhood is moving out of poverty, the poverty rate follows the instability of income levels in the area, with no real improvements. The Applicant points to the incomes and poverty rate in the adjacent census tract (48453002431), directly across Nuckols Crossing from the proposed Development, and provides a breakdown of numbers of households at each income level – they do not provide the poverty rate trend for that census tract. The poverty rate for the adjacent census tract is below the UNC trigger of 40%, but it shows a clear and steady increase from 14.30% to 25.58% over the same period.

The Applicant points to recent development of business parks near the proposed Development, proximity to jobs and job training, and the potential for gentrification as additional mitigation for the poverty rate. There is no evidence that these features are or will benefit the residents of Eastern Oaks. In fact, the increasing poverty rate in both the Eastern Oaks census tract, and the one adjacent indicate that residents are not benefitting from this economic development.

### Schools

The proposed development is in the attendance zone of a school that does not have a Met Standard rating. Specifically, Consuelo Mendez Middle School has been rated as Improvement Required. The Applicant provided Accountability reports for 2015, 2016 and 2017, and research of the Texas Education Agency website reveals that Mendez Middle School also was rated as Improvement Required in 2014. Pursuant to 10 TAC §10.101(a)(3)(B)(iv):

*The Development Site is located within the attendance zones of an elementary school, a middle school or a high school that does not have a Met Standard rating by the Texas Education Agency. Any school in the attendance zone that has not achieved Met Standard for three consecutive years and has failed by at least one point in the most recent year, unless there is a clear trend indicating imminent compliance, shall be unable to mitigate due to the potential for school closure as an administrative remedy pursuant to Chapter 39 of the Texas Education Code.... (emphasis added)*

The school's Campus Improvement Plan for 2017-2018 has an end date on May 30, 2018, and clearly was not successful, as the school has the same Improvement Required rating for 2018. In May 2018, the Austin Independent School District announced that they would partner with the University of Texas Tyler to create a STEM program at the school, in order to avoid closure under Chapter 39 of the Texas Education Code. The partnership postpones closure for two years. The school will be operated by a separate governing board, which will have full control of the school. It is unclear if the school will continue with open enrollment or if it will become a magnet and limit the students that may attend the STEM classes. It is also unclear what will happen to Mendez Middle School if the partnership is not successful within the 2 years. A letter from Paul Cruz, Superintendent of Austin Independent School District, describes the STEM program that will be implemented, but does not state that there is a reasonable expectation that Mendez Middle School will have a Met Standard rating by the time the proposed Development is placed in service.

Due to the increasing poverty rate for the census tract, and uncertainty regarding the new leadership and programming at Mendez Middle School, staff is unable to make a recommendation that the site be found eligible.

Waiver Request

In their UNCR, the Applicant has checked indicated they are requesting waiver, of the UNC requirements pursuant to 10 TAC §10.101(a)(3)(E). The Applicant did not provide information supporting a claim that the Development is necessary to enable the state, a participating jurisdiction, or an entitlement community to comply with its obligation to affirmatively further fair housing, a HUD approved Conciliation Agreement, or a final and non-appealable court order, as required by the Rule.

Because the Applicant has failed to support their request for waiver of the UNC requirements in 10 TAC §10.101(a), staff recommends denial of the request



## Undesirable Neighborhood Characteristics Report (“UNCR”) Packet

The purpose of the packet is to formalize the process in which Undesirable Neighborhood Characteristics are disclosed and the UNCR is submitted pursuant to 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules. The packet may be submitted at pre-application (if applicable per 10 TAC §11.8(b) relating to Pre-Application Requirements) or at Application. Applicants who wish to submit a request for pre-determination prior to pre-application or Application are advised to review 10 TAC §10.101(a)(3) for additional guidance. Termination due to an Applicant’s own non-disclosure is not appealable as such appeal is in direct conflict with certifications made in the Application and within the control of the Applicant.

**My Development Site includes the following Undesirable Neighborhood Characteristic(s) (Check all that apply):**

- Development Site is located in a census tract has poverty rate above 40% for individuals (or 55% for Developments in regions 11 and 13).
- Development Site is located in a census tract or within 1,000 ft. of any census tract in an Urban Area and the rate of Part I violent crime is greater than 18 per 1,000 persons annually as reported on <https://www.neighborhoodscout.com/>.
- Development Site is located within 1,000 ft. (measured from nearest boundary of the Site to the nearest boundary of blighted structure) of multiple vacant structures that have fallen into such significant disrepair, overgrowth, and/or vandalism that they would commonly be regarded as blighted or abandoned.
- Development Site is located within the attendance zones of an elementary school, a middle school, or a high school that does not have a Met Standard rating by the Texas Education Agency, based on the 2017 Accountability Ratings.

**Provide any comments or additional information in the box below, if applicable.**

Please see attached information.
----------------------------------

**Undesirable Neighborhood Characteristics Report:**

I have submitted information for the items listed below, as such information might be considered to pertain to the Undesirable Neighborhood Characteristic disclosed, pursuant to 10 TAC §10.101(a)(3)(C) of the Uniform Multifamily Rules. Such information is included behind this page.

Determination regarding neighborhood boundaries;

Assessment of general land use in the neighborhood;

Assessment concerning any of the features of the Undesirable Site Features present in the neighborhood, regardless of whether they are within the specified distances referenced in 10 TAC §10.101(a)(2);

Assessment of the number of existing affordable rental units in the Primary Market Area (PMA), including comment on concentration based on the size of the PMA;

Assessment of the percentage of households residing in the census tract that have household incomes equal to or greater than the median household income for the MSA or county where the Development site is located;

Assessment of the number of market rate multifamily units in the neighborhood and their current rents and levels of occupancy;

Assessment of school performance for each of the schools in the attendance zone containing the Development that did not achieve the Met Standard rating, for the previous two academic years, that includes the TEA Accountability Rating Report, a discussion of performance indicators and what progress has been made over the prior year, and the campus improvement plan in effect. If there is an update to the plan that shows progress made under the plan, provide the update. If no update is available, provide information from a school official that speaks to progress made under the plan as indicated in 10 TAC §10.101(a)(3)(D)(iv); and

Additional information, if requested by the Department.

**Provide any comments or additional information in the box below, if applicable.**

Please see attached Undesirable Neighborhood Characteristics Report.

**Mitigation of the Undesirable Neighborhood Characteristic(s):**

I have provided information regarding mitigation of the above-mentioned Undesirable Neighborhood Characteristics, as applicable, pursuant to 10 TAC §10.101(a)(3)(D) of the Uniform Multifamily Rules and such information is included behind this page.

**Waiver of the Undesirable Neighborhood Characteristic(s):**

I am requesting a waiver of the presence of the above-mentioned Undesirable Neighborhood Characteristics, as applicable, pursuant to 10 TAC §10.101(a)(3)(E) of the Uniform Multifamily Rules, on the basis that the Development is necessary to enable the state, a participating jurisdiction, or an entitlement community to comply with its obligation to affirmatively further fair housing, a HUD approved Conciliation Agreement, or a final and non-appealable court order. Documentation to that effect is included herein with the disclosure and waiver request.

**Department Contacts:**

9% HTC Applications: [Sharon.Gamble@TDHCA.state.tx.us](mailto:Sharon.Gamble@TDHCA.state.tx.us) (9% Program Administrator)

4% HTC and Tax-Exempt Bond Applications: [Teresa.Morales@TDHCA.state.tx.us](mailto:Teresa.Morales@TDHCA.state.tx.us) (Multifamily Manager)

Direct Loan Only Applications: [Andrew.Sinnott@TDHCA.state.tx.us](mailto:Andrew.Sinnott@TDHCA.state.tx.us) (Multifamily Loan Programs Manager)

**How to Submit the UNCR Packet:**

- Email the UNCR Packet to the appropriate contact person (file size may not be greater than 4MB). Ensure that the packet was received;

Or

- Upload if a Serv-U Account has been set-up for the pre-application or Application and notify the appropriate contact person of the upload (refer to the Multifamily Programs Procedures Manual posted at <http://www.tdhca.state.tx.us/multifamily/apply-for-funds.htm> for an explanation of the process to set-up a Serv-U Account if needed);

Or

- Include the UNCR Packet behind tab 2 of the Uniform Multifamily Application.

## Undesirable Neighborhood Characteristics Report

### Eastern Oaks Apartments – TDHCA #18503

Eastern Oaks Apartments (#18503) has a poverty rate over 40% and is zoned to Consuelo Mendez Middle School in the Austin Independent School District which has an accountability rating of Improvement Required for three consecutive years. As required by 10 TAC §10.101(a)(3) of the Uniform Multifamily Rules, the applicant is disclosing the presence of these Undesirable Neighborhood Characteristics, providing evidence of mitigation, and requesting a finding of eligibility. The Applicant believes the site should be found eligible based on the site's achievement of the following goals of 10 TAC §10.101(a)(3)(E):

(i) **Preservation of existing occupied affordable housing units to ensure they are safe and suitable...**; and

(i) Determination that the undesirable characteristic(s) that has been disclosed are **not of such a nature or severity that should render the Development Site ineligible** based on the assessment and mitigation provided herein.

The Housing Authority of Travis County – applicant, owner, developer and manager - converted Eastern Oaks Apartments to 100% project-based Section 8 vouchers for persons with incomes 30% Median Family Income and below through the HUD Rental Assistance Demonstration (RAD) program in 2016. At that time, Eastern Oaks Apartments entered into a 20-year Housing Assistance Payment Contract with HUD. As a long-term owner invested in the lives of their residents, HATC is leveraging the RAD conversion with a “down-to-the-studs” rehabilitation – qualifying as reconstruction for National Housing Trust Fund- that will ensure the sustainable operation of the property and responsible preservation of affordable units. When the rehabilitation is complete, units will look and function as if newly constructed.

Eastern Oaks Apartments has been a part of the neighborhood for over 35 years. With a historically sustained low turnover, families have been raised at this location. Over two-thirds of the property is made up of families with over half of the residents being children. With TDHCA funding as the critical funding layer, the Applicant will be able to leverage additional funding to complete the substantial rehabilitation (reconstruction) of the property and ensure a sustainable healthy, quality and desirable home for residents.

#### Determination of Neighborhood Boundaries

Eastern Oaks Apartments is located between Pleasant Valley Road and Stassney Lane in Southeast Austin in the Franklin Park Neighborhood Planning Area within the Southeast Combined Neighborhood Plan. For purposes of this UNCR, the neighborhood boundaries are defined as census tracts 48453002411, 48453002413 and 48453002431. Eastern Oaks Apartments is located on the border of census tracts 48453002413 and 48453002431.

These census tracts have Ben White Blvd. as the Northern Boundary, I-35 as the Western Boundary, 183 as the Eastern Boundary and Stassney Lane/S. Pleasant Valley Rd./E. William Cannon Dr. as the Southern Boundary. Eastern Oaks Apartments is also located within the boundaries of the Dove Springs Neighborhood Association. For clarification, specifically and officially, Eastern Oaks is within the Franklin



Park Neighborhood, Dove Springs is a loose name given to this Southeast area that does include the project. These neighborhood names will be referred to throughout the report.

The Primary Market Area utilized in the Market Study completed for this application includes the following census tracts: 48453002413 (subject tract), 48453002430, 48453002429, 48453002427, 48453002425, 48453002419, 48453002412, and 48453002411. This is a much larger footprint than the footprint utilized for most of this UNCR.

Please see **EXHIBIT A** For maps of the neighborhood boundaries to referred to above.

#### Assessment of General Land Use in Neighborhood

The Franklin Park neighborhood that directly surrounds the property is predominantly single-family residential (a large percentage of the homes are duplexes) with some neighborhood retail at prominent street intersections, and the larger, more intensive commercial uses located along Interstate 35. As an Urban neighborhood, there is very little undeveloped land.

While the Franklin Park neighborhood is primarily residential, the McKinney and Southeast neighborhood areas that also comprise the Southeast Combined Neighborhood Planning area are less residential and have more commercial and industrial uses. These uses combined with more land availability has allowed development to boom and employment opportunities to surge. Please find attached the Future Land Use Map for the Southeast Combined Neighborhood Planning Area that includes the Franklin Park neighborhood which contains Eastern Oaks Apartments.

Also attached is the land use map for the Eastern Oaks site from the Market Study. Both maps are attached as **EXHIBIT B**.

#### Assessment of Undesirable Site Features:

No Undesirable Site Features are present in the Franklin Park neighborhood that contains Eastern Oaks Apartments. The Austin Recycle and Reuse Drop-Off center is located approximately 1.18 miles away in the McKinney Neighborhood Planning Area which abuts the Franklin Park Neighborhood Planning Area and could be considered a waste facility. Please see more information about this facility attached **(EXHIBIT C)**. We do not believe the location of this City of Austin managed facility has any negative bearing on the existing Eastern Oaks Apartments due to the distance between the structures.

Alamo Concrete Products has what appears to be a ready mix concrete supply plant in the McKinney Neighborhood Planning Area located a bit less than a mile (4,661 ft) from Eastern Oaks Apartments and could be considered "heavy industry". Again, due to the distance between the facility and Eastern Oaks Apartments we do not feel the presence has any negative bearing on the health and safety of residents.

Divas Men's Club is located approximately 1.88 miles away from Eastern Oaks Apartments in the Southeast Neighborhood Planning Area and could be considered a sexually oriented business. There are whole subdivisions, major roads and a large greenbelt that separates the site from the business and therefore we do not feel the presence of the feature has any negative bearing on the residents.

Assessment of Existing Affordable Rental Units

There are only six existing affordable housing projects, including Eastern Oaks, in the primary market area which includes eight census tracts. For an urban area, this results in a very minimal concentration of affordable housing units. There are no multifamily rental projects under construction or being planned in the primary market area. There were only 17 vacant affordable units out of the total 944 units yielding an affordable housing vacancy rate of 1.8 percent.

It is believed that the development will absorb five to six units per month; therefore, it would reach stable occupancy within one or two months. Also, based upon the PBRA Contract serving tenants at 30% and below, the requirement by HUD to offer rehabbed units back to the previous occupants, and the one year waiting list provided, there is miniscule risk in the leasing/marketability of the project.

Assessment of Household Incomes

Median Household Income of Travis County 2012-2016 ACS: \$64,422  
Median Household Income of Austin-Round Rock MSA 2012-2016 ACS: \$66,093

<b>Total Income</b>	<b>48453002413 Subject</b>	<b>48453002431 Adjacent</b>
TOTAL	1252	2235
Less than \$10,000	158	200
\$10,000 to \$14,999	146	114
\$15,000 to \$19,999	52	36
\$20,000 to \$24,999	61	112
\$25,000 to \$29,999	139	161
\$30,000 to \$34,999	50	56
\$35,000 to \$39,999	86	72
\$40,000 to \$44,999	104	68
\$45,000 to \$49,999	44	102
\$50,000 to \$59,999	94	256
\$60,000 to \$74,999	99	309
\$75,000 to \$99,999	132	418
\$100,000 to \$124,999	38	161

\$125,000 to \$149,999	6	89
\$150,000 to \$199,999	43	60
\$200,000 or more	0	21
<b>TOTAL % at or above County and/or MSA: \$65,000</b>	<b>25%</b>	<b>47%</b>

Eastern Oaks Apartments is located in census tract number 48453002413. Nuckols Crossing Road is the divider between census tract number 48453002413 and census tract 48453002431 with Eastern Oaks Apartments located on the east side of Nuckols Crossing Road. The chart above demonstrates that just across the street lies a census tract with much higher incomes.

Median Income	2012-2016 ACS	2011-2015 ACS	2010-2014 ACS	2009-2013 ACS	2008-2012 ACS	% Change over 5 yrs
48453002413	36,000	31,691	33,714	32,612	29,968	20.13%
Austin-Round Rock MSA	66,093	63437	61900	60830	59,646	10.81%
Travis County	64,422	61,451	59,620	58,025	56,403	14.22%

The chart above contains the median household incomes of the subject tract, the Austin-Round Rock MSA and Travis County all taken from Table S1903 of the ACS 5-Year Estimates. As demonstrated by the table, the income of the subject census tract has increased 20% over the past five years which is well above the increase of median incomes of both the Austin-Round Rock MSA (10.81%) and Travis County (14.22%). Additionally, the income of the subject tract increased 13.6% from 2016 data to 2015 data which is more than double the increase year-to-year experienced by Austin-Rock MSA (4.19%) and Travis County (4.83%). The chart above evidences a positive trend for income growth in the subject tract.

#### Assessment of Market Rate Multifamily Units

There were 13 market properties identified in the primary market area. Of the 3,601 units contained in these developments, only 123 were vacant which yields an overall market vacancy of 3.4 percent. There are no Family projects under construction or being planned in the primary market area.

The adjusted monthly rents for comparable market developments as compared to the contract rents at Eastern Oaks are as follows:

Unit Type	Adjusted Monthly Rent for Comps	Eastern Oaks Rent
1 BR	\$850	\$378
2 BR	\$930	\$476
3 BR	\$1,200	\$645

## Assessment of School Performance – Mendez Middle School

Eastern Oaks Apartments is zoned to Rodriguez Elementary School, Mendez Middle School, and Travis High School. Both Rodriguez Elementary School and Travis High School have a Texas Education Agency (TEA) accountability rating of Met Standard in 2017. Mendez Middle School has a TEA accountability rating of Improvement Required in 2017, 2016 and 2015. The TEA Accountability reports for all three schools are attached as **Exhibit D**.

As required by TEA, Mendez Middle School operated under a Campus Improvement Plan during the 2017-2018 school year (**attached as EXHIBIT E**). Also attached is the 2017-2018 Improvement Plan that shows progress made during the 2017-2018 school year toward meeting the goals of the improvement plan (**attached as EXHIBIT F**).

The chart below includes the scores on the TEA Performance Index. As you can see, the school meets the “Student Progress” score for 2015, 2016, and 2017. Scores decreased between 2016 and 2017 on all indexes evidencing a need for the turnaround plan explained below.

<b>TEA Performance Index</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Student Achievement (Target Score is 60)	54	49	47
Student Progress (Target Score is 28)	28	33	28
Closing Performance Gaps (Target Score is 30)	33	25	24
Postsecondary Readiness (Target Score is 13)	10	12	11

After failing to achieve a Met Standard rating for four consecutive years, Mendez Middle School was in danger of closure by TEA. Through Senate Bill 1882, Austin Independent School District has been able to catalyze a widespread community effort to turn the school around. The new SB 1882 allows school districts to appoint a partner to operate an in-district charter school using district resources to provide transportation and lunch, but have a separate governing board. The charter also has freedom to utilize differing and targeted teaching techniques to increase the achievement levels of the school. The district will receive more money per child and a two-year reprieve from TEA sanctions.

AISD chose the Texas Science, Technology, Engineering and Math Coalition (T-STEM) as the partner to operate the in-district charter. The T-STEM Coalition is made up of UT Austin’s UTeach Institute and Communities in Schools of Central Texas. The community process for choosing an in-district charter partner has been ongoing since early 2018. On April 9, AISD staff recommended the T-STEM Coalition to the AISD Board of Trustees. On May 1, the AISD Board of Trustees approved the T-STEM Coalition as the in-district charter partner. On July 9, 2018, the Texas Education Agency approved T-STEM Coalition as the Mendez turnaround partner. Please see **EXHIBIT G** for a series of news articles detailing the process for AISD’s choice of Mendez partner.

Please see letter from AISD that provides more detail on the T-STEM Coalition and their demonstrated experience in turning around failing schools (as **EXHIBIT H.**) Also included as **EXHIBIT I** is the application submitted to AISD by Texas T-STEM that details their plan to turnaround Mendez Middle School.

### Evidence of Mitigation:

**Undesirable Neighborhood Characteristic #1:** The Development Site is located within a census tract that has a poverty rate above 40 percent for individuals.

The poverty rate for census tract 48453002413 that contains Eastern Oaks Apartments has a poverty rate of 42 percent (just 2 percent above the threshold). The poverty rate for the subject census tract dropped significantly (12%) between the 2015 and 2016 data releases. This decrease in poverty rate is almost double that experienced by the Austin-Round Rock MSA and Travis County which mimics the median income uptick for the tract and is a sign of improvement and a positive trend for both metrics.

Poverty	2012-2016 ACS	2011-2015 ACS	2010-2014 ACS	2009-2013 ACS	2008-2012 ACS
48453002413	42%	47.7%	43.5%	44.7%	41.50%
48453002431	24.9%	25.8%	22.1%	16.4%	14.3%
Austin-Round Rock MSA	13.3%	14.2%	14.9%	14.8%	14.6%
Travis County	15.2%	16.4%	17.5%	17.4%	17.4%

The boundary of contiguous census tract 48453002431 is literally across the street from Eastern Oaks Apartments. While the poverty rate for this tract is currently not less than 20%, it has been below 20% in two of the past five years with the rate not far from the 20% threshold in the remaining three years.

Additional factors that demonstrate more than sufficient mitigation of the poverty rate include:

- **Evidence of sustained job growth and employment opportunities:**

According to Neighborhood Scout, the neighborhood containing Eastern Oaks Apartments has very good access to high paying jobs which helps to ensure a continuing positive trend in reducing the poverty rate for the neighborhood.

#### ACCESS TO HIGH PAYING JOBS ⓘ



#### JOBS WITHIN AN HOUR

WITHIN	HIGH-PAYING* JOBS
5 minutes	2717
10 minutes	20552
15 minutes	90881
20 minutes	183054
30 minutes	309681
45 minutes	399479
60 minutes	433738

\*Annual salary of \$75,000 or more

The Southeast Combined Neighborhood Plan Area (that contains Eastern Oaks Apartments) has outpaced most areas of the City in the development of new commercial office and retail space. The 78744 zip code ranks third highest in the City of Austin for new non-residential square footage added since 2006. Since this time, 3.2 million square feet of commercial space has been added to the Plan area with over \$234 million dollars invested.

A major business attraction and investment has been the development of MetCenter – a 550-acre, class A, mixed-use business park located in the Plan area. The business park completed its first buildings in 2015 and now hosts the largest concentration of Fortune 500 companies in Central Texas. Over two million square feet of office space has already been completed with an additional 1.5 million square feet ready to start construction. Amenities for the office park

include an 18-hole disc golf course, hike-and-bike trail, tennis and basketball courts and in-building cafes. The retail center features a coffee shop and five restaurants.

Another impressive development is the 351,171 square foot Southpark Commerce Center by Transwestern that broke ground in 2017. In final build out, the center will feature over two million in commercial square footage. Another notable development is the Expo Business Park which completed in 2015 and features 130,000 square feet and over \$6.8 million invested. These projects represent an unprecedented investment in the Southeast Combined Neighborhood Plan Area and boundless employment opportunities for residents of Eastern Oaks Apartments.

Another noteworthy investment was the new Central Texas Food Bank completed in 2016 – an addition of 134,138 square feet and an \$18,000,000 investment to the Plan area. Another meaningful investment in the Plan area was the completion of the Anita Uphaus Early Childhood Center in partnership with the Austin Independent School District in 2012. The development of this dual-language early childhood program in a state-of-the-art facility demonstrates the community's interest and investment in this area.

- **Career training opportunities or job placement services:**

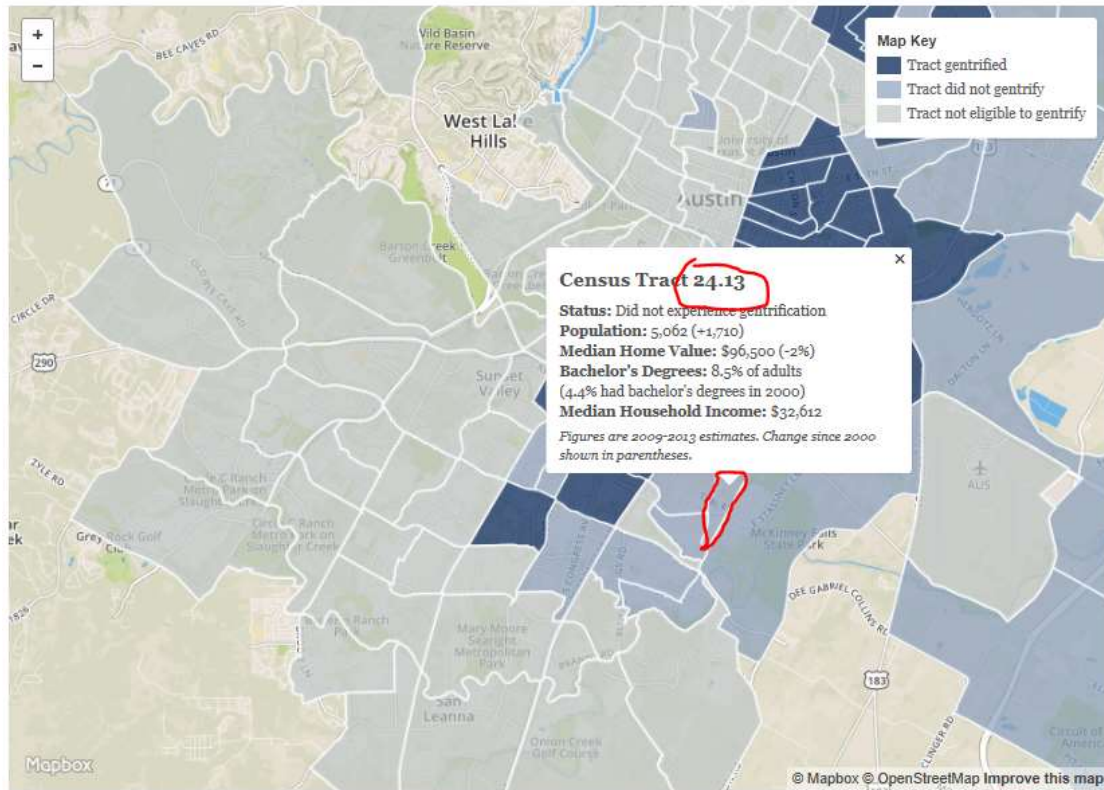
Eastern Oaks Apartments is located 1.5 miles from Workforce Solutions Capital Area which offers job search assistance and employee-related services in Travis County. Workforce Solutions was named as the “Best Place to Look for a Job” by the Austin Chronicle. Please find attached map and print out (**EXHIBIT J**) listing a host of employment services that can directly benefit the residents of Eastern Oaks Apartments.

- **Evidence of gentrification in the area:**

According to Governing.com, 56.1% of all eligible census tracts in Austin have gentrified. 40 percent of those tracts gentrifying between 2000 and 2013. Governing.com notes that in order for a tract to be considered gentrified there is an increase in both the median home value and the number of adults with a bachelor's degree. See below map showing that although Census Tract 48453002413 containing Eastern Oaks Apartments has not gentrified, it has doubled the number of adults with a Bachelor's Degree. With an upward tracking median household value to match, the tract will be on its way to gentrifying.

## Austin Gentrification Map: 2000 Census - Present

Click a tract to display its demographic data:

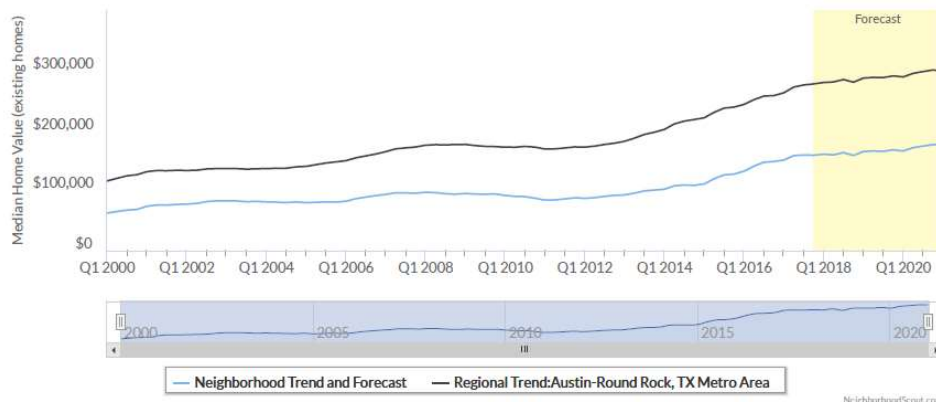


NOTE: Data shown correspond to current tract boundaries, which may have changed from prior Census years. Figures are calculations from [2009-2013 American Community Survey](#) estimates.

<http://www.governing.com/gov-data/austin-gentrification-maps-demographic-data.html>

The Neighborhood Scout report for 4922 Nuckols Crossing (the address of Eastern Oaks Apartments) shows that home values in the neighborhood are trending upward and follow the upward trend of the metro trend demonstrating high appreciation and an undeniable path to gentrification.

## SCOUT VISION Neighborhood Home Value Trend and Forecast ⓘ



Except for the past quarter, the neighborhood has shown a significant appreciation in home value that outpaces the metro and national rates.

### SCOUT VISION® HOME VALUE TRENDS AND FORECAST

TIME PERIOD	TOTAL APPRECIATION	AVG. ANNUAL RATE	COMPARED TO METRO*	COMPARED TO AMERICA*
3 Year Forecast: 2018 Q1 - 2021 Q1	11.18% ↑	3.60% ↑	10	4
Latest Quarter: 2017 Q3 - 2017 Q4 ⚡	-0.32% ↓	-1.29% ↓	2	2
Last 12 Months: 2016 Q4 - 2017 Q4	7.03% ↑	7.03% ↑	5	7
Last 2 Years: 2015 Q4 - 2017 Q4 ⚡	24.71% ↑	11.67% ↑	10	10
Last 5 Years: 2012 Q4 - 2017 Q4 ⚡	72.78% ↑	11.56% ↑	10	10
Last 10 Years: 2007 Q4 - 2017 Q4 ⚡	66.24% ↑	5.21% ↑	8	10
Since 2000: 2000 Q1 - 2017 Q4 ⚡	132.20% ↑	5.00% ↑	9	10

\* 10 is highest

In addition, Neighborhood Scout notes that there is substantial drivers at place that will continue to push home values upward:

### KEY PRICE DRIVERS AT THIS LOCATION

**Pros**

Factors likely to drive home values upward over the next few years or indicators of upward trends already underway.

- ↑ Educated Population Trend
- ↑ Vacancies
- ↑ Access to High Paying Jobs
- ↑ Income Trend

**Cons**

Impediments to home value appreciation over the next few years or indicators of negative trends already underway.

- ↓ Regional Housing Market Outlook
- ↓ Crime

Please also see attached clips from real estate websites that are marketing the neighborhood (referred to correctly as Franklin Park or the larger Dove Springs neighborhood) as clearly gentrifying neighborhoods ripe for investment (**EXHIBIT K**).

Finally, please see attached news article contemplating gentrification for the neighborhood (the larger area is commonly referred to as Dove Springs) in **EXHIBIT L**.

The neighborhood surrounding Eastern Oaks Apartments is clearly on an upward trend of improvement.



- **Clear and compelling reason the Development should be located at the Site**

In addition to a positive increase in median income, a decrease in poverty rate, higher-than-average home value appreciation, extraordinary access to employment opportunities, and a success-driven, community turnaround plan for Mendez Middle School, a very clear and compelling reason that Eastern Oaks Apartments should be rehabilitated at this site where it has grown families for the past 35 years is the community's support for this neighborhood. Failure is no longer an option.

In 2013, KUT put together a powerful series of stories on Dove Springs neighborhood members over the course of 10 months. The articles prove the ground-swell of neighborhood support and advocacy to not only create a better place to raise families, but to do so while preserving the ability of families to remain in place. In fact, the Austin City Council has recently approved a three-phase study of gentrification in Austin with the purpose of ensuring that affordable housing options for neighborhood residents are initiated before the neighborhood moves too swiftly toward gentrification.

The neighborhood also has key political representation with City Council Member Delia Garza representing District 2 which encompasses the neighborhood surrounding Eastern Oaks. Garza has gone on record in support of a turnaround plan for Mendez Middle School and has ensured that access to healthcare and amenities for the neighborhood are her focus. Under her leadership, a new state-of-the-art Health and Wellness Center has opened in the neighborhood as well as \$16M approved in the November 2018 General Obligation Bond Package for a new City of Austin Health Center for the Dove Springs neighborhood. The neighborhood is also represented by tireless advocates such as Susan Almanza who are namesakes in Austin's political landscape as well as powerful neighborhood organizations such as Southeast Corner Alliance of Neighborhoods (SCAN), Dove Springs Neighborhood Association and Montopolis Neighborhood Association.

Finally, the preservation of affordable housing such as Eastern Oaks Apartments, in neighborhoods ripe for gentrification is exactly what scholars and City of Austin leadership recommend as the key factor that will keep neighborhoods livable for families. Preventing gentrification and creating options for families in neighborhoods that have experienced gentrification is at the forefront of Austin's City Council agenda. In August 2017, the Austin City Council approved the formation of an Anti-Displacement Task Force charged with recommending strategies for preserving and expanding the supply of affordable housing. The City Council also approved a three-part study on gentrification by the University of Texas' Institute for Urban Policy Research and Analysis and is using that research to craft "right-to-return" incentives to get families to return to their neighborhoods. The major rehabilitation of Eastern Oaks Apartments is a responsible step by HATC and will result in the most positive outcome for the neighborhood in families who can remain in their neighborhood. In fact, the Southeast Planning Area Neighborhood pointed out Eastern Oaks as an asset to their neighborhood and a model that they want to duplicate.

Please see **EXHIBIT L** for pertinent articles and back-up documentation.

**Undesirable Neighborhood Characteristic #2:** The Development Site is located within the attendance zone of a middle school that does not have a Met Standard rating by the Texas Education Agency.

Eastern Oaks Apartments is located within the attendance zone for Mendez Middle School which has been rated as Improvement Required since 2014. As discussed above, AISD is engaged in a success-driven and community-backed turnaround plan to achieve a Met Standard rating for Mendez Middle School. Attached in **EXHIBIT H** is a letter from the AISD Superintendent addressing the requirements of 10 TAC §10.101(a)(3)(D)(iv).

In addition to the aforementioned letter from AISD, the following community services and external partnerships exist that will facilitate and augment classroom performance:

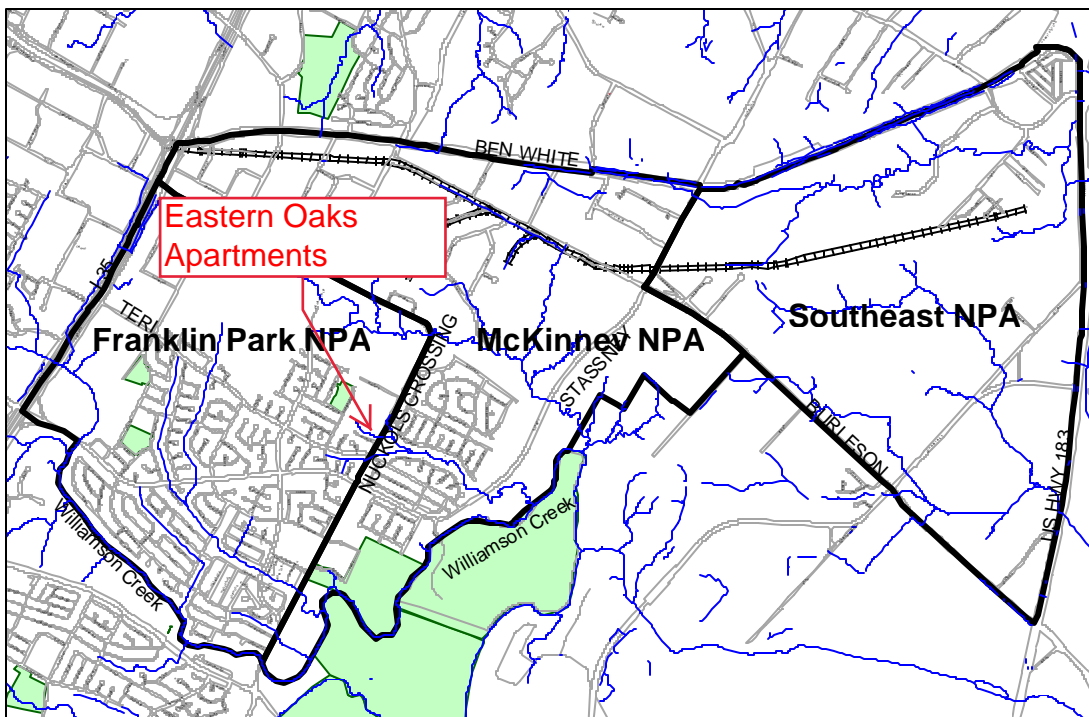
- There are 39 community-based service partners at Mendez Middle School that offer a host of core supportive services that directly complement the curriculum at Mendez Middle School and work to increase classroom performance and child success. The partnerships at Mendez are significant and far-reaching. For comparison, there are only 23 community partners at Murchison Middle School – another AISD property. The extensive partnerships not only signify the community’s support of this middle school, but also a reassurance that the transformation plan will be fully supported beyond just the school walls. Please see **EXHIBIT M** for a list of the community partners at Mendez Middle School.
- Communities in Schools, one of the lead partners in the turnaround plan for Mendez Middle School, has been engaged with Mendez Middle School for over 20 years and has a deep understanding of the achievement deficits experienced by the school. CIS will be responsible for developing additional community partnerships that support the school’s turnaround plan, in addition to their already expansive programming. Please see **EXHIBIT N** for more information on Communities in Schools.

**Exhibits:**

Exhibit A:	Southeast Combined Neighborhood Planning Area, PMA and Dove Springs Map
Exhibit B:	Land Use Information
Exhibit C:	Additional info on Undesirable Site Features
Exhibit D:	TEA Accountability Reports
Exhibit E:	Campus Improvement Plan
Exhibit F:	Target Improvement Plan
Exhibit G:	News Articles on Mendez Middle School Turnaround Plan
Exhibit H:	AISD Letter with Details of Turnaround Plan
Exhibit I:	T-STEM Application to AISD
Exhibit J:	Workforce Solutions Back-Up
Exhibit K:	Realtor Listings for Neighborhood
Exhibit L:	Community Articles and Back-Up
Exhibit M:	Community Partners at Mendez Middle School
Exhibit N:	Info on Communities in Schools

**Exhibit A:**  
**Southeast Combined**  
**Neighborhood Planning Area,**  
**PMA and Dove Springs Map**

### Introduction

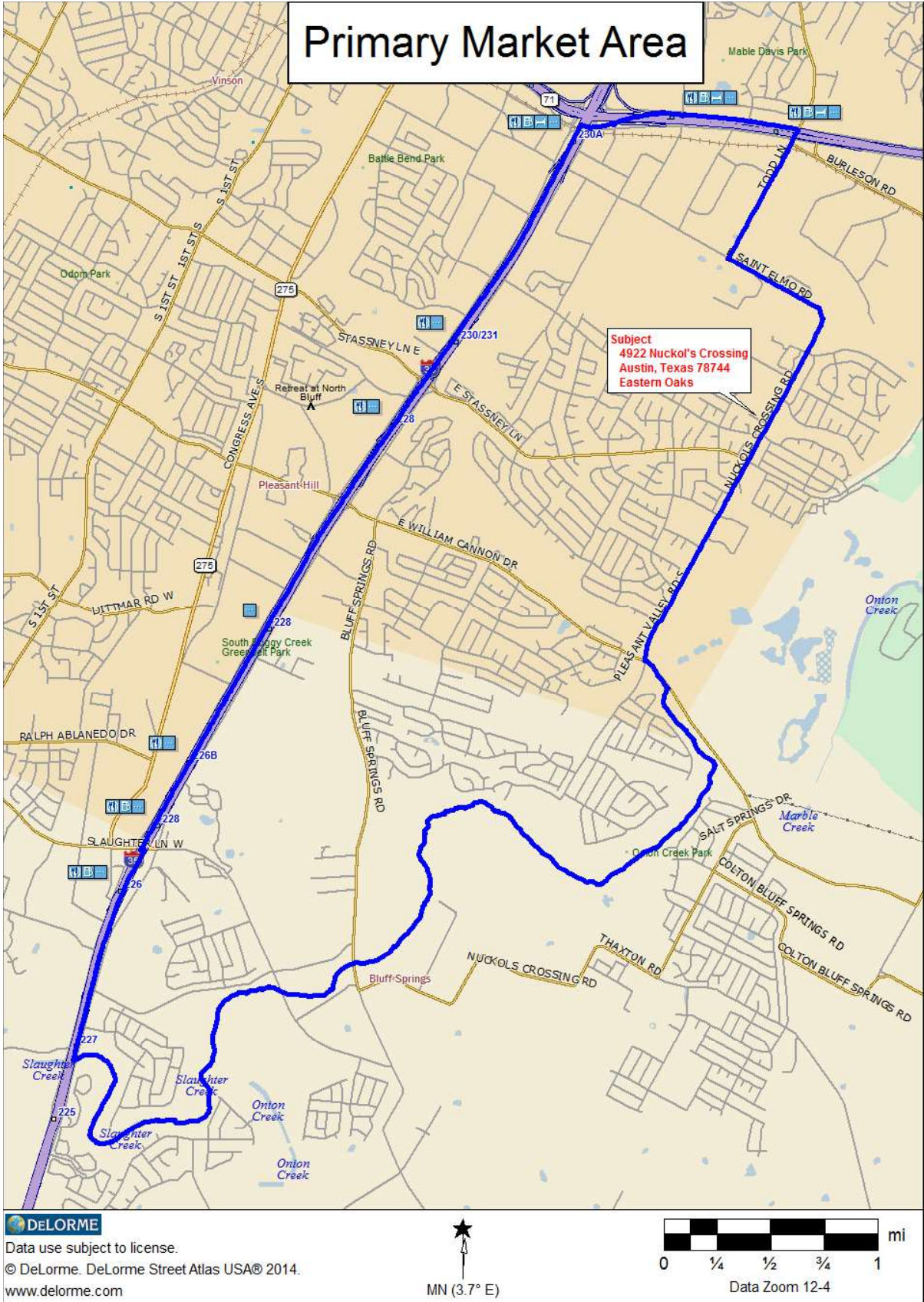


Southeast Combined Neighborhood Planning Area Base Map



The Southeast Combined Neighborhood Plan is comprised of three Neighborhood Planning Areas: Franklin Park, McKinney, and Southeast. The boundaries for the entire area are: Ben White Boulevard on the north; Burleson Road, Smith School Road, and Williamson Creek on the south; U.S. Highway 183 on the east; and IH-35 on the west. All three areas were reviewed and planned as one unit and all neighborhood groups, residents, property and business owners, and non-resident property owners were invited to participate in the planning process.

The process began in November 2001 and regular meetings were held until August 2002 (see list of meetings in Appendix F for details). The four main components of the Plan are land use/zoning, transportation, City services, and urban design. A separate ordinance has been adopted that outlines the specific zoning recommendations made as part of this planning process. The voluntary urban design guidelines have been included to encourage quality development products. The purpose of this Plan is to improve the quality of life in the neighborhoods within these Planning Areas and to guide future development.



DeLORME

Data use subject to license.

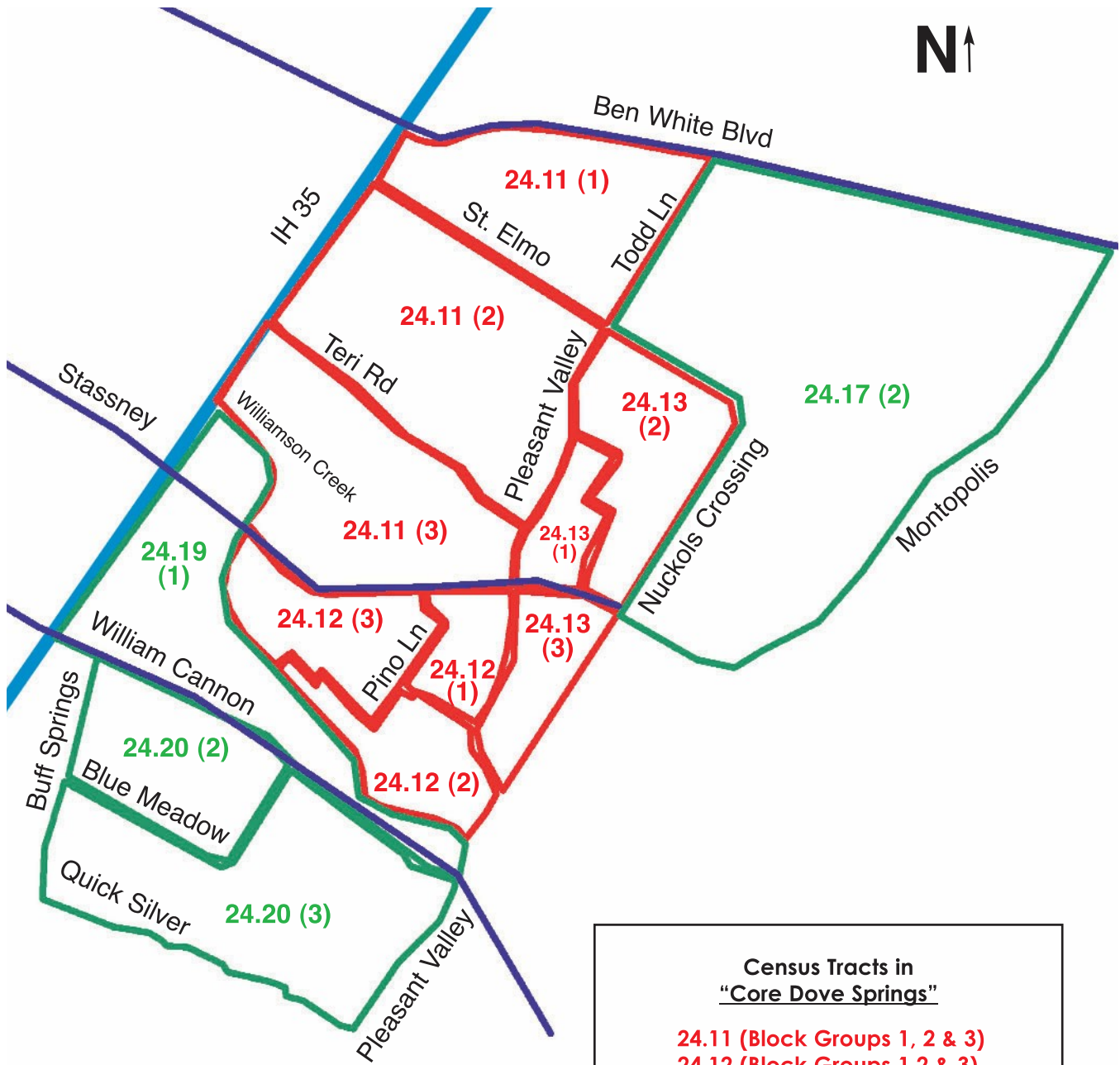
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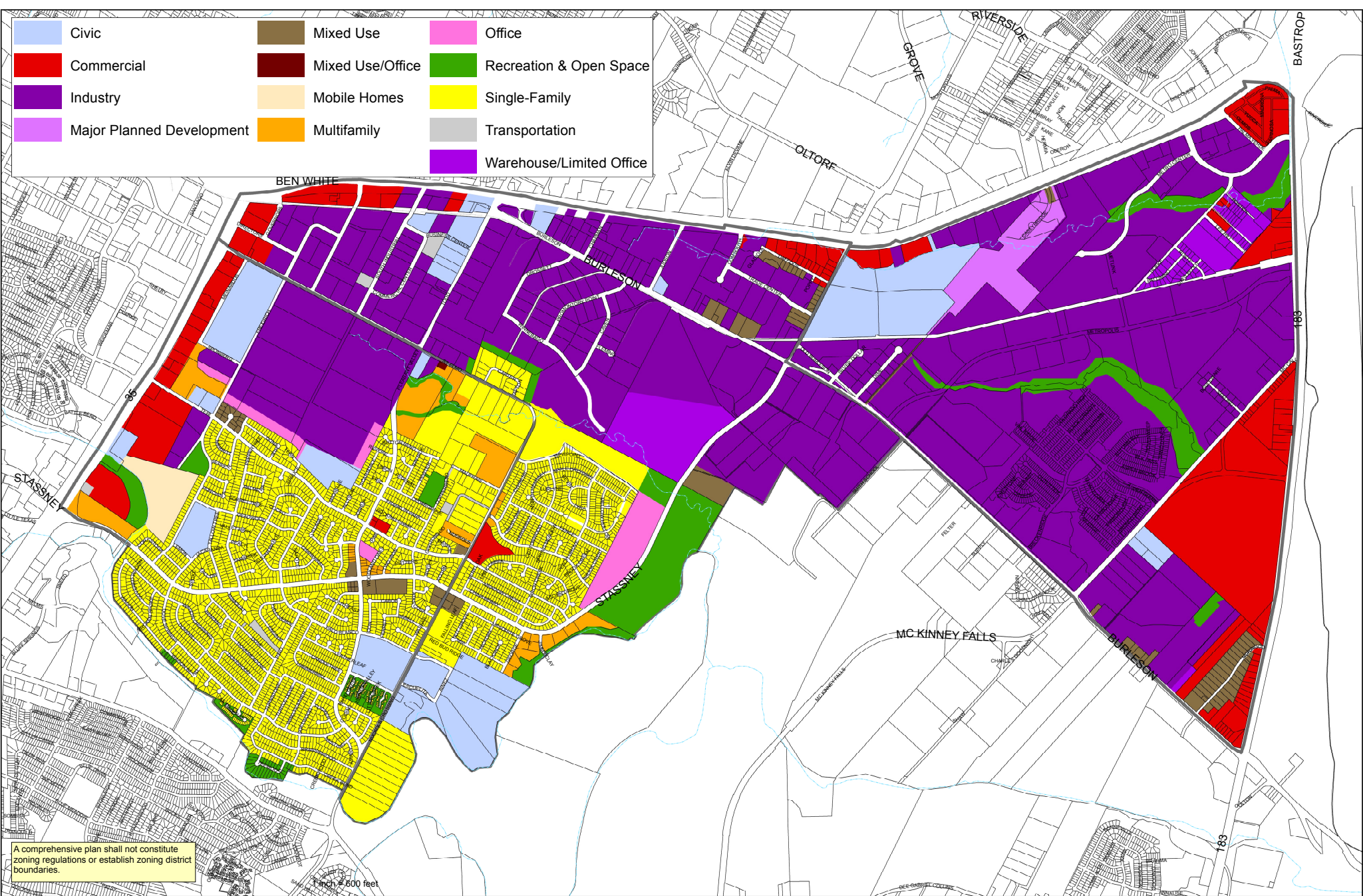
**Census Tracts in  
"Core Dove Springs"**

24.11 (Block Groups 1, 2 & 3)  
24.12 (Block Groups 1,2 & 3)  
24.13 (Block Groups 1,2,& 3)

**Census Tracts in  
"Greater Dove Springs"**

24.17 (Block Group 2)  
24.19 (Block Group 1)  
24.20 (Block Groups 2 & 3)

# **Exhibit B: Land Use Information**



A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.

1 inch = 600 feet

# Southeast Combined Neighborhood Plan

## Future Land Use Map

CITY OF AUSTIN



## Community and Site Information

### Site Characteristics

The neighborhood is comprised primarily of single-family residences. The subject property is located at 4922 Nuckol's Crossing, Austin, Travis County, Texas. Therefore, the neighborhood has average attractiveness and appeal.

The subject is located in the southeastern portion of the city. It is accessed by Nuckol's Crossing.

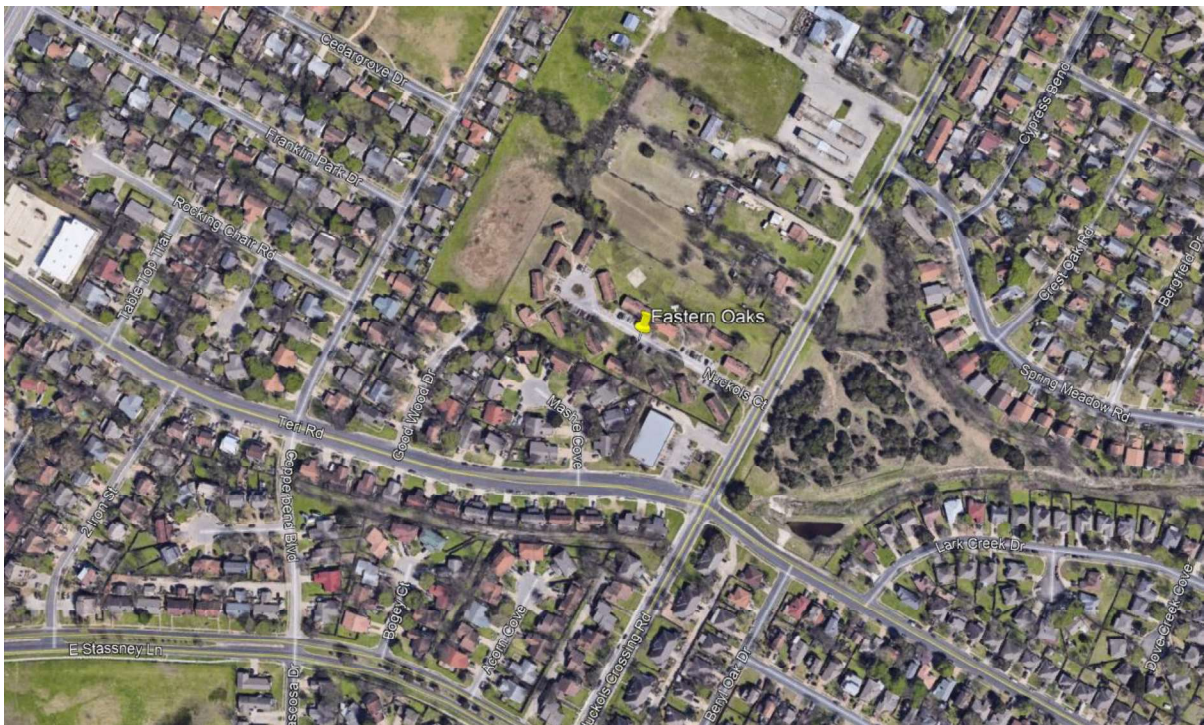
### Surrounding Land Uses

North – Single-family residences

South – Single-family residences and Dollar Store

East – Vacant land

West – Vacant land



**Exhibit C:**  
**Additional info on Undesirable**  
**Site Features**

[Advanced Search](#)

[Department](#) » [Austin Resource Recovery](#) » [Locations](#) » [Recycle & Reuse Drop-Off Center](#)



## RECYCLE & REUSE DROP-OFF CENTER

The **Household Hazardous Waste Facility** and the **Resource Recovery Center** have merged into the **Recycle & Reuse Drop-Off Center**.

At the Recycle & Reuse Drop-Off Center, you can drop off many items to be recycled, reused or safely discarded. You can also pick up free items to reuse yourself.

Most Recycle & Reuse Drop-Off Center services are free to Austin residents, but some services have a fee. Eligibility and cost information are listed with each service.

## DROP-OFF

### Household Hazardous Waste

Drop off your household hazardous waste for safe disposal or reuse. Throwing household hazardous waste in the trash or pouring it down the drain is dangerous and harmful to the environment.

#### Eligibility and Cost

- Free for Austin and Travis County residents.
- Fees apply if you do not live in Austin or Travis County.
- You can drop off up to 30 gallons annually.
- **Businesses are not eligible** to drop off hazardous waste. For information about how businesses can dispose of hazardous waste, call 512-974-4336.

#### Accepted Items

We accept most household chemicals and many other items that contain hazardous materials. To see whether we accept an item, use the [What Do I Do With?](#) tool or see the list of [accepted and not accepted items](#).

#### Safety Guidelines

- Bring products in original containers; do not mix.
- Bring items in 5-gallon (or smaller) containers.
- Put small containers upright in sturdy boxes.
- If something is leaking, put it in a container and absorb the spill with cat litter.

## Electronics and Appliances

If it plugs in, we probably accept it. To see whether we accept an item, use the [What Do I Do With?](#) tool or see the list of [accepted and not accepted items](#). Electronics and appliance drop-off is free for everyone.

## Clothing and Housewares

All [clothing and housewares](#) that are collected curbside can also be dropped off.

## Other Recyclables

We accept all single-stream recyclables, as well as plastic bags and film, Styrofoam (NO packing peanuts) and scrap metal. To see whether we accept an item, use the [What Do I Do With?](#) tool or see the list of [accepted and not accepted items](#). Recycling drop-off is free for everyone.

## Tires

There is a fee to drop off tires. The fee depends on the size of the tire:

- 19 in. or smaller – \$6 each
- 20 in. or larger – \$7 each

## Brush and Yard Trimmings

Drop-off is free for Austin residents, but others pay \$6.50 per cubic yard. We do not accept brush from commercial contractors. Large truck or trailer loads **will not** be accepted after 4:45 p.m.

### Accepted Brush and Yard Trimmings

- Tree limbs
- Leaves
- Christmas trees (no decorations)

### Not Accepted Brush and Yard Trimmings

- Treated or painted lumber
- Particle board
- Construction materials

## PICK-UP

### ReUse Store

Many materials that are dropped off at the center are in usable condition. These items go to the ReUse Store, where other people can pick them up.

The ReUse Store is free for everyone.

#### Availability varies, but items include:

- Art supplies
- Cleaning products
- Household chemicals
- Automotive fluids

### Austin ReBlend Paint

[Austin ReBlend paint](#) is recycled from paint dropped off at the center. Austin ReBlend paint is free for individuals, nonprofits and businesses.

## Mulch

Mulch is available for pickup. You must load the mulch yourself. Mulch is free for everyone.

### What to Bring

- Pitchfork or shovel
- Work gloves
- Containers for mulch

\*Please note that we no longer offers free glass cullet.

## DRIVING DIRECTIONS



## INFORMATION FOR OTHER COUNTIES

- City of San Marcos
- Hays County Recycling and Solid Waste
- City of Cedar Park
- City of Round Rock
- Williamson County Recycling Center

Share   

# **Exhibit D:**

# **TEA Accountability Reports**

# TEXAS EDUCATION AGENCY

## 2017 Accountability Summary

RODRIGUEZ EL (227901174) - AUSTIN ISD

### Accountability Rating

**Met Standard**

#### Met Standards on

- Student Progress
- Closing Performance Gaps
- Postsecondary Readiness

#### Did Not Meet Standards on

- Student Achievement

In 2017, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.

### Distinction Designation

#### Academic Achievement in ELA/Reading

NO DISTINCTION EARNED

#### Academic Achievement in Mathematics

NO DISTINCTION EARNED

#### Academic Achievement in Science

NO DISTINCTION EARNED

#### Academic Achievement in Social Studies

NOT ELIGIBLE

#### Top 25 Percent Student Progress

NO DISTINCTION EARNED

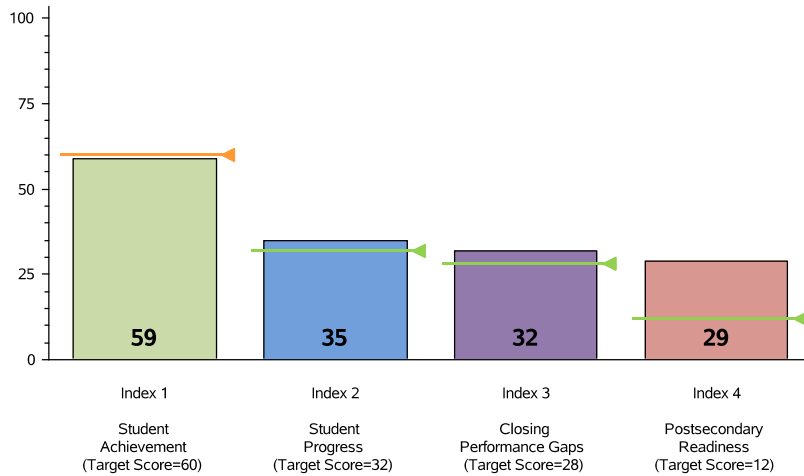
#### Top 25 Percent Closing Performance Gaps

NO DISTINCTION EARNED

#### Postsecondary Readiness

NO DISTINCTION EARNED

### Performance Index Report



### Campus Demographics

Campus Type	Elementary
Campus Size	591 Students
Grade Span	PK - 05
Percent Economically Disadvantaged	95.3
Percent English Language Learners	57.4
Mobility Rate	18.8
Percent Served by Special Education	7.1
Percent Enrolled in an Early College High School Program	0.0

### Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	391	662	59
2 - Student Progress	283	800	35
3 - Closing Performance Gaps	256	800	32
4 - Postsecondary Readiness			
STAAR Score	28.5		
Graduation Rate Score	N/A		
Graduation Plan Score	N/A		
Postsecondary Component Score	N/A		29

### System Safeguards

#### Number and Percentage of Indicators Met

Performance Rates	8 out of 18 = 44%
Participation Rates	10 out of 10 = 100%
Graduation Rates	N/A
<b>Total</b>	<b>18 out of 28 = 64%</b>

For further information about this report, please see the Performance Reporting website at <https://rptsvr1.tea.texas.gov/perfreport/account/2017/index.html>



# TEXAS EDUCATION AGENCY 2015 Accountability Summary

MENDEZ M S (227901058) - AUSTIN ISD

## Accountability Rating

**Improvement Required**

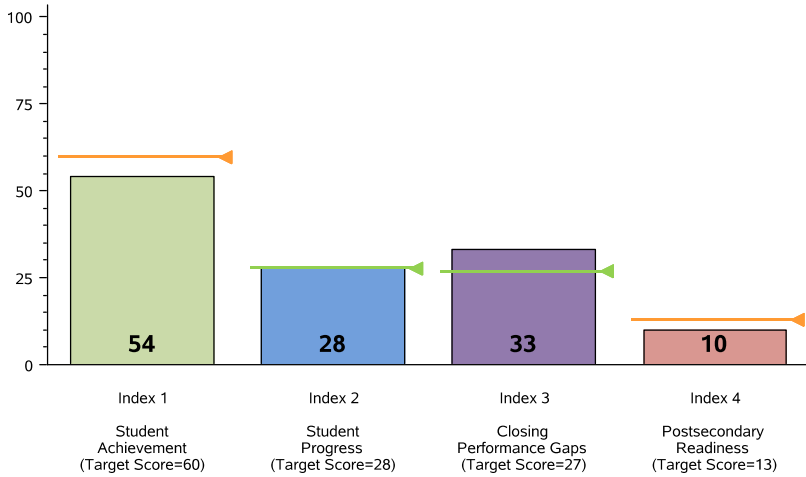
Met Standards on	Did Not Meet Standards on
- Student Progress	- Student Achievement
- Closing Performance Gaps	- Postsecondary Readiness

In 2015, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.

## Distinction Designation

Academic Achievement in Reading/ELA
NO DISTINCTION EARNED
Academic Achievement in Mathematics
NO DISTINCTION EARNED
Academic Achievement in Science
NO DISTINCTION EARNED
Academic Achievement in Social Studies
NO DISTINCTION EARNED
Top 25 Percent Student Progress
NO DISTINCTION EARNED
Top 25 Percent Closing Performance Gaps
NO DISTINCTION EARNED
Postsecondary Readiness
NO DISTINCTION EARNED

## Performance Index Report



## Campus Demographics

Campus Type	Middle School
Campus Size	842 Students
Grade Span	06 - 08
Percent Economically Disadvantaged	95.1
Percent English Language Learners	40.1
Mobility Rate	19.9

## Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	744	1,368	54
2 - Student Progress	223	800	28
3 - Closing Performance Gaps	394	1,200	33
4 - Postsecondary Readiness			
STAAR Score	10.0		
Graduation Rate Score	N/A		
Graduation Plan Score	N/A		
Postsecondary Component Score	N/A		10

## State System Safeguards

### Number and Percent of Indicators Met

Performance Rates	6 out of 18 = 33%
Participation Rates	6 out of 6 = 100%
Graduation Rates	N/A
<b>Total</b>	<b>12 out of 24 = 50%</b>

For further information about this report, please see the Performance Reporting Division website at <http://ritter.tea.state.tx.us/perfreport/account/2015/index.html>



# TEXAS EDUCATION AGENCY

## 2016 Accountability Summary

MENDEZ M S (227901058) - AUSTIN ISD

### Accountability Rating

**Improvement Required**

#### Met Standards on

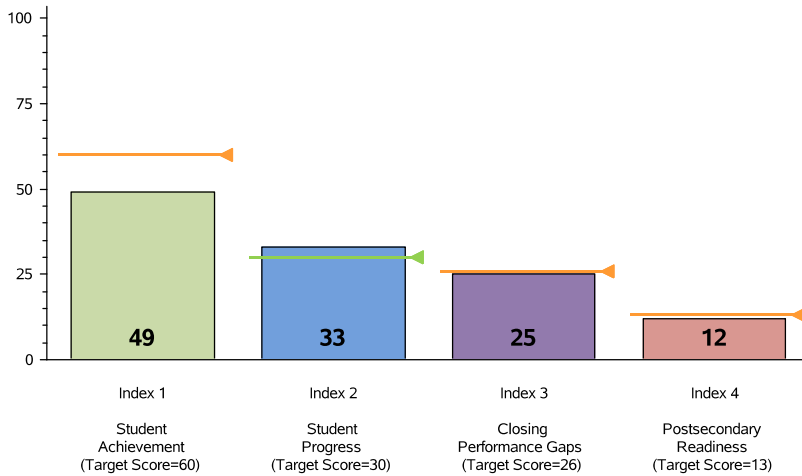
- Student Progress

#### Did Not Meet Standards on

- Student Achievement  
- Closing Performance Gaps  
- Postsecondary Readiness

In 2016, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 **or** Index 2 **and** Index 3 **and** Index 4.

### Performance Index Report



### Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	1,075	2,182	49
2 - Student Progress	327	1,000	33
3 - Closing Performance Gaps	349	1,400	25
4 - Postsecondary Readiness			
STAAR Score	12.3		
Graduation Rate Score	N/A		
Graduation Plan Score	N/A		
Postsecondary Component Score	N/A		12

### Distinction Designation

Academic Achievement in ELA/Reading	NO DISTINCTION EARNED
Academic Achievement in Mathematics	NO DISTINCTION EARNED
Academic Achievement in Science	NO DISTINCTION EARNED
Academic Achievement in Social Studies	NO DISTINCTION EARNED
Top 25 Percent Student Progress	NO DISTINCTION EARNED
Top 25 Percent Closing Performance Gaps	NO DISTINCTION EARNED
Postsecondary Readiness	NO DISTINCTION EARNED

### Campus Demographics

Campus Type	Middle School
Campus Size	790 Students
Grade Span	06 - 08
Percent Economically Disadvantaged	93.8
Percent English Language Learners	43.5
Mobility Rate	20.7

### System Safeguards

Number and Percentage of Indicators Met	
Performance Rates	0 out of 27 = 0%
Participation Rates	12 out of 12 = 100%
Graduation Rates	N/A
<b>Total</b>	<b>12 out of 39 = 31%</b>

For further information about this report, please see the Performance Reporting Division website at <https://rptsvr1.tea.texas.gov/perfreport/account/2016/index.html>

# TEXAS EDUCATION AGENCY

## 2017 Accountability Summary

MENDEZ M S (227901058) - AUSTIN ISD

### Accountability Rating

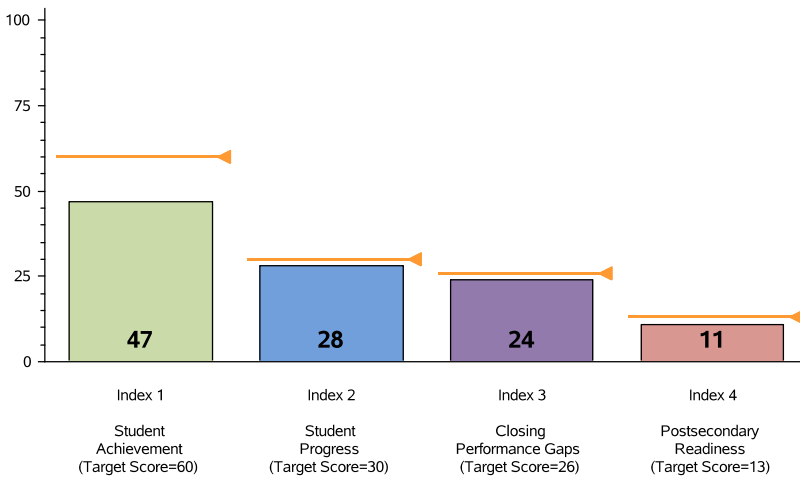
**Improvement Required**

<b>Met Standards on</b> - NONE	<b>Did Not Meet Standards on</b> - Student Achievement - Student Progress - Closing Performance Gaps - Postsecondary Readiness
In 2017, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.	

### Distinction Designation

Academic Achievement in ELA/Reading
NO DISTINCTION EARNED
Academic Achievement in Mathematics
NO DISTINCTION EARNED
Academic Achievement in Science
NO DISTINCTION EARNED
Academic Achievement in Social Studies
NO DISTINCTION EARNED
Top 25 Percent Student Progress
NO DISTINCTION EARNED
Top 25 Percent Closing Performance Gaps
NO DISTINCTION EARNED
Postsecondary Readiness
NO DISTINCTION EARNED

### Performance Index Report



### Campus Demographics

Campus Type	Middle School
Campus Size	711 Students
Grade Span	06 - 08
Percent Economically Disadvantaged	92.8
Percent English Language Learners	44.9
Mobility Rate	22.2
Percent Served by Special Education	14.8
Percent Enrolled in an Early College High School Program	0.0

### Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	917	1,932	47
2 - Student Progress	281	1,000	28
3 - Closing Performance Gaps	339	1,400	24
4 - Postsecondary Readiness			
STAAR Score	10.7		
Graduation Rate Score	N/A		
Graduation Plan Score	N/A		
Postsecondary Component Score	N/A		11

### System Safeguards

Number and Percentage of Indicators Met	
Performance Rates	4 out of 26 = 15%
Participation Rates	12 out of 12 = 100%
Graduation Rates	N/A
<b>Total</b>	<b>16 out of 38 = 42%</b>

For further information about this report, please see the Performance Reporting website at <https://rptsvr1.tea.texas.gov/perfreport/account/2017/index.html>

# TEXAS EDUCATION AGENCY

## 2017 Accountability Summary

TRAVIS H S (227901007) - AUSTIN ISD

### Accountability Rating

**Met Standard**

Met Standards on	Did Not Meet Standards on
<ul style="list-style-type: none"> <li>- Student Achievement</li> <li>- Student Progress</li> <li>- Closing Performance Gaps</li> <li>- Postsecondary Readiness</li> </ul>	<ul style="list-style-type: none"> <li>- NONE</li> </ul>

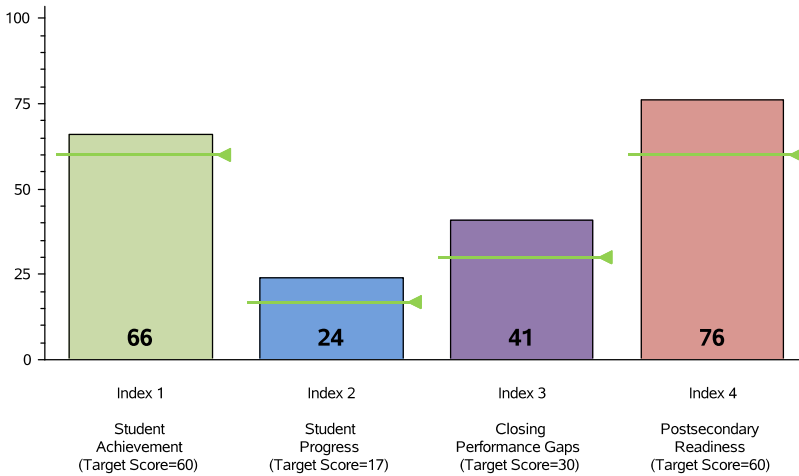
In 2017, to receive a Met Standard or Met Alternative Standard rating, districts and campuses must meet targets on three indexes: Index 1 or Index 2 and Index 3 and Index 4.

### Distinction Designation



Academic Achievement in ELA/Reading
<b>NO DISTINCTION EARNED</b>
Academic Achievement in Mathematics
<b>NO DISTINCTION EARNED</b>
Academic Achievement in Science
<b>DISTINCTION EARNED</b>
Academic Achievement in Social Studies
<b>NO DISTINCTION EARNED</b>
Top 25 Percent Student Progress
<b>NO DISTINCTION EARNED</b>
Top 25 Percent Closing Performance Gaps
<b>DISTINCTION EARNED</b>
Postsecondary Readiness
<b>NO DISTINCTION EARNED</b>

### Performance Index Report



### Campus Demographics

Campus Type	High School
Campus Size	1,315 Students
Grade Span	09 - 12
Percent Economically Disadvantaged	77.6
Percent English Language Learners	25.5
Mobility Rate	25.7
Percent Served by Special Education	16.3
Percent Enrolled in an Early College High School Program	14.3

### Performance Index Summary

Index	Points Earned	Maximum Points	Index Score
1 - Student Achievement	1,253	1,887	66
2 - Student Progress	238	1,000	24
3 - Closing Performance Gaps	655	1,600	41
4 - Postsecondary Readiness			
STAAR Score	10.8		
Graduation Rate Score	23.5		
Graduation Plan Score	22.8		
Postsecondary Component Score	19.3		76

### System Safeguards

#### Number and Percentage of Indicators Met

Performance Rates	18 out of 25 = 72%
Participation Rates	14 out of 14 = 100%
Graduation Rates	2 out of 5 = 40%
<b>Total</b>	<b>34 out of 44 = 77%</b>

For further information about this report, please see the Performance Reporting website at <https://rptsvr1.tea.texas.gov/perfreport/account/2017/index.html>

# **Exhibit E:**

# **Campus Improvement Plan**



**MENDEZ**  
MIDDLE SCHOOL  
**AUSTIN** Independent School District

## **Consuelo Mendez Middle School Campus Improvement Plan**

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## **Consuelo Mendez Middle School Campus Improvement Plan 2017-2018**

### **Texas Public Education Mission Statement**

The mission of the public education system of this state is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation. That mission is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of this state and for the preservation of the liberties and rights of citizens. It is further grounded on the conviction that a successful public education system is directly related to a strong, dedicated, and supportive family and that parental involvement in the school is essential for the maximum educational achievement of a child.

(TEC Title 2, Ch 4, Sec.4.001)

### **Campus Mission Statement**

Consuelo Mendez's Middle School's mission is to prepare students to be successful, productive citizens, life-long learners and creative problem solvers who value teamwork, cultural diversity and mutual respect.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Advanced Academics

#### Performance Objective

We will eliminate barriers and support high ability and GT student participation in appropriate and academically challenging opportunities.

#### Data Reviewed During Needs Assessment

- 2016-17 Gifted and Talented Campus Accountability Monitoring Plan
- Campus Gifted and Talented Count, by grade level and six weeks reporting period
- GT enrollment data disaggregated by grade level, ethnicity, ECD, and ELL
- Roster of Gifted and Talented population, including enrolled courses
- Advanced Course/Dual Enrollment rates disaggregated by ethnic groups

#### 2016-17 Data

GT Campus Accountability Monitoring Plan Ratings:

Student Assessment: EXEMPLARY

Service Design: EXEMPLARY

Curriculum and Instruction: EXEMPLARY

Professional Development: OUT OF COMPLIANCE

Family and Community Involvement: RECOGNIZED

#### 2017-18 Goal

GT Campus Accountability Monitoring Plan Goals:

Student Assessment: Exemplary

Service Design: Exemplary

Curriculum and Instruction: Exemplary

Professional Development: Compliance

Family and Community Involvement: Exemplary

#### Advanced Academics Strategy #1

Review campus demographics and GT demographics to identify equity and access patterns and increase student GT identification.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	Enrollment by course data	Enrollment by course data	August 22, 2017	May 31, 2018	
Academic Dean	District assessment data	District assessment data	August 22, 2017	May 31, 2018	
Academic Dean	STAAR performance data	STAAR performance data	August 22, 2017	May 31, 2018	

#### Advanced Academics Strategy #2

Implement advanced courses leading to algebra and IPC including robust Pre-AP core options.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	Enrollment by course data	Enrollment by course data	August 22, 2017	May 31, 2018	



Academic Dean	District assessment data	District assessment data	August 22, 2017	May 31, 2018	
Academic Dean	STAAR performance data	STAAR performance data	August 22, 2017	May 31, 2018	

**Advanced Academics Strategy #3**  
Support core content area Pre-AP/AP teachers to receive the required GT, Pre-AP, and AP training.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	Teacher data of meetings attended	Teacher data of meetings attended	August 22, 2017	May 31, 2018	

**2015-2020 Strategic Plan Key Action Step**

1.2a: Students will have multiple opportunities for flexible, personalized learning.

**2017 Strategic Plan Scorecard Indicator**

48: Decrease disproportionality of African American representation in the GT program

49: Decrease disproportionality of Hispanic representation in the GT program

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Attendance

#### Performance Objective

We will develop a tiered strategic and systematic campaign to encourage students to come to school regularly and stay in school through enhanced attendance, graduation/completion, and dropout prevention efforts to result in students graduating with Recomm

#### Data Reviewed During Needs Assessment

- Annual ADA campus attendance data compared to years past and disaggregated by students groups including African American vs. White, Hispanic vs. White, ECD vs. non-ECD, ELL vs non-ELL, SpEd vs non-SpEd
- Chronically absent by students groups including African American vs. White, Hispanic vs. White, ECD vs. non-ECD, ELL vs non-ELL, SpEd vs non-SpEd
- Campus roster of students experiencing homelessness/unaccompanied youth
- Campus roster of students in foster care

#### 2016-17 Data

Attendance Rates: All Students: 92.9, African American: 92.3, Hispanic: 93.1, White: 83.9, ECD: 92.9, ELLs: 94.1, SpEd: 90.5

#### 2017-18 Goal

Attendance Goals: All Students: 94.9, African American: 94.3, Hispanic: 95.1, White: 85.9, ECD: 94.9, ELLs: 96.1, SpEd: 92.5

#### Attendance Strategy #1

Campus/Twilight Graduation Coaches will do home visits for students with attendance issues or about to dropout.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Overall attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Principal	Grade level attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Principal	Subpopulation attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	

#### Attendance Strategy #2

Campus/Twilight Graduation Coaches will meet with the CST team to discuss attendance and credits for students to graduate on time.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Overall attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Principal	Grade level attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Principal	Sub-population attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Principal	Students identified by CST	Attendance Reports	Aug. 22, 2017	May 31, 2018	

### Attendance Strategy #3

Assistant principals, counselors, and designated campus personnel will proactively communicate with students and parents/guardians of students experiencing attendance issues.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principals	Overall attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Assistant Principals	Grade level attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Assistant Principals	Sub-population attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	

### Attendance Strategy #4

Incentivize attendance by grade level and make positive team-building around attending campus, implementing SEL strategies with students and staff.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principals	Overall attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Assistant Principals	Grade level attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	
Assistant Principals	Sub-population attendance rate	Attendance Reports	Aug. 22, 2017	May 31, 2018	

#### 2015-2020 Strategic Plan Key Action Step

4.1b: Ensure successful transitions between campus levels (elementary to middle school, middle to high school, high school to post-secondary).

#### 2017 Strategic Plan Scorecard Indicator

15: Attendance rate

19: Achievement Gaps - Attendance

#### 2016 PBMAS

not applicable

#### TEA Strategic Priorities

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Campus Climate and Discipline – Home Suspensions

#### Performance Objective

We will reduce the rate of home suspensions for any over-represented race/ethnicity group.

#### Data Reviewed During Needs Assessment

- X Student Climate Survey:
  - "My classmates show respect to each other."
  - "The consequences for breaking the school rules are the same for everyone."
  - "My classmates behave the way my teachers want them to."
- X Staff Survey (TELL):
  - "Students at this school follow rules of conduct."
  - "Teachers consistently enforce rules for student conduct."
  - "Administrators consistently enforce rules for student conduct."
- X In School and Home School Suspensions disaggregated by subpopulations
- X Discretionary Removals disaggregated by subpopulations
- X Number of campus disciplinary consequences, by disposition type and grade level

#### 2016-17 Data

504 home suspensions

#### 2017-18 Goal

Less than 428 home suspensions

#### Campus Climate and Discipline - Home Suspensions Strategy #1

Ensure all staff receives professional development on eCST Reports and Tools (RBP, SLR, RITS, etc.) (CSSF).

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Discipline Dashboard	Discipline Dashboard	8/21/2017	5/30/2018	

#### Campus Climate and Discipline - Home Suspensions Strategy #2

Work with campus based Child Study Team (Campus CST) on building school-wide and classroom-based evidence bases menu of behavioral interventions and progress monitoring tools, identifying students in need of intervention, holding CST meetings, and implementing and supporting effective classroom management systems.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Discipline Dashboard	Discipline Dashboard	8/21/2017	5/30/2018	

#### Campus Climate and Discipline - Home Suspensions Strategy #3

Implement restorative practices and SEL strategies with students and staff to ensure that removing any student from the learning environment for protracted time periods is a last resort, including strategies such as healing circles rather than suspensions when appropriate.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Discipline Dashboard	Discipline Dashboard	8/21/2017	5/30/2018	

## Campus Climate and Discipline - Home Suspensions Strategy #4

Seek partnerships with organizations that provide counseling services for students and their families.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Discipline Dashboard, Student Climate Survey	Discipline Dashboard, Student Climate Survey	8/21/2017	5/30/2018	

### 2015-2020 Strategic Plan Key Action Step

1.3c: Each student will learn in a physically and emotionally safe environment.

### 2017 Strategic Plan Scorecard Indicator

23: Achievement Gaps - Disproportionality of Home School Suspensions

42: # of Home School Suspensions

### 2016 PBMAS

not applicable

### TEA Strategic Priorities

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Campus Climate and Discipline - Violence Prevention

#### Performance Objective

We will ensure effective violence prevention and intervention measures are in place on our campus.

#### Data Reviewed During Needs Assessment

- Staff Survey (TELL):
  - "Students at this school follow rules of conduct."
  - "Teachers consistently enforce rules for student conduct."
  - "Administrators consistently enforce rules for student conduct."
- Student Climate Survey:
  - "Students at my school are bullied (teased, messed with, threatened by other students)."
- Number of campus disciplinary referrals, by referral type and grade level
- Support provided by the Joint Juvenile Gang Intervention Unit (JJGIU)
- Campus Anti-Bullying Plan, including rates of staff and student training on recognizing, preventing, and responding to cyberbullying
- Support provided by School Psychologists, including mental health services available to students (LMHPs/Social Service Specialists, Counselors, etc.)

#### 2016-17 Data

82% of students reported feeling safe in their school.

#### 2017-18 Goal

More than 91% of students will report feeling safe in their school.

#### Campus Climate and Discipline - Violence Prevention Strategy #1

Collaborate with Response to Intervention Specialists, Child Study Team, Social Emotional Learning Specialists, and Special Education Behavior Specialists to integrate positive behavior support for campuses, classrooms, and individual students.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	TELL Survey; Student Survey, Discipline Data	TELL Survey; Student Survey, Discipline Data	08/21/2017	05/30/2018	

#### Campus Climate and Discipline - Violence Prevention Strategy #2

Seek partnerships with organizations that provide counseling services for students and their families.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	TELL Survey; Discipline Data	TELL Survey; Discipline Data	8/21/2017	5/30/2018	

#### Campus Climate and Discipline - Violence Prevention Strategy #3

Include professional development opportunities for teachers, admin, and other staff to develop SEL mindsets, skills, and strategies including the ability to implement restorative practices in order to ensure a positive campus climate where violence and bullying are not part of the accepted culture.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
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Academic Dean	TELL Survey;Student Survey,Discipline Data	TELL Survey;Student Survey,Discipline Data	08/21/2017	5/30/218	
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**2015-2020 Strategic Plan Key Action Step**

1.3c. Each student will learn in a physically and emotionally safe environment.

**2017 Strategic Plan Scorecard Indicator**

36: % students who feel they are safe in their schools

37: % campus staff who feel students at their school follow rules of conduct

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Community Schools Initiative

#### Performance Objective

We will implement a campus Community School initiative that aligns resources and strengthens family and community engagement in order to promote equity and educational excellence for all students.

#### Data Reviewed During Needs Assessment

- Family Developmental Matrix results from prior year (for campuses with FRCs only)
- Results of AISD Student Climate Survey
- eCST interventions and supports for students identified as struggling through the RITS early warning system

#### 2016-17 Data

50% of students at the school had a 6th 6 weeks RITS score that was above the AISD secondary school average of 5.55.

#### 2017-18 Goal

Fewer than 50% of students at the school will have a 6th 6 weeks RITS score that is above the AISD secondary school average.

#### Community Schools Initiative Strategy #1

Provide students and families with access to wraparound supports either at the campus, nearby campus or community organization. Wraparound supports can include services offered at Family Resource Centers, Communities in Schools and/or other supportive or mental health services.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
CST Team- Grade level administrators	RITS/eCST Data - Information gathered from AP/Counselors	RITS/eCST Data- Monitored information from administrator	8/21/2017	5/30/2018	Community partners have been oriented to the campus and appropriate referrals are made through the eCST/Student Support Services Team

#### Community Schools Initiative Strategy #2

Support a high-functioning child study team (CST) by establishing a regular protected time for CST meetings and providing professional development to campus CST chairs/teams concerning available evidence-based interventions.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Jones	eCST	eCST	8/21/2017	5/30/2018	eCST/SSS Teams are meeting regularly to assess and provide appropriated wraparound services to students and families.

#### Community Schools Initiative Strategy #3

Align external partnerships with internal and external resources in order to better coordinate systems.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Jones	Community School Assessment	Community School Planning	8/21/2017	5/30/2018	Community School Coordinator works with Principal and Student



					Support Services team to provide coordination on campus. Using campus needs assessments to bring in additional resources for high-risk students.
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**Community Schools Initiative Strategy #4**  
 Ensure access to quality our of school time, enrichment, summer and extracurricular programs for all students

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Jones/Fryer	eCST	eCST	8/21/2017	5/30/2018	ACE Afterschool is on campus and providing excellent programs before and after school as well as the summer. We partner with summer enrichment programs such as Breakthrough, Con Mi Madre, and UT Prep.

**Community Schools Initiative Strategy #5**  
 The school building is open and accessible beyond the school day, including evenings and weekends, at no cost to the community. Agreements are in place to pay facilities staff for extra time.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Jones/FRC	FRS survey/community assessment	FRC survey/community assessment	8/21/2017	5/30/2018	Through the Mendez FRC and PTSA, Mendez has opened its doors to local agencies to provide important programming such as Maestro en Casa, ESL, Yoga, and Dove Springs Proud.

**Community Schools Initiative Strategy #6**  
 Build a dedicated community school coordination team (family and community engagement team) facilitates alignment of school, family and community resource, collaborates with the school's leadership team, supports the school's CAC and supports family and community engagement.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Jones	eCST / Community School Conversation data	eCST	8/21/2017	5/30/2018	The Community School Coordination team is about to begin meeting in order to focus on community school strategies that address campus needs and fortifies family and community engagement.

**Title 1, Part A**

1 - Comprehensive needs assessment

2 - School wide reform strategies

6 - Strategies to increase parental involvement

10 - Coordination and integration of federal, state, and local services and programs

**2015-2020 Strategic Plan Key Action Step**

1.2b1.4: Create community school model as part of district planning

7.1b: Organize central administration and district processes to support schools and enable campus leadership to focus on classroom

8.1a: Optimize resources (buildings, programs, person

**2017 Strategic Plan Scorecard Indicator**

11: % of students graduating from high school in four years

43: % campus staff who feel their school is a good place to work and learn

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Coordinated School Health

#### Performance Objective

We will continue to implement a Coordinated School Health plan on our campus.

#### Data Reviewed During Needs Assessment

- Coordinated School Health Report
- Fitnessgram Report
- HB 5 Campus Evaluation of Community and Student Engagement (CaSE) ratings: Wellness and Physical Education
- Parent Satisfaction Survey: "My child's school provides adequate opportunities for my child to learn about how to make healthy lifestyle choices."
- Number of community education programs related to wellness and physical education

#### 2016-17 Data

Overall Coordinated School Health Rating: Exemplary

#### 2017-18 Goal

Overall Coordinated School Health Rating: Recognized or Exemplary

<b>Coordinated School Health Strategy #1</b>					
Inform students of various health and wellness services on their campus and in their community.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Student Fitness Reports	Student Fitness Reports	08/21/17	05/30/2018	

<b>Coordinated School Health Strategy #2</b>					
Form a Coordinated School Health team that meets 4 times a year to plan and implement the Districts' Coordinated School Health Events as well as other campus Coordinated School Health events and/or activities. (Evidence: agendas or meeting notes, tweets of students or staff doing the events/activities)					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Department Head	Student Fitness Reports; Parent Survey; Coordinated health survey	Student Fitness Reports; Parent Survey; Coordinated health survey	08/21/17	5/30/2018	

<b>Coordinated School Health Strategy #3</b>					
ES/MS only: Implement the CATCH Coordination Kit throughout the school year by promoting each theme. (Evidence: emails of communication, tweets of various activities, website/newsgroup announcements)					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Department Head	Student Fitness Reports; Parent Survey; Coordinated health survey	Student Fitness Reports; Parent Survey; Coordinated health survey	08/21/17	5/30/18	

**Title 1, Part A**

1 - Comprehensive needs assessment

10 - Coordination and integration of federal, state, and local services and programs

**2015-2020 Strategic Plan Key Action Step**

1.3e: Each student will learn about and practice a healthy lifestyle.

**2017 Strategic Plan Scorecard Indicator**

40: % of campuses with Recognized or Exemplary rating on the Coordinated School Health Report

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

# Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

## Focus Area: Customer Service

### Performance Objective

We will create a culture where all of our families feel welcome and valued.

### Data Reviewed During Needs Assessment

- Parent Satisfaction Survey: % of parents/guardians who feel they are treated with courtesy and respect by the Principal
- Parent Satisfaction Survey: % of parents/guardians who feel they are treated with courtesy and respect by the Assistant Principal
- Parent Satisfaction Survey: % of parents/guardians who feel they are treated with courtesy and respect by the counselors
- Parent Satisfaction Survey: % of parents/guardians who feel they are treated with courtesy and respect by school staff
- Parent Satisfaction Survey: % of parents/guardians who feel their child is treated with respect by others
- Parent Satisfaction Survey: % of parents/guardians who feel their involvement is welcomed by teachers

### 2016-17 Data

93% of parents/guardians felt their involvement was welcomed by teachers.

### 2017-18 Goal

At least 98% of parents/guardians will feel their involvement is welcomed by teachers.

### Customer Service Strategy #1

We will build off of our excellent customer service record from the past and promote even more parent and community participation to ensure that more stakeholders get to experience our excellent customer service.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Parent Satisfaction Survey	Parent Satisfaction Survey	8/21/2017	5/31/2018	

### 2015-2020 Strategic Plan Key Action Step

6.1a: Provide excellent customer service in interactions with campus and district staff.

### 2017 Strategic Plan Scorecard Indicator

38: % parents/guardians who feel they are treated courteously by teachers

### 2016 PBMAS

not applicable

### TEA Strategic Priorities

D: Improve low-performing schools.

**Consuelo Mendez Middle School Campus Improvement Plan 2017-2018**

**Focus Area: Dyslexia and 504 Services**

**Performance Objective**

We will reduce the number of late 504 Annual and Re-evaluation meetings.

**Data Reviewed During Needs Assessment**

- Roster of students identified with Dyslexia and interventions, supports and services they receive.
- Roster of students receiving 504 services
- Discipline rates for students receiving Dyslexia/504 services
- Attendance rates for students receiving Dyslexia/504 services
- TEAMS: Students: Special Programs: District 504 Listing

**2016-17 Data**

0 Annual 504 meetings and 6 Re-Evaluation 504 meetings were late.

**2017-18 Goal**

100% of 504 Annual meetings and 100% of 504 Re-Evaluation meetings will be held on time.

**Dyslexia and 504 Services Strategy #1**  
Campus personnel will comply with 504 legal regulations concerning annual meetings, re-evaluation, intervention and accommodations for 504 students as evidenced by ongoing audit of e504 record.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	2016-17 Compliance Data	2016-17 504 Compliance Data	08/21/17	05/30/2018	

**Dyslexia and 504 Services Strategy #2**  
Campus personnel will attend professional development for 504 Campus Coordinators and Dyslexia Designees concerning implementation of 504 policies and procedures.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Personnel and Compliance data	Personnel and compliance data	08/21/17	05/30/2018	

**2015-2020 Strategic Plan Key Action Step**

4.1a: Improve supports to struggling learners by improving interventions, resources, and training, and articulate these interventions in curriculum and instructional tools.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: English Language Learners

#### Performance Objective

We will ensure all of our English Language Learners continue to progress in their listening, speaking, reading, and writing skills. (19 TAC §74.4) (Strategic Plan 1.1 (b))

#### Data Reviewed During Needs Assessment

- X Number and percent of ELLs that remain at Beginning proficiency on TELPAS after 2 years in US schools or Beginning/Intermediate after 6 years (Long Term ELLs)
- X Roster of ELLs with Texas English Language Proficiency Assessment System (TELPAS) results and Years in US Schools
- X STAAR/End-of-Course current and longitudinal results, including all versions
- X ELL enrollment data disaggregated by grade level, GT, CTE, ECD, and SpEd
- X Roster of ELL/LEP population, including support and accommodations

#### Safeguards Missed

Reading - ELL <60%

Math - ELL <60%

Science - ELL <60%

Social Studies - ELL <60%

Writing - ELL <60%

#### 2016-17 Data

47% of ELLs remained at beginning/intermediate proficiency on TELPAS Reading after 5 or more years in US schools.

#### 2017-18 Goal

Less than 37% of ELLs will remain at beginning/intermediate proficiency on TELPAS Reading after 5 or more years in US schools.

#### English Language Learners Strategy #1

Train teachers to use sheltered instructional strategies to make core content comprehensible and to develop academic language. Monitor implementation of selected sheltered instructional strategies in both lesson planning and classroom instruction to meet the needs of ELLs. §89.1210. Program Content and Design

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Instructional Coach	2017 TELPAS	ELL Passing Rates, SCA data, MOY results, and 2018 TELPAS	08/21/2017	05/30/2018	

#### English Language Learners Strategy #2

Ensure all teachers are teaching the English Language Proficiency Standards (ELPS) as part of their daily core content curriculum. [§89.1210. Program Content and Design]

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Instructional Coach	2017 TELPAS	ELL Passing Rates, SCA data, MOY results, and 2018	08/21/17	05/30/18	

		TELPAS			
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English Language Learners Strategy #3					
Targeted tutoring for ELL students in all their content areas.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	2017 TELPAS	ELL Passing Rates, SCA data, MOY results, and 2018 TELPAS	08/21/2017	05/30/2018	

English Language Learners Strategy #4					
Identify long term ELLs (looking at those who are still at beginner/intermediate level) and address their individual linguistic, cognitive, or affective needs. Implement individualized intervention strategies.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Department Head	2017 TELPAS	ELL Passing Rates, SCA data, MOY results, and 2018 TELPAS	08/21/2017	05/30/18	

English Language Learners Strategy #5					
Implement TELPAS rubric in lesson planning.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	2017 TELPAS	ELL Passing Rates, SCA data, MOY results, and 2018 TELPAS	08/21/2017	05/30/2018	

**2015-2020 Strategic Plan Key Action Step**

4.1a: Improve supports to struggling learners by improving interventions, resources, and training, and articulate these interventions in curriculum and instructional tools.

**2017 Strategic Plan Scorecard Indicator**

- 17: Achievement Gaps - Reading
- 18: Achievement Gaps - Math
- 19: Achievement Gaps - Attendance
- 20: Achievement Gaps - Graduation Rate
- 21: Achievement Gaps - K-2 Students Reading On Grade Level
- 22: Achievement Gaps - Disproportionality of Discretionary Remo

**2016 PBMAS**

Bilingual/ESL Indicator 8: TELPAS Reading Beginning Proficiency Level Rate  
 Bilingual/ESL Indicator 9: TELPAS Composite Rating Levels for Students in US Schools Multiple Years

**TEA Strategic Priorities**

B: Build a foundation of reading and math.



**Consuelo Mendez Middle School Campus Improvement Plan 2017-2018**

**Focus Area: Employee Wellbeing**

**Performance Objective**

We will support the wellbeing of all employees by promoting a healthy work-life balance through initiatives targeting staff's physical, mental/emotional, & nutritional wellbeing.

**Data Reviewed During Needs Assessment**

- X Wellness Champion Identification list from district wellness coordinator
- X Information from the Campus Wellness Champion on staff wellness related trainings/activities
- X Total number of staff participation in biometric clinics - Report from Quest
- X Total number of staff participation in flu shot clinics - Report from HEB
- X Number of campus staff participating in LiveHealthyAISD Challenges - Report from LHA

**2016-17 Data**

Baseline data year.

**2017-18 Goal**

40% of staff will participate in at least one LiveHealthyAISD Wellness Challenge

<b>Employee Wellbeing Strategy #1</b>					
Identify a Campus-based Wellness Champion, who will be responsible for sharing all wellness announcements, to district wellness coordinator by end of August.					
<b>Responsible Party</b>	<b>Formative Data</b>	<b>Summative Data</b>	<b>Start Date</b>	<b>End Date</b>	<b>Status/Notes</b>
Assistant Principal	Baseline	LHA report	8/14/17	5/31/18	

**2015-2020 Strategic Plan Key Action Step**

not applicable

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

n/a

**Consuelo Mendez Middle School Campus Improvement Plan 2017-2018**

**Focus Area: Family and Community Engagement**

**Performance Objective**

We will increase family and community engagement.

**Data Reviewed During Needs Assessment**

- X Staff Survey (TELL) results:
  - "This school does a good job of encouraging parent/guardian involvement."
  - "This school works directly with parents/guardians to improve the educational climate in students' homes."
  - "This school maintains clear, two-way communication with the community."
  - "Parent/guardians are influential decision makers in the school."
- X Parent Satisfaction Survey:
  - "I feel comfortable contacting staff at my child's school."
  - "I feel our local community supports our school."
  - "I feel our school works hard to engage our local community."
- X AISD Local Board Policy GK, which that addresses parent and community engagement
- X Parent Teacher Association (PTA) membership and activities
- X Continued or new funding for Parent Support Specialists (PSS)
- X Campus Advisory Council (CAC) membership and meeting minutes

**2016-17 Data**

The campus has an active PTA.

**2017-18 Goal**

The campus will continue to have an active PTA.

**Family and Community Engagement Strategy #1**

Provide multiple opportunities to engage parents in the educational process such as literacy and CATCH nights, community planning meetings during the school day, advertised PTSA and CAC meetings, etc as well as programs through our family resource center (FRC).

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Parent Survey showed a need for communication	Parent Survey shows that the school is making progress in engaging families	08/21/17	5/30/18	

**Family and Community Engagement Strategy #2**

Plan school wide activities and programs to encourage parent participation (i.e. family nights, field trips, various events during the school day, campus volunteer opportunities, etc.)

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal/ PSS	Parent Survey showed a need for increase participation	Parent Survey and documentation of attendance at events	08/21/17	5/30/18	

**Family and Community Engagement Strategy #3**

Go into the community and work with the Dove Springs Community Alliance to further engage and provide leadership opportunities for families and community members.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Community school coordinator /FRC	Community school assessment	Community school planning	8/21/17	5/30/18	CSC/FRC works with Principals and PSS to coordinate campus opportunities

1 - Comprehensive needs assessment

6 - Strategies to increase parental involvement

10 - Coordination and integration of federal, state, and local services and programs

**2015-2020 Strategic Plan Key Action Step**

Factor 3: Community and Parental Involvement

**2017 Strategic Plan Scorecard Indicator**

Key Action Step 11.1c: Provide access to school-based and community-based co-curricular and extracurricular education opportunities.

**2016 PBMAS**

Indicator 35: # parents participating in Parent Survey

Indicator 39: % schools with active PTAs

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Fine Arts and the Creative Learning Initiative

#### Performance Objective

We will increase access to and support for high quality fine arts instruction and/or creative learning strategies.

#### Data Reviewed During Needs Assessment

- Parent Satisfaction Survey:  
"My child's school provides adequate opportunities for my child to study the arts /experience creative learning."
- Number of Fine Arts courses offered
- Percent of students enrolled in fine arts classes
- Recommendations from the Creative Learning Initiative Annual Report
- 2016-2017 Creative Learning Initiative Coach Observation of Teacher Implementation Survey

#### 2016-17 Data

Number of community arts partnerships: 12  
 Number of campus created arts experiences to engage families, faculty and community: 50  
 Percent of teachers who participate in creative teaching or arts intergartion professional learning: 50-99%

#### 2017-18 Goal

Number of community arts partnerships: More than 12  
 Number of campus created arts experiences to engage families, faculty and community: More than 50  
 Percent of teachers who participate in creative teaching or arts intergartion professional learning: 100%

<b>Fine Arts and the Creative Learning Initiative Strategy #1</b> Align CLI with curriculum and educational initiatives.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Teacher Feedback	Student Survey; Teacher and Community feedback	08/21/2017	05/30/2018	

<b>Fine Arts and the Creative Learning Initiative Strategy #2</b> Communicate the value of creative learning through parent newsletter, at CAC meetings and faculty meeting once a month					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Student Survey; Teacher and Community feedback	Student Survey; Teacher and Community feedback	08/21/2017	05/30/2018	

#### 2015-2020 Strategic Plan Key Action Step

not applicable

#### 2017 Strategic Plan Scorecard Indicator

not applicable

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Marketing Successes and Offerings

#### Performance Objective

We will market the strengths of our campus in order to increase enrollment.

#### Data Reviewed During Needs Assessment

- Community knowledge of campus programs offered
- Weekly use of campus social media accounts and the school website (when school is in session) to inform the school community of successes and upcoming events
- Percentage of students living in attendance area attending assigned school
- Parent Satisfaction Survey results (overall trends in parent satisfaction)
- Number of students enrolled through out-of-district transfers and the number of students joining an AISD school from a charter school

#### 2016-17 Data

Projected 2017–18 enrollment

#### 2017-18 Goal

If enrollment <75% of permanent capacity, then to meet at least 75% of permanent capacity.  
 If enrollment >75% of permanent capacity, then maintain rate.

<b>Marketing Successes and Offerings Strategy #1</b>					
Share information through all channels (digital, print, word of mouth) for prospective parents.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Enrollment Data and parent survey	Enrollment Data and parent survey	08/21/2017	05/30/18	

<b>Marketing Successes and Offerings Strategy #2</b>					
Banners, logos, websites, and communications identify school and partners as a community school.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	Enrollment data; parent survey	Enrollment Data and parent survey	08/21/17	05/30/2018	

<b>Marketing Successes and Offerings Strategy #3</b>					
Increase participation in 5th to 6th transition activities and market the activities with vertical team.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Enrollment data;parent survey	Enrollment Data and parent survey	08/20/17	5/30/18	

<b>Marketing Successes and Offerings Strategy #4</b>					
School facilities are readily accessible for community events and community school celebrations.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes

Principal	Enrollment data;parent survey	Enrollment Data and parent survey	08/20/17	5/30/18	
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**2015-2020 Strategic Plan Key Action Step**

10.1a: Promote and market the unique culture of each campus that reflects its safe, caring, and positive learning environment.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

A: Recruit, support, retain teachers and principals.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Mathematics

#### Performance Objective

We will deliver strong core instruction to all students in the area of Mathematics.

#### Data Reviewed During Needs Assessment

- Professional Learning Communities (PLC) data
- Walkthrough and observation data
- STAAR Progress Measure results
- District Benchmark Item Analysis
- YPGs (Yearly Planning Guides) and SPGs (Student Performance Guides)

#### Safeguards Missed

Math – ELL <60%

Math - AA <60%

Math - Hisp <60%

Math - ECD <60%

Math - SPED <60%

#### 2016-17 Data

The percent of students that passed STAAR Math 6-8: All Students: 46.2, Hispanic: 45.8, African American 45.6, White: 62.5, ECD: 46.1, LEP: 45.5, SPED: 29.6

The percent of students that passed EOC Algebra 1: All Students: 97.1, Hispanic: 97.1, African American NA, White: NA, ECD: 96.8, LEP: 88.9, SPED: 100

#### 2017-18 Goal

The percent of students that will pass STAAR Math 6-8: All Students: 54.3, Hispanic: 53.9, African American 53.8, White: 68.1, ECD: 54.2, LEP: 53.7, SPED: 40.2

The percent of students that will pass EOC Algebra 1: All Students: 97.5, Hispanic: 97.5, African American NA, White: NA, ECD: 97.3, LEP: 90.6, SPED: 100

#### Mathematics Strategy #1

Use information from math benchmarks and regular formative assessments and respond to data with appropriate student interventions.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Instructional Coach	PD, subs, extra duty pay, supplies for organization	STAAR data and Benchmark data	08/21/2017	05/30/2018	All activities are aligned to the TAIP

#### Mathematics Strategy #2

Implement professional learning communities that support use of best practices in math instruction and assessment and allow for collaborative planning, reflective learning, mentoring, and coaching.



Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Instructional Coach	PD, subs, extra duty pay, supplies for organization	STAAR data and Benchmark data	8/21/2017	5/30/2018	

### Mathematics Strategy #3

Support the use of district curriculum documents, such as YPGs (Yearly Planning Guides), SPGs (Student Performance Guides), lessons, and other resources to plan for TEKS-aligned, student-centered, inquiry-based instruction in science classrooms.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Instructional Coach	STAAR data and Benchmark data	STAAR data and Benchmark data	8/21/2017	5/30/2018	

### Mathematics Strategy #4

Conducting classroom walkthroughs and analyzing student work to ensure implementation of PLC learning in classrooms.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR data and Benchmark data	Walk through data	08/21/17	5/30/18	

### Mathematics Strategy #5

Analyze both BOY and EOY data (Universal Screeners, Diagnostics, Benchmarks, STAAR etc.) to identify students at risk for academic and behavioral difficulties.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR data and Benchmark data	STAAR data and Benchmark data	08/21/17	5/30/18	

#### Title 1, Part A

- 1 - Comprehensive needs assessment
- 2 - School wide reform strategies
- 8 - Inclusion of teachers in assessment decisions
- 9 - Effective, timely assistance for struggling students
- 10 - Coordination and integration of federal, state, and local services and programs

#### 2015-2020 Strategic Plan Key Action Step

3.2c: Support explicit, direct instruction that is systematic, sequential, and cumulative.

#### 2017 Strategic Plan Scorecard Indicator

- 5: % of students reaching the Postsecondary Readiness Standard on STAAR Math
- 6: % of students who did not meet the Postsecondary Readiness Standard on STAAR Math but exceeded one year's growth
- 14: % of annual graduates completing a 4th year of high school

#### 2016 PBMAS

- Bilingual/ESL Indicator 2i: ESL STAAR 3-8 Passing Rate
- Bilingual/ESL Indicator 3i: LEP (Not served in BE/ESL) STAAR 3-8 Passing Rate
- CTE Indicator 4i: CTE SPED STAAR EOC Passing Rate Math
- SPED Indicator 1i: SPED STAAR 3-8 Passing Rate
- SPED Indicator 3i: S

**TEA Strategic Priorities**

B: Build a foundation of reading and math.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Postsecondary Readiness: Career and Technical Education

#### Performance Objective

We will ensure all students will be prepared to graduate on time and ready for college and career.

#### Data Reviewed During Needs Assessment

##### 2016-17 Data

No data provided.

##### 2017-18 Goal

No data provided.

#### Postsecondary Readiness: Career and Technical Education Strategy #1

Provide more opportunities for students to participate in enrichment programs such as career and technical education courses, student organizations, leadership opportunities and specialized career opportunities.

#### Postsecondary Readiness: Career and Technical Education Strategy #2

Provide CTE teachers the opportunity to attend campus-based professional development opportunities including, but not limited to ELPS, Literacy, Writing Strategies, Special Populations, and Differentiation.

#### 2015-2020 Strategic Plan Key Action Step

1.3b: Each student will be academically challenged and prepared for success in college or further study, employment, and participation in a global environment.

#### 2017 Strategic Plan Scorecard Indicator

12: # of industry licensures/certifications completed by high school students

13: % of high school students participating in community service

16: SAT/ACT/TSI performance rates of annual graduates

#### 2016 PBMAS

CTE Indicator 2iv: CTE LEP STAAR EOC Passing Rate ELA

CTE Indicator 4i: CTE SPED STAAR EOC Passing Rate Math

CTE Indicator 4ii: CTE SPED STAAR EOC Passing Rate Science

CTE Indicator 4iii: CTE SPED STAAR EOC Passing Rate Social Studies

CTE Indicator 4iv: CTE SPED STAAR EOC Passing Rate ELA

#### TEA Strategic Priorities

C: Connect high school to career and college.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Professional Learning

#### Performance Objective

We will provide high-quality and ongoing campus-level professional learning to administrators, teachers, and staff members.

#### Data Reviewed During Needs Assessment

- Staff Survey (TELL) results: "professional learning is evaluated and results are communicated to teachers."
- Staff Survey (TELL) results: "professional learning is differentiated to meet the needs of individual teachers."
- Staff Survey (TELL) results: "my school is a good place to work and learn."
- Self-evaluation of the implementation and impact of campus professional development initiatives
- Professional Pathways for Teachers (PPfT) evaluation data
- Human Capital Platform: Campus transcript of staff professional development completion

#### 2016-17 Data

75% of campus staff felt their school was a good place to work and learn.

#### 2017-18 Goal

At least 95% of campus staff will feel their school is a good place to work and learn.

#### Professional Learning Strategy #1

Train teachers to use sheltered instructional strategies to make core content comprehensible and to develop academic language.  
Monitor implementation of selected sheltered instructional strategies in both lesson planning and classroom instruction.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	STAAR	STAAR	8/21/17	5/30/18	All activities are aligned to the TAIP

#### Professional Learning Strategy #2

Implement Professional Learning Communities to reflect collaborative planning, data-driven decision making, consistency across classrooms and grade levels, professional learning for teachers developing awareness of his/her own cultural identity values, attitudes, and biases and focusing on reduction of African-American disproportionality.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	STAAR	STAAR	8/21/17	5/30/18	All activities are aligned to the TAIP

#### Professional Learning Strategy #3

Align embedded professional development in PLC's to both the CIP and our Targeted Improvement Plan (TIP), ensuring faculty master SIM model and content context specific strategies.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR data, TELL data	STAAR data, TELL data	08/21/17	05/30/18	All activities are aligned to the TAIP

#### Professional Learning Strategy #4

Embed professional development to build staff capacity to implement culturally responsive pedagogy and SEL strategies and practices.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Data, Student Survey	data, student survey	08/21/17	05/30/18	

**Professional Learning Strategy #5**

Community partners' staff are invited to school and school district professional learning and professional learning communities (PLCs), and school staff are invited to partner professional learning opportunities.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Data, Student Survey	Data, Student Survey	08/21/17	05/30/18	

**Title 1, Part A**

1 - Comprehensive needs assessment

4 - High quality/ongoing professional learning

**2015-2020 Strategic Plan Key Action Step**

3.1c: Provide ongoing, campus-based professional learning that supports core instruction, Response to Intervention (Rti), and curriculum implementation.

**2017 Strategic Plan Scorecard Indicator**

43: % campus staff who feel their school is a good place to work and learn

45: Provide all staff with cultural proficiency professional learning

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

A: Recruit, support, retain teachers and principals.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Reading/Language Arts

#### Performance Objective

We will ensure all students decode and comprehend grade level texts. Students reading below grade level will grow more than one grade level in reading each school year.

#### Data Reviewed During Needs Assessment

- 2017 STAAR/EOC Reading results
- STAAR Progress Measure results
- Istation Indicators of Progress (ISIP) Reading assessment data for K-8 (English) and K-5 (Spanish)
- eCST goals and progress monitoring data
- District Benchmark Item Analysis

#### Safeguards Missed

- Reading - All <60%
- Reading - AA <60%
- Reading - Hisp <60%
- Reading - ECD <60%
- Reading - SPED <60%

#### 2016-17 Data

The percent of students that passed STAAR Reading: All Students: 46.9, Hispanic: 46.6, African American 47.1, White: 75, ECD: 46.7, LEP: 40.5, SPED: 24.2

#### 2017-18 Goal

The percent of students that will pass STAAR Reading: All Students: 54.9, Hispanic: 54.6, African American 55, White: 78.8, ECD: 54.7, LEP: 49.4, SPED: 35.6

#### Reading/Language Arts Strategy #1

ASSESSMENT + DATA: Implement school-wide universal screener with monthly progress monitoring and data-based planning in PLCs.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR	STAAR and Istation Data	8/21/17	5/30/18	All activities are aligned to the TAIP

#### Reading/Language Arts Strategy #2

ASSESSMENT + DATA: Analyze both BOY and EOY data (Universal Screeners, Diagnostics, Benchmarks, STAAR etc.) to identify students at risk for academic and behavioral difficulties.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR and District Benchmarks	STAAR and District Benchmark and Istation Data	8/21/17	5/30/2018	

#### Reading/Language Arts Strategy #3

ELA: Support the use of district curriculum documents, such as yearly itineraries, CRMs, and Exemplar Lessons, for planning TEKS-aligned, student-centered instruction in language arts classrooms.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR and District Benchmark	STAAR and District Benchmark	8/21/17	5/30/18	

#### Reading/Language Arts Strategy #4

LEARNING STRATEGIES: Engage students in varied working groupings including pairs, groups of four, learning centers, and whole class.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR and District Benchmark	STAAR and District Benchmark	8/21/17	5/30/18	

#### Reading/Language Arts Strategy #5

TEACHER SUPPORT CYCLE: Provide ongoing, scheduled, targeted, and documented walkthroughs, followed by feedback, coaching, and support for teachers

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR and District Benchmark	STAAR and District Benchmark	08/21/17	5/30/18	

#### Title 1, Part A

- 1 - Comprehensive needs assessment
- 2 - School wide reform strategies
- 8 - Inclusion of teachers in assessment decisions
- 9 - Effective, timely assistance for struggling students
- 10 - Coordination and integration of federal, state, and local services and programs

#### 2015-2020 Strategic Plan Key Action Step

3.1a: Develop and implement a literacy plan that includes the Science of Reading instruction and includes practical applications of concepts.

#### 2017 Strategic Plan Scorecard Indicator

- 2: % KG-2 students reading on or above grade level
- 3: % of students reaching the Postsecondary Readiness Standard on STAAR Reading
- 4: % of students who did not meet the Postsecondary Readiness Standard on STAAR Reading but exceeded one year's growth
- 17: Achievement Gaps - Reading

#### 2016 PBMAS

- Bilingual/ESL Indicator 2ii: ESL STAAR 3-8 Passing Rate
- Bilingual/ESL Indicator 3ii: LEP (Not served in BE/ESL) STAAR 3-8 Passing Rate
- Bilingual/ESL Indicator 5iv: LEP STAAR EOC Passing Rate
- Career and Technical Education Indicator 2iv: CTE LEP STAAR EOC

#### TEA Strategic Priorities

- B: Build a foundation of reading and math.

# Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

## Focus Area: Science

### Performance Objective

We will deliver strong core instruction to all students in the area of Science.

### Data Reviewed During Needs Assessment

X High School Exit Survey: Ratings of Science instruction, as reported by Seniors (Table 22)

X YPGs (Yearly Planning Guides) and SPGs (Student Performance Guides)

### Safeguards Missed

Science – SPED <60%

### 2016-17 Data

The percent of students that passed STAAR Science: All Students: 56, Hispanic: 56.1, African American 50, White: 100, ECD: 56.6, LEP: 49.6, SPED: 32.3

### 2017-18 Goal

The percent of students that will pass STAAR Science: All Students: 62.6, Hispanic: 62.7, African American 57.5, White: 100, ECD: 63.1, LEP: 57.2, SPED: 42.5

### Science Strategy #1

Support the use of district curriculum documents, such as YPGs (Yearly Planning Guides), SPGs (Student Performance Guides), lessons, and other resources to plan for TEKS-aligned, student-centered, inquiry-based instruction in science classrooms.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	2017 STAAR Science BOY	2018 STAAR Science	8/21/17	5/30/18	All activities are aligned to the TAIP

### Science Strategy #2

ASSESSMENT + DATA: Use information from science benchmarks and regular formative assessment and respond to data with appropriate student interventions.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	2017 STAAR Science BOY	2018 STAAR Science	8/21/17	5/30/18	

### Science Strategy #3

ASSESSMENT + DATA: Analyze both BOY and EOY data (Universal Screeners, Diagnostics, Benchmarks, STAAR etc.) to identify students at risk for academic and behavioral difficulties.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	2017 STAAR Science BOY	2018 STAAR Science	8/21/17	5/30/18	

### Title 1, Part A

1 - Comprehensive needs assessment

2 - School wide reform strategies



8 - Inclusion of teachers in assessment decisions

9 - Effective, timely assistance for struggling students

10 - Coordination and integration of federal, state, and local services and programs

**2015-2020 Strategic Plan Key Action Step**

1.1b: Ensure that AISD curriculum is aligned to the Texas Essential Knowledge and Skills (TEKS) and is supported by a coherent and aligned assessment system.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

Bilingual/ESL Indicator 2iii: ESL STAAR 3-8 Passing Rate

Bilingual/ESL Indicator 3iii: LEP (Not served in BE/ESL) STAAR 3-8 Passing Rate

CTE Indicator 4ii: CTE SPED STAAR EOC Passing Rate Science

SPED Indicator 1iii: SPED STAAR 3-8 Passing Rate

**TEA Strategic Priorities**

D: Improve low-performing schools.

**Consuelo Mendez Middle School Campus Improvement Plan 2017-2018**

**Focus Area: Social and Emotional Learning (SEL)**

**Performance Objective**

We will ensure all students demonstrate growth in social and emotional learning.

**Data Reviewed During Needs Assessment**

- X Student Climate Survey:  
"I use ways to calm myself down."  
"I don't give up even when I feel frustrated."  
"I know what people may be feeling by the look on their face."
- X Student Climate Survey:  
"I get along with my classmates."  
"I say "no" to friends who want me to break the rules."  
"It is easy for me to talk about my problems with the adults at my school."
- X Staff (TELL) survey:  
"All campus staff interact with one another in a way that models social and emotional competence."  
"This school's discipline practices promote social and emotional learning (e.g., developmentally appropriate consequences, restorative justice)."
- X Staff (TELL) survey:  
"School staff received sufficient training regarding how to use the social and emotional learning approach at this school."  
"Staff have enough time to implement the social and emotional learning approach at this school."
- X Personal Development Skills section of elementary report cards
- X High School Exit Survey: High school students' rates of persistence and motivation (Table 15)

**2016-17 Data**

No data provided.

**2017-18 Goal**

No data provided.

**Social and Emotional Learning (SEL) Strategy #1**  
Ensure social and emotional skills are being explicitly taught on a regular basis.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	DEEDS; TELL Survey; Student Survey	DEEDS; TELL Survey; Student Survey	8/21/17	5/30/18	

**Social and Emotional Learning (SEL) Strategy #2**  
Provide professional development to teachers on Social and Emotional Learning (SEL) on a regular basis.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	TELL survey	TELL survey	8/21/17	5/30/18	

**Social and Emotional Learning (SEL) Strategy #3**  
Implement restorative and SEL community-building strategies to reduce bullying, suspensions, and behavioral issues to ensure a

healthy learning environment.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Assistant Principal	DEEDS; TELL Survey; Student Survey	DEEDS; TELL Survey; Student Survey	8/21/17	5/30/18	

Social and Emotional Learning (SEL) Strategy #4					
We will read a campus-wide book to support our literacy initiative and address SEL strategies through the topic of bullying.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	STAAR Data; Discipline Data	STAAR data and discipline Data	08/21/17	5/30/18	

**2015-2020 Strategic Plan Key Action Step**

1.1f: Provide a safe, caring, and positive learning culture that inspires innovation and excellence.

**2017 Strategic Plan Scorecard Indicator**

1: Student ratings on Social and Emotional Learning personal development skills

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

# Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

## Focus Area: Social Studies

### Performance Objective

We will deliver strong core instruction to all students in the area of Social Studies.

### Data Reviewed During Needs Assessment

- 2017 STAAR/EOC Social Studies results
- Campus-created common assessments or other progress monitoring tools
- Walkthrough and observation data
- District Benchmarks
- District Benchmark Item Analysis
- YPGs (Yearly Planning Guides) and SPGs (Student Performance Guides)

### Safeguards Missed

- Social Studies - All <60%
- Social Studies - AA <60%
- Social Studies - Hisp <60%
- Social Studies - ECD <60%
- Social Studies - SPED <60%

### 2016-17 Data

The percent of students that passed STAAR Social Studies: All Students: 30.6, Hispanic: 29.6, African American 40, White: 100, ECD: 30.8, LEP: 21.2, SPED: 32.3

### 2017-18 Goal

The percent of students that will pass STAAR Social Studies: All Students: 41, Hispanic: 40.2, African American 49, White: 100, ECD: 41.2, LEP: 33, SPED: 42.5

### Social Studies Strategy #1

ASSESSMENT + DATA: Analyze various types of data including classroom formative assessments to determine specific areas of need for intervention in STAAR/EOC courses and plan interventions accordingly.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmarks SS STAAR	District Benchmarks SS STAAR	8/21/17	5/30/18	All strategies are reflected on the TAIP

### Social Studies Strategy #2

ASSESSMENT + DATA: Analyze both BOY and EOY data (Universal Screeners, Diagnostics, Benchmarks, STAAR etc.) to identify students at risk for academic and behavioral difficulties.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmarks SS STAAR	District Benchmarks SS STAAR	8/21/17	5/30/18	All strategies are reflected on the TAIP

### Social Studies Strategy #3

LEARNING STRATEGIES: Engage students in varied working groupings including pairs, groups of four, learning centers, and whole class.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmarks SS STAAR	District Benchmarks SS STAAR	8/21/17	5/30/18	All strategies are reflected on the TAIP

Social Studies Strategy #4					
LEARNING STRATEGIES: Provide academic vocabulary development opportunities to help with students bring meaning to content.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmarks SS STAAR	District Benchmarks SS STAAR	8/21/17	5/30/18	All strategies are reflected on the TAIP

**Title 1, Part A**

- 1 - Comprehensive needs assessment
- 2 - School wide reform strategies
- 8 - Inclusion of teachers in assessment decisions
- 9 - Effective, timely assistance for struggling students
- 10 - Coordination and integration of federal, state, and local services and programs

**2015-2020 Strategic Plan Key Action Step**

1.1b: Ensure that AISD curriculum is aligned to the Texas Essential Knowledge and Skills (TEKS) and is supported by a coherent and aligned assessment system.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

- Bilingual/ESL Indicator 2iv: ESL STAAR 3-8 Passing Rate
- Bilingual/ESL Indicator 3iv: LEP (Not served in BE/ESL) STAAR 3-8 Passing Rate
- CTE Indicator 4iii: CTE SPED STAAR EOC Passing Rate Social Studies
- NCLB Indicator 1iv: Title 1, Part A STAAR 3-8 Passing

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Special Education LRE

#### Performance Objective

We will increase the rate at which our special education students are served in the general education population setting 80% of the day or more.

#### Data Reviewed During Needs Assessment

- % of SpEd students in regular classes <40% and >=80% of the time (CRTE)
- STAAR Progress Measure data for SpEd students
- SpEd enrollment data disaggregated by grade level, ethnicity, ECD, and ELL
- Roster of students receiving special education services, including support and accommodation needs
- Roster of students receiving Special education services, sorted by instructional setting
- Most current PBMAS District ratings

#### 2016-17 Data

37.9% of students aged 12-21 served in settings 00, 40, 41, 81, 82, 91, and 92 were in the regular class 80% or more of the day.

1.8% of students aged 12-21 served in settings 04, 44, 85, 88, and 95 were in the regular class less than 40% of the day.  
NA%

#### 2017-18 Goal

At least 70% of students served in settings 00, 40, 41, 81, 82, 91, and 92 will be in the regular class 80% or more of the day.

1.8% or fewer students served in settings 04, 44, 85, 88, and 95 will be in the regular class less than 40% of the day.

#### Special Education LRE Strategy #1

Review staffing and student needs as a means to optimize use of staff to support IEPs.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Review alignment of student schedules and IEP instructional services/student needs	Campus roadmap to excellence (CRTE) each 6 weeks	08/21/17	5/30/18	

#### Special Education LRE Strategy #2

Ensure collaboration on lesson planning between general and special education teachers is evident.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Department Head	Walk through data, teacher lesson plans	Campus roadmap to excellence (CRTE) each 6 weeks	08/21/17	5/30/18	

#### Special Education LRE Strategy #3

Look for multiple learning and teaching strategies that appeal to students' diversity and individual needs, such as flexible grouping

and questioning strategies that promote rigor.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	STAAR data; Benchmark data	STAAR data; Benchmark Data	08/21/17	5/30/2018	

**2015-2020 Strategic Plan Key Action Step**

4.1c: Identify students with special needs and life circumstances and ensure that they receive consistent access to curriculum, appropriate services, and supports.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

SPED State Performance Plan 5A: Educational Environment, Ages 6-21 - inside the regular class 80% or more of the day

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Student Health and Nutrition

#### Performance Objective

We will continue to promote healthy eating habits and strengthen the overall physical and mental health of our students and staff.

#### Data Reviewed During Needs Assessment

- Campus Immunization Rate
- Number of staff fitness and wellness activities
- Results of campus vision and hearing screening, by campus
- HCP registration and attendance rosters for staff mental health professional learning opportunities
- Information from campus-based Wellness Champion on staff wellness participation
- Staff completion of annual training on Automated External Defibrillator (AED), Blood Borne Pathogen (BBP) and Food Allergy Anaphylaxis.

#### 2016-17 Data

99.02% of students have current immunizations.

#### 2017-18 Goal

100% of students will have current immunizations.

#### Student Health and Nutrition Strategy #1

Provide healthy food alternatives for students, parents, and teachers when food and beverages are served.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	TELL survey; number of opportunities	TELL survey; number of times healthy	8/21/17	5/30/18	

#### Student Health and Nutrition Strategy #2

Offer at least 3 staff wellness opportunities per year.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	To provide healthy food	food was provided	8/21/17	5/30/18	

#### Student Health and Nutrition Strategy #3

Support campus based farm to school and/or school farm stands.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Number of wellness activities	Number of wellness activities	08/21/17	5/30/18	

#### Student Health and Nutrition Strategy #4

All staff will participate in mental health professional development that includes suicide prevention (Texas ASK). Additional training available includes; Youth Mental Health First-Aid (YMHFA) and Trauma Informed Care (TIC).

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
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Principal	TELL survey; PD data	TELL survey and PD data	08/21/17	5/30/2018	
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**2015-2020 Strategic Plan Key Action Step**

1.3e: Each student will learn about and practice a healthy lifestyle.

**2017 Strategic Plan Scorecard Indicator**

not applicable

**2016 PBMAS**

not applicable

**TEA Strategic Priorities**

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Student Fitness

#### Performance Objective

We will achieve health and fitness for students through increased student participation in physical activities.

#### Data Reviewed During Needs Assessment

- Coordinated School Health Report: Implementation of PE Section
- Coordinated School Health Report: Brain Break Section
- GoNoodle Campus monthly reports

#### 2016-17 Data

All Students: Body Mass Index: 47%, Cardio: 50%, Curl-Ups: 81%, Push-Ups: 63%, Sit and Reach: 59%, Trunk Lift: 85%

#### 2017-18 Goal

All Students: Body Mass Index: 49%, Cardio: 52%, Curl-Ups: 83%, Push-Ups: 65%, Sit and Reach: 61%, Trunk Lift: 87%

<b>Student Fitness Strategy #1</b>					
Plan and implement Physical Education lessons that include 50% of moderate to vigorous activity weekly.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	AISD Fitnessgram	AISD Fitnessgram	08/21/17	5/30/2018	

<b>Student Fitness Strategy #2</b>					
Provide before- and/or after-school physical activity opportunities, such as running clubs, intramurals, and open gyms for nonathletic students.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	AISD Fitnessgram	AISD Fitnessgram	08/21/17	5/30/18	

#### 2015-2020 Strategic Plan Key Action Step

1.3d: Establish goals at each school related to FitnessGram Cardiovascular and Body Mass Index indicators.

#### 2017 Strategic Plan Scorecard Indicator

not applicable

#### 2016 PBMAS

not applicable

#### TEA Strategic Priorities

D: Improve low-performing schools.

## Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

### Focus Area: Writing

#### Performance Objective

We will deliver strong core instruction to all students in the area of writing.

#### Data Reviewed During Needs Assessment

- X 2017 STAAR Writing results
- X On Demand Writing Samples
- X District Benchmark Item Analysis

#### Safeguards Missed

- Writing - All <60%
- Writing - AA <60%
- Writing - Hisp <60%
- Writing - ECD <60%
- Writing - SPED <60%

#### 2016-17 Data

The percent of students that passed STAAR Writing: All Students: 27.3, Hispanic: 26.8, African American 31.8, White: 0, ECD: 26.5, LEP: 21.2, SPED: 20

#### 2017-18 Goal

The percent of students that will pass STAAR Writing: All Students: 38.2, Hispanic: 37.8, African American 42, White: 15, ECD: 37.5, LEP: 33, SPED: 32

#### Writing Strategy #1

ASSESSMENT + DATA: Implement school-wide universal screener with monthly progress monitoring and data-based planning in PLCs.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmark STAAR, analysis of writing during PLC collaboration	District Benchmark STAAR	8/21/17	5/30/18	

#### Writing Strategy #2

ASSESSMENT + DATA: Analyze both BOY and EOY data (Universal Screeners, Diagnostics, Benchmarks, STAAR etc.) to identify students at risk for academic and behavioral difficulties.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmark STAAR, analysis of writing during PLC collaboration	District Benchmark STAAR	8/21/17	5/30/18	

#### Writing Strategy #3

ELA: Support the use of district curriculum documents, such as yearly itineraries, CRMs, and Exemplar Lessons, for planning TEKS-

aligned, student-centered instruction in language arts classrooms.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmark STAAR	District Benchmark STAAR	8/21/17	5/30/18	

#### Writing Strategy #4

LEARNING STRATEGIES: Engage students in varied working groupings including pairs, groups of four, learning centers, and whole class.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	District Benchmark STAAR	District Benchmark STAAR	08/21/17	5/30/18	

#### Writing Strategy #5

LEARNING STRATEGIES: Utilize high-interest rigorous engagement activities that advance language and learning.

Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Academic Dean	District Benchmark STAAR	District Benchmark STAAR	08/21/17	5/30/18	

#### Title 1, Part A

- 1 - Comprehensive needs assessment
- 2 - School wide reform strategies
- 8 - Inclusion of teachers in assessment decisions
- 9 - Effective, timely assistance for struggling students
- 10 - Coordination and integration of federal, state, and local services and programs

#### 2015-2020 Strategic Plan Key Action Step

3.1a: Develop and implement a literacy plan that includes the Science of Writing instruction and includes practical applications of concepts.

#### 2017 Strategic Plan Scorecard Indicator

not applicable

#### 2016 PBMAS

- Bilingual/ESL Indicator 2v: ESL STAAR 3-8 Passing Rate
- Bilingual/ESL Indicator 3v: LEP (Not served in ESL) STAAR 3-8 Passing Rate
- NCLB Indicator 1v: Title 1, Part A STAAR 3-8 Passing Rate
- SPED Indicator 1v: SPED STAAR 3-8 Passing Rate

#### TEA Strategic Priorities

D: Improve low-performing schools.

Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

Focus Area: Campus Choice

Performance Objective

Teacher Retention

2016-17 Data

2017-18 Goal

Campus Choice Strategy #1					
Provide supports for teachers such as mentors, quality professional development, etc.					
Responsible Party	Formative Data	Summative Data	Start Date	End Date	Status/Notes
Principal	Teacher retention; TELL survey	Teacher retention; TELL survey	8/21/17	5/30/18	Working with HR with how to best retain 1st year teachers and provide yearlong additional support.

# Consuelo Mendez Middle School Campus Improvement Plan 2017-2018

## Campus Advisory Council Exit Survey

Did the CAC approve the professional development portion of the CIP?		Yes
Was the CAC given an opportunity to provide input on the campus budget?		Yes
Approximately how many hours did the CAC and/or CAC subcommittees spend on CIP development?		8 Hr

Position	Name	Date
Principal	Chris Jones	
Co-Chair	Robert Kibbie	
Co-Chair	Juan Haney	

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Principal Christie Jones

Date 6.28.17

**PRELIM ALLOCATI**

Bookkeeper

Date

Associate Supt. Terrance Eaton

Date

Title I Allocation **\$819,929**

Parent Allocation **\$8,282** *Must be budgeted for Parent Involvement*

**Total Title I Allocation \$828,211**

Staffed Positions And Program Intent Codes	PIC	(a)	(b)	(c)
	Program Code	2017-2018 Requested Staffing Allocation	Total Actual Salaries Including Benefits	Average Salaries Including Benefits
<b>Administration</b>				
034/038 Assist. Prin/Helping Teacher (195)	30	0.50	\$42,382	\$84,764
Assist. Prin/Helping Teacher (195)	30	0.50	\$42,382	\$84,764
Other: Academic Dean (225)	30	1.00	\$88,000	
<b>Sub-Total Administration</b>		<b>1.50</b>	<b>\$172,764</b>	
<b>Professional</b>				
214 Counselor (187)	30	0.00	\$71,402	\$71,402
203 Librarian (187)	30			\$67,025
Other:	30			
<b>Sub-Total Professional</b>		<b>0.00</b>	<b>71,402</b>	
<b>Specialist/Coach - Working with students</b> 211 05811830.0000 6119				
140 Math Specialist/Coach (187)	30	1.00	\$63,936	\$63,936
140 Literacy Specialist/Coach (187)	30	1.00		\$63,936
140 Curriculum Specialist/Coach (187)	30			\$63,936
Other:	30			\$63,936
<b>Sub-Total Specialist/Coach</b>		<b>2.00</b>	<b>\$63,936</b>	
<b>Specialist/Coach - Working with teachers</b> 211 05813830.0000 6119				
140 Math Specialist/Coach (187)	30	1.00	\$63,936	\$63,936
140 Literacy Specialist/Coach (187)	30			\$63,936
140 Curriculum Specialist/Coach (187)	30			\$63,936
Other	30			
<b>Sub-Total Specialist/Coach</b>		<b>1.00</b>	<b>\$63,936</b>	
<b>Teacher</b>				
912 Classroom Teacher (187)	30	6.00	\$319,680	\$63,936
912 School to Career Teacher (187)	30			\$63,936
920 Special Education Teacher (187)	30			\$63,936
912 Bilingual Teacher (187)	30			\$63,936
Other:				
Other:				
Other:				
Other:				
<b>Sub-Total Teacher</b>		<b>6.00</b>	<b>\$319,680</b>	
<b>Classified-Other Personnel</b>				
510 Teacher Assistant, Special Ed (209)	30			\$36,086
510 Teacher Assistant, Bilingual (209)	30			\$36,086
510 Teacher Assistant, Regular (209)	30			\$36,086
494 Parent Support Specialist (209)	30	0.50	\$22,204	\$44,407
512 Computer Lab Assistant (209)	30			\$37,754
860 Technology Support Specialist (209)	30			\$42,525
530 ISS Monitor	30			\$36,746
Other:				
<b>Sub-Total-Other</b>		<b>0.50</b>	<b>\$22,204</b>	
<b>Total Staffing Allocation</b>				
		<b>11.00</b>	<b>\$713,922</b>	

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**Total Title I Allocation \$ 828,211**

Distribute funds designated above as "Total Non-Staff Allocations" throughout the worksheet for either <b>Staff</b> or <b>Non-Staff</b> items. Be sure to allocate sufficient funds for each Non-Staff item to carry your campus through the 2017-2018 fiscal year.			<b>(d) Non-Staff Allocations</b>
<b>Instructional (Function 11)</b>			
TITLE I Substitutes (including Benefits)	211 05811830 0000 6112		\$10,000
TITLE I Extra Duty (including Benefits)	211 05811830 0000 6118		\$10,000
TITLE I Equipment Rental (Copier)	211 05811830 0000 6265		\$10,000
TITLE I Miscellaneous Contracting Services	211 05811830 0000 6298		
TITLE I Reproduction/Printing	211 05811830 0000 6299		\$900
TITLE I Other Reading Materials	211 05811830 0000 6329		
TITLE I Testing Materials	211 05811830 0000 6339		
TITLE I Computer Related <\$5,000	211 05811830 0000 6396		\$5,900
TITLE I Software	211 05811830 0000 6397		
TITLE I Equipment <\$.5000 per Unit	211 05811830 0000 6398		
TITLE I Gen Supplies-Compensatory Ed.	211 05811830 0000 6399		\$4,000
TITLE I Student Travel (Rental)	211 05811830 0000 6412		\$1,000
TITLE I Field Trips (Yellow School Buses)	211 05811830 0000 6494		\$1,000
TITLE I Refreshments	211 05811830 0000 6497		
TITLE I Miscellaneous Operating Expenses	211 05811830 0000 6499		\$1,000
Other:			
Other:			
Other:			
Other:			
<b>Function 11 Total</b>			<b>\$43,800</b>
<b>Instructional Resource -Library (Function 12)</b>			
TITLE I Other Reading Materials	211 05812830 0000 6329		\$2,000
TITLE I Software	211 05812830 0000 6397		
TITLE I General Supplies	211 05812830 0000 6399		\$250
Other:			
Other:			
Other:			
Other:			
Other:			
<b>Function 12 Total</b>			<b>\$2,250</b>
<b>Staff Training (Function 13)</b>			
TITLE I Substitutes (including Benefits)	211 05813830 0000 6112		\$8,000
TITLE I Ex Duty Pay (including Benefits)	211 05813830 0000 6118		\$8,000
TITLE I Professional Services	211 05813830 0000 6298		
TITLE I Reproduction/Printing	211 05813830 0000 6299		
TITLE I Reading Material	211 05813830 0000 6329		\$800
TITLE I General Supplies	211 05813830 0000 6399		\$500
TITLE I Travel & Registration	211 05813830 0000 6411		\$4,343
Other:			
Other:			
Other:			
Other:			
<b>Function 13 Total</b>			<b>\$21,643</b>



**058 MENDEZ MS**

Distribute funds designated above as "Total Non-Staff Allocations" throughout the worksheet for either <b>Staff</b> or <b>Non-Staff</b> items. Be sure to allocate sufficient funds for each Non-Staff item to carry your campus through the 2017-2018 fiscal year.			<b>(d) Non-Staff Allocations</b>
<b>School Administration (Function 23)</b>			
TITLE I Clerical Overtime (including benefit	211 05823830 0000 6121		\$800
TITLE I Reproduction/Printing	211 05823830 0000 6299		\$800
TITLE I Other Reading Materials	211 05823830 0000 6329		
TITLE I Equipment <\$5000	211 05823830 0000 6398		
TITLE I General Supplies	211 05823830 0000 6399		\$500
TITLE I Travel & Registration	211 05823830 0000 6411		
Other:			
Other:			
Other:			
Other:			
Other:			
Other:			
Other:			
<b>Function 23 Total</b>			<b>\$2,100</b>
<b>Counseling Services (Function 31)</b>			
TITLE I Other Reading Materials	211 05831830 0000 6329		
TITLE I Software	211 05831830 0000 6397		
<b>TITLE I General Supplies</b>	<b>211 05831830 0000 6399</b>		<b>\$500</b>
TITLE I Travel & Registration	211 05831830 0000 6411		
Other:			
Other:			
Other:			
<b>Function 31 Total</b>			<b>\$500</b>
<b>Maintenance &amp; Operations (Function 51)</b>			
TITLE I Custodial Overtime (including Bene	211 05851830 0000 6121		
Other:			
Other:			
<b>Function 51 Total</b>			<b>\$0</b>
<b>Community Services (Function 61)</b>			
TITLE I Reproduction/Printing	211 05861830 0000 6299		\$2,000
TITLE I General Supplies	211 05861830 0000 6399		\$1,800
TITLE I Travel & Registration	211 05861830 0000 6411		\$1,000
TITLE I Refreshments	211 05861830 0000 6497		\$3,500
Other:			
Other:			
Other:			
<b>Function 61 Total</b>			<b>\$8,300</b>
<b>Other Requests (Attach Lists if Necessary)</b>			
Salary Cushion (5% of Page 2 Total)	211 05811830 0000 6148		\$35,696
<b>Other Requests Total</b>			<b>\$35,696</b>
<b>Summary Totals</b>			
<b>1</b>	<b>Page 2 and 3 Title I Non-Staff Allocation Total</b>		<b>\$114,289</b>
<b>2</b>	<b>Page 1 Title I Staff Allocation Total</b>		<b>\$713,922</b>
<b>3</b>	<b>Title I Total (Row 1+Row 2)</b>		<b>\$828,211</b>
<b>4</b>	<b>Total Title I Allocation</b>		<b>\$ 828,211</b>
<b>In Balance</b>			<b>(\$0)</b>

# **Exhibit F:**

# **Target Improvement Plan**

<b>Strategy # 1</b>	Professional Learning Communities (PLCs) will be created in all content areas, across all grade levels to ensure instructional planning and delivery with fidelity and time for teachers to analyze data and develop instructional strategies for all students, especially English-Language Learners					
<b>Annual Goal</b>	2018 STAAR results will show at least a 27% reduction in failures compared to the prior year: Reading 64%, Math 64%, Writing 47%, Science 72%, Social Studies 51%					
<b>Problem</b>	2017 STAAR results show a low percentage of students achieved the Approaches standard: Reading 50%, Math 51%, Writing 28%, Science 61%, and Social Studies 33%					
<b>Activity/Objective</b>	<b>Resp</b>	<b>Progress Measuring – includes formative and summative assessments, results, and data results</b>				
		<b>Q1 Status: Aug, Sep, Oct</b>	<b>Q2 Status: Nov, Dec, Jan</b>	<b>Q3 Status: Feb, Mar</b>	<b>Q4 Status: Apr, May, Jun</b>	
		<b>Q1 Goal:</b> 100% of Instructional Coaches and teachers are trained on PLC Model, sheltered instruction, ELL strategies	<b>Q2 Goal:</b> 100% of teachers are effectively utilizing PLC model and sheltered instruction/ELL strategies	<b>Q3 Goal:</b> 2017-18 MOY results show at least a 15% reduction in failers compared to the prior year ( goal: Reading 55%, Math 26%, Writing 37%, Science 58%, Social Studies 43%)	<b>Q4 Goal:</b> 2018 STAAR results will show at least a 27% reduction in failures compared to the prior year (goal: Reading 64%, Math 64%, Writing 47%, Science 72%, Social Studies 51%)	
A	<b>Curriculum</b> The campus has dedicated Instructional Coaches (ICs) in all 4 content areas, and a STEM coordinator	Executive Director	<ul style="list-style-type: none"> <li>Assign 3.5 dedicated instructional coaches; Social Studies coach is 50% SIM coach</li> <li>1 STEM coordinator</li> </ul>	<ul style="list-style-type: none"> <li># dedicated instructional coaches (goal: 4)</li> <li># STEM coordinator (goal: 1)</li> </ul>	<ul style="list-style-type: none"> <li># dedicated instructional coaches (goal: 4)</li> <li># STEM coordinator (goal: 1)</li> </ul>	<ul style="list-style-type: none"> <li># dedicated instructional coaches (goal: 4)</li> <li># STEM coordinator (goal: 1)</li> </ul>
B	Professional Learning will be provided to Instructional Coaches and/or teachers on: <ul style="list-style-type: none"> <li>Instructional Coach training</li> <li>PLC model</li> <li>Sheltered Instruction/ELL strategies</li> <li>Co-teaching model</li> <li>SIM Model</li> <li>DMAC</li> <li>Short Cycle Assessments</li> <li>Tracking/monitoring of student progress</li> <li>District systems i.e. LPAS/SEEDS/e504/eCST</li> </ul>	Academic Dean	<ul style="list-style-type: none"> <li>Develop Professional development calendar</li> <li>% of ICs and teachers trained on co-teaching model (goal: 100%)</li> <li>% of ICs and teachers trained on SIM Model (goal: 100%)</li> <li>% of ICs and teachers trained on DMAC (goal: 100%)</li> <li>% of ICs and teachers trained on creating short cycle assessments (goal: 100%)</li> <li>% of ICs and teachers trained on tracking/monitoring of student progress (goal: 100%)</li> <li>% of ICs and teachers trained on how to access LPAS/SEEDS/e504/eCST (goal: 100%)</li> <li>Note: Trainings may occur throughout the year and may not all be completed during Quarter 1; percents based on the number of staff needing the training, not total # of staff</li> </ul>	<ul style="list-style-type: none"> <li>% of teams: <ul style="list-style-type: none"> <li>creating short cycle assessments (goal: 100%)</li> </ul> </li> <li>% of teachers: <ul style="list-style-type: none"> <li>utilizing co-teaching model (goal: 100%)</li> <li>utilizing SIM Model (goal: 100%)</li> <li>utilizing DMAC (goal: 100%)</li> <li>tracking/monitoring of student progress (goal: 100%)</li> <li>accessing LPAS/SEEDS/e504/eCST as needed (goal: 100%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>% of teams effectively: <ul style="list-style-type: none"> <li>utilizing PLC model (goal: 100%)</li> <li>creating short cycle assessments (goal: 100%)</li> </ul> </li> <li>% of teachers effectively:: <ul style="list-style-type: none"> <li>utilizing sheltered instruction/ELL strategies (goal: 100%)</li> <li>utilizing co-teaching model (goal: 100%)</li> <li>utilizing SIM Model (goal: 100%)</li> <li>utilizing DMAC (goal: 100%)</li> <li>tracking/monitoring of student progress (goal: 100%)</li> <li>accessing LPAS/SEEDS/e504/eCST as needed (goal: 100%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>% of teams effectively: <ul style="list-style-type: none"> <li>utilizing PLC model (goal: 100%)</li> <li>creating short cycle assessments (goal: 100%)</li> </ul> </li> <li>% of teachers effectively:: <ul style="list-style-type: none"> <li>utilizing sheltered instruction/ELL strategies (goal: 100%)</li> <li>utilizing co-teaching model (goal: 100%)</li> <li>utilizing SIM Model (goal: 100%)</li> <li>utilizing DMAC (goal: 100%)</li> <li>tracking/monitoring of student progress (goal: 100%)</li> <li>accessing LPAS/SEEDS/e504/eCST as needed (goal: 100%)</li> </ul> </li> </ul>
C	During PLCs, administrators and instructional coaches work with teachers to: <ul style="list-style-type: none"> <li>Establish PLC protocols</li> <li>Create a pacing calendar</li> <li>Analyze Data</li> <li>Deconstruct the SE's</li> <li>Identify and implement best instructional practices</li> <li>Review and create assessments</li> <li>Plan interventions</li> </ul>	Academic Dean	<ul style="list-style-type: none"> <li>Establish expectations that during PLCs, administrators/ICs/teachers:</li> <li>Establish PLC protocols</li> <li>Create a pacing calendar</li> <li>Analyze Data</li> <li>Deconstruct the SE's</li> <li>Identify and implement best instructional practices</li> <li>Review and create assessments</li> <li>Plan interventions</li> </ul>	<ul style="list-style-type: none"> <li>% of PLCs where administrators/ICs/teachers: <ul style="list-style-type: none"> <li>Establish PLC protocols (goal: 100%)</li> <li>Create a pacing calendar (goal: 100%)</li> <li>Analyze Data (goal: 100%)</li> <li>Deconstruct the SE's (goal: 100%)</li> <li>Identify and implement best instructional practices (goal: 100%)</li> <li>Review and create assessments (goal: 100%)</li> <li>Plan interventions (goal: 100%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>% of PLCs where administrators/ICs/teachers: <ul style="list-style-type: none"> <li>Establish PLC protocols (goal: 100%)</li> <li>Create a pacing calendar (goal: 100%)</li> <li>Analyze Data (goal: 100%)</li> <li>Deconstruct the SE's (goal: 100%)</li> <li>Identify and implement best instructional practices (goal: 100%)</li> <li>Review and create assessments (goal: 100%)</li> <li>Plan interventions (goal: 100%)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>% of PLCs where administrators/ICs/teachers: <ul style="list-style-type: none"> <li>Establish PLC protocols (goal: 100%)</li> <li>Create a pacing calendar (goal: 100%)</li> <li>Analyze Data (goal: 100%)</li> <li>Deconstruct the SE's (goal: 100%)</li> <li>Identify and implement best instructional practices (goal: 100%)</li> <li>Review and create assessments (goal: 100%)</li> <li>Plan interventions (goal: 100%)</li> </ul> </li> </ul>
D	<b>Instruction</b> Implement AISD Literacy Plan (Year 2) including Structured Independent Reading (StIR), student conferencing, Talk Read Talk Write, use of MyOn, and 60 minutes of protected time for ELA class each day.	Principal	<ul style="list-style-type: none"> <li>Implement District Literacy Plan:</li> <li>Structured Independent Reading component</li> <li>Student conference component</li> <li>Talk Read Talk Write component</li> <li>MyOn component</li> </ul>	<ul style="list-style-type: none"> <li>% teachers implementing Literacy Plan (goal: 100%)</li> <li>% teachers implementing Structured Independent Reading component (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>% teachers effectively implementing Literacy Plan (goal: 100%)</li> <li>% teachers effectively implementing Structured Independent Reading component (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>% teachers effectively implementing Literacy Plan (goal: 100%)</li> <li>% teachers effectively implementing Structured Independent Reading component (goal: 100%)</li> </ul>

			<ul style="list-style-type: none"> <li>• 60 minute protected time for ELA class each day</li> </ul>	<ul style="list-style-type: none"> <li>• % teachers implementing student conference component (goal: 100%)</li> <li>• % teachers implementing Talk Read Talk Write component (goal: 100%)</li> <li>• % teachers implementing MyOn component (goal: 100%)</li> <li>• % teachers implementing 60 minute protected time for ELA class each day (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % teachers effectively implementing student conference component (goal: 100%)</li> <li>• % teachers effectively implementing Talk Read Talk Write component (goal: 100%)</li> <li>• % teachers effectively implementing MyOn component (goal: 100%)</li> <li>• % teachers effectively implementing 60 minute protected time for ELA class each day (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % teachers effectively implementing student conference component (goal: 100%)</li> <li>• % teachers effectively implementing Talk Read Talk Write component (goal: 100%)</li> <li>• % teachers effectively implementing MyOn component (goal: 100%)</li> <li>• % teachers effectively implementing 60 minute protected time for ELA class each day (goal: 100%)</li> </ul>
E	<p><b>Assessment</b></p> <p>Administrators, IC's and teachers administer universal screeners for all students for reading and math, analyze data for all students and create Tier 2 and Tier 3 interventions with a focus on ELL's and SpEd</p>	Academic Dean	<ul style="list-style-type: none"> <li>• Administer universal screener for reading and math</li> <li>• Analyze universal screener data to assign students to Tier 2 and Tier 3 intervention groups</li> <li>• Create Tier 2 and Tier 3 interventions with a focus on ELLs and SpEds</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 2 students making progress (goal: 100%)</li> <li>• % of Tier 3 students making progress (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 2 students making progress (goal: 100%)</li> <li>• % of Tier 3 students making progress (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 2 students making progress (goal: 100%)</li> <li>• % of Tier 3 students making progress (goal: 100%)</li> </ul>
F	Students identified reading below grade level will be in a Tier 3 intervention class to improve language acquisition.		<ul style="list-style-type: none"> <li>• Implement Tier 3 intervention class at each grade level</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 3 reading students making progress (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 3 reading students making progress (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of Tier 3 reading students making progress (goal: 100%)</li> </ul>
G	Administrators and instructional coaches incorporate "look-fors" into walkthrough form, conduct walkthroughs and provide feedback.	Academic Dean	<ul style="list-style-type: none"> <li>• Incorporated "look-fors" into walkthrough form</li> <li>• % of core subject areas evaluated (goal: 100%)</li> <li>• % of core subject areas receive feedback (goal: 100)</li> </ul>	<ul style="list-style-type: none"> <li>• % of core subject areas evaluated (goal: 100%)</li> <li>• % of core subject areas receive feedback (goal: 100)</li> </ul>	<ul style="list-style-type: none"> <li>• % of core subject areas evaluated (goal: 100%)</li> <li>• % of core subject areas receive feedback (goal: 100)</li> </ul>	<ul style="list-style-type: none"> <li>• % of core subject areas evaluated (goal: 100%)</li> <li>• % of core subject areas receive feedback (goal: 100)</li> </ul>
H	<p><b>Leadership Development</b></p> <p>At least once every 6 weeks, the Executive Director of MS, Cross-Functional Team, and Campus Academic Leadership Team meet to monitor campus progress and identify additional support needed from all members of the district. Meeting includes reviewing attendance, grades, assessments, discipline, and parent attendance at meetings.</p>	Principal	<ul style="list-style-type: none"> <li>• Monitor campus progress and identify additional supports needed</li> <li>• Review attendance, grades, assessments, discipline, and parent attendance at meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Monitor campus progress</li> <li>• % of additional supports provided (goal: 100%)</li> <li>• Reviewed attendance, grades, assessments, discipline, and parent attendance at meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Monitor campus progress</li> <li>• % of additional supports provided (goal: 100%)</li> <li>• Reviewed attendance, grades, assessments, discipline, and parent attendance at meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Monitor campus progress</li> <li>• % of additional supports provided (goal: 100%)</li> <li>• Reviewed attendance, grades, assessments, discipline, and parent attendance at meetings</li> </ul>
I	Academic Leadership Team identifies teachers, departments, and/or teams who are struggling with strategy implementation and provides tiered support.	Instructional Coaches	<ul style="list-style-type: none"> <li>• % of struggling teachers are supported (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of struggling teachers are supported (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of struggling teachers are supported (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of struggling teachers are supported (goal: 100%)</li> </ul>
J	All STEM Academy students are endorsed under a CTE Pathway.	Principal	<ul style="list-style-type: none"> <li>• % of STEM students are scheduled into a CTE pathway (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of STEM students are monitored for success in their CTE classes (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of STEM students are schedule in the appropriate S2 CTE classes (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>• % of STEM students are successfully endorsed (goal: 100%)</li> </ul>
K	Principal utilizes CAC, community, faculty and staff, and student meetings, principal coffees, neighborhood walks, and social media to share progress and obtain feedback on the implementation of the TAIP.	Principal	<ul style="list-style-type: none"> <li>• List of events</li> </ul>	<ul style="list-style-type: none"> <li>• List of events</li> </ul>	<ul style="list-style-type: none"> <li>• List of events</li> </ul>	<ul style="list-style-type: none"> <li>• List of events</li> </ul>
D	<b>Quarter goal status (quarter goal in bold text)</b>		Choose an item.	Choose an item.	Choose an item.	Choose an item.
CS	<b>Next steps</b>					
I	<b>End of year evaluation</b>					

<b>Strategy # 2</b>	We will design, implement, and monitor a campus-wide program that focuses on supporting positive classroom environments and integrate SEL into the curriculum.				
<b>Annual Goal</b>	2017-18 discipline reports will show at least a 20% reduction in the number of incidents related to disruptions (168), insubordination (237), leaving without authority (194), and rude to adult (166)				
<b>Problem</b>	2016-17 discipline reports show more than 200 incidents in each of the following areas: disruptions, insubordination, leaving without authority, and rude to adult				
<b>Activity/Objective</b>	<b>Resp</b>	<b>Progress Measuring – includes formative and summative assessments, results, and data results</b>			
		<b>Q1 Status: Aug, Sep, Oct</b>	<b>Q2 Status: Nov, Dec, Jan</b>	<b>Q3 Status: Feb, Mar</b>	<b>Q4 Status: Apr, May, Jun</b>
		<b>Q1 Goal:</b> 100% of teachers trained on SEL/behavior plan	<b>Q2 Goal:</b> 100% of teachers effectively deliver SEL/behavior plan lessons during weekly Maverick Pride	<b>Q3 Goal:</b> 2017-18 discipline results will show at least a 20% reduction in incidents compared to the prior year (5 <sup>th</sup> Six wks): # disruptions, # insubordination, # leaving without authority, # rude to adult ( goal: disruptions 72, insubordination 66, leaving without authority 82, rude to adult 56)	<b>Q4 Goal:</b> 2017-18 discipline reports will show at least a 20% reduction in the number of incidents related to disruptions (168), insubordination (237), leaving without authority (194), and rude to adult (166)
A	<b>Curriculum</b> Academic Leadership Team develops a campus-wide behavior plan. Components of the plan will be incorporated into the campus' walkthrough form.	Academic Dean	<ul style="list-style-type: none"> <li>Develop Campus-wide behavior plan</li> <li>Compile list of classroom look-fors/incorporation of look-fors in walkthrough form</li> </ul>		
B	Professional Learning will be provided to all staff on Social Emotional Learning (SEL) strategies.	Academic Dean	<ul style="list-style-type: none"> <li></li> </ul>	•% of teachers implementing SEL/behavior plan strategies (goal: 100%)	•% of teachers effectively implementing SEL/behavior plan strategies (goal: 100%)
C	SEL lessons will be provided to teachers to deliver weekly during Maverick Pride.	Academic Dean	•% of teachers deliver SEL/behavior plan lessons weekly during Maverick Pride (goal: 100%)		•% of teachers actively engaged during SEL/behavior plan lessons weekly during Maverick Pride
D	<b>Instruction</b> Academic Leadership Team identifies teachers who are struggling with classroom management and provide tiered support.	Principal	•% of struggling teachers are supported (goal: 100%)	•% of struggling teachers show improvement (goal: 100%)	•% of struggling teachers show improvement (goal: 100%)
E	During grade-level PLCs, administrators and teachers will identify students in need of support and refer them to the campus Child Study Team. A plan will be created and monitored in eCST.	Principal	<ul style="list-style-type: none"> <li>Develop list of students in need of support</li> <li>•% of students in need of support referred to Campus Study Team (goal: 100%)</li> <li>•% of students in need of support with support plan in eCST (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>•% of students in need of support referred to Campus Study Team (goal: 100%)</li> <li>•% of students in need of support who show improvement (goal: 100%)</li> </ul>	<ul style="list-style-type: none"> <li>•% of students in need of support referred to Campus Study Team (goal: 100%)</li> <li>•% of students in need of support who show improvement (goal: 100%)</li> </ul>
F	<b>Leadership Development</b> Establish a PBIS committee who will meet once a month to develop incentives for teachers and students.	Principal	<ul style="list-style-type: none"> <li>Committee member list</li> <li>Teacher incentive plan</li> <li>Student incentive plan</li> </ul>	<ul style="list-style-type: none"> <li>List of teachers recognized</li> <li>List of students recognized</li> </ul>	<ul style="list-style-type: none"> <li>List of teachers recognized</li> <li>List of students recognized</li> </ul>
G	Establish a reward system for students when meeting behavior expectations.	Academic Dean	•Create student behavior system reward plan	• % of students receiving reward for positive behavior (goal: 10% increase from prior quarter)	•% of students receiving reward for positive behavior (goal: 10% increase from prior quarter)
H	Every six weeks students will be recognized for academic performance and attendance.	Academic Dean	•Create recognition plan for academic performance and attendance	•% of students achieving honor goal (goal: 10% increase from prior quarter)	•% of students achieving honor goal (goal: 10% increase from prior quarter)
I	<b>Assessment</b> Administrators will survey teachers to obtain a baseline on whether teachers agree that “The School Leadership makes a sustained effort to address teacher concerns about managing student conduct”.	Principal	•Administer survey on whether teachers agree that “The School Leadership makes a sustained effort to address teacher concerns about managing student conduct” (baseline)	•Survey on whether teachers agree that “The School Leadership makes a sustained effort to address teacher concerns about managing student conduct” (goal: 100%)	•Survey on whether teachers agree that “The School Leadership makes a sustained effort to address teacher concerns about managing student conduct” (goal: 100%).
<b>Quarter goal status (quarter goal in bold text)</b>			Choose an item.	Choose an item.	Choose an item.
<b>Next steps</b>					

D  
CS  
I

End of year evaluation

**Exhibit G:**  
**News Articles on Mendez**  
**Middle School Turnaround**  
**Plan**

## New principals, a Mendez Middle School partnership and 50 teacher recognitions: 4 highlights from Monday's Austin ISD meeting



During an active Austin ISD board of trustees meeting Monday night, the district appointed new principals at four elementary schools, named its new chief of police and recognized this year's class of National Board Certified Teachers.

### **Four elementary schools get new principals**

Cunningham Elementary, Kiker Elementary, Summitt Elementary and St. Elmo Elementary schools were appointed new principals by Austin ISD trustees at its meeting Monday. The actions were approved with the consent agenda.

Heather Petruzzini will serve as principal at Cunningham Elementary, located at 2200 Berkeley Ave., Austin. Petruzzini has been the assistant principal at Sunset Valley Elementary School since 2016 and has 14 years of experience, according to an AISD news release.



David Crissey, who has served as the assistant principal of Travis Early College High School since 2015, will take over as principal of Kiker Elementary School, located at 5913 La Crosse Ave., Austin. Crissey has also served as a principal and assistant principal at Santa Rosa County District Schools in Florida, according to the news release.

Kelly Friede will serve as principal of Summitt Elementary, located at 12207 Brigadoon Lane, Austin. Friede has served as assistant principal of Canyon Creek Elementary School in Round Rock ISD since 2014.

St. Elmo Elementary's new principal will be Ben McCormack, who has experience as AISD's elementary administrative supervisor in Area 2 and has previously served as assistant principal of Dobie Middle School. St. Elmo Elementary School is located at 600 W. St. Elmo Road, Austin.

## **Mendez Middle School T-STEM Coalition partnership approved**

The board voted to enter Mendez Middle School into a turnaround partnership with the University of Texas at Tyler's Texas STEM Coalition. The school faced potential closure due to years of poor accountability grades from the Texas Education Agency

Through Senate Bill 1882, the district can find a partnership entity that would have the authority to approve curriculum decisions, identify programs for sub-populations, approve the campus budget and set the school calendar, according to board documents. The goal of a partnership is to improve the school's performance.

At a board of trustees workshop April 9, AISD staff recommended the partnership. T-STEM Academies are schools "that focus on more rigorous science and math courses, with the intent to increase the number of students who enter those fields professionally when they enter the workforce," according to board documents from the workshop.



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## Board names a new police chief

Trustees approved naming Ashley Gonzalez as its next chief of police in the consent agenda. Gonzalez is expected to take his post May 24. [Learn more about the hiring here.](#)



Caption ↓

## Austin ISD votes on partner to help turaround Mendez Middle School

April 30, 2018

By [Melissa B. Taboada](#), American-Statesman Staff



Austin district board members tonight will vote on a partner they hope will help save Mendez Middle School, which is at risk of closure by the state for chronically failing to meet academic standards.

The school board will vote on a performance agreement with the Texas Science, Technology, Engineering and Math Coalition (T-STEM Coalition), which would operate as an in-district charter over the campus. The T-STEM Coalition would

work in partnership with the district, the University of Texas at Tyler, UT Austin's UTeach Institute, Communities in Schools of Central Texas, and Austin Interfaith.

Under a new state law, Senate Bill 1882, Mendez could get a two-year reprieve from state sanctions and more money per student if the district takes on a state-approved partner. The Texas Education Agency could determine whether it accepts the Austin district's partnership within 15 days of the district's submission.

If the new partner is approved, it would bring a separate governing board to Mendez, which would have authority to hire and to control the campus budget and curriculum.

Also on the school board's agenda tonight, trustees will vote on:

- Hiring a district police chief. The position has been vacant for nearly a year after former district Police Chief Eric Mendez took another job with the Cypress-Fairbanks school district, northwest of Houston.



### Summer date ideas in Austin to turn up the romance

- Appointing new principals for Cunningham, Kiker, St. Elmo and Summitt elementary schools.
- Approving a new, single pay structure for the district's police department intended for better market control and a career pathway, and offering stipends to recruit and retain more difficult to staff police positions, including bilingual, evening shift, and field training officers.

Local News

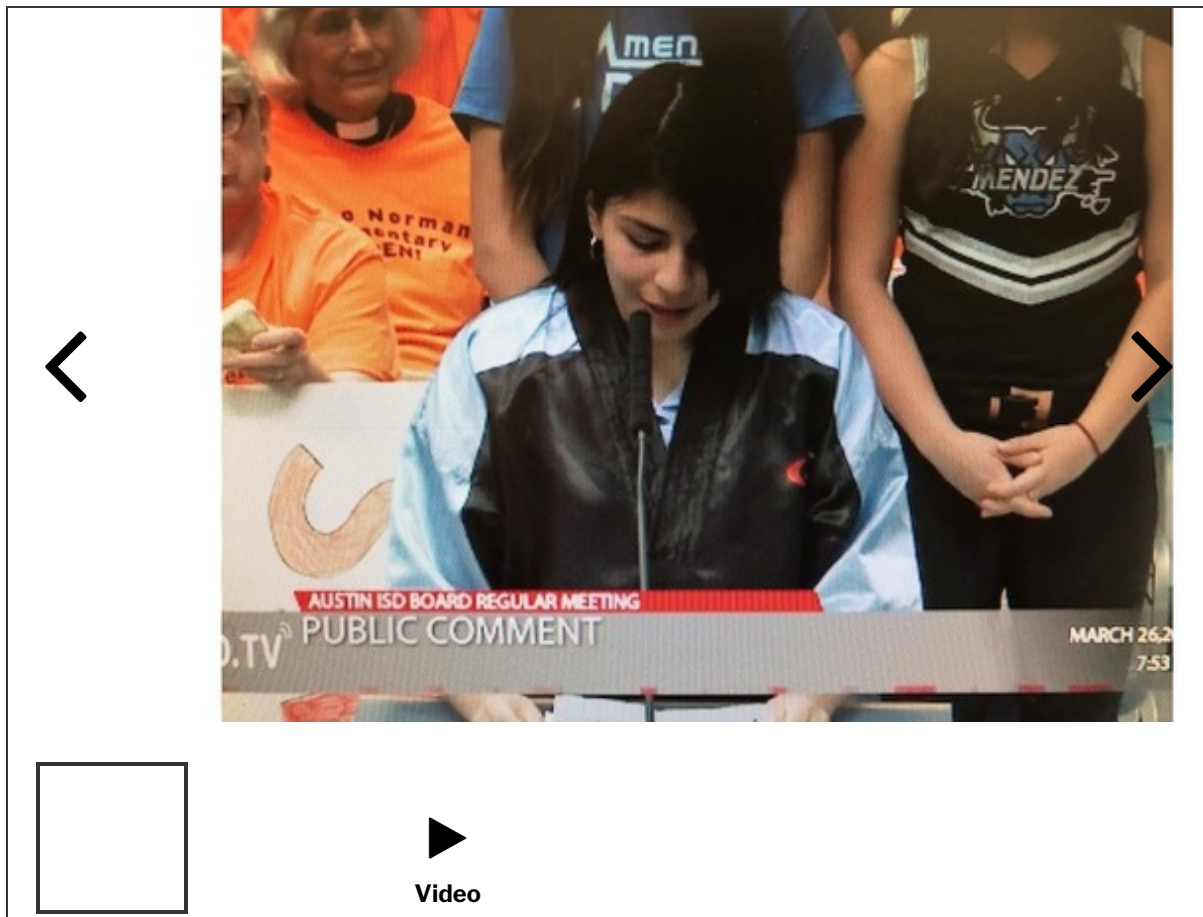
## Students and teachers fighting to keep Mendez Middle School open

**By:**

Erin Cargile (<https://www.kxan.com/meet-the-team/erin-cargile/882318406>)

✉ (<mailto:erin.cargile@kxan.com>)

Updated: Mar 28, 2018 11:05 PM CDT



AUSTIN (KXAN) - This week's Austin ISD school board meeting was full of passion, and even some tears as students, teachers and community members stood up to fight to keep the campus open.

The Texas Education Agency has Mendez Middle School on their radar after four consecutive years of not meeting the state's academic standards. If the southeast Austin campus fails again this school year, it could be closed.

"Mendez Middle School has helped me conquer my fears," a student told the board while holding back tears. "Mendez needs to stay because I am not the only champion in my community. Other kids need the same chances I had to show that we are not defeated — we are strong — so tonight, I stand up for Mendez!"

Austin City Council Member Delia Garza also showed up to the speak to the school board meeting, and told trustees it was the first time during her four years in office she has testified to a governing body.

"The families in southeast Austin have faced and continue to face so many obstacles to begin with, and then families in my district do not have the luxury to choose their neighborhood based on school performance — many are just living where they can afford to live," said Garza. "This community shouldn't face the additional fear of their neighborhood school closing, becoming segregated or less reflective of the community."

The district is in the process of putting together a turnaround plan which includes finding an outside entity to partner with who can help turn things around.

Austin ISD had to go back to the drawing board after receiving no applications in its recent request for proposals.

"These circumstances are a result of the annual statewide testing and it is our belief that one standardized test should not define a school," AISD said in a statement to KXAN. "With that in mind, AISD will work diligently with the Texas Education Agency as well as the school community to keep Mendez open."

Rene Hernandez has a seventh-grade son at Mendez and says he is feeling the added pressure of performing well on the STAAR exam, which plays a big role in a campus meeting state standards.

He has faith the state and district will make the right decisions.

"Hopefully, everything works out for the benefit of the students," said Hernandez.

### **The history of Austin ISD and school closures**

This is not the first time the district has been faced with a school closure, and had to overhaul campuses.



In 2008, the state closed Johnston High School in east Austin after it failed to make the cut for five years in a row. It reopened that fall as Eastside Memorial High School.

The state also closed Pearce Middle School in the summer of 2009. Austin ISD reopened the campus as two single-gender campuses: Bertha Sadler Means and Gus Garcia Middle School.

Leave a comment below:



**KXAN News**

about 4 months ago

This week's Austin ISD school board meeting was full of passion, and even some tears as students and teachers stood up to fight to keep their campus open.

[Erin Cargile KXAN](#) reports on the obstacles students are facing, tonight at 10.



## Students and teachers fighting to keep Mendez Middle School op

The district is in the process of putting together a turnaround plan which includes finding an...

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Austin

## State gives thumbs up to T-Stem Coalition taking over Mendez MS

**By:**

Erin Cargile (<https://www.kxan.com/meet-the-team/erin-cargile/882318406>)

✉ (<mailto:erin.cargile@kxan.com>)

Updated: Jul 10, 2018 10:18 AM CDT

**(Interactive Media Not Supported by Print)**



AUSTIN (KXAN) – The Texas Education Agency has given its blessing to Austin ISD's plan to avoid closure and improve academics at Mendez Middle School.

The struggling campus in southeast Austin will remain open and operate as an in-district charter in the fall.



The Texas STEM Coalition, Communities In Schools of Central Texas, and UT Austin's UTeach Institute are teaming up to run the campus of 700 students. The campus will be operated by a separate governing board which will have full control over staffing, the school budget and the curriculum.

The new director, Joanna Carrillo-Rowley, started moving into the old principal's office Monday. She came from Midland ISD where she's been a teacher, assistant principal and bilingual ESL director who has a proven track record of turning low performing schools around.

"It took us a lot of hard work and a lot of planning, and now that I'm here at Mendez it's an exciting thing to happen again," said Carrillo-Rowley. "It's very challenging. I love the challenge. There's a lot of hard work ahead of us."

Even though Monday was her first official day on the job, she's been on the campus for a month and has already gone through a three-week training with half of her teachers.

The rest will go through training in mid-July to get up to speed on the new project-based, hands-on lessons they'll be implementing in the classroom. She spends the first three hours on the first day laying out her mission.

"[I told them] number one keep your head up — don't quit trying. You can't keep going in the same direction. You've got to get out of that mindset that you are defeated," said Carrillo-Rowley.

She has also been busy calling parents who plan on moving their children to another middle school campus to try and talk them into staying. Many told her they thought the school was already closed.

"Kids disappeared. We want them back. We need them back," said Carrillo-Rowley. "This is their campus, this is their neighborhood — there's no reason for them not to come here."

She plans on taking teachers with her to go door-to-door later this month to talk to parents she was unable to reach by phone. Her own daughter will also be attending Mendez as a sixth grader.

"If I can't lead the teachers and the campus to be the best for my own child then I'm not doing my job," said Carrillo-Rowley.

This will be Austin ISD's third experience with an in-district charter model.

- [WATCH: Students and teachers fight to keep Mendez Middle School open](#)

The first attempt was a failed partnership with IDEA Public Schools. Austin ISD terminated the contract with the charter operator after the first school year amid criticism from groups about the implementation process, and families who fought the decision saying they were fearful they were losing their neighborhood school.

The only other current in-district charter in Austin ISD is at Travis Heights Elementary. The program is led by Austin Interfaith and Education Austin. Organizers had more than 90 percent of parents and employees sign a petition of support.

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- [\*\*Struggling southeast Austin middle school gets turnaround plan\*\*](#)
- [\*\*AIISD considering two 'partners' to help save Mendez Middle School\*\*](#)
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LOG IN

# A day in the life of an Austin teacher

## Mendez Middle School teacher balances long hours, varied tasks

METRO-STATE By [Kristin Finan](#) - American-Statesman Staff



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Juan Haney is a seventh-grade teacher at Mendez Middle School in Southeast Austin. He was recently voted Teacher of the Year for the campus. RALPH BARRERA / AMERICAN-STATESMAN

Posted: 4:57 p.m. Tuesday, May 29, 2018

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### Highlights

Wednesday is the last day of the school year for Austin school district students.

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For the staff at Mendez Middle School, the happy anticipation of summer is tinged with uncertainty.

It's 7:30 a.m., and Juan Haney is preparing to welcome students into his classroom at Mendez Middle School in Southeast Austin.

This workday, like many of Haney's, will stretch for nearly 12 hours. In addition to teaching six periods of seventh-grade science, Haney will complete a smorgasbord of other tasks that include participating in a conference for a student in need of therapy services, stepping in when someone accidentally sets off the fire alarm, standing watch over the cafeteria to ensure a food fight doesn't break out, and creating a spreadsheet for a field trip to Blazer Tag, which he is in charge of planning.

"It is a lot, but you just do it," says Haney, who is in his fourth year of teaching at the 700-student middle school. "You're constantly just going and going. You get in the flow of things."



Juan Haney is a seventh grade teacher at Mendez Middle School in southeast Austin where he teaches science. RALPH BARRERA / ... [Read More](#)

Wednesday is the last day of school for Austin school district students. But for Mendez's staff, the anticipation of summer is tinged with uncertainty. After being at risk of closure by the state for failing to meet academic standards for four consecutive years, Mendez is expected to gain new partners — the Texas STEM Coalition — that will operate the school come fall, pending Texas Education Agency approval.

**RELATED: Austin ISD board approves T-STEM Coalition to help save Mendez Middle**

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## *Related*



PHOTOS: Juan Haney, Mendez Middle School teacher

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The American-Statesman spent a day last week shadowing Haney to look at the unique challenges facing the chronically struggling campus, where 90 percent of students are considered economically disadvantaged and 45 percent are English language learners.

When the first batch of students enters Haney's Room 103 in the morning, most stop to grab a carton of orange juice or cereal from the cooler by the door. Because a high percentage of the student body qualifies for free or reduced-price meals, free breakfast is made available to everyone both in the cafeteria and in classrooms.

One student enters the room and flips through Haney's copy of the just-released and coveted school yearbook, titled "In Our World."

"We're looking at pictures, sir," the student says. "Look at Mr. Haney!"

"Y'all can look at that later," Haney replies, turning his attention to the worksheet about organelles, the structures within a living cell, that he's just distributed.

"When we're finished, we can read that."



Juan Haney, a seventh grade teacher at Mendez Middle School in southeast Austin, eats his lunch in the teachers lounge. RALPH ... [Read More](#)

Scanning the yearbook, it's easy to see that Haney, 28, has a significant presence on campus. On one page he's scoring during the annual student-teacher basketball game, and on another he's sporting a curly wig for '80s day. Toward the back of the book, there's a whole page honoring him as 2017-18 Teacher of the Year.

"He's my best teacher. He's cool," says 14-year-old Aniyah Dukes. "He's always there when I'm sad."

"He's funny. He's goofy," adds her friend, Maria Tejada, 14. "He's always there for people."

By setting high expectations in the classroom but not being afraid to crack a joke or use the occasional accent, Haney has, for some students, become a rock at a school where teacher turnover can be high and student home lives can be complicated.

"There's kids here with great parents, kids here with good home environments, but there are definitely also kids who face struggles," Haney said. "When you

have issues that even adults would have difficulty dealing with — when you're a child and you're taking care of two, three, four younger siblings — it's hard to come to school and focus and care about what are the organelles in a cell. They're trying to figure out how they're getting home. They don't care about that."

Haney is from Round Rock. He graduated from Round Rock High School, where he played basketball, and earned his bachelor's in political science at Texas State University in San Marcos. He initially commuted from Round Rock to Mendez, but the hourlong drive and the sometimes 12-hour days in the classroom became too much. Now, Haney, who enjoys going to the gym and playing guitar in his free time, lives in an apartment near the school.

He said his fellow teachers work just as hard and care just as much as he does, noting times when the staff has pooled money to help students with things like medical bills or martial arts classes.

"You always hear that teachers don't make a lot of money, but what teachers do make, they give it back to these kids," Haney said. "Educators work hard and care about kids. They really do, especially here, in these schools and in this community. It's not the easiest place to work, so when people come here and they're dedicated and they put in the time, it's because they really care and they're here for these kids."

That said, there are limitations, and frustrations, that come along with being an underperforming school.

"You may get a kid and he's coming to you with a third-grade reading level. Let's say you push that kid up to a fifth-grade reading level. That's impressive, but if he's taking a seventh-grade test, he's still not on grade level," said Haney, who is also part of the Mendez PTA and Campus Advisory Council. "The biggest hurdle we have is that a lot of the kids come here at an extremely low level and you're trying to bring them up."





Juan Haney is a seventh grade teacher at Mendez Middle School in southeast Austin. After a quick break to eat his ... [Read More](#)

The planned partnership with Texas STEM Coalition is possible because of Senate Bill 1882, which passed in spring 2017. It allows school districts to choose a partner to work with a chronically struggling campus to keep it from closure and stave off other state consequences. The Austin school board approved the partnership this spring and is awaiting final approval from the Texas Education Agency. It's unclear what will happen with Mendez's faculty under the partnership.

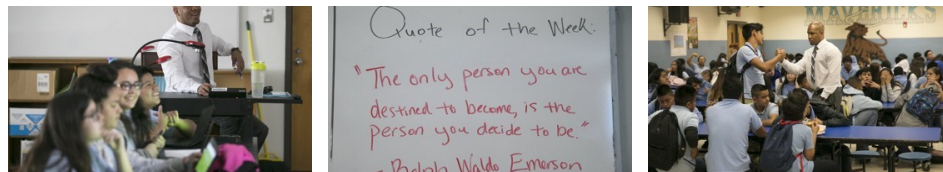
Once Haney's students have completed their worksheets and finished a quiz, they go outside to get some fresh air near the school's front entrance, where cheerleaders and the school mascot, the Mendez Maverick, greet busloads of fifth-graders visiting from Widen and Rodriguez elementary schools.

Next year, those students will be Mendez Mavericks. The year after that, if all goes according to plan, many of them will have Haney for seventh-grade science.



But you won't find Haney lounging by the pool once the last bell of the school year chimes. He's getting his master's from Concordia University Texas in education administration — he'd like to be a principal one day — and he'll also teach summer school at Mendez.

"I don't want to get rusty," he says, laughing.



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## About the Author



**KRISTIN FINAN** Kristin Finan is the travel editor at the Austin American-Statesman.



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# Texas Education Agency gives AISD another chance to save Mendez Middle

METRO-STATE By [Melissa B. Taboada](#) - American-Statesman Staff



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The state approved a new partner to help turn around Mendez Middle School. JAY JANNER / AMERICAN-STATESMAN

Posted: 12:10 p.m. Monday, July 09, 2018

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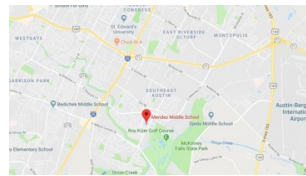
After being at risk of closure for **failing to meet academic standards** for four consecutive years, Mendez Middle School will get a new shot at a turn around.

The Texas Education Agency has approved the Austin school **district's choice in a partner** to help save the 700-student middle school in Southeast Austin, which could have faced state sanctions if it failed again this year.

Instead, the approved partnership with the Texas Science, Technology, Engineering and Math Coalition (T-STEM) gives the school a **two-year reprieve from state sanctions** and more money per student.

The coalition will operate as an in-district charter over the campus and will act as a partner with the district, UT Austin's UTeach Institute and Communities in Schools of Central Texas. T-STEM also will operate with a separate governing board to Mendez and has authority over staff, the school budget and curriculum.

Had the agency not approved the partnership, the state could have closed the campus or could have taken over the 81,650-student district.



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## ***About the Author***



**MELISSA B. TABOADA** Melissa  
B. Taboada writes about K-12  
public education for the Austin  
American-Statesman.



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# Austin trustees have choice of 2 partners to save Mendez Middle School



## *Highlights*

Two nonprofits active in Austin schools that have stepped forward to help turn around Mendez Middle School.

Austin Voices for Education and Youth and Communities in Schools have provided resources to AISD for years.

Austin school district trustees Monday will weigh two proposals from two nonprofits active in local schools that have stepped forward to [help turn around](#) Mendez Middle School, at risk of closure by the state for chronically failing to meet academic standards.

[Austin Voices for Education and Youth](#), led by Executive Director Allen Weeks, and [Communities in Schools](#) of Central Texas, led by CEO Suki Steinhauser, both have submitted proposals to boost student achievement at Mendez. Both groups have spent years offering support to Austin district schools and building relationships with students and their families, and have formed partnerships with academic consultants that have successfully turned around failing schools.



Austin Voices will work with Baltimore-based Talent Development Secondary, which [helped turn around](#) Eastside Memorial High School. Austin Voices has helped connect students to health and social services, bring in after-school programs and establish family resource centers and youth leadership programs.

“We really respect the community here,” Weeks said Thursday night in a presentation to parents and teachers at the Southeast Austin school. “We know there’s a history. There are a lot of people invested in this school, and we’re humbled to be able to come beside you and work with you.”

**RELATED: [A passing grade for Eastside Memorial? Early returns give hope](#)**

Communities in Schools will work with the University of Texas-Tyler’s Texas STEM Academy, which has had success improving struggling campuses, and UT-Austin’s UTeach Institute, which will help train the teachers. Community in Schools has provided students with counseling and support groups, tutoring and mentoring and other enrichment programs.

The Texas STEM program is project-based, hands-on learning for every subject, said Yanira Oliveras-Ortiz, of UT-Tyler’s Innovation Academy. “Our goal coming to Mendez really is to make Mendez the school where the kids from this community, Dove Springs, want to come here.”

Mendez eighth-grade science teacher Blair Hanner said either group would work well with the school and involve the community to come up with the best plan for the kids. But Hanner said he was concerned that neither had strong plans for handling student discipline.

He said efforts to put restorative justice – which shifts the focus away from punishment toward mediation and agreement and learning from mistakes – has not been done with fidelity at the school.

“Austin Voices and CIS both have strong ties to our community,” said Hanner, who has taught at Mendez for three years. “I have a lot of faith in whichever partner gets chosen to listen to what teachers have to say and take up input from not only teachers and staff, but community members, parents and students alike, and together we can come up with what’s really best for these kids.”



Administrators at a school board meeting Monday night will forward the recommendations of a committee formed to help [choose the partner](#). The committee provided their scores to administrators Friday, but the choice was not immediately made public.

Trustees are slated to vote on a partner April 30, the deadline to submit the selection to the state.

If approved by the state, Mendez would operate as an in-district charter school, using district resources to provide transportation and lunch, but having a separate governing board.

The 700-student middle school has [not met academic standards](#) for four consecutive years and could be closed by the state if it fails again this year. The Texas Education Agency also could appoint a board of managers to govern the entire [81,900-student Austin school district](#) if the campus again doesn't meet standards.

But under a new state law, Senate Bill 1882, Mendez could get a two-year reprieve from state sanctions and more money per student if the district partners with a state-approved partner. The Texas Education Agency could determine whether it accepts the chosen partner within 15 days of the district's submission.

Austin Voice's proposal includes curriculum, coaching and professional development in reading, writing and math; the use of an early warning system to monitor attendance, behavior and student performance; extended instructional time and extended school day; and an enhanced before- and after-school program, among other things.

Communities in Schools' proposal includes transforming the campus into a Texas STEM Academy, a turnaround model promoted by TEA in the past 10 years. The program, similar to an [early college high school model](#), will offer project-based learning, the engineering Project Lead the Way for middle school and will promote instruction in critical thinking.

The proposal resonated with parent Evelia Rodriguez, who listened to the dozen presenters from the Communities in Schools group. "I like the STEM program and feel like they'll be better prepared to go to high school and get the skills to go to college," Rodriguez said. "They want to make the school a better place."

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Caption ↓

## Two potential partners offer help to save Austin's Mendez Middle School

April 05, 2018

By [Melissa B. Taboada](#), American-Statesman Staff



Two potential partners have stepped forward to help turnaround the Austin district's Mendez Middle School, which is at risk of closure by state education officials.

Austin Voices for Education and Youth, led by executive director Allen Weeks, and Communities in Schools of Central Texas, led by chief executive officer Suki Steinhauser, both have submitted proposals to boost student achievement at the

chronically failing campus. Both groups have spent years offering support to Austin district schools.

Austin Voices proposes working with Baltimore-based Talent Development Secondary, which has worked to improve historically struggling secondary schools, and was the chosen partner to help turnaround Eastside Memorial High School.

Communities in Schools proposes working with UT-Tyler's Texas STEM (science technology engineering math) Coalition and UTeach Institute.

"I believe the community has been provided two great options that provide the community and students strong supports, wraparound services and parent engagement opportunities along with really rigorous academic programming," said Jacob Reach, the district's chief of staff. "I'm excited for both options but I need to hear the feedback from the committee members."

The two groups will present their proposals to the school community at 5:30 p.m. tonight in the cafeteria at Mendez, 5106 Village Square.



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Austin Voice's 41-page proposal obtained by the American-Statesman includes curriculum, coaching and professional development in reading, writing and math; the use of an early warning system to monitor attendance, behavior and student

**Exhibit H:**  
**AISD Letter with Details of**  
**Turnaround Plan**



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Office of the Superintendent

July 16, 2018

Mr. Tim Irvine, Executive Director  
TX Dept. of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: Mendez Middle School – Progress on Improvement Plan

Dear Mr. Irvine,

The purpose of this letter is to provide additional information regarding efforts currently underway to improve the Texas Education Agency (TEA) Accountability Ratings for Mendez Middle School, which has been rated as Improvement Requirement since 2014. Austin Independent School District (AISD) has been made aware of the major rehabilitation of Eastern Oaks Apartments located at 4922 Nuckols Crossing Drive by the Housing Authority of Travis County. We are confident that the community's broadly supported and forward-thinking plan to turn around Mendez Middle School will prove highly-effective at meeting TEA accountability benchmarks with students living at Eastern Oaks Apartments being active beneficiaries of that positive change while the development is underway.

Mendez Middle School will operate as an in-district charter come August 1, 2018 enabled by Senate Bill 1882 which gives AISD the authority to choose a partner to assist in the school's turnaround. Senate Bill 1882, enacted in 2017, encourages school districts to enter into partnerships with charter-school operators that will promote access to great schools for all students. The newly enacted bill also provides a two-year reprieve from any state accountability ratings as well as an increased funding rate per student and additional grant funding opportunities to assist with the transformation.

The community and board of AISD chose the Texas Science, Technology, Engineering and Math Coalition (T-STEM Coalition) – a partnership of AISD, University of Texas at Tyler, UT Austin's UTeach Institute, and Communities in Schools of Central Texas - to run the campus. On July 10<sup>th</sup>, the Texas Education Agency approved Texas STEM Coalition as the turnaround partner for Mendez Middle School giving staff and administration the green light to prep for the 2018-2019 school year. Mendez Middle School will be operated by a separate governing board which will have full control over staffing, the school budget and the curriculum.

### **About the Mendez Middle School Partners**

**Texas T-STEM:** The Texas STEM Coalition, a 501c3 non-profit, was established by the T-STEM Centers that were designated by the Texas Education Agency to support T-STEM Academies across Texas. The Texas STEM Coalition work with T-STEM Academies as well as all Texas schools to transform teaching and learning methods, improve achievement in STEM education, and ensure all students are college-ready, career-ready, and life-ready. **UTeach Institute:** The UTeach mission is to increase the number, diversity, and academic achievement of students pursuing STEM disciplines and careers. UTeach is well known as a highly successful secondary STEM teacher preparation program, begun at UT Austin in 1997 and currently operating at 45 universities nationwide. The UTeach Institute was created 11 years ago to expand the UTeach program nationwide and serves as the hub of this national network of UTeach programs. As a result of this work, the Institute has developed a comprehensive approach to the development, implementation, evaluation, and scaling of educational programs. UTeach brings decades of experience in effective STEM teaching and learning, including: teacher development; effective STEM instructional design and curriculum development; STEM programming for K–12 students; assessing STEM teaching and learning; educational program design, implementation, and support; development of professional learning and networked improvement communities; sophisticated educational data analysis; and program evaluation.

**Communities in Schools of Central Texas:** CIS currently provides the full CIS model at 66 schools in six school districts, 43 of which are in Austin ISD (including Mendez). CIS has a long history with Austin ISD which is characterized by trusting relationships, active supports for students and faculty, and measurement of impact through pre-and post-data on student academics, behavior, and attendance as well as promotion of graduations. CIS is considered among the best in the country in delivering student supports, integrated into the school environment so that all children may learn at their potential.

### **About the Partner Staff**

The Governing Board for the Texas T-STEM Coalition at Mendez Middle School will include two members that have launched and operated charter schools, as well as members of both CIS and UTeach, and several community and parent partners to be named. The proposed Executive Director, Dr. David Simmons, is a veteran school leader with 36 years of experience as a teacher, principal, assistant superintendent and superintendent for five Texas school districts including Presidio ISD, Wimberly ISD, Texas City ISD, Tyler ISD and Richardson ISD. During his tenure as superintendent, each of the five school districts increased their accountability ratings and reduced the number of low performing campuses while increasing the number of high performing campuses.

The individuals, organization and resources represented by the Texas T-STEM Coalition are a powerful compass pointing in the direction of a positive future for Mendez Middle School. They are able to pull on best practices in similar turnarounds to put Mendez Middle School on a path to



success. Please see attached resumes for all referenced individuals as well as a list of past clients for Texas T-STEM Coalition and references.

### **Texas T-STEM Approach and Efforts to Increase Key Factors**

The intention of the Texas T-STEM Coalition is to transition Mendez Middle School to a high-performing Texas STEM academy and become a demonstration site for future programs. The T-STEM Academy is one of several turnaround models promoted by TEA over the past decade. The T-STEM program is focused on developing college- and career-ready students. The transition to a T-STEM Academy goes beyond trying to “Meet Standard.” Too often turnaround programs solely focus on increasing test results in a reactive manner with focus on attendance, tutoring, and test preparation. T-STEM programs build teacher and student capacity to become self-led learners and productive team members. The goal of the STEM Academy model is to prepare students in STEM at a deeper level, as well as prepare them in the traditional core subjects, to maximize their future learning and earning opportunities. This model also builds a school learning culture that mirrors the workplace to build the student’s 21<sup>st</sup> century skills including collaboration, communication, creativity and critical thinking all in sharp contrast on the singular task of test preparation.

In addition, another huge advantage of using the T-STEM model at Mendez is its alignment with Travis High School and Akins High School – two high schools that Mendez students will attend that both include T-STEM Academies providing a seamless advancement toward future academic success.

Mendez Middle School has missed meeting TEA Standard by two points in Indexes 2, 3 and 4. The gap is much higher in Index 1. The Texas T-STEM Coalition strategy is to focus on Index 2 (Student Growth) which is believed to bring up Index 3 and 4, as well, allowing Mendez to meet TEA Standard. A targeted plan will be developed for each individual student and teacher based on benchmark data, previous STAAR scores, and classroom student artifacts. This plan will be developed once new data is released mid-August 2018.

Communities in Schools will play a major role in supporting the Texas T-STEM Coalition’s progress by being the service provider for students and families. Students served by CIS report improved relationships with adults and peers, improved engagement with their schools, and a belief that education has value for their futures – all important outcomes linked to future success. High-impact initiatives sponsored by CIS that plan on being implemented at Mendez include partnerships to restructure relationships among staff, parents, and community in order to build a more relational culture as well as prime time after school and summer youth employment programs.

Texas T-STEM Coalition will measure success based on the following metrics:

- Success as measured by TEA Accountability Performance
- Percent of Students meeting TSI at the end of 8<sup>th</sup> Grade
- Percent of Students who achieve “meets” or “masters” on accountability

- Student Engagement (attendance, referral rates, etc.)
- Students enrolled in Algebra and other high school courses in 8<sup>th</sup> Grade
- Enrollment and retention
- Student-led climate survey and or focus groups
- Growth of student population

### **Indicators of Program Success**


AISD feels assured that the Texas T-STEM partnership at Mendez Middle School will result in an improved academic program that will benefit students living at Eastern Oaks Apartments. Indicators of success of the program include:

- Veteran staff with a resume of successes in transformed schools similar to Mendez Middle School in demographics and challenges.
- A program that builds upon learning anchors already in place at Mendez Middle School including Project Lead the Way (PLTW), a STEM program, as well as the STEM programming in place at both feeder high schools.
- A community partner – Communities in Schools – that is immersed in the surrounding neighborhood that will understand the unique needs of Mendez and be able to view the academic experience through an inclusive lens.
- The school already has a very involved PTA, as well as an active neighborhood that is invested in the success of Mendez Middle School and its importance as the singular middle school in operation by AISD in Southeast Austin east of I-35.

AISD is supportive of the Housing Authority of Travis County's goal of rehabilitating Eastern Oaks Apartments into high-quality affordable housing within the attendance zone of Mendez Middle School and we respectfully request a finding of eligibility for the development site by TDHCA.

Please feel free to contact me with any questions.

Sincerely,

DocuSigned by:  
  
5445EF851512468  
Paul Cruz, Ph.D.  
Superintendent

PC/mw/agp



3820 Brighton Creek Circle

Tyler, Texas 75707

903-780-8323 (cell)

[dsimmons816@gmail.com](mailto:dsimmons816@gmail.com)

## David E. Simmons, Ph.D.

### Experience

**August, 2016-Present**                      **Martinsville ISD**    **Martinsville, Texas**  
**Interim Superintendent (385 Students)**

- Responsible for managing district finances
- Responsible for organizing and conducting monthly board meetings
- Responsible for monitoring district personnel and assisting in personnel decisions
- Serve as a support for campus administrators
- Serve as the district athletic director
- Assist in developing school and community relationships

**August, 2015-Present**                      **Professional Service Provider (PSP)**    **Texas**

- Serve as a liaison between the Texas Center for District and School Support (TCDSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**August, 2015-Present**                      **Texas Education Agency (TEA) Monitor/Conservator**                      **Texas**

- Coordinate with the regional Education Service Center to develop improvement plans and strategies
- Report the district's progress to the appropriate divisions
- Advise the Commissioner on any additional sanctions for consideration
- Draft preliminary quarterly reports detailing activities during the reporting period, the findings, progress on the LEA's corrective action plans, and any recommendations to the agency for further actions

**March, 2011 – May, 2015    Louisiana Department of Education    Baton Rouge, LA**  
**Deputy Network Leader**

- Responsible for supporting 13 school districts in NW Louisiana to improve student achievement
- Responsible for serving as the primary contact person for school district superintendents in NW Louisiana with the Louisiana Department of Education in Baton Rouge
- Responsible for assisting districts with the implementation of multiple educational reforms including increased student learning standards and a new performance based evaluation system for teachers and administrators

**May, 2011 – August, 2013    Texas A&M-Textarkana    Textarkana, Texas**  
**Adjunct Professor**

- Responsible for teaching education leadership classes

**Retired under Teacher Retirement System of Texas in November, 2010 at age 51.**

**February, 2010-October, 2010    Houston I.S.D.    Houston, Texas**  
**Chief School Officer of High Schools**

- Responsible for the leadership and support of 46 high schools serving 75,000 students.
- Responsible for closing achievement gaps within all student populations.

**January, 2007-August 2009    Richardson I.S.D.    Richardson, Texas**  
**Superintendent (35,000 Students)**

- Maintained TEA Recognized status for 3 consecutive years. Largest and most diverse district in Texas to accomplish this goal
- RISD selected as outstanding school district in Texas by HEB corporation in 2007

- Increased the number of exemplary campuses and recognized campuses each year
- Expanded career and technology programs

**August, 2002-December 2006**                      **Tyler I.S.D.**                      **Tyler, Texas**  
**Superintendent (18,000 Students)**

- Improved relations with community and civic organization including Smith County Association of Taxpayers, the City of Tyler, and Tyler Area Chamber of Commerce
- Restructured central administration to improve efficiency and increase accountability
- Posted consistent gains in student achievement as measure by TAKS
- Tyler ISD Board of Trustees Selected as Outstanding School Board Of The Year in 2006
- Worked with the TISD Board and community groups for successful passage for a \$96 million school construction bond

**August, 1999-August 2002**                      **Texas City ISD**                      **Texas, City TX**  
**Superintendent (6,000 Students)**

- Raised district accountability rating from Academically Acceptable to Recognized
- Implemented cost-reduction program to remedy problems incumbent to Chapter 41 school districts

**January, 1997 – August, 1999**                      **Wimberley I.S.D.**                      **Wimberley, TX**  
**Superintendent (1,800 Students)**

- Raised district accountability rating from Recognized to Exemplary
- Actively participated in all phased of the state comptroller's Texas School Performance Review
- Developed re-organization plan to increase effectiveness of expenditures by directing funding toward instruction

**October, 1995 – January, 1997**                      **Presidio I.S.D.**                      **Presidio, TX**  
**Superintendent (1,500 Students)**

- Raised district accountability rating from Academically Unacceptable to Academically Acceptable

<b>1994-1995</b>	<b>Monahans-Wickett-Pyote I.S.D.</b>	<b>Monahans, TX</b>
<b>Assistant Superintendent</b>		
<b>1993-1994</b>	<b>Jacksonville I.S.D.</b>	<b>Jacksonville, TX</b>
<b>High School Principal</b>		
<b>1992-1993</b>	<b>Region VII Education Service Center</b>	<b>Kilgore, TX</b>
<b>Field Service Agent</b>		
<b>1990-1992</b>	<b>Martinsville I.S.D.</b>	<b>Martinsville, TX</b>
<b>Principal K-12</b>		
<b>1987-1989</b>	<b>Pleasant Grove I.S.D.</b>	<b>Texarkana, TX</b>
<b>High School Teacher/Coach</b>		
<b>1985-1987</b>	<b>Gary I.S.D.</b>	<b>Gary, TX</b>
<b>Elementary and High School Teacher/Coach</b>		
<b>1982-1985</b>	<b>Deer Park I.S.D.</b>	<b>Deer Park, TX</b>
<b>Middle School Teacher/Coach</b>		

### **Education**

August, 2001	Texas A & M University	College Station, TX
	<ul style="list-style-type: none"> <li>▪ Doctor of Philosophy in Educational Administration</li> <li>▪ Dissertation: <i>The Effectiveness of Wealth Recapture Legislation on Achieving Financial Equity Among the Public School Districts in Texas</i></li> </ul>	
May, 1987	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Master of Education</li> <li>▪ Major: Educational Administration</li> <li>▪ Mid-Management Certification</li> <li>▪ Superintendence Certification</li> </ul>	
May, 1982	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Bachelor of Science</li> </ul>	

**Trainings**

Teacher Evaluation Support System T-TESS

Annual Board Governance Training

**Affiliations**

Texas Association of School Administrators

American Association of School Administrators

Board of Directors of the Equity Center

Texas School Alliance

**Civic & Community**

Member Green Acres Baptist Church Tyler, Texas

**Suki Steinhauser**

4003 Rosedale Ave.

Austin, Texas 78756

(512) 619-4683

**EDUCATION**

**The University of Texas at Austin  
Austin, Texas**

Master of Business Administration, 1990. Coursework in all areas of this Generalist M.B.A. program

**Syracuse University Syracuse,  
New York**

Bachelor of Arts, 1982. Magna cum laude. Major: International Relations and South Asian Studies. Phi Beta Kappa. Vice President of Student Government Association.

**EXPERIENCE**

**Communities In Schools of Central Texas  
Austin, Texas**

*Chief Executive Officer*

Overall leadership of sustainable growth and consistent high quality for local affiliate of a national non-profit dedicated to helping kids succeed in school. February 2006 to present.

- Set goals for the organization and impart vision to the staff and community.
- Stewardship of \$9.3 million in revenues to carry out programs on 66 public school campuses.
- Support volunteer board to set vision and policy and raise funds to best meet the mission.
- Build agency profile in the community and advance the cause of keeping kids in school.
- Supervise multiple department heads – operations, resource development, communications - ensuring excellence
- Consistently build quality of program services through oversight of evaluation and management of staff.
- Raise funds from private sources including corporations, foundations and individuals.
- Maintain relationships with funding and program partners in school districts, multiple public entities, and the state and national offices of Communities In Schools.
- Ensure ethical relationships and actions at all levels of organization.

*Director of Projects*

Responsible for the coordination and management of 20 special projects that prepare at-risk students for success. Major projects included AmeriCorps program, providing tutoring, mentoring and service learning projects within the schools; the XY-Zone, a positive fraternity for 300 young men on their journey to manhood; case management and after-school programming for students residing in public housing. Worked in partnership with the Executive Director and Management Council. February 1998–February 2006.

- Managed projects to secure resources, oversee service delivery, and ensure contract compliance.
- Managed complex budgeting in competitive funding environment.
- Evaluated, supervised and supported personnel on special projects.
- Developed and maintained relationships with businesses, local and state government representatives and other nonprofit organizations.
- Overall responsibility for one hundred staff members.

*Even Start Coordinator*

Responsible for coordinating a team which delivered the ASPIRE Even Start Family Literacy Program, including parenting education, early childhood education, and adult education, for three elementary schools. Expanded HIPPO school-readiness program from one to nine elementary schools. October 1994-February 1998.

- Coordinated Even Start contract planning and implementation and coordinated team of thirty staff.
- Managed \$450,000 Even Start and HIPPO budgets.
- Collaborated with multiple community partners.
- Implemented research and evaluation tools.

**Texas****Development****Institute  
Austin****n, Texas***Director of Administration*

Responsible for development of administrative and financial systems, ongoing personnel management and fundraising coordination for this not-for-profit focused on community economic development. October 1992 - May 1994.

- Supervised administrative staff; recruited and supervised university student interns.
- Wrote chapters on risk and financial management for TDHCA's non-profit organization operating manual.
- Planned and coordinated seminars and conferences.
- Developed project, program, and consolidated budgets.
- Developed chart of accounts for complex fund accounting requirements.

**Peterson****&****Associates  
Austin****n, Texas***Staff Consultant*

Developed and implemented strategic planning and team building sessions for Boards of not-for-profits. Managed recruitment process, jointly facilitated, analyzed and reported findings of multiple focus groups for the Texas Commissioner of Health and Human Services. June 1991-1992.

**Austin Habitat for Humanity  
Austin**

**n, Texas**

*President of the Board of Directors*

Head of policy making body overseeing \$440,000 annual budget for affordable housing program. Also, Chair of Land Acquisition Committee, Board Vice President and Secretary. 1986-1994.

**American Institute for Learning  
Austin**

**n, Texas**

*Fiscal Manager*

Maintained AP, voucher and record systems. Computerized and prepared payroll for 120 employees. 1986-1988.

**U.S. Peace Corps  
Swazilan**

**d, Africa**

*Secondary School Mathematics Instructor*

Taught mathematics to 7<sup>th</sup> and 8<sup>th</sup> graders. Established, raised funds for and staffed school library. Conceived and scheduled work team system for 240 laborers who built ferro-cement water storage facility. 1982-1986.

**OTHER  
ACTIVITIES**

**Former:** Public school volunteer 1993 to present. Hosted exchange student 2004-2005. Co-Chair Public Policy Committee and President One Voice Central Texas social services advocacy group, Communities In Schools' Best of Texas Executive Director of the Year 2011. Board member of Basic Transportation Needs Fund, Member of Seedling Foundation Advisory Council, Graduate of Leadership Austin Essential Class of 2007. Member Mentoring Advisory Committee to Joint Subcommittee AISD/City of Austin/Travis County 2015-2017.

**Current:** Volunteer mentor with Communities In Schools, Executive Committee member of CIS of Texas E.D. Association, Trained in Beyond Diversity, CIS' Racial Equity framework. Member of Early Childhood Results Count – Mental Health workgroup, Member of ACC's Truth, Racial Healing and Transformation Center Steering Committee. 2017 Winner of the Greater Austin Business Leadership Award (mid-size company).



Texas T-STEM Coalition List of Past Clients
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**E. Past clients**

SB 1882 is a new program. Turnaround programs in the past did not require a school takeover

<b>Client</b>	<b>Provider</b>	<b>Service</b>	<b>Outcome</b>
<b>Tyler ISD</b> Jones Elementary Ramey Elementary Bonner Elementary	J. Simmons	Professional Service Provider(PSP)	Schools Improved to "Met Standard"
<b>Tyler ISD</b> Boulter MS	Ingenuity Center	TTIPS	School Improved to "Met Standard"
<b>Laneville ISD</b> Laneville HS	J. Simmons D. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Mt. Enterprise ISD</b> Mt. Enterprise Elementary	J. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Marshall ISD</b> Crockett Elementary G.W. Carver Elementary J. H. Moore Elementary Robert E. Lee Elementary	J. Simmons	Professional Service Provider(PSP)	Schools Improved to "Met Standard"
<b>Ft. Worth ISD</b> Stripling MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Bullard ISD</b> Bullard Intermediate	J. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Eustace ISD</b> Eustace HS Eustace MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Greenville ISD</b> Greenville HS Greenville MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Innovation Academy</b> Longview IA Palestine IA Tyler IA	J. Simmons, Ingenuity Center	Superintendent	Schools Improved to "Met Standard"
<b>Pineywoods Community Academy</b> Pineywoods Community Academy High School	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
Timpson Independent School District	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
<b>Nacogdoches Independent School District</b> Thomas J Rusk Academy of Fine Arts Emeline Carpenter Academy of Technology and Science Fredonia Elementary School McMichael Middle School	D. Simmons	Professional Service Provider	Schools Improved to "Met Standard"
<b>Union Hill Independent School District</b> Union Hill Elementary School	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
<b>Etoile Independent School District</b> Etoile School K-8	D. Simmons	Professional Service Provider	2018 STAAR Data Pending
<b>Cumberland Charter School District</b>	D. Simmons	TEA Monitor	Improved, Released from Sanctions
<b>Sam Houston State University Charter School</b>	J. Simmons	Charter School Mentor	
<b>Trivium Academy Charter</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending
<b>The Lawson Academy Charter</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending
<b>Trinity Environmental Academy</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending

Texas T-STEM Coalition List of References
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**f. References**

<b>Name</b>	<b>Organization</b>	<b>Email</b>
Communities in Schools		
John Fitzpatrick	Educate Texas	<a href="mailto:jfitz@cftexas.org">jfitz@cftexas.org</a>
Virginia Potter, Program Officer	Michael & Susan Dell Foundation	<a href="mailto:Virginia.potter@msdf.org">Virginia.potter@msdf.org</a>
Betsy Abell, Foundation Executive	Buena Vista Foundation, Initiator of Social Emotional Learning program of Austin ISD	<a href="mailto:bgabell@aol.com">bgabell@aol.com</a>
Lucio Calzada, CIST board member	Hays CISD, Mentoring Director, Texas Association of Latino Administrators and Superintendents (TALAS)	<a href="mailto:Lucio.calzada@hayscisd.net">Lucio.calzada@hayscisd.net</a>
Dave Holody, CIST board Treasurer	Internal Audit, AMD Finance Committee United Way for Greater Austin	<a href="mailto:David.holody@amd.com">David.holody@amd.com</a>
Mark Williams, CIST board member	Accountant, former AISD President board of trustees, current trustee Austin Community College	<a href="mailto:Mark.williams@austincc.org">Mark.williams@austincc.org</a>
Ingenuity Center		
Dr. Carol Fletcher	UT Austin Center for STEM Education (Pflugerville School Board Member)	P: 512-471-7354
John Fitzpatrick	Educate Texas	<a href="mailto:jfitz@cftexas.org">jfitz@cftexas.org</a>
Reo Pruitt	Educate Texas	P: 214-750-4222
David Simmons References		
Dr. Mike Moses	School Executive Consulting 500 North Central Expressway, Suite 175 Plano, Texas 75074	214-859-9372
The Honorable Kevin Eltife (Former) State Senator District	Tyler, Texas	903-596-9122
Jo Ann Simmons References		
Dr. Marty Crawford, Superintendent	Tyler ISD	903-262-1001
Dr. Christy Hanson Chief Academic Officer	Tyler ISD	903-262-1011
Yanira Oliveras Reference		
Dr. Steven Wurtz COO Arlington ISD	Arlington ISD	<a href="mailto:swurtz@aisd.net">swurtz@aisd.net</a>

**Exhibit I:**  
**T-STEM Application to AISD**

**Texas Education Agency  
Phase 2 – SB 1882 Eligibility Approval Request  
Cover Letter (Path A)**

District	Austin ISD
Superintendent	Dr. Paul Cruz
Primary District Contact	Jacob Reach
Primary Contact Email/Phone Number	<a href="mailto:jacob.reach@austinisd.org">jacob.reach@austinisd.org</a> , 512-414-9646
Submission Date	April 30, 2018

**Overview:**

The purpose of Senate Bill 1882, enacted in 2017, is to encourage school districts to enter into partnerships with charter-school operators that will promote access to great schools for all students.

Districts are invited to submit an eligibility approval request under SB 1882 for partners granted an in-district charter to operate a campus. The TEA will review eligibility requests for approval of SB 1882 benefits. This review does **NOT** impact the district’s decision to award and campus charter and enter into a contract to partner to operate a campus.

Texas independent school districts may grant a campus charter to the following organizations. All proposed operating partners must meet the eligibility requirements and approval criteria established in the 1882 legislation and regulations.

- “Existing Operator” = governing body of a Texas open-enrollment charter school, as identified by TEC 11.174(a)(1), or university charter school in good standing (i.e., “Existing Operator”). All existing operators must meet the following statutory requirements, outlined in TEC 11.174(a)(b)(1-3):
  - The charter must have received an acceptable overall academic and financial performance rating for the 2016 and 2017 accountability ratings. The approval of benefits for a partnership with an “existing operator” will be contingent on the charter receiving acceptable ratings for the 2018 accountability ratings.
  - The charter must not have expired, been previously revoked, or been surrendered.
  - Operators not meeting the criteria in TEC 11.174(a)(b)(1-3) will be treated as “New Operators”.
- “New Operator” = an organization, as identified by TEC 11.174(a)(2), granted a charter by the district under Subchapter C, Chapter 12, that is eligible to be awarded a charter under Section 12.101(a). (i.e., “New Operator”). Eligible organizations may include:
  - Institute of Higher Education
  - Non-Profit Organization (operates charter schools in other states)
  - Non-Profit Organization (does not operate charter schools)

**Texas Education Agency  
Phase 2 – SB 1882 Eligibility Approval Request  
Cover Letter (Path A)**

- Governmental Entity

Texas independent school districts may establish charter operating partnerships for the following types of schools:

- “Turnaround Partnership” with a campus in Improvement Required (IR) status
- “Innovation Partnership” with a campus not in Improvement Required (IR) status
- “New School Partnership” to establish a new campus (with a unique school ID)

Campuses receiving eligibility approval for SB 1882 benefits may qualify for an exemption from specific interventions for two years (under TEC, §11.174(f)) and additional per-pupil funding to support the proposed school model (under TEC, §42.2511).

**Instructions:**

Districts intending to pursue benefits associated with SB 1882 should submit Phase 2 – SB 1882 Eligibility Approval Requests to TEA on or before April 30th<sup>th</sup>, by 5pm. This cover letter is non-binding and is **NOT** evaluated as part of partnership eligibility approval.

Each district should complete a cover letter for each proposed partnership. Please complete the cover letter and submit to the TEA using the following steps:

- Save the file as a PDF
- Name the file – [P2 Cover Letter\_Insert District Name\_Campus Name]
- Email the attached file to [dssi@tea.texas.gov](mailto:dssi@tea.texas.gov) with the subject line as follows - [P2 Cover Letter\_Insert District Name]

The cover letter does not need to be approved by the district school board.

**Turnaround Partnerships with New Operators:** For each proposed turnaround partnership with a “new operator”, submit the Phase 2 – Partnership Plan Proposal that describes the education plan and leadership capacity of the organization and respond to the following questions:

1. Is the Turnaround Partnership proposal being submitted for eligibility with a New Operator (i.e., <i>Other Eligible Entity</i> as identified by TEC 11.174(a)(2))?	
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Texas Education Agency  
Phase 2 – SB 1882 Eligibility Approval Request  
Cover Letter (Path A)**

2. If yes, list the operating partner(s) approved, the operator type (as described in the 2017-2018 Authorizer Guidance, available <a href="#">here</a> ), and the existing school in which the proposed partnership will take place.			
Proposed District School/County District Campus Number	Operating Partner	Operator Type (see overview above)	Partner Currently Operates Schools in Other States?* Yes/No
227901058	Texas STEM Coalition	Non-profit	No

\* Any partner that currently operate schools in other states will undergo a review of its student achievement track record, as described in the TEA Evaluation Rubric for Partner Applications. For operators meeting the TEA identified performance standard, the agency will only review the performance contract.

3. Please describe the district's evaluation process used to review applications from these operators. Include the number and qualifications of the members of the review team as well as any rubrics or instruments utilized.
<p>The district released an application and requested that interested partners respond in writing to the application. Two possible partners submitted an application and provided presentations to both an evaluation committee and community meeting.</p> <p>The evaluation committee was made up of 12 community, parent, and staff members. Of that 12, 9 attend all meetings and completed scoring applications. The 9 scoring committee members included:</p> <ol style="list-style-type: none"> <li>1- AISD Associate Superintendent of Academics and Social and Emotional Learning</li> <li>2- AISD campus administrator</li> <li>3- Mendez Teacher</li> <li>4- Mendez Teacher</li> <li>5- Mendez Support Staff</li> <li>6- Parent</li> <li>7- Parent</li> <li>8- Mendez PTA president</li> <li>9- Education Austin representative</li> </ol> <p>The following timeline outlined the process:</p> <p>Jan 11, 2018- RFP for partners published</p> <p>Feb 6, 2018- RFP closed, not submissions</p> <p>Feb 6, 2018- 1882 Evaluation Committee discussed other options</p> <p>Feb 16, 2018- 1882 Evaluation Committee discusses new application and process</p> <p>March 20, 2018- Committee finalizes application, discusses performance measurements</p> <p>April 3, 2018- partners provide presentation to evaluation committee</p> <p>April 5, 2018- Community Meeting, partners provided presentation</p> <p>April 6, 2018- Evaluations due to AISD Chief of Staff</p> <p>April 9, 2018- Board Meeting to discuss 1882 and Mendez</p> <p>April 30, 2018- Regular Board Meeting. Board grants charter and approves MOU for partnership</p> <p>A copy of the rubric is attached.</p>

**Texas Education Agency  
Phase 2 – SB 1882 Eligibility Approval Request  
Cover Letter (Path A)**

**Submission Checklist:**

Please submit the following documents:	
<input checked="" type="checkbox"/>	Cover Letter
<input checked="" type="checkbox"/>	Performance Contract/Charter
<input checked="" type="checkbox"/>	Copy of the Operating Partner's Local In-District Charter Application
<input checked="" type="checkbox"/>	Phase 2 – Partnership Plan Proposal
<input checked="" type="checkbox"/>	Partnership Assurances Document

**Austin ISD**

**Lead Partner, Mendez MS**

**2017-18 Application Cycle**

**Evaluation Rubric**



## Ratings and Criteria Overview

Evaluators will use the following criteria to rate applicant responses to the Request for Qualifications. Within each section, specific criteria define the expectations for a strong response that “Meets the Standard.” Evaluators will rate responses by applying the following guidance:

Rating	Characteristics
<b>Meets the Standard</b>	The response reflects a thorough understanding of key issues. It addresses the topic with specific and accurate information that shows thorough preparation; presents a clear, realistic picture of how the school expects to operate; and inspires confidence in the applicant’s capacity to carry out the plan effectively.
<b>Partially Meets the Standard</b>	The response meets the criteria in some respects but lacks detail and/or requires additional information in one or more areas.
<b>Does Not Meet the Standard</b>	The response is wholly undeveloped or significantly incomplete; demonstrates lack of preparation; is unsuited to the mission of the authorizer or otherwise raises substantial concerns about the viability of the plan or the applicant’s ability to carry it out.

Recommendations from the Evaluation Team will be based on evaluation of the written application (narrative and attachments), independent due diligence, and the applicant interview (if applicable). **In addition to meeting the criteria that are specific to that section, each part of the proposal should align with the overall mission and vision, educational program, and operations and financial plans.**

## Instructions for Evaluators

1. Fill in your name and the name of the applicant group. Click once on the grey boxes to begin typing.
2. **Complete the summary page last.** Type a summary of your analysis of each section into the box provided; it will expand as needed. This should be a paragraph outlining the overall strengths or weaknesses of the application section as a whole. It should summarize your findings and should not be cut and pasted from your subsection analysis.
3. For each subsection of the application, you should do the following during your initial individual analysis of the proposal:
  - a. Select a rating for that section.
  - b. Use the “Comments” area to identify notable positive aspects of the response.

**Your comments and evidence are at least as significant as your rating.**

**COMPLETE THIS PAGE LAST.****Ratings Summary**

Evaluator Name: Click or tap here to enter text.

Applicant Group: Click or tap here to enter text.

Proposed School Name: Mendez Middle School

**SUMMARY COMMENTS**

Each part of your summary comments should provide a clear understanding of your overall impression of the proposal as well as the most significant strengths and/or weaknesses. The summary comments for each section should support your rating for the section, and should not be simply cut and pasted from your subsection analysis.

<b>SECTION 1 — Educational Program Design</b>		
<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

<b>SECTION 2 — Governance, Operations Plan &amp; Capacity</b>		
<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

<b>SECTION 3 — Financial Plan</b>		
<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

<b>SECTION 4 — Community and Parental Involvement</b>		
<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

<b>SECTION 5 — Experience and Qualifications</b>		
<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Section 1 — Educational Program Design

A strong Educational Program Design is coherent overall and aligned internally with the school's mission and vision, Operations Plan, and Financial Plan. A strong description of the Educational Program will have the following characteristics:

### Curriculum and Instructional Design

- Framework for a rigorous, quality instructional design that reflects the needs of the school's target population and will ensure all students meet or exceed the expectations of Texas state standards.
- Sound instructional strategies and explanation of why they are well-suited for the targeted student population, including effective methods and systems for providing differentiated instruction to meet the needs of all students.
- Evidence that the proposed educational program has a sound base in research, theory, and/or experience, and has been or is likely to be rigorous, engaging, and effective for the anticipated student population.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

### School Culture and Climate

- Vision for school culture or ethos that will promote high expectations, a positive academic environment, and intellectual and social development for all students, including those with special needs, English Language Learners (ELLs), and students at-risk of academic failure.
- Coherent plan for establishing and maintaining the intended culture for students, teachers, administrators, and parents from the first day of school, and for enculturating students who enter the school mid-year.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Performance assessments and school-wide data & performance monitoring

- Quality interim assessments that are aligned with the school’s curriculum, performance goals, and state standards.
- Effective plan (including qualified personnel) and system for measuring and evaluating academic progress – of individual students, student cohorts, each school, and the network as a whole – throughout the school year, at the end of each academic year, and for the charter term.
- Comprehensive, effective plan (including qualified personnel) and system for collecting and analyzing student academic achievement data, using the data to refine and improve instruction – including providing training and support to school leadership and teachers – and reporting the data to the school community. This should include identification of the student data system to be used, as well as qualified personnel who will be responsible for managing and interpreting the data for teachers and leading or coordinating data-driven professional development.
- Thoughtful, appropriate corrective actions the school and network will take if either falls short of the goals at any level, including explanation of what would trigger such actions and who would implement them.

Sound plan for monitoring performance of the portfolio as a whole and thoughtfully considering portfolio performance in decisions regarding continued growth and replication.

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Professional Development

- Professional development standards, opportunities, leadership, and calendar/scheduling that effectively support the education program and are likely to maximize success in improving student achievement, including an induction program that will prepare teachers to deliver any unique or particularly challenging aspects of the educational program.

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Student Recruitment and Enrollment

- Enrollment Policy complies with state law and that ensures the school will be open to all eligible students.

Sound and thoughtful student recruitment and marketing plan, timeline, and Enrollment Policy that will provide equal access to all interested students and families, including those in poverty, academically low-achieving students, students with disabilities, students who are limited in English proficiency, students who are at risk of dropping out of high school, and other youth at risk of academic failure.

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Special Populations and At-Risk Students

- Demonstrated understanding of – and capacity to fulfill – state and federal obligations and requirements pertaining to students with disabilities, students identified as intellectually gifted, and ELLs, including appropriate discipline procedures for students with disabilities.
- Comprehensive plan for appropriate identification of students who are performing below grade level or at risk of academic failure or dropping out, and a detailed plan for providing services to such students.
- Comprehensive plan for appropriate identification of students with special needs and to ensure they are served in the least restrictive environment possible, have appropriate access to the general education curriculum and schoolwide educational, extra-curricular, and culture-building activities in ways that support their development, receive required and appropriate support services as outlined in their Individual Education Plans and 504 plans, and participate in standardized testing.
- Plans describe evidence-based instructional programs and practices; effective design or adaptation of the educational program; qualified staffing; and support strategies and resources.
- Comprehensive plan for providing services to ELLs, including methods for appropriate identification of ELLs, specific instructional programs, practices, and strategies the school will employ to ensure academic success, methods to evaluate procedural and substantive compliance with special education rules and regulations, and plan for including ELLs in standardized testing and schoolwide educational, extra-curricular, and culture-building activities.

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		



## Section 2 — Governance, Operations Plan & Capacity

### Partner/Provider Capacity

- Clear presentation of the school’s organizational structure, including lines of authority and reporting between the governing board, staff, and any related bodies (such as advisory bodies or parent/educator councils), and any external organizations that will play a role in managing the school.
- Clear delineation of the roles and responsibilities of – and lines of authority and reporting among – the governing board, staff, any related bodies (such as advisory bodies or parent/educator councils), and any external organizations that will play a role in managing the school.
- Clear delineation of lines of authority and reporting within the school.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

### Assurances to meet requirements set by TEA

- Proposed school’s legal status [501(c)3 non-profit status and federal tax-exempt status] and structure are in compliance with state law.
- Governing bylaws, policies, and procedures are comprehensive and sound.
- Provide assurances to meet TEA requirements or to work with the District to seek exemptions to any requirement.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Management of Governing Board

- Explains how the board will accomplish its core duties of setting vision, providing accountability, creating structure for effective governance, acting in unity, and providing advocacy to achieve the vision.
- Clearly describes the independence of the board as it relates to the authorizer.
- Clear, appropriate plans for the board(s) to evaluate the success of the school(s) and school leader(s).
- Proposed board members who demonstrate *(as documented by résumés, bios, and Board Information sheets for all currently-identified proposed members)*: (a) will, capacity, and commitment to govern the school(s)/network effectively; and (b) shared vision, purposes, and expectations for the school(s)/network.
- Evidence that the proposed governing board members will contribute the wide range of knowledge, skills, and commitment needed to oversee a successful charter school, including educational, financial, legal, and community experience and expertise.
- Description of how the Board will include current staff, students, and community in meetings, board decisions, and actions including public participation, feedback, and addressing concerns and questions.

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Staffing and Management Plan

- Recruitment and hiring strategy, criteria, timeline, and procedures that are likely to result in a strong staff that are well-suited to the school.
- Plan for supporting, developing, and annually evaluating school leadership and teachers that is likely to produce and retain a successful staff.
- Leadership and teacher evaluation tools that are likely to be effective.
- Effective planning for unsatisfactory leadership/teacher performance and turnover.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Selection of Campus Leader

- Plan for evaluating, selecting, and hiring a executive leader for the campus.
- Plan for supporting, developing, and annually evaluating school leadership that is likely to produce and retain a successful staff.
- Leadership evaluation tools that are likely to be effective.
- Effective planning for unsatisfactory leadership/teacher performance and turnover.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Section 3 — Financial Plan

A strong Financial Plan is coherent overall and aligned internally with the school's mission and vision, Educational Program, and Organization Plan.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Section 4 — Community and Parental Involvement

A strong plan that outlines and explains the community and parental involvement, including student services, community outreach, and social supports.

- A clear vision for including the community and parents in the school with a description of parental and community involvement activities that would be provided.
- A plan for coordination of student services and communication to families and community regarding the services offered.
- A description of the planned community outreach to include proposed methods for communication to the community, including garnering support from the community to benefit the school.
- A plan for the social supports and coordination of the various agencies that provide academic and social-emotional services to students, including how services would be offered to students during the school day, if applicable and how services may connect with families, if applicable.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

## Section 5 — Experience and Qualifications

### Current data from previous experiences

- Evidence of the applicant's success in serving populations similar to the population that the applicant intends to serve, including evidence of academic success and successful management of non-academic school functions (e.g., back-office services, school operations, extracurricular programs).

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

### Vision, Mission & Core Values

- Provides vision, mission and core values of existing organization.
- Provides alignment of partner organization and the District's vision, mission and core values.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
After Community Meeting		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

### Resumes, list of past clients, and references

- Evidence that the school leadership and management team have the collective qualifications (documented by résumés and bios for all members) to implement the school design successfully, including capacities in areas such as school leadership, administration, and governance; curriculum, instruction, and assessment; performance management; and parent and community engagement.
- List of past clients and references are provided.

Initial Application Review		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard

COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

### How would you measure success?

Provides suggestions or recommendations on how they will measure success at the campus including progress measures that look at both academic and social and emotional success and student growth.

- The plan describes measures for recognizing the academic successes of students
- The plan describes measures for documenting social and emotional success and growth of students in non-academic areas

<b>Initial Application Review</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		
<b>After Community Meeting</b>		
<input type="checkbox"/> Meets the Standard	<input type="checkbox"/> Partially Meets the Standard	<input type="checkbox"/> Does Not Meet the Standard
COMMENTS:		

**Texas Education Agency**  
**SB 1882 Eligibility Approval Request**  
**Phase 2: Partnership Plan Proposal**

*Austin Independent School District*

*Texas STEM Coalition*



## Phase 2 Review Details for Proposed Turnaround Partnerships with New Operators

Proposed turnaround partnerships with new operators (Path A) must meet additional criteria related to the operating partners eligibility request and school performance track record (if applicable). This document describes TEA’s review criteria and process for verifying partnership eligibility for benefits under SB1882. Specific criteria include:

- Evaluation of the proposed education plan
- Evaluation of the capacity of the proposed operating partner, the charter governing board, and the operating partner and school leadership team
- Evaluation of the operating partner’s previous history operating campuses outside of Texas, if applicable

### Review Ratings and Criteria Overview

Evaluators will use the following criteria to rate applicant responses to the Request for Qualifications. Within each section, specific criteria define the expectations for a strong response that “Meets the Standard.” Evaluators will rate responses by applying the following guidance:

Rating	Characteristics
<b>Meets the Standard</b>	The response reflects a thorough understanding of key issues. It addresses the topic with specific and accurate information that shows thorough preparation; presents a clear, realistic picture of how the school expects to operate; and inspires confidence in the applicant’s capacity to carry out the plan effectively.
<b>Partially Meets the Standard</b>	The response meets the criteria in some respects but lacks detail and/or requires additional information in one or more areas.
<b>Does Not Meet the Standard</b>	The response is wholly undeveloped or significantly incomplete; demonstrates lack of preparation; is unsuited to the mission of the authorizer or otherwise raises substantial concerns about the viability of the plan or the applicant’s ability to carry it out.

### Review Process

TEA will evaluate relevant sections from the operating partner’s application that describe the education plan and leadership capacity of the organization. Each submission will be evaluated by a review team that includes a minimum of three members, including external TEA partners with expertise in reviewing charter applications and/or school turnaround proposals.

Review team members will individually review and score proposals using the criteria in this rubric. The review team will discuss individual findings and will establish a consensus rating for each section of the rubric. In order to meet the TEA threshold for approval, a proposal must “Meet the Standard” in at least six (6) of the eight (8) sections related to Section 1 – Education Plan and may not receive a rating of “Does Not Meet the Standard” in any section. A proposal must also “Meet the Standard” in at least four (4) of the five (5) sections related to Section 2 – Leadership Capacity and may not receive a rating of “Does Not Meet the Standard” in any section. In the event that additional information is necessary to understand the proposed partnership, TEA may request additional information or request a capacity interview with the submitting district and/or operating partner.

## Instructions

### Specifications

- All material submitted to TEA must reflect original proposal and plan submitted by the charter operating partner and approved by the Texas Independent School District.
- All information, other than Appendices, must be submitted in the structure provided within this document.
- This document, along with an executed performance contract, must be submitted for each proposed turnaround partnership on or before April 30th, 2018 at 5pm.
- Each district should complete a partnership plan proposal for each proposed partnership campus.
- To submit the file, please...
  - Save the file as a PDF
  - Name the file – [Partnership Plan Proposal\_Insert District Name\_Campus Name]
  - Email the attached file to [dssi@tea.texas.gov](mailto:dssi@tea.texas.gov) with the subject line as follows - [Partnership Plan Proposal\_Insert District Name]

### Attachments

The following is a list of attachments to accompany the submission for each approved application.

1. Copy of the Local Application
2. Enrollment policy
3. Discipline policy
4. Organization charts
5. List of charter board members, including respective resumes and qualifications
6. List of the operating partner's staff responsible for managing the campus, including respective resume(s) and qualifications
7. List of the proposed school leader(s), including respective resume(s) and qualifications

Attachments can be saved as part of the PDF or email as separate attachments [Attachment 1\_Insert District Name\_Campus Name].

### Public Disclosure

All charter school proposal materials submitted to TEA become public records.

## Operating Partner Information

<b>Name of Operating Partner</b>	Texas STEM Coalition
<b>Primary Contact Person</b>	David Simmons
<b>Mailing Address</b>	PO Box 132977, Tyler, TX 75713
<b>Phone Number</b>	903-780-8323
<b>Email</b>	Dsimmons816@gmail.com

**Applying as a:**

New Operator

Existing Operator

**Does this operating partner operate other campus(es) in the United States?**

Yes

No

**If Yes, list the state and campus(es) below (*Add lines as needed*)**

State	Campus Name

## School Information

**NOTE: Complete this part for each school / campus included in this proposal.**

Proposed School / Campus Name / CDCN		Opening Year	Grades: Year 1	Grades: At Capacity
Consuelo Mendez Middle School 227901058		2018	6,7,8	6,7,8
<b>Proposed Location</b>				
<b>School District</b> <i>Identify the school district in which the charter school will be located.</i>		Austin ISD		
<b>Address of Identified Facility</b> <i>If applicable.</i>		5106 Village Square Drive Austin, TX 78744		
<b>Projected Demographic Information</b>				
		<b>93% FRL:</b>	<b>15% SpEd:</b>	<b>45% ELL:</b>
<b>Model / Specialty (Check all that apply)</b>				
<input type="checkbox"/> Alternative	<input type="checkbox"/> Career / Technical Ed.	<input type="checkbox"/> Military	<input type="checkbox"/> Montessori	
<input type="checkbox"/> Arts	<input type="checkbox"/> College Prep	<input type="checkbox"/> Language Immersion	<input checked="" type="checkbox"/> STEM	
<input type="checkbox"/> Blended Learning	<input type="checkbox"/> Other ( <i>list</i> ):	<input type="checkbox"/> Disability ( <i>list</i> ):		

## Section 1 — Education Plan

### Program Overview (1000 word limit)

1. Summarize the education program, including primary instructional methods and assessment strategies, and any non-negotiable elements of the school model. Briefly describe the evidence that promises success for this program with the anticipated student population.

#### **Education Program**

It is our intention to transition Mendez Middle School (MMS) from a low-performing campus to a high performing Texas STEM Academy (T-STEM). The T-STEM Academy is one of several turnaround models promoted by the Texas Education Agency over the past decade. The T-STEM program is focused on developing college- and career-ready students. Austin has become the Silicon Valley of Texas and students completing a STEM program will be better prepared to take advantage of many thousands of career opportunities available here. Transitioning to a T-STEM Academy goes beyond simply trying to “Meet Standard.” Too often, turnaround programs simply provide supports that only focus on passing the STAAR and EOC. These programs are problematic since they do not take into account future changes in the accountability system. They are often reactive, focusing on attendance, tutoring, and test preparation. These programs do not build teacher and student capacity to become self-led learners and productive team members and often create a negative school culture.

At schools implementing the T-STEM model, students do not only focus on STEM. Rather, the goal of the STEM Academy model is to prepare students in STEM in at a deeper level, as well as prepare them well in the traditional core subjects, to maximize their future learning and earning opportunities. This model also builds a school learning culture that mirrors the workplace to build students’ 21<sup>st</sup> century skills, including collaboration, communication, creativity, and critical thinking. This approach is in stark contrast to turnaround models that focus primarily on test preparation. Another rationale for using the T-STEM Model is its alignment with the two high schools that Mendez students will attend. Travis High School is an Early College High School and Akins High School includes a T-STEM Academy. The T-STEM model aligns to both the these established programs..

The T-STEM model follows a Blueprint (non-negotiable). The T-STEM Blueprint (TEA, 2015), is similar to the Early College High School model (ECHS). T-STEM Academies focus on preparing economically disadvantaged students for college and career. Unlike the ECHS model, there is a strong focus on STEM. The T-STEM Blueprint includes seven research-based benchmarks that help guide a school to becoming high achieving. The following is an excerpt from TEA concerning the T-STEM Academy approach.

*The Texas Education Agency (TEA) and Educate Texas support T-STEM Academies in order to concentrate state and local efforts for improving math and science achievement among Texas students. The T-STEM initiative ensures Texas students thrive in the 21st Century economy by studying and entering into STEM fields. The cornerstone of T-STEM Academy learning is student engagement and exposure to innovation and design in STEM-focused instruction and learning that models real-world contexts. The current T-STEM Benchmarks (2015 BP).*

- 1) Mission driven leadership
- 2) School culture and design
- 3) Student outreach, recruitment, and retention
- 4) Teacher selection, development and retention
- 5) Curriculum, instruction, and assessment
- 6) Strategic alliances
- 7) Academy advancement and sustainability

Achievement data from students in 2011 showed T-STEM Academies outperform peer schools, meeting college-readiness benchmarks at a 12 percent higher rate and achieving a 21 percent higher completion rate in dual credit and advanced placement courses. Studies have concluded

that participation in a STEM academic program positively impacted eighth grade students' academic achievement in mathematics, science, and reading (Olivarez, 2012). The T-STEM Blueprint has also proven effective as a school turnaround model (Odell, 2017; Odell & Pedersen, 2018). Excerpts from the T-STEM Academy Design Blueprint are highlighted in blue throughout this document. In addition, the complete Blueprint (2015) is included in the attachments.

Mendez Middle School will implement the T-STEM Academy Blueprint. T-STEM Academies are implemented at the middle school and high school. Mendez is a feeder school for the Akins HS T-STEM Academy in Austin ISD. The Blueprint provides design criteria for the entire school enterprise. The TEKS serve as the basis for curriculum in every class. Projects will be developed around the TEKS. A scope and sequence will be developed that covers the TEKS and is aligned to the STAAR, EOC, and the Career and College Readiness Standards.

### **Curriculum & Delivery Methods of Core Instruction**

The Blueprint includes high school language that aligns to high school programming. We chose to leave in those elements for the proposal readers as the Mendez curriculum will prepare students for those pathways if they choose STEM or ECHS in high school. We will also maintain the Project Lead the Way (PLTW) Gateway program and expand PLTW. Project-based and Problem-based learning will be the primary instructional strategy.

## **BENCHMARK 5: Curriculum, Instruction, and Assessment (2015)**

### **5.1 Program Requirement: Rigor**

### **5.2 Program Requirement: STEM-focused Curriculum**

### **5.3 Program Requirements: Instructional Practices**

5.3.A Incorporates data-driven instruction.

5.3.B Creates an environment for shared teacher responsibility and accountability for student learning across programs, content areas, and classrooms.

5.3.C Organizes instruction expectations around problem-based and project-based learning.

5.3.D Ensures teachers' use of the aligned scope and sequence and integration across the disciplines.

5.3.E Ensures teachers' use of high-quality curricular materials.

5.3.F Provides opportunities for students to exercise choice and voice.

### **5.4 Program Requirements: STEM Education Integration**

### **5.5 Program Requirements: Literacy**

5.5.A Promotes technologically proficient and scientifically literate students with highly developed academic vocabulary and STEM technical vocabulary.

5.5.B Graduates 21st Century literate students

5.5.C Selects appropriate STEM curriculum and culturally relevant instructional materials that foster widespread use of literacy strategies within the STEM curriculum.

5.5.D Provides opportunities for students to demonstrate the relevancy of the content through reading, writing, speaking, and presenting.

### **5.6 Program Requirements: Assessment**

5.6.A Uses diagnostic, ongoing, and vertically and horizontally aligned formative and summative assessments for all students to drive instructional decisions.

5.6.B Uses state and national standards, college and career readiness standards, industry standards, and STEM program requirements to develop common benchmark assessments.

5.6.C Employs student readiness assessments or diagnostics to identify and address gaps in learning.

5.6.D Tracks and reports student progress using student information systems.

5.6.E Uses performance-based assessments that allow students to demonstrate their understandings of STEM concepts.

## Curriculum and Instructional Design (2000 word limit)

1. Propose a framework for instructional design that both reflects the needs of the anticipated population and ensures that all students will meet or exceed relevant state standards.
2. Describe the primary instructional strategies that the school will expect teachers to use and why those strategies are well-suited for the anticipated student population. Describe the methods and systems teachers will use to provide differentiated instruction to meet the needs of all students.

### 1. Framework for Instructional Design:

The Framework for Instructional Design comes from the T-STEM Blueprint. It is grounded in small schools research, and Mendez will be reorganized into smaller learning communities to foster relationship building and personalization of the school.

At the time the local proposal was submitted, the 2015 T-STEM Blueprint was in place. In the recently revised and adopted T-STEM Blueprint (April 2018), the Blueprint has been streamlined and revised to align to the Early College High School model. That said, the 2015 Blueprint was the basis for the proposal and has a number of embedded metrics that guide school implementation. For this section, we will use the language of the revised blueprint where appropriate. This demonstrates our deep understanding of the model and provides evidence of currency.

Benchmark 2 in the 2018 T-STEM Blueprint is specific and aligns very well to support the Mendez Middle School Population. As described in the previous section, Mendez is a feeder school to Akins High School, which hosts a T-STEM Academy. Mendez is also a feeder for Travis High School that hosts an Early College High School. Using the T-STEM Blueprint will position students at Mendez for seamless pathways into the High School of their choice. The following excerpt is from the revised blueprint recently approved:

**Benchmark 2: Target Population** The T-STEM academies shall serve, or include plans to scale up to serve, students in Grades 6-12 or 9-12, and shall target and enroll students who are at risk of dropping out of school as defined by the Public Education Information Management System (PEIMS) and who might not otherwise go to college.

As described in the first section, students attending T-STEM academies out perform their peers on STAAR and EOC. T-STEM Academies develop a school culture and utilize 21<sup>st</sup> Century instructional techniques to engage students. The T-STEM approach is designed for the Mendez population and will foster a “college going” culture. Mendez is located in the Dove Springs neighborhood, a working class neighborhood that values “work”. The revised STEM Blueprint promotes work-based learning:

All T-STEM academies must implement and meet the following requirements:

1. The T-STEM academy shall work with the local workforce development board to identify, create and maintain a list of high-demand occupations and programs of study that lead to these occupations to be used as a resource in creating structured pathways for students and updated as local needs change.

Austin is the Silicon Valley of Texas and we will provide a resource room and embed in projects information and experiences for Mendez students to explore STEM occupations.

2. The T-STEM academy shall establish one or more STEM pathways, and plans are underway for sequencing additional courses for STEM students. Course pathways are informed by regional and state workforce and economic development needs and contribute to students earning credentials and certifications that prepare them for high-wage, high-demand, high-skill STEM fields.



Mendez will align its STEM programming to position students to transition into high school STEM pathways at both Akins High School and Travis High School.

3. The T-STEM academy shall biannually implement a structured data review process designed to identify student strengths and weaknesses and develop individual instructional support plans.

Each student will have a personalized learning plan and meet with a “success coach” throughout the school year.

4. The T-STEM academy shall provide a TSI assessment to students as early as possible.

We plan to provide all 8<sup>th</sup> graders the opportunity to prepare and pass TSI (Reading and Writing) prior to leaving Mendez.

5. The T-STEM academy shall provide support for students taking STEM courses preparing students to obtain industry certifications, licenses, etc.

Middle School students will not be able to sit for an industry certification, but all students will participate in STEM CTE courses through PLTW as a precursor for high school.

6. The T-STEM academy shall work with IHEs and business and industry partners to ensure curriculum alignment between high school, postsecondary and industry experience requirements

The T-STEM Coalition will broker these relationships on behalf of Mendez, and for feeder elementary schools and high schools if desired.

## 2. Primary Instructional Strategies

The revised Blueprint does NOT address actual teaching strategies as provided in the 2015 version. Mendez will follow the 2015 Blueprint recommendations for instructional strategies as these have proven effective at other T-STEM Academies.

### BLUEPRINT: BENCHMARK 5: Curriculum, Instruction, and Assessment

#### 5.1 Program Requirement: Rigor

5.1.A Aligns curriculum, instruction, and assessment (such as, but not limited to, THECB CCRS, national and state standards, content, context, culture, cognitive level, competencies, skills, processes, 21st century skills, and STEM synthesis).

5.1.B Develops a scope, sequence, and pacing guide for a vertically and horizontally aligned curriculum centered on state standards, career and college readiness standards, STEM integration, and industry expectations.

5.1.C Develops an assessment and intervention plan to address gaps in student achievement and areas for extension.

5.1.D Supports and encourages all students to be ready to successfully complete four years of mathematics, four years of science, four years of STEM electives, and at least one Endorsement in STEM, Business and Industry, Public Services, or Arts and Humanities, with a primary focus on a STEM Endorsement; and earn a Distinguished Level of Achievement as well as a Performance Acknowledgement in order to graduate college ready.

5.1.E Offers dual credit, articulated concurrent enrollment, AP or IB courses so that all students will graduate with 12-30 college credit hours. **(MS- Provides foundation for these offerings in HS)**

5.1.F Establishes curriculum expectations, monitoring, and accountability mechanisms that are reflectively revised to ensure a constancy of mission purpose (aligned resource allocation, integrated STEM curriculum development, teacher professional growth, and student results).



**5.2 Program Requirement: STEM-focused Curriculum**

5.2.A Delivers innovative STEM programs that are well-defined, embed critical thinking and problem solving, innovation, and invention, and are aligned to state, and/or national standards, and industry expectations.

5.2.B Supports and encourages students to complete three years of STEM electives at middle school and four years of STEM electives at high school.

5.2.C Develops performance-based and project-based assessments aligned to these innovative programs and state/national/industry standards.

5.2.D Develops and implements a plan for supporting accelerated student achievement for students with demonstrated deficiencies or proficiencies in mathematics and science, to promote all students graduating ready for enrollment in credit-bearing postsecondary courses (e.g. Algebra I enrollment by 8th grade).

5.2.E Incorporates into the curriculum work-based, contextual learning with a global perspective.

5.2.F Participates in extra-curricular academic activities centered on science, technology, engineering, and mathematics; i.e. STEM field experiences, clubs, and competitions.

5.2.G Develops 6th – 8th students' portfolios of interest in: STEM capstone projects, STEM extracurricular opportunities, and global STEM college, degree, and career explorations.

**5.3 Program Requirements: Instructional Practices**

5.3.A Incorporates data-driven instruction.

5.3.B Creates an environment for shared teacher responsibility and accountability for student learning across programs, content areas, and classrooms.

5.3.C Organizes instruction expectations around problem-based and project-based learning with clearly defined learning outcomes for students and teachers that address state and national performance standards, college and career readiness standards, and industry expectations.

5.3.D Ensures teachers' use of the aligned scope and sequence and integration across the disciplines.

5.3.E Ensures teachers' use of high-quality curricular materials aligned with state and national standards, college and career readiness standards, and industry standards.

5.3.F Provides opportunities for students to exercise choice and voice within a relevant and rigorous context.

**5.4 Program Requirements: STEM Education Integration**

5.4.A Promotes instructional strategies that challenge students to think critically, innovate, and invent to solve real-world, contextual problems.

5.4.B Exposes students to critical readings in STEM related fields and requires students to demonstrate their understanding of STEM disciplines in a work-based, contextual environment.

5.4.C Offers standards-based STEM programs that incorporate integrative STEM literacy and innovative instructional tools.

5.4.D Promotes applied and collaborative learning, and provides students with opportunities to present/defend their work to peers, community, industry, and university leaders.

5.4.E Promotes a technology rich culture of natural use of current technologies to enhance instruction, curriculum, teaching, and learning, and STEM literacy.

**5.5 Program Requirements: Literacy**

5.5.A Promotes technologically proficient and scientifically literate students with highly developed academic vocabulary and STEM technical vocabulary.

5.5.B Graduates 21st Century literate students proficient in: English, reading, speaking, writing, numeracy, arts, health, sciences, and world languages; government, civics, history, and geography; environmental science; global awareness; information, communications, and media technology; financial, economic, business, and entrepreneurship.

5.5.C Selects appropriate STEM curriculum and culturally relevant instructional materials that foster widespread use of literacy strategies within the STEM curriculum.

5.5.D Provides opportunities for students to demonstrate the relevancy of the content through reading, writing, speaking, and presenting.

#### **5.6 Program Requirements: Assessment**

5.6.A Uses diagnostic, ongoing, and vertically and horizontally aligned formative and summative assessments for all students to drive instructional decisions.

5.6.B Uses state and national standards, college and career readiness standards, industry standards, and STEM program requirements to develop common benchmark assessments.

5.6.C Employs student readiness assessments or diagnostics to identify and address gaps in learning.

5.6.D Tracks and reports student progress using student information systems.

5.6.E Uses performance-based assessments that allow students to demonstrate their understandings of STEM concepts.

#### **Student Support**

School is not simply academics. Students must also receive significant support to be successful. In the area of student support, the blueprint also provides the following guidance:

1. The T-STEM academy shall provide layered academic support to the students by personalizing the learning environment in the following ways:

a. Developing individualized, STEM focused student plans with specific graduation plan for ongoing academic support

b. Providing academic support for intervention, remediation, and acceleration

c. Providing tutoring and/or Saturday school for identified students in need of academic support

d. Providing advisory and/or college readiness and support time built into the program of study for all students

e. Providing students with college/career counseling

f. Providing bridge programs (an intensive academic preparation program that provides opportunities to strengthen academic skills necessary for high school and college readiness) and to support student transition from middle school to the T-STEM program (as well as elementary to middle school)

g. Establishing a mentorship program available to all students

h. Providing resources for career support including career exploration

2. The T-STEM academy shall provide layered social and emotional support to the students as needed such as:

a. Connections to social services

b. Parent outreach and involvement opportunities

c. A structured program of community service to promote community involvement

d. Skill building instruction for students, such as time management, study skills, collaboration and interpersonal relationship skills

e. The T-STEM academy shall provide enrichment and extra-curricular opportunities such as clubs, Career and Technical Student Organizations, competitions, and special initiatives

3. The T-STEM academy shall provide enrichment and extra-curricular opportunities such as clubs, Career and Technical Student Organizations, competitions, and special initiatives

The goal of the STEM Academy is to develop the whole student, not simply focus on test results.

## Staffing Plans, Hiring, Management, and Evaluation (1000 word limit)

1. Describe the strategy, plans, and timeline for recruiting and hiring administrative and/or teaching staff. Explain required qualifications for instructional staff, key selection criteria, and any special considerations relevant to your school design.
2. Describe how teachers will be employed, assigned, and reassigned at the campus.
3. Explain how the school leader will be supported, developed, and evaluated.
4. Explain how the teachers will be supported, developed, and evaluated.

### 1. Staffing and Management Plan

It is our view that Mendez Middle School is an Austin ISD School. Our goal is to turn around the school while maintaining the AISD identity. It is our belief that there are a number of committed educators working at Mendez Middle School. The operating partners enter into this process with the understanding that many of the current staff may choose to stay at Mendez. All teachers, counselors, support staff, and administrators will remain Austin ISD employees.

The process for staffing includes:

1. Meet with personnel and explain the T-STEM Academy model and the commitment needed to implement the model successfully (group setting).
2. Meet with personnel individually and discuss the model, PD requirements, outside requirements, etc.
3. Provide commitment letters to personnel who elect to remain. This will include an addendum (TBD) that must be signed to show commitment.
4. Once personnel staying are identified, we will immediately post announcements for needed administrative, education, and support positions.

#### Qualifications:

We will work to hire personnel with the appropriate state certifications at all levels. We will also work with current personnel to add additional endorsements as needed by the school to support students. We will commit to teachers in tested subjects will be certified with the appropriate state certification.

### 2. Teacher Assignment

Teachers in core subjects will be deployed in grade level teams initially. Teachers will also belong to a vertical team to assure rigor and alignment. Elective Teachers and Support Teachers will be assigned across grades.

### 3. School Leader Selection

#### Plan for the selection of a campus leader, and plan for their authority over assignment of district staff at the campus

The T-STEM Coalition will appoint an Executive Director to meet individually with the existing administrative team to determine if they possess dispositions and skills to lead.

#### 1.2 Program Requirement: Leadership and Governance

1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy.

1.2.B Develops an Academy Leadership Team and identifies the internal role each member will play in the design, governance, operations, accountability, curriculum development, professional development, etc.,

1.2.C Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support the academy.

1.2.D Incorporates into Annual Action Plan goals for participation and leadership of students, teachers, parents, business and community partners, institutions of higher education, and T-STEM Coaches and Centers.

1.2.E Delineates a mission-driven decision-making structure and organization chart.

1.2.F Defines the academy leader's level of autonomy in supervising the Academy.

1.2.G Uses data to inform all leadership.

Mendez will be reorganized to include a semi-autonomous curriculum, instruction, and assessment (CIA) team that will work with the principal to assure that teacher and student interventions are provided. The CIA team will develop the Professional Learning Community, provide coaching, and recommend additional professional development. The CIA Team will also work with the principal to analyze data to develop interventions for teachers and students. The campus leader will work with school administration to make staffing assignments.

#### Personnel Evaluation

The Executive Director will be evaluated by the governing board.

School Administration will be evaluated by the Executive Director. The ED can designate evaluators of non-instructional staff.

Teachers will be evaluated by the School Administration with input from the Curriculum, Instruction, and Assessment team.

In addition, stakeholders will have the opportunity to provide feedback at all levels as to the performance of school personnel similar to evaluation practices in higher education.

Austin ISD, utilizes a value added evaluation approach. We are working with Austin ISD to meet employee contractual requirements with a more meaningful evaluation system. Our proposed system will utilize PPfT and UTOP instruments. In addition, teachers will develop a portfolio that demonstrates their impact on the academy. Elements will include:

- Impact on Student Learning
- Pedagogical Content Knowledge
- Technology Proficiency
- Blueprint Alignment
- Impact on School Culture

#### Support for Administrative Team

School Administration will attend and participate in all teacher professional development. This is essential if the Blueprint is to be implemented with fidelity. The administrative team will also meet weekly with the Executive Director to examine progress on Blueprint implementation.

## Teacher Professional Development

### 4. BENCHMARK: Teacher Selection, Development, and Retention

#### 4.1 Program Requirement: Highly Qualified Teachers

4.1.A Recruits and selects highly qualified faculty who possess extensive subject knowledge, are willing to incorporate project based learning (PBL), and integrative STEM pedagogy.

4.1.B Recruits and selects highly qualified faculty who utilize relational knowledge in developing culturally responsive classrooms that successfully build self- efficacy with traditionally underrepresented students.

4.1.C Develops teacher job descriptions and requirements that incorporate integrative content practice and research-based actions/strategies that demonstrate commitment to success for underrepresented students.

4.1.D Uses a collaborative recruitment and selection process that includes Academy leaders, teachers, key stakeholders, T-STEM Centers, and T-STEM Coaches.

4.1.E Designs or employs innovative programs to support the recruitment and selection of highly qualified STEM teachers.

#### 4.2 Program Requirement: Teacher Support and Development

4.2.A Develops a PD plan for a sustained professional development model of continuous learning based on student results, teacher development,

4.2.B Adopts a systemic professional development model of continuous learning that addresses prioritized needs as informed and evaluated by multiple sets of quantitative and qualitative data

4.2.C Sustains a Professional Learning Community (PLC)

4.2.D Provides ongoing PD for personnel and parents on strategies that support students to ensure success in a rigorous course of study

4.2.E Ensures that STEM coaches are available and accessible to support both teachers and students.

4.2.F Collaboratively builds 6th – 12th teacher and administrator expertise in developing, teaching, learning, and assessing STEM cross-content curriculum.

#### 4.3 Program Requirement: Teacher Retention

4.3.A Provides for flexibility (within PBL model) in instructional practices to promote creativity and innovation while maintaining accountability.

4.3.B Provides a common planning time for teachers to support results-driven, team-focused professional learning, and cross-curricular collaboration.

4.3.C Adopts and implements a plan for new teachers to include orientation, induction, acculturation, mentoring, professional development, and administrative support.

4.3.D Provides opportunities for ongoing professional development

4.3.E Annual Action Plan includes a creative teacher incentive plan

## School Culture (1000 word limit)

1. Describe the culture or ethos of the proposed school.
2. Explain the plan to create and implement this culture for students, teachers, administrators, and parents, starting from the first day of school.

Mendez Middle School will be redesigned to facilitate a college going culture. Classrooms will be reconfigured to support PBL. Because Mendez currently has extra space we will develop collaboration and maker spaces to facilitate the culture transition to a T-STEM Academy. The Blueprint (2015) outlines the changes that must occur to develop a new school culture.

### 2. BENCHMARK: STEM Academy Culture and Design

#### 2.1 Program Requirement: Personalization

- 2.1.A Addresses in Annual Action Plan and strategic plan the details for remaining small, allowing for personalization, and maintaining collaborative learning communities of students.
- 2.1.B Plans and implements a non-graded student advisory program that is regularly scheduled, noted in the master calendar/schedule, and focuses on personalizing the student experience, (builds relationships with students and parents, develops character, and fosters global literacy).
- 2.1.C Develops a process for hearing and responding to student voice.
- 2.1.D Arranges for a flexible school day with blocks of time that support student learning (tutorials, collaboration, meetings).
- 2.1.E Celebrates high quality student work through student exhibits on-site, web-based, and/or in state and national forums.
- 2.1.F Provides every 6th – 8th student with an individualized STEM-focused high school graduation plan that addresses: four years of math and science; an Endorsement in STEM, Business and Industry, Public Service, or Arts and Humanities; identifies target areas for Performance Acknowledgements; and is at least annually reviewed and revised with the counselor, student, and family.

### **2.2 Program Requirement: Culture**

- 2.2.A Collaborates with stakeholders to develop a new handbook or modify the existing handbook with clear procedures, policies, and consequences that support the development of a strong T-STEM culture.
- 2.2.B Involves all stakeholders in developing a culture of respect, responsibility, trust, and meaningful adult and peer relationships throughout the Academy in order to foster positive student identities.
- 2.2.C Creates a professional learning community environment of collaboration, teaming, and high expectations among administrators, teachers, and stakeholders, with a focus on and a commitment to the learning of each student.

### **2.3 Program Requirement: Postsecondary Success (College and Career)**

- 2.3.A Prepares students (to enter High School) who graduate for post-secondary coursework and careers in science, technology, engineering, and mathematics through the integration of the Governor's economic workforce clusters and Achieve Texas STEM cluster: semiconductor industry, information and computer technology, micro-electromechanical systems, manufactured energy systems, nanotechnology, biotechnology, chemist, and engineering: aerospace, electronic, mechanical, environmental, and biomedical.
- 2.3.B Regularly engages 6th – 8th students and parents in high school and college transition planning, STEM Career Exploration, College Exploration, and College Readiness preparation.
- 2.3.C Develops a plan for student success on post-secondary entrance exams.
- 2.3.D Creates higher education partnerships to provide mentoring, college-level courses/dual credit, professional development and technical assistance, and to foster a college-going culture

## **Special Populations and At-Risk Students (2000 word limit)**

1. Describe the plan to serve students with special needs, including but not limited to: students with Individualized Education Programs (IEPs) or Section 504 plans, English Language Learners (ELLs), students identified as intellectually gifted, and students at risk of academic failure or dropping out. Identify the special populations that the school expects to serve, and the basis for these assumptions, whether through data related to a specific school or district, or a more generalized analysis of the population to be served. Discuss

how the course scope and sequence, daily schedule, staffing plans, and support strategies and resources will meet or be adjusted for the diverse needs of students.

2. Specifically describe the plan to identify and meet the learning needs of students with mild, moderate, and severe disabilities in the least restrictive environment possible. Specify the programs, strategies, and supports you will provide, including the following:
  - a. Methods for identifying students with special education needs (and avoiding misidentification);
  - b. specific instructional programs, practices, and strategies the school will employ to provide a continuum of services, ensure access to the general education curriculum, and ensure academic success for students with special education needs;
  - c. plans for monitoring and evaluating the progress and success of special education students with mild, moderate, and severe needs to ensure the attainment of each student's goals as set forth in the IEP; and
  - d. plans for promoting graduation for students with special education needs (*high schools only*).
3. Explain how the school will meet the needs of ELL students, including the following:
  - a. Methods for identifying ELL students (and avoiding misidentification);
  - b. specific instructional programs, practices, and strategies the school will employ to ensure academic success and equitable access to the core academic program for these students; and
  - c. plans for monitoring and evaluating the progress and success of ELL students, including exiting students from ELL services.

#### **Special Populations Summary**

The school will follow all applicable state and federal laws for Special Education, 504, Gifted and Talented, and ESL/Bilingual students to ensure a meaningful education in an inclusive environment.

It is also our understanding that there may be a community wish to maintain a dual language approach. The partnership team is open to this approach. If this is a community priority, students could receive instruction in both English and Spanish. Courses taught in Spanish would be limited to non-tested subjects.

#### **Special Education & Section 504 Services**

In a district where 10% of students receive special education services, 14.8% of Mendez's students have been identified as students in need of an IEP. The disproportionality of the special education, and gifted and talented, data raise concerns about the identification practices at Mendez M.S. As part of the needs assessment process, the Ingenuity Center staff will interview the special education personnel and review the nomination, identification and dismissal practices being used by Mendez M.S. staff to identify students for special education and Section 504 services. Section 504 plans, Behavior Intervention Plans (BIPs) and IEPs will be reviewed to determine if students are receiving services in the least restrictive environments possible. When needed, Admission, Review and Dismissal (ARD) or Section 504 meetings will be convened to modify the students' IEPs or 504 plans to ensure students are being served through the least restrictive environment and the accommodations are adequate for the new learning instructional model (PBL). Mendez's students with special needs will be pulled-out only when strictly necessary. Based on the individual students' needs, and when appropriate, the primary support will be provided through inclusion. Special education teachers will work with general education teachers to plan for accommodations and modifications of the curriculum that meet the needs of the individual students. Special education teachers and general education teachers will receive co-teaching training and coaching



to better support students with special needs. Through co-teaching, core subject teachers and special education teachers maximize their expertise to deliver rigorous instruction. Through the PBL model, co-teachers will be able to work with special needs students in small groups while promoting collaboration among peers with and without IEPs.

The team understands that students might have disabilities other than specific learning disabilities. In those cases, Mendez M.S. personnel will provide students with the needed services, when possible through inclusion support, and when needed through pull-out services. The individual needs of the students and their IEPs will dictate the services provided for special needs students. Through inclusion support, students with IEPs will be able to participate in projects and small group instruction to ensure they have full access to the on-level curriculum with the appropriate accommodations. When instructional modifications are needed to meet the individual needs of students with IEPs, the special education teacher will work with the core teacher to design workshops (mini lesson throughout a project) that will allow students to access the curriculum at the appropriate level. The PBL model will facilitate differentiation. If needed, differentiation professional development will also be provided.

During the needs assessment, the team will also seek to understand the professional development special education and general education teachers at Mendez M.S. have received related to differentiation, behavior management, the needs of students with moderate to severe needs, and specific content area strategies. Teachers will receive professional development to address any gaps in their knowledge of differentiation, the needs of students with moderate to serve needs, and appropriate services and strategies to better serve the students with IEPs, Section 504 plans and/or BIPs at Mendez M.S.

The development of the schedule of students with special needs, and their special education teachers will take priority when developing the master schedule, to ensure students with IEPs, Section 504 plans and/or BIPs receive adequate services throughout all core subjects.

Given the demographics of students at Mendez M.S., it will be important that special education and core subjects' teachers have learning opportunities to expand their understanding of literacy and numeracy teaching strategies, not only to meet the needs of students with IEPs but all students. Professional development focused on balanced literacy, reading and writing across the curriculum will support the implementation of PBL in all content areas.

### **English Learners & At-Risk Students**

Nearly 50% of students at Mendez M.S. are English Learners and over 84% are at-risk of dropping out of school, which requires immediate attention and targeted professional development and coaching. The ELs will be served through content-based ESL instruction. Content-based ESL provides the ELs with language and instructional support to ensure they can fully access the curriculum regardless of their language needs.

Upon acquiring access to the students' records, the academic records of ELs at Mendez M.S. will be reviewed to identify recent immigrants and long-term ELs. Furthermore, identification and exit criteria will be reviewed to ensure the identification and exit criteria are in alignment with the Texas Education Code Chapter 89. Per the TEC 89.1225, students whose language survey indicates a language other than English must be assessed for classification. We will assess these students with a TEA approved language proficiency test and a TEA-approved reading and language arts norm-referenced assessment. The records of all ELs will be reviewed to determine the exit criteria the long term ELs have struggled to meet, and develop intervention plans for ELs.

In order to enhance the services provided for EL students and facilitate the integration of ESL instructional strategies into the PBL lessons, core content area teachers will receive sheltered instruction and culturally responsive teaching professional development. **Sheltered instruction training** will equip teachers with instructional strategies that promote the development of on-level



content knowledge and skills while increasing English language proficiency. Through content-based ESL instruction, and the use of sheltered instruction strategies, teachers will plan and implement activities within the PBL model that help ELs connect prior knowledge while collaborating with their classmates. The scaffolding strategies used to ensure teachers provide clear, direct English instruction that results in meaningful input about the content area.

**Culturally responsive teaching** will be critical to the success of Mendez M.S. students. Through culturally responsive teaching, teachers will acquire an understanding of cultural learning styles that will support all diverse students' – ELs, students of color, economically disadvantaged students as well as at-risk students – learning. Culturally responsive teaching, including an understanding of the cultural layers our students bring to the classroom, strategies for facilitating a student-centered classroom, ways to break through the mental and emotional walls students have built up inside them, and intentional scaffolds to bring students up to the level of rigor necessary to master the state standards, is the answer to guiding these students to academic success. Culturally responsive teaching values learning that requires students to be social, to collaborate, to use stories to make sense of their world. Culturally responsive coaching will walk teachers through sets of “checklists” to guide them into creating a culturally responsive classroom, differentiated, rigorous lessons, and an awareness and deeper understanding of language acquisition. Culturally responsive teaching directly aligns to project-based learning, where students work collaboratively to solve real world problems.

All teachers will receive training and coaching on how to integrate the **Texas' English Language Proficiency Standards (ELPS)** into all their lessons. While the ELPS are designed for ELs, the standards provide descriptors and student expectations to promote language development, which would benefit not only the ELs at Mendez but all at-risk and economically disadvantaged students, as well as students with IEPs. Teachers will learn and be coached to analyze all lessons and identify the ELPS that are naturally connected to the TEKS covered within each project. Using sheltered instruction strategies and language accommodations, teachers will modify instruction and instructional resources to address the language needs of the individual student. Project-based instruction is the ideal model to develop the students' language proficiency while teachers integrate opportunities for students to read, write, listen and speak. Through professional development and coaching, teachers will understand how to accommodate instruction to address the varied language proficiency levels of the ELs at Mendez.

As reported by the current school administration, Mendez's ELs students are served by 1.5 ESL teachers. The lack of ESL teachers at Mendez M.S. is an area of concern that the team plans to address immediately. When nearly 50% of the students are ELs and 84% are at-risk, 1.5 ESL teachers cannot effectively serve all students. The administrative team will actively recruit ESL-certified core content teachers. Furthermore, current core content teachers, particularly English Language Arts teachers, will be strongly encouraged to become ESL certified to facilitate the schedule of services for ELs.

The community of Mendez M.S. has expressed an interest in a dual language program. A dual language program at the middle school level requires that students have a strong foundation in Spanish to ensure they can access the curriculum when instruction is 100% in Spanish. Native Spanish-speakers that possess the academic language to participate in the dual language program would receive core subject instruction, for STAAR-tested subjects in English, and Spanish instruction for a non-tested core subjects. Given that 6<sup>th</sup> through 8<sup>th</sup> grade STAAR tests are only available in English, dual language students in 6<sup>th</sup> and 7<sup>th</sup> grade will receive reading/language arts and mathematics instruction in English, while 8<sup>th</sup> graders will receive reading/language arts, mathematics, science and social studies instruction in English. Dual language teachers will be required to hold a Texas teaching certificate in the content area they teach and demonstrate a high level of proficiency in Spanish. Dual language teachers will attend all required professional development and will also use PBL as the primary instructional model.

#### **Gifted and Talented Services**

8.3% of Austin ISD students have been identified as gifted and talented, while only 2.8% of Mendez's students are gifted and talented. There seems to be the students of Mendez M.S. are being under identified as gifted. We will put nomination, screening and identification procedures in place. We will use non-verbal achievement and ability instruments to adequately measure the achievement and abilities of ELs, economically disadvantaged children, and students of color, to avoid the students' limited language proficiency to interfering with the identification process. All core teachers will receive differentiated learning professional development to ensure they develop projects that address the need for cognitively challenging needs of all students. The T-STEM model will facilitate a creative, cognitively rigorous learning environment for all students.

### **Monitoring and Evaluation of Progress**

In order to monitor and evaluate the progress of all Mendez's students, particularly those with special needs, data-driven meetings will be held at least every 6 weeks. A multidisciplinary team consisting of administrators, special education personnel, interventionists, counselors, and general education teacher will review individual student progress. Through this process, the team will not only monitor the effectiveness of the services special needs students are receiving, but also look at struggling students to identify interventions to accelerate the students' learning. Teachers considering a special education or Section 504 referral will have to request that the team reviews the student's records, including the student's prior schooling, English proficiency, performance on daily work, achievement on common assessment and standardized assessments, and response to intervention. Only when all other instructional interventions have been proven ineffective will the team consider a special education referral to avoid over-identification of special education students. The students of Mendez M.S. face many obstacles that require special attention, such as their limited English proficiency, recent immigrants might lack prior school, while the majority of students come from economically disadvantaged homes. These circumstances will impact their learning; however, most of the students at Mendez M.S. need strong Tier 1 instruction, not special education services. While the team does not intend to limit the number of students that receive special services; however, the team is committed to providing strong instructional support before labeling students.

## **Student Recruitment and Enrollment (1000 word limit)**

1. Explain the plan for student recruitment and marketing that will provide equal access to interested students and families. Specifically, describe the plans for outreach to families in poverty, academically low-achieving students, students with disabilities, and other youth at risk of academic failure.
2. Provide, as **Attachment 1**, the school's Enrollment Policy, which should include the following:
  - a. A statement that admission will not be based on national origin, ethnicity, race, or disability;
  - b. tentative dates for application period, and enrollment deadlines and procedures, including explanation of how the school will receive and process applications;
  - c. description of how the school will comply with TEC §12.065 which states that the school must give priority on the basis of geographical and residency considerations, then, if there is still available space, consider age, grade level, or academic credentials, generally or specifically depending on the type of program offered;

- d. description of how the school will comply with TEC §12.0521 which states that enrollment in a Subchapter C charter school must be voluntary; and
- e. policies and procedures for waiting lists, withdrawals, re-enrollment, and transfers.

The MOU for operating Mendez states the following:

The term “Eligible Student” shall mean, in the following priority for secondary students in Grades 6 – 8: First, students in the Mendez Middle School attendance area; secondly, by lottery if necessary, students from the District at-large; finally, from students outside the district wishing to transfer into the district through AISD Policy FDA (Local). No student will be ineligible for admission for failure to sign a pledge. Additionally, no student shall be involuntarily removed from the T-STEM COALITION Mendez Middle School without the review and approval of AISD’s Superintendent or designee. Enrollment will be based upon Texas Education Code, age and grade eligibility, and other state law requirements. In addition, T-STEM COALITION shall prohibit discrimination in accordance with Section 12.059 of Texas Education Code (TEC).

The above policy reflects TEC 12.065. As with any Subchapter C School, enrollment is voluntary (TEC 12.0521).

It is our goal to reestablish Mendez as the school of choice for the Dove Springs community. Over the past five years, a significant number of students have transferred to other middle schools. We will implement the Blueprint for student recruitment and marketing. Students in the Mendez attendance zone will be a priority. Over time, we hope to establish Mendez Middle School as the model other schools in AISD want to emulate.

We will work with Austin ISD to grow enrollments. Anticipated enrollment for Fall 2018 is approximately 550 students. The building capacity is 1,100.

The primary recruitment zone is Dove Springs neighborhood. Mendez is the school that serves this area of Austin. The district will maintain current bus routes. The 2018 blueprint is specific concerning admissions and enrollment.

All T-STEM academies must implement and meet the following requirements:

1. The T-STEM recruitment and enrollment processes shall identify, recruit, and enroll the subpopulations of at-risk students (as defined by PEIMS), including, but not limited to, students who are of limited English proficiency, students with disabilities, or students who have failed a state administered assessment. Enrollment decisions shall not be based on state assessment scores, discipline history, teacher recommendation, parent or student essays, minimum grade point average (GPA), or other criteria that create barriers for student enrollment
2. The T-STEM shall identify, recruit, and enroll subpopulations (in addition to those who are at risk as defined by PEIMS) that are historically underrepresented in college courses (e.g., first generation college goers, students of low socioeconomic status, African American, Hispanic, Native American)
3. The T-STEM academy shall clearly document recruitment and enrollment policies and practices; refining and improving them annually based on data reviews (Attachment 1)
4. Recruitment and enrollment processes (including marketing and recruitment plans, materials, and timelines) shall include input from key stakeholders (e.g., parents and community members; postsecondary partners); target student populations as described in 1 and 2 above; and include regular activities to educate students, counselors, principals, parents, and school board and community members
5. If the T-STEM academy has more applicants than available space, they shall use either a performance-blind, open-access lottery system for admissions that encourages and considers

applications from all students (all students have an equal opportunity for acceptance, regardless of background or academic performance) or a weighted lottery that favors students who are at-risk or who are part of the targeted subpopulations for the T-STEM

The 2015 Blueprint offers additional practices that will be adopted:

### **3. BENCHMARK: Student Outreach, Recruitment, and Retention**

#### **3.1 Program Requirement: Recruitment**

3.1.A Develops structures and processes for marketing and recruitment to encourage participation from underserved students and families (transportation or plans for transportation to the school, child care for family events, and translation of all recruitment and marketing materials).

3.1.B Actively partners with feeder elementary schools to develop student interest in STEM education and to increase advancement rates from middle school STEM to high school STEM.

3.1.C Develops a systemic recruitment plan that includes students, parents, counselors, teachers, district, and community.

#### **3.2 Program Requirement: Open Access**

3.2.A Develops an admission policy to include an open-access, lottery-based selection process that encourages applications from all students. The application will not be based on state assessment scores, discipline history, teacher recommendation, minimum GPA, or other requirements that would be used to limit selection.

3.2.B Consists of a population that is 50% or greater economically disadvantaged and underrepresented students.

#### **3.3 Program Requirement: Student Support and Retention**

3.3.A Develops and implements systemic, tiered strategies for student support and retention (outreach, early intervention strategies, mentoring, tutoring, counseling, and other supports for academic and socio-emotional growth).

3.3.B Hosts 5th – 6th and 8th – 9th orientation session(s) and summer bridge program(s) to facilitate successful student transitions and retention into a STEM-focused, college preparatory, project-based learning environment.

3.3.C Provides all students with opportunities and the expectation to assume roles of responsibility within the classroom, Academy, and community.

3.3.D Supports and monitors 6th – 8th student participation in STEM activities both within and outside the classroom to ensure that all students engage in STEM clubs, STEM competitions, and STEM field experiences.

3.3.E Hosts parent seminars to develop deep understanding and commitment to the rigor of college readiness and the high expectations of a STEM Academy.

## **Student Discipline (1000 word limit)**

1. If already developed, provide the proposed discipline policy as **Attachment 2**. If a proposed discipline policy is not available, describe in detail the school's approach to student discipline. Taken together, the narrative description and/or discipline policy should:
  - a. Explain the practices the school will use to promote discipline, including both penalties for infractions and incentives for positive behavior;
  - b. list and define the offenses for which students must (where non-discretionary) and may (where discretionary) be suspended or expelled;
  - c. explain how the school will take into account the rights of students with disabilities, including students with Behavior Support Plans in disciplinary actions and proceedings; and

- d. explain procedures for due process when a student is suspended or expelled as a result of a violation, including a description of the appeal process that the school will employ for students facing expulsion and a plan for providing services to students who are expelled or out of school for more than 10 days.

1. Attachment 2 provides a sample template for the student discipline policy. This is not a completed policy because the T-STEM Academy Blueprint provides the opportunity for stakeholder input on the final product. Also, Austin ISD received a grant to implement Restorative Discipline and we plan to participate in that initiative.
  - a. The T-STEM Academy Culture is designed to reduce discipline issues. Where PBL has been implemented with fidelity, there typically follows a reduction in discipline issues due to increased student engagement and student self-accountability.
  - b. We defer to Austin ISD policy until we can convene stakeholders.
  - c. We defer to Austin ISD policy until we can convene stakeholders.
  - d. We defer to Austin ISD policy until we can convene stakeholders.

## Performance Measures (500 word limit)

1. Describe the annual performance goals outlined in the performance contract for which the school will be held accountable, such as student progress and achievement levels, closing achievement gaps, post-secondary readiness, and community/student engagement.

### Annual Performance Goals

It is our goal for Mendez to become a high performing school. Austin ISD has developed the annual performance goals for Mendez. Many of the goals are TBD because baseline data is not yet available.

Addendum 1: School Performance Goals provides AISD performance expectations for Mendez MS. For 2018 -19 the following goals have been set.

Campus Rating: Met Standard (Currently IR)

TEA Accountability Domain 2: met or exceed target for comprehensive middle schools

Literacy Measure: I Station results % students reading at or above grade level: maintain or increase current percentage.

Percentage of Students that "Meets" Grade Level Standard on STAAR/EOC: maintain or increase current percentage.

Attendance: Baseline is 91.1: maintain or increase current rate.

Number of Home School Suspensions: maintain or decrease

Percent of Students who feel safe in their school: maintain or increase current rating

Percent of Campus Staff who feel their school is a good place to work and learn. (Current 76%): maintain or increase current rating.

Percent of Parents/Guardians who feel their involvement is welcomed by teachers: maintain or increase current rating.

### **Success Action Plan**

Once the T-STEM Coalition has access to student data, we will analyze data to create a baseline metrics for students, teachers and administrators. . Based on the diagnostic report, the Coalition will develop an action plan that addresses the following:

- Student success: Accelerating all students to be at grade level or meet STAAR/EOC Indices.
- Specific scope and sequence
- School leadership: Plan for ensuring that the school has an effective principal who buys into the model and assist in developing processes to support teacher leaders; continuing support for the principal’s leadership development.
- Teacher-led professional learning communities (PLCs): Time and support for grade- or subject-based PLCs that focus on data analysis to support effective Tier I instruction aligned with standards.
- Annual performance targets for student outcomes and leading indicators of progress aligned with meeting state standards under the accountability system.

The Action Plan will include the specific actions and steps the partnership team will take to support the improvements.

### **Student Success**

In the T-STEM Model all students receive an Individualized Plan. Each plan is designed to accelerate students to not only “Approach” standard, but ultimately Meet or Exceed Standard. In the current Accountability System, we focus on Domain 2 (growth). We have found that focusing on Domain 2 creates a growth mindset for students and teachers. Focusing on growth also tends to have positive results in the remaining domains.

### **Community/Student Engagement**

The Blueprint provides guidance for Community/Student Engagement. School Stakeholders can serve on “Design Teams” and have input on most aspects of the school.

## **Assessment & Evaluation (1000 word limit)**

1. Explain the plan for using internal and external assessments to measure and report student progress on performance measures.
2. Explain how the school will measure and evaluate academic progress – of individual students, student cohorts, and the school as a whole – throughout the school year, at the end of each academic year, and for the term of the charter contract. Explain how the school will collect and analyze student academic achievement data, use the data to refine and improve instruction, and report the data to the school community. Identify the person(s), position(s), and/or entities that will be responsible and involved in the collection and analysis of assessment data.
3. Describe the corrective actions the school will take if it falls short of student academic achievement expectations or goals at the schoolwide, classroom, or individual student level. Explain what would trigger such corrective actions and who would be responsible for implementing them.

### **Elements of the school diagnostic process**

The IC diagnostic team will implement the following activities as soon as this partnership is selected and data access is granted:

- Review of student performance data (disaggregated)
- Observations and assessment of classroom instruction
- Observation of collaborative teacher planning of instruction, i.e., PLCs
- Assessment of principal and teacher leadership
- Assessment of school culture
- Interviews with district leadership regarding turnaround conditions, finance and budget, and school governance
- Assessment of the level of social trust based on a survey of teachers, parents, administrators, and students
- Focus groups with teachers, parents, community members, and (in high schools) students
- Assess the assessments of data driven practices and define the process

The team will produce a report that includes findings, recommendations, and areas for strategic intervention with the goal of meeting standard and working towards recommended performance. Communities in Schools will closely partner on the last two indicators.

### **Action Plan**

Based on the diagnostic report, the Ingenuity Center will develop an action plan that addresses the following:

- Student success: Accelerating all students to be at grade level or meet STAAR/EOC Indices.
- Specific scope and sequence
- School leadership: Plan for ensuring that the school has an effective principal who buys into the model and assist in developing processes to support teacher leaders; continuing support for the principal's leadership development.
- Teacher-led professional learning communities (PLCs): Time and support for grade- or subject-based PLCs that focus on data analysis to support effective Tier I instruction aligned with standards.
- Annual performance targets for student outcomes and leading indicators of progress aligned with meeting state standards under the accountability system.

The Action Plan will include the specific actions and steps the partnership team will take to support the improvements.

### **Explain the plan for using internal and external assessments to measure and report student progress on performance measures**

Mendez will implement a monitoring system designed to provide snapshots of student progress as well as diagnostic information. We will retain DMAC as the data tool for Mendez. In addition, teachers will be trained on how to embed assessment items in projects to monitor students. In addition, we will implement a student artifact protocol to assure that projects are implemented at appropriate rigor.

The 2015 Blueprint provides guidance on use of assessments.

#### **5.6 Program Requirements: Assessment**

- 5.6.A Uses diagnostic, ongoing, and vertically and horizontally aligned formative and summative assessments for all students to drive instructional decisions.
- 5.6.B Uses state and national standards, college and career readiness standards, industry standards, and STEM program requirements to develop common benchmark assessments.
- 5.6.C Employs student readiness assessments or diagnostics to identify and address gaps in learning.
- 5.6.D Tracks and reports student progress using student information systems.



### 5.6.E Uses performance-based assessments that allow students to demonstrate their understandings of STEM concepts.

The primary external assessments that will be used are the STAAR and EOC results,

We will have two Benchmark Exams each year (Fall and Spring). These will be fully released STAAR/EOC exams. The Spring Benchmark will be conducted under STAAR/EOC testing conditions.

In addition to the Benchmarks, we will provide teachers with common assessment items to be embedded in Projects and Assignments. These common items will be entered into DMAC to analyze students progress in particular subjects and domains. This will not be simply test prep workbooks that we see utilized in many schools. The items will be ubiquitous to the students.

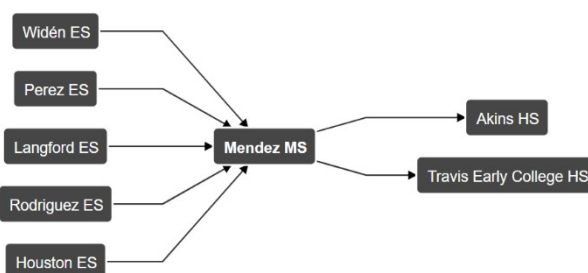
We will also work with teachers and students on how to monitor progress and use data to improve performance. Once again, this approach is embedded in PBL. Students will be trained in the “Critical Friends” process so they can learn to evaluate their own performance.

We strongly believe that teachers have the biggest impact on student learning.

#### Teacher-led Processes

The project team will develop a detailed plan for engaging teachers in the process of improving Tier 1 instruction through the use of professional learning communities facilitated by coaches. The Coalition has developed a model for PLCs that includes intensive instructional coaching. The coaching model can be implemented with minimal expense. Campuses must provide for the time, training, and support needed to build robust professional learning communities for teachers in the school. The coaching includes use of the UTeach Teaching Observation Protocol (U-TOP) instrument to assist teachers and administrators on focusing instruction utilizing research-based instructional strategies, TEKS coverage, College and Career Readiness Standards (CCRS) alignment, and content at the appropriate rigor/depth of knowledge. Teachers also learn to use the protocol to evaluate videos of their own teaching.

#### Plan for the inclusion of the elementary feeder campuses in data review, gap analysis, and alignment of curriculum and instructional programming



The figure at left shows the Mendez feeder pattern. We have examined the STAAR results from each of the feeder elementary schools. All five campuses meet standard. That said three campuses struggle with meeting Index 1. This will be problematic moving forward as the new A-F accountability system is more rigorous.

We will utilize DMAC from ESC Region 7 to analyze student data. Mendez staff are already familiar with this product. In the T-STEM Academy model each student receives a personalized learning plan. Students are assigned a success coach to work on meeting STAAR/EOC as well as their pathway to the High School.

Student Cohorts are evaluated and STAAR Scores are analyzed by individual TEKS and if standards are not met those TEKS are re-taught.

Mendez MS is already IR. We have a plan to analyze individuals, sub-populations, and grade level data to assure that students meet the accountability targets. As part of the Blueprint there is ongoing review of school data. If students are not being successful as measured by



Benchmarks and local assessments the CIA and Administrative Teams will develop interventions to address shortcomings. This occurs during PLC time for teachers and at the end of each grading period for administration. The Executive Director will meet monthly to go over progress with the Administration and CIA Team.

## Section 2 — Leadership Capacity

### Organization Chart

1. Submit, as **Attachment 3**, an organization chart that operating partner's school governance, management, and staffing structure in the first year of school operations. The organization chart should clearly delineate the roles and responsibilities of, and lines of authority and reporting among, the governing board, staff, any related bodies. The organization chart should also specifically identify the operating partner's dedicated capacity to manage the campus(es).

### Governing Board (1000 word limit)

1. Describe the governance structure of the proposed partnership, including the primary roles, powers, and duties of the governing board and how it will interact with the principal/head of school and its independence from the Board (authorizer) and other entities.
2. Describe the current and desired size and composition of the governing board. Identify key skills, areas of expertise, and constituencies that are and/or will be represented on the governing board.
3. List all current and prospective governing board members and their intended roles. For each individual identified, summarize interest in and qualifications to serve on the board.
4. If this partnership proposal included an operating partner who is a pre-existing non-profit organization respond to the following:
  - a. Was the pre-existing non-profit formed for a purpose other than operating schools? If so, please provide the mission of the organization and explain how operating charter schools serves that mission.
  - b. Will the pre-existing non-profit board govern the new school, or will a new non-profit corporation governed by a separate board hold the charter?
  - c. If the non-profit's current board will govern the charter school, what steps have been taken to transform its board membership, mission, and bylaws to assume its new duties? Describe the plan and timeline for completing the transition and orienting the board to its new duties.
  - d. If a new board has been or will be formed, describe what, if anything, its ongoing relationship to the existing non-profit's board will be.

#### **Governance Structure:**

#### **Plan for the management of a governing board, including your vision and plan for the appointments and makeup of this board in partnership with the District**

The governance structure will be tailored to the school's vision, mission, and goals. The Board has the responsibility to develop its own structure, policies, and procedures consistent with applicable laws, requirements of the Academy's authorizing body, and the governance philosophy of the academy school leaders. The Board will commit to the following:

- Adopt a structure that reflects the school's mission, goals, and objectives
- Design a structure that reflects the state charter law
- Provide ongoing communication with all stakeholders
- Establish shared decision making
- Support the involvement of a variety of stakeholders in the governing board or in committees/councils
- Provide board training seminars, conferences, and/or retreats
- Focus on generating a vision and plan for school improvement

Development of an effective governing board is an essential component of building an effective T-STEM Academy. The steps in the development of an effective governing board include:

- Nominations and recruitment — the process of identifying the right individuals to meet the needs of the school, helping them understand their roles and responsibilities, and attracting them to become part of the board.
- Orientation — the steps taken to give new board directors the information they need to carry out their roles and responsibilities effectively.
- Training — the regular, ongoing efforts to build new skills and knowledge among the existing board directors to enhance performance.

The Academy will be managed by the T-STEM Coalition, a 501c3 non-profit. The T-STEM Coalition will create a Governance Board. The Board is responsible for governing the school, having a personal fiduciary duty to look out for the long-term well being of the school. The Board is not involved in handling the day-to-day details of running the school, dealing with specific personnel issues, or addressing individual student needs. The Board delegates the responsibility for running the charter school and implementing the Board's policies to the school leader (Executive Director).

The governing board is intended to be large enough to provide representation to stakeholders, and small enough to efficiently make decisions. CISCT will assist the coalition for establishing, convening and record keeping for the Governing Board, which will include the following:

**1. Governance Board Structure**

The Governance Board will function similar to a school board. The Board will Approve Policy, .....

The Executive Director will function similar to a Superintendent.....

Austin ISD will have an Ex-Officio Seat on the Governance Board to assure communication.

**2. The Governance Board for Mendez will consist of the following voting representatives.**

Seat 1: T-STEM Coalition

Seat 2: T-STEM Coalition

Seat 3: Communities in Schools

Seat 4: UTeach Austin

Seat 5: Parent

Seat 6: Parent

Seta 7: Parent

The non-parent seats will be selected by that organization. The parent seats will filled through a vote.

In addition to the voting members there will Ex-Officio Members including:

- Executive Director
- PTO President
- Community Partners (TBD)

The final structure will be determined based on community feedback. The only impact would be the potential addition of seats.

**3. Prospective Board Members:**

T-STEM Coalition: Dr. Michael Odell

T-STEM Coalition: Dr. Jo Ann Simmons

Communities in School: Suki Steinhauser

UTeach Austin: Kim Hughes

Parent 1:TBD  
 Parent 2: TBD  
 Parent 3: TBD

### **Board Member Qualifications and Interest**

Dr. Michael Odell is currently on the Board of the Texas STEM Coalition. He has been working to support STEM Academies through Texas. He is the co-founder of the successful charter schools, the Innovation Academy at UT Tyler which serves as the T-STEM model for Mendez. He is a curriculum and assessment specialist.

Dr. Jo Ann Simmons is the Executive Director of the Innovation Academy and serves as a TEA PSP. She is very familiar with turning schools around.

Suki Steinhauer is the CEO of Communities in Schools Central Texas. CIS has a presence on the Mendez campus and has been working with the school for over 20 years.

Kim Hughes is the Director of the UTeach Institute. She works to develop high quality PBL Teachers for schools like Mendez.

Parent Board members will be elected from the academy to provide a voice for parents and students.

In addition to the governing board T-STEM Academies implement Design Teams to maximize stakeholder participation.

### **Design Teams**

As outlined in the Blueprint, stakeholders have the opportunity to serve on Design Teams. The Design Teams will be established upon contract being initiated. These teams are intended and employed for a high degree of engagement in various topics to come to recommendations/decisions on a wide variety of topics. In addition to teachers, students, parents, and CISCT staff, Design Teams may include Austin Interfaith representatives or staff, other community members or City/County staff with interest or expertise in the topic area. Examples of topics tackled by Design Teams are: School Culture and Climate; Out of School Time; Calendar and Bell Schedule., Student Health.

***1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.***

***In addition, the Blueprint requires an advisory board from the community.***

***1.2.C. Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.As outlined in the Blueprint, all stakeholders have the opportunity to serve on the Design Teams. The Design Teams will be established upon contract being initiated.***

***1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.***

In addition, the Blueprint requires an advisory board from the community.

***1.2.C. Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.***

**Partner/provider capacity, including other partners who will be part of this partnership**

The Texas STEM Coalition is a 501c3 non-profit. The coalition was established by the T-STEM Centers that were designated by the Texas Education Agency to support T-STEM Academies across Texas. The Texas Science, Technology, Engineering and Mathematics (STEM) Centers address the challenges of tomorrow's technology-driven economy by researching, developing, and supporting best practices in STEM education for K-12 schools. The Texas STEM Coalition, comprised of T-STEM Centers and other members, work with T-STEM Academies as well as all Texas schools to transform teaching and learning methods, improve achievement in STEM education, and ensure all students are college-ready, career-ready, and life-ready.

**Mission**

The Mission of the Texas STEM Coalition is to work with educators to ultimately prepare all Texas students to thrive in the 21st Century global economy by leveraging its extensive network of expertise, partnerships, resources and experience to:

- transform teaching and learning,
- promote the implementation of innovative, research- and standards-based STEM practices that align with College and Career Readiness objectives, and
- facilitate its dissemination through an effective state-wide alliance.

**T-STEM Coalition** members have experience in managing schools and implementing the T-STEM Blueprint. For example, the Ingenuity Center (T-STEM Center) has significant expertise in managing schools and in school turnaround.

**Communities in Schools Central Texas (CIS)** has a 32 year history of working with schools in AISD to support students and families with more than 20 years serving Mendez M.S. An affiliate in good standing of Communities In Schools' national organization, CISCT is considered among the best in the country in delivering student supports, integrated into the school environment so that all children may learn at their potential.

**The UTeach Institute**

UTeach's mission is to increase the number, diversity, and academic achievement of students pursuing STEM disciplines and careers. UTeach is well known as a highly successful secondary STEM teacher preparation program, begun at UT Austin in 1997 and currently operating at 45 universities nationwide. The UTeach Institute was created 11 years ago to expand the UTeach program nationwide and serves as the hub of this national network of UTeach programs. As a result of this work, the Institute has developed a comprehensive approach to the development, implementation, evaluation, and scaling of educational programs. The Institute's work to strengthen STEM education is informed by both the fundamental UTeach approach to STEM teaching and learning as well as our experience developing and managing educational programs at scale.

UTeach brings decades of experience in effective STEM teaching and learning, including: teacher development; effective STEM instructional design and curriculum development; STEM programming for K–12 students; assessing STEM teaching and learning; educational program design, implementation, and support; development of professional learning and networked improvement communities; sophisticated educational data analysis; and program evaluation.

The Texas STEM Coalition was not originally created to manage a school. It was developed to support T-STEM Academies and continue the work of the T-STEM Centers once TEA funded ended in 2015. That work has continued and the coalition provides an annual STEM Conference

for Texas. The coalition members also provide technical assistance and PD for T-STEM Academies across Texas.

Will the pre-existing non-profit board govern the new school, or will a new non-profit corporation governed by a separate board hold the charter?

The Coalition plans to oversee the school. The current board will delegate authority for managing the school to a more inclusive school governing board described previously.

If a new board has been or will be formed, describe what, if anything, its ongoing relationship to the existing non-profit's board will be.

The new board includes two T-STEM Board Members to assure that interest of the school and the coalition are represented. This arrangement is under review by our legal team and will be adjusted if warranted.

### Application Team Capacity – District Leadership (1000 word limit)

1. District Capacity - Identify the key members of the district's leadership team and describe individual and collective qualifications for authorizing, monitoring, and evaluating the campus charter.

– OR –

If this responsibility will be managed by a new role, discuss the process and timeline for recruiting, selecting, and hiring this individual. Describe the criteria to be used in selecting this leader.

The District's plan is to hire a new executive level officer who will oversee District work through 1882, transformation zones, and other transformational work in the District. This position will report directly to the Superintendent. The position, tentatively titled Chief Innovation Officer, will oversee charter authorizing process, work with the partner organizations in monitoring and support, oversee future selection process, in addition to other job duties. The current plan is to post, evaluate and hire for this position for the start of the 2018-19 school year.

The Chief of Staff is currently running the process for 1882 and transformation zone selection.

### Application Team Capacity – Operating Partner (1000 word limit)

1. Operating Partner Capacity - Identify the key operating partner personnel responsible for the outcomes at the campus (ex: executive director/school leader candidate and/or role). Explain why this individual or role is well-qualified to manage the proposed partnership in achieving its mission. Summarize the proposed leader's academic and organizational leadership record. Provide specific evidence that demonstrates capacity to design, launch, and manage a high-performing charter school.

– OR –

If no candidate has been identified, discuss the process and timeline for recruiting, selecting, and hiring the school leader. Describe the criteria to be used in selecting this leader.

**Operating Partner Capacity:**

The Governing Board includes two members that have launched and operated charter schools. Dr. Jo Ann Simmons and Dr. Michael Odell oversee the UT Tyler Innovation Academy at UT Tyler. Dr. Jo Ann Simmons is the Superintendent and Dr. Odell is the Faculty Member in Charge of Curriculum and Academy design. Because this is an In District Charter, we believe we need a strong leader that can work with AISD.

Dr. David Simmons will serve as the Executive Director of the School. David is a former superintendent and has managed large school districts such as Tyler ISD and Richardson ISD. He is also a TEA Monitor, Conservator, and a PSP. Dr. Simmons Resume is attached.

The following bullets highlight Dr. Simon's Expertise.

**Professional Service Provider (PSP)**

- Serve as a liaison between the Texas Center for District and School Support (TCDSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**Texas Education Agency (TEA) Monitor/Conservator Texas**

- Coordinate with the regional Education Service Center to develop improvement plans and strategies
  - Report the district's progress to the appropriate divisions
  - Advise the Commissioner on any additional sanctions for consideration
  - Draft preliminary quarterly reports detailing activities during the reporting period, the findings, progress on the LEA's corrective action plans, and any recommendations to the agency for further actions

**Richardson, Texas Superintendent (35,000 Students)**

- Maintained TEA Recognized status for 3 consecutive years. Largest and most diverse district in Texas to accomplish this goal
- RISD selected as outstanding school district in Texas by HEB corporation in 2007
- Increased the number of exemplary campuses and recognized campuses each year

- Expanded career and technology programs

**August, 2002-December 2006**

**Tyler I.S.D.**

**Tyler, Texas**

**Superintendent (18,000 Students)**

- Improved relations with community and civic organization including Smith County Association of Taxpayers, the City of Tyler, and Tyler Area Chamber of Commerce
- Restructured central administration to improve efficiency and increase accountability
- Posted consistent gains in student achievement as measure by TAKS

## Application Team Capacity – School Leadership (1000 word limit)

1. School Leadership Capacity - Identify the key members of the school's leadership team and describe the other team members' individual and collective qualifications for implementing the school design successfully, including capacity in areas such as: administration, financial management, , curriculum, instruction, and assessment; performance management; and parent and community engagement. If known, identify the individuals who will fill these positions, explain why each is well-qualified for a specific role, and summarize their relevant track record of success.

### School Leadership

In addition to the Executive Director the T-STEM Coalition will implement a new coaching model to work with the Leadership Team at Mendez. The coaches will be TSTEM/UTeach employees and embedded in each of the sub schools (see organization chart). There will be one TSTEM/PBL coach per sub-school that works hand-in-hand with the Assistant Principal that manages the sub-school. This allows us to meet the Blueprint intent of the small learning community model. The coaches will also have content expertise to assist in developing interventions, PD, and PLC's.

The T-STEM Coalition is committed to providing the opportunity for current Mendez leadership personnel to remain on campus if they choose to commit to the T-STEM Blueprint and School Model. The process is outlined below.

The process for staffing includes:

- Meet with personnel and explain the T-STEM Academy model and the commitment needed to implement the model successfully (group setting).
- Meet with personnel individually and discuss the model, PD requirements, outside requirements, etc.
- Provide commitment letters to personnel who elect to remain. This will include an addendum (TBD) that must be signed to show commitment.
- Once personnel staying are identified, we will immediately post announcements for needed administrative, education, and support positions.



## Mendez Middle School Turnaround:



### Introduction



The Texas STEM Coalition proposes to serve as the Lead Partnering Entity to manage and create a successful and sustainable program at Consuelo Mendez Middle School to meet and ultimately exceed state accountability standards in partnership with the Mendez community, Communities in Schools Central Texas, and UTeach Institute. The Partnership proposes to implement the research-based T-STEM Academy model at Mendez. Communities in Schools (CISCT) will enhance its Integrated Student Supports at Mendez, including parent engagement, teacher supports and training, partnerships development, and community mentor coordination. The Mendez community needs and deserves to be a part of the turnaround of their school, which is situated in the heart of Dove Springs and is the only AISD middle school in southeast Austin east of I-35. The school governing body to be formed will most certainly include parent and community voices.

### Section 1: Educational Program Design

It is our intention to transition Mendez Middle School (MMS) from a low-performing campus to a high performing Texas STEM Academy (T-STEM). The T-STEM Academy is one of several turnaround models promoted by the Texas Education Agency over the past decade. The T-STEM program is focused on developing college- and career-ready students. Austin has become the Silicon Valley of Texas and students completing a STEM program will be better prepared to take advantage of many thousands of career opportunities available here. Transitioning to a T-STEM Academy goes beyond simply trying to “Meet Standard.” Too often, turnaround programs simply provide supports that only focus on passing the STAAR and EOC. These programs are problematic since they do not take into account future changes in the accountability system. They are often reactive, focusing on



attendance, tutoring, and test preparation. These programs do not build teacher and student capacity to become self-led learners and productive team members and often create a negative school culture.

At schools implementing the T-STEM model, students do not only focus on STEM. Rather, the goal of the STEM Academy model is to prepare students in STEM in at a deeper level, as well as prepare them well in the traditional core subjects, to maximize their future learning and earning opportunities. This model also builds a school learning culture that mirrors the workplace to build students' 21<sup>st</sup> century skills, including collaboration, communication, creativity, and critical thinking. This approach is in stark contrast to turnaround models that focus primarily on test preparation. Another rationale for using the T-STEM Model is its alignment with the two high schools that Mendez students will attend. Travis High School is an Early College High School and Akins High School includes a T-STEM Academy. The T-STEM model aligns to both the these established programs.

The T-STEM model follows a Blueprint. The T-STEM Blueprint (TEA, 2015), is similar to the Early College High School model (ECHS). T-STEM Academies focus on preparing economically disadvantaged students for college and career. Unlike the ECHS model, there is a strong focus on STEM. The T-STEM Blueprint includes seven research-based benchmarks that help guide a school to becoming high achieving. The following is an excerpt from TEA concerning the T-STEM Academy approach.

*The Texas Education Agency (TEA) and Educate Texas support T-STEM Academies in order to concentrate state and local efforts for improving math and science achievement among Texas students. The T-STEM initiative ensures Texas students thrive in the 21st Century economy by studying and entering into STEM fields. The cornerstone of T-STEM Academy learning is student engagement and exposure to innovation and design in STEM-focused instruction and learning that models real-world contexts. T-STEM Academies serve as demonstration sites to inform math and science teaching and learning statewide. The T-STEM initiative aims to closely align high school curriculum with admission requirements of competitive colleges and the STEM qualifications for 21st century jobs. The Academies use the T-STEM Design Blueprint, Rubric, and Glossary as a guidepost to build and sustain T-STEM schools that address the seven benchmarks:*

- 1) Mission driven leadership*
- 2) School culture and design*
- 3) Student outreach, recruitment, and retention*
- 4) Teacher selection, development and retention*
- 5) Curriculum, instruction, and assessment*
- 6) Strategic alliances*
- 7) Academy advancement and sustainability*

*T-STEM Academies are demonstration schools and learning labs that develop innovative methods to improve STEM-related instruction. TAC §102.1093 also instituted the requirement for an annual application and designation process for any school wishing to become/retain T-STEM designation in the State of Texas. In early 2015, the T-STEM Blueprint underwent a third revision to include language specific to middle school T-STEM Academies and House Bill 5 graduation requirements.*

Achievement data from students in 2011 showed T-STEM Academies outperform peer schools, meeting college-readiness benchmarks at a 12 percent higher rate and achieving a 21 percent higher completion rate in dual credit and advanced placement courses (Fitzpatrick, 2012). Another study concluded that participation in a STEM academic program positively impacted eighth grade students' academic

achievement in mathematics, science, and reading (Olivarez, 2012). The T-STEM Blueprint has also proven effective as a school turnaround model (Odell, 2017; Odell & Pedersen, 2018). Excerpts from the T-STEM Academy Design Blueprint are highlighted in blue throughout this document. In addition, the complete Blueprint is included in the appendices.

## Educational Plan

Mendez Middle School will adopt the T-STEM Academy Blueprint. T-STEM Academies are implemented at the middle school and high school. The Blueprint provides design criteria for the entire school enterprise. The TEKS serve as the basis for curriculum in every class. Projects will be developed around the TEKS. A scope and sequence will be developed that covers the TEKS and is aligned to the STAAR, EOC, and the Career and College Readiness Standards.

### A. Curriculum & Delivery Methods of Core Instruction

Mendez will implement the Blueprint as designed. The Blueprint includes high school language that aligns to high school programming. We chose to leave in those elements for the proposal readers as the Mendez curriculum will prepare students for those pathways if they choose STEM or ECHS in high school. We will also maintain the Project Lead the Way (PLTW) Gateway program and expand PLTW. Benchmark 5 of the T-STEM Blueprint focuses on Curriculum, Instruction and Assessment.

#### **BLUEPRINT: BENCHMARK 5: Curriculum, Instruction, and Assessment**

##### **5.1 Program Requirement: Rigor**

5.1.A Aligns curriculum, instruction, and assessment (such as, but not limited to, THECB CCRS, national and state standards, content, context, culture, cognitive level, competencies, skills, processes, 21st century skills, and STEM synthesis).

5.1.B Develops a scope, sequence, and pacing guide for a vertically and horizontally aligned curriculum centered on state standards, career and college readiness standards, STEM integration, and industry expectations.

5.1.C Develops an assessment and intervention plan to address gaps in student achievement and areas for extension.

5.1.D Supports and encourages all students to be ready to successfully complete four years of mathematics, four years of science, four years of STEM electives, and at least one Endorsement in STEM, Business and Industry, Public Services, or Arts and Humanities, with a primary focus on a STEM Endorsement; and earn a Distinguished Level of Achievement as well as a Performance Acknowledgement in order to graduate college ready.

5.1.E Offers dual credit, articulated concurrent enrollment, AP or IB courses so that all students will graduate with 12-30 college credit hours. **(MS- Provides foundation for these offerings in HS)**

5.1.F Establishes curriculum expectations, monitoring, and accountability mechanisms that are reflectively revised to ensure a constancy of mission purpose (aligned resource allocation, integrated STEM curriculum development, teacher professional growth, and student results).

##### **5.2 Program Requirement: STEM-focused Curriculum**

5.2.A Delivers innovative STEM programs that are well-defined, embed critical thinking and problem solving, innovation, and invention, and are aligned to state, and/or national standards, and industry expectations.

5.2.B Supports and encourages students to complete three years of STEM electives at middle school and four years of STEM electives at high school.

5.2.C Develops performance-based and project-based assessments aligned to these innovative programs and state/national/industry standards.

5.2.D Develops and implements a plan for supporting accelerated student achievement for students with demonstrated deficiencies or proficiencies in mathematics and science, to promote all students graduating ready for enrollment in credit-bearing postsecondary courses (e.g. Algebra I enrollment by 8th grade).

5.2.E Incorporates into the curriculum work-based, contextual learning with a global perspective.

5.2.F Participates in extra-curricular academic activities centered on science, technology, engineering, and mathematics; i.e. STEM field experiences, clubs, and competitions.

5.2.G Develops 6th – 8th students’ portfolios of interest in: STEM capstone projects, STEM extracurricular opportunities, and global STEM college, degree, and career explorations.

### **5.3 Program Requirements: Instructional Practices**

5.3.A Incorporates data-driven instruction.

5.3.B Creates an environment for shared teacher responsibility and accountability for student learning across programs, content areas, and classrooms.

5.3.C Organizes instruction expectations around problem-based and project-based learning with clearly defined learning outcomes for students and teachers that address state and national performance standards, college and career readiness standards, and industry expectations.

5.3.D Ensures teachers’ use of the aligned scope and sequence and integration across the disciplines.

5.3.E Ensures teachers’ use of high-quality curricular materials aligned with state and national standards, college and career readiness standards, and industry standards.

5.3.F Provides opportunities for students to exercise choice and voice within a relevant and rigorous context.

### **5.4 Program Requirements: STEM Education Integration**

5.4.A Promotes instructional strategies that challenge students to think critically, innovate, and invent to solve real-world, contextual problems.

5.4.B Exposes students to critical readings in STEM related fields and requires students to demonstrate their understanding of STEM disciplines in a work-based, contextual environment.

5.4.C Offers standards-based STEM programs that incorporate integrative STEM literacy and innovative instructional tools.

5.4.D Promotes applied and collaborative learning, and provides students with opportunities to present/defend their work to peers, community, industry, and university leaders.

5.4.E Promotes a technology rich culture of natural use of current technologies to enhance instruction, curriculum, teaching, and learning, and STEM literacy.

### **5.5 Program Requirements: Literacy**

5.5.A Promotes technologically proficient and scientifically literate students with highly developed academic vocabulary and STEM technical vocabulary.

5.5.B Graduates 21st Century literate students proficient in: English, reading, speaking, writing, numeracy, arts, health, sciences, and world languages; government, civics, history, and geography; environmental science; global awareness; information, communications, and media technology; financial, economic, business, and entrepreneurship.

5.5.C Selects appropriate STEM curriculum and culturally relevant instructional materials that foster widespread use of literacy strategies within the STEM curriculum.

5.5.D Provides opportunities for students to demonstrate the relevancy of the content through reading, writing, speaking, and presenting.

#### **5.6 Program Requirements: Assessment**

5.6.A Uses diagnostic, ongoing, and vertically and horizontally aligned formative and summative assessments for all students to drive instructional decisions.

5.6.B Uses state and national standards, college and career readiness standards, industry standards, and STEM program requirements to develop common benchmark assessments.

5.6.C Employs student readiness assessments or diagnostics to identify and address gaps in learning.

5.6.D Tracks and reports student progress using student information systems.

5.6.E Uses performance-based assessments that allow students to demonstrate their understandings of STEM concepts.

## **B. School Culture and Climate**



The T-STEM Academy Blueprint provides guidance on building a school culture that supports learning at a high level. Mendez will meet the following benchmarks for School Culture and Climate.

Mendez will be decorated to reflect a PBL School that promotes high academic standards and a positive school culture. College pennants will be placed in every hall. Displays for student products will be created throughout the building. Personalization is a major factor in building a positive school culture and leads to relationships that build trust between students and teachers.

Communities in Schools (CIS) will play a greater role in enhancing a healthy school climate, particularly in the area of student voice and developing a positive school culture through trust building activities and teacher training on recognizing and responding to signs of trauma as well as the Search Institute Developmental Relationships model.

## **2. BENCHMARK: STEM Academy Culture and Design**

### **2.1 Program Requirement: Personalization**

2.1.A Addresses in Annual Action Plan and strategic plan the details for remaining small, allowing for personalization, and maintaining collaborative learning communities of students.

2.1.B Plans and implements a non-graded student advisory program that is regularly scheduled, noted in the master calendar/schedule, and focuses on personalizing the student experience, (builds relationships with students and parents, develops character, and fosters global literacy).

2.1.C Develops a process for hearing and responding to student voice.

2.1.D Arranges for a flexible school day with blocks of time that support student learning (tutorials, collaboration, meetings).



2.1.E Celebrates high quality student work through student exhibits on-site, web-based, and/or in state and national forums.

2.1.F Provides every 6th – 8th student with an individualized STEM-focused high school graduation plan that addresses: four years of math and science; an Endorsement in STEM, Business and Industry, Public Service, or Arts and Humanities; identifies target areas for Performance Acknowledgements; and is at least annually reviewed and revised with the counselor, student, and family.

### 2.2 Program Requirement: Culture

2.2.A Collaborates with stakeholders to develop a new handbook or modify the existing handbook with clear procedures, policies, and consequences that support the development of a strong T-STEM culture.

2.2.B Involves all stakeholders in developing a culture of respect, responsibility, trust, and meaningful adult and peer relationships throughout the Academy in order to foster positive student identities.

2.2.C Creates a professional learning community environment of collaboration, teaming, and high expectations among administrators, teachers, and stakeholders, with a focus on and a commitment to the learning of each student.

### 2.3 Program Requirement: Postsecondary Success (College and Career)

2.3.A Prepares students (to enter High School) who graduate for post-secondary coursework and careers in science, technology, engineering, and mathematics through the integration of the Governor’s economic workforce clusters and Achieve Texas STEM cluster: semiconductor industry, information and computer technology, micro-electromechanical systems, manufactured energy systems, nanotechnology, biotechnology, chemist, and engineering: aerospace, electronic, mechanical, environmental, and biomedical.

2.3.B Regularly engages 6th – 8th students and parents in high school and college transition planning, STEM Career Exploration, College Exploration, and College Readiness preparation.

2.3.C Develops a plan for student success on post-secondary entrance exams.

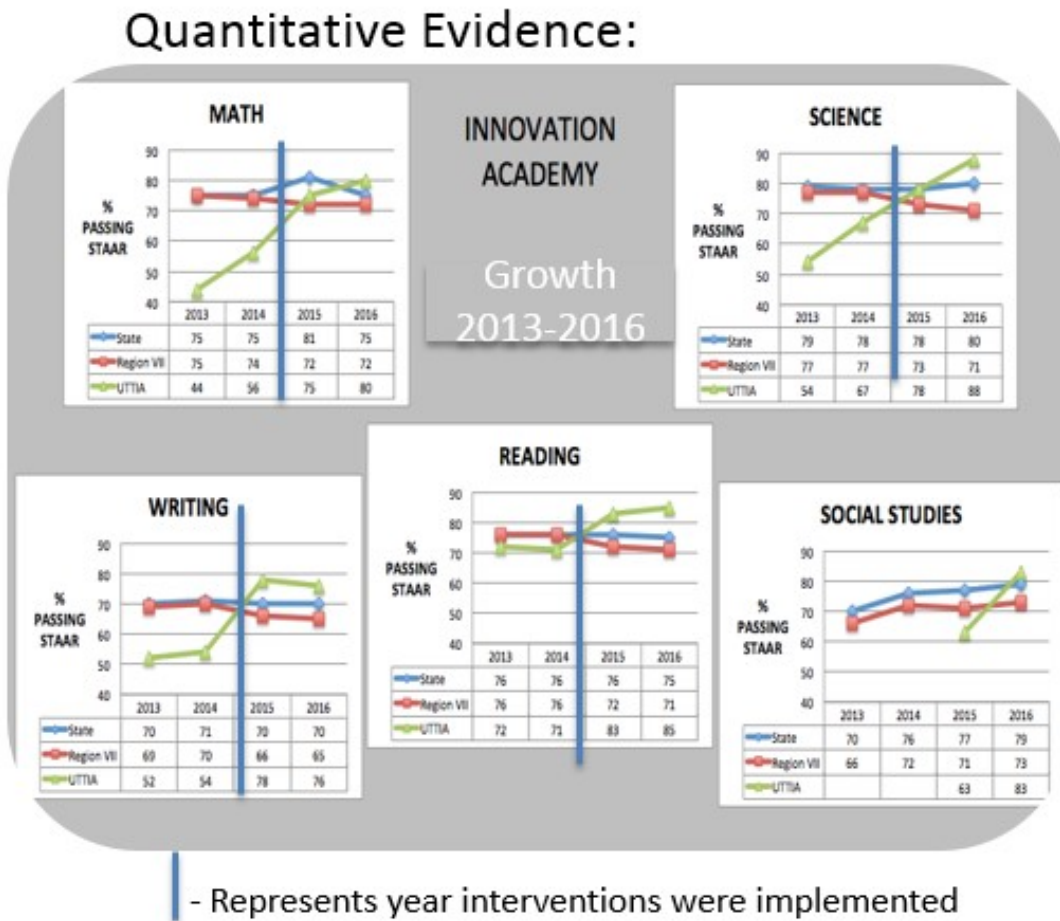
2.3.D Creates higher education partnerships to provide mentoring, college-level courses/dual credit, professional development and technical assistance, and to foster a college-going culture.

## C. Performance Assessments and School Wide Monitoring

### Diagnostic Review

In addition to meeting Benchmark 5.6 on assessment described in the education plan above, the Texas STEM Coalition Partnership team will conduct an ongoing diagnostic/planning process, which will produce a meaningful and actionable document that drives the school’s work and resource allocation. In addition to focused interventions, T-STEM Coalition staff are well versed in the Texas Accountability Intervention System to create sustainable transformation. We know from our own experience in managing charter schools the importance of developing a data-driven school culture that is student centered. The diagnostic review and planning efforts focus on school leadership, the turnaround conditions, current level of social trust, the alignment of instruction and assessment to standards, and processes for teachers to work together to improve instruction and encourage the sense of urgency required for turnaround. It is also imperative that leadership work well with community stakeholders and students. Personnel have experience in turning around schools. Figure 1 provides data from an IR district. **The IC intervention model not only transformed the schools from IR to Met Standard, but they have continued to increase scores even though state and regional scores have remained flat or decreased. It should also be noted that significant growth occurred in ALL subjects, not just STEM.**

Figure 1: Turnaround Data for IR School



### Elements of the school diagnostic process

The IC diagnostic team will implement the following activities as soon as this partnership is selected and data access is granted:

- Review of student performance data (disaggregated along many lines)
- Observations and assessment of classroom instruction (TTESS and UTOP observations)
- Observation of collaborative teacher planning of instruction, i.e., PLCs
- Assessment of principal and teacher leadership
- Assessment of school culture
- Interviews with district leadership regarding turnaround conditions, finance and budget, and school governance
- Assessment of the level of social trust based on a survey of teachers, parents, administrators, and students
- Focus groups with teachers, parents, community members, and (in high schools) students
- Assess the assessments of data driven practices and define the process

The team will produce a report that includes findings, recommendations, and areas for strategic intervention with the goal of meeting standard and working towards recommended performance. Communities in Schools will closely partner on the last three indicators.

### Action Plan

Based on the diagnostic report, the T-STEM Coalition will develop an action plan that addresses the following:

- Student success: Accelerating all students to be at grade level or meet STAAR/EOC Indices.
- Specific scope and sequence
- School leadership: Plan for ensuring that the school has an effective principal who buys into the model and assist in developing processes to support teacher leaders; continuing support for the principal's leadership development.
- Teacher-led professional learning communities (PLCs): Time and support for grade- or subject-based PLCs that focus on data analysis to support effective Tier I instruction aligned with standards.
- Annual performance targets for student outcomes and leading indicators of progress aligned with meeting state standards under the accountability system.

The Action Plan will include the specific actions and steps the partnership team will take to support the improvements.

### **Teacher-led Processes to Continually Improve Tier 1 Instruction**

The project team will develop a detailed plan for engaging teachers in the process of continually improving Tier 1 instruction through the use of grade- or subject-level professional learning communities facilitated by instructional coaches. The IC has developed a model for PLCs that includes



intensive instructional coaching. The coaching model can be implemented with minimal expense. Campuses must provide for the time, training, and support needed to build robust professional learning communities for teachers in the school. The coaching includes use of the UTeach Teaching Observation Protocol (U-TOP) instrument to assist teachers and administrators on focusing instruction utilizing research-based instructional strategies, TEKS coverage, College and Career Readiness Standards (CCRS) alignment, and content at the appropriate rigor/depth of knowledge. Teachers also learn to use the protocol to evaluate videos of their own teaching.

Based on the data and monitoring plan, the project team utilizes a rubric modified from the T-STEM Blueprint Rubric of research-based interventions in helping schools meet acceptable ratings that include but are not limited to:

- Maximizing leadership and staff capacity through the establishment of collaborative leadership designs and professional learning communities
- Strategies and practices for personalizing the school environment that result in improved student performance
- Instructional strategies that promote high levels of student engagement in meaningful classroom activities
- Ongoing monitoring of student progress toward mastery of state standards
- Instructional coaching for teachers
- Coaching of administrators to recognize and document meaningful instruction and student learning
- Creation of a climate conducive to learning in both the classroom and the building
- Delivery of a guaranteed and viable curriculum that includes a logical scope and sequence
- Resource alignment and utilization for whole school improvement



- Strategies to address safety, discipline and engagement
- Rigorous school curriculum delivered with the goal of meeting higher standards
- Communicating and working with a wide variety of education stakeholders including the board of trustees, superintendent, central office, principals, teachers, community members, and parents in a coordinated effort to provide whole school reform
- On-site delivery of individualized coaching with teachers, students, and leaders directly through formal professional development programs and individual coaching
- Robust diagnostic reviews utilizing student data in both aggregated and disaggregated reports to not only identify student performance but provide insight into teacher performance
- Creation of plans noting specific action steps to support improvements
- Support for the key improvement areas within the school, including:
  - Development of strong leaders
  - Teacher-led processes to continually improve instruction aligned to standards and supporting student engagement
- Effective PLCs with a focus on data analysis to inform instruction
- Monitoring progress through adherence to plan implementation with a focus on its impact on student achievement and student outcomes.

#### **D. Professional Development**

We view teacher professional development in terms of recruitment and retention. We go beyond typical district requirements for PD. Teachers must commit to 3-4 weeks of paid PD each summer so that the model can be implemented effectively and with fidelity. The Blueprint also provides guidance on the hiring of new teachers (including retraining veteran teachers), their professional development, and their retention.

#### **4. BENCHMARK: Teacher Selection, Development, and Retention**

##### **4.1 Program Requirement: Highly Qualified Teachers**

4.1.A Recruits and selects highly qualified faculty who possess extensive subject knowledge, are willing to incorporate project based learning (PBL), and integrative STEM pedagogy.

4.1.B Recruits and selects highly qualified faculty who utilize relational knowledge in developing culturally responsive classrooms that successfully build self- efficacy with traditionally underrepresented students.

4.1.C Develops teacher job descriptions and requirements that incorporate integrative content practice and research-based actions/strategies that demonstrate commitment to success for underrepresented students.

4.1.D Uses a collaborative recruitment and selection process that includes Academy leaders, teachers, key stakeholders, T-STEM Centers, and T-STEM Coaches.

4.1.E Designs or employs innovative programs to support the recruitment and selection of highly qualified STEM teachers. Note: we plan to take advantage of the UTeach to recruit and prepare high quality teachers. We also plan to host clinical students from UTeach to help support Mendez students.

##### **4.2 Program Requirement: Teacher Support and Development**

4.2.A Develops a PD plan for a sustained professional development model of continuous learning based on student results, teacher development, and the short- and long-term goals of the Academy.

4.2.B Adopts a systemic professional development model of continuous learning that addresses prioritized needs as informed and evaluated by multiple sets of quantitative and qualitative data

(student assessment data, instructional/classroom evaluations, technological developments, workforce demands, demographic changes, and community/societal expectations and needs).

4.2.C Sustains a Professional Learning Community (PLC) by instituting job-embedded ongoing opportunities for continuous learning, peer coaching/mentoring, STEM externships, and participation in STEM Teacher and Leader cadres for teachers and administrators (research-based practices, content competence, new instructional strategies, project-based learning, technology integration, reflective inquiry, and student artifact analysis).

4.2.D Provides ongoing professional development for counselors, teachers, staff, and parents on strategies that support students to ensure success in a rigorous course of study, such as: IGP, interventions, and interpersonal and academic success strategies.

4.2.E Ensures that on-staff, integrative STEM coaches are available and accessible to support both teachers and students in research-based practices, content competence, interdisciplinary STEM teaching and learning, reflective inquiry, college readiness standards, and state standards integrated with STEM industry expectations.

4.2.F Collaboratively builds 6th – 12th teacher and administrator expertise in developing, teaching, learning, and assessing STEM cross-content curriculum.

#### **4.3 Program Requirement: Teacher Retention**

4.3.A Provides for flexibility (within PBL model) in instructional practices to promote creativity and innovation while maintaining accountability.

4.3.B Provides a common planning time, within the structure of the school day, for teachers to support results-driven, team-focused professional learning, and cross-curricular collaboration.

4.3.C Adopts and implements a plan for new teachers to include orientation, induction, acculturation, mentoring, professional development, and administrative support.

4.3.D Provides opportunities for ongoing professional development to improve teachers' content knowledge, technology embedded instruction, integrative STEM pedagogy, college and career readiness standards, instructional strategies for ensuring a successful P-20 pipeline, and leadership capacity.

4.3.E Annual Action Plan includes a creative teacher incentive plan that provides release time and other incentives, such as stipends or bonuses, for teachers to contribute to and lead T-STEM education efforts (journal articles, conference presentations, attend T-STEM trainings and regional meetings, contribute to T-STEM newsletter, and populate Academy press releases).

## **E. Student Recruiting and Marketing**



It is our goal to reestablish Mendez as the school of choice for the Dove Springs community. Over the past five years, a significant number of students have transferred to other middle schools. We will implement the Blueprint for student recruitment and marketing. Students in the Mendez attendance zone will be a priority. Over time, we hope to establish Mendez Middle School as the model other schools in AISD want to emulate.

### **3. BENCHMARK: Student Outreach, Recruitment, and Retention**

#### **3.1 Program Requirement: Recruitment**

3.1.A Develops structures and processes for marketing and recruitment to encourage participation from underserved students and families (transportation or plans for transportation to the school, child care for family events, and translation of all recruitment and marketing materials).

3.1.B Actively partners with feeder elementary schools to develop student interest in STEM education and to increase advancement rates from middle school STEM to high school STEM.

3.1.C Develops a systemic recruitment plan that includes students, parents, counselors, teachers, district, and community.

#### **3.2 Program Requirement: Open Access**

3.2.A Develops an admission policy to include an open-access, lottery-based selection process that encourages applications from all students. The application will not be based on state assessment scores, discipline history, teacher recommendation, minimum GPA, or other requirements that would be used to limit selection.

3.2.B Consists of a population that is 50% or greater economically disadvantaged and underrepresented students.

#### **3.3 Program Requirement: Student Support and Retention**

3.3.A Develops and implements systemic, tiered strategies for student support and retention (outreach, early intervention strategies, mentoring, tutoring, counseling, and other supports for academic and socio-emotional growth).

3.3.B Hosts 5th – 6th and 8th – 9th orientation session(s) and summer bridge program(s) to facilitate successful student transitions and retention into a STEM-focused, college preparatory, project-based learning environment.

3.3.C Provides all students with opportunities and the expectation to assume roles of responsibility within the classroom, Academy, and community.

3.3.D Supports and monitors 6th – 8th student participation in STEM activities both within and outside

the classroom to ensure that all students engage in STEM clubs, STEM competitions, and STEM field experiences.

3.3.E Hosts parent seminars to develop deep understanding and commitment to the rigor of college readiness and the high expectations of a STEM Academy.

## **F. Special Populations**

The school will follow all applicable state and federal laws for Special Education, 504, Gifted and Talented, and ESL/Bilingual students to ensure a meaningful education in an inclusive environment. It is our belief that students should be in the classroom and pull-out interventions should be minimized so students do not miss instruction.

#### **Special Education:**

We plan to contract with AISD for Special Education services. This is in the best interest of the students to avoid any disruption of services.

#### **Gifted and Talented:**

The Project-based Learning (PBL) approach to instruction allows for significant differentiation. It is our intention to integrate GT approaches for all students, supporting a creative learning environment for all, not just a select few.

### ESL/Bilingual Students

The partnership will provide supports to ESL/Bilingual students. We have significant experience in TESOL. Our ESL approach is Sheltered Instruction. Our ELL Model is **content-based ESL**. In the content-based approach, ELLs are served by a full-time ESL certified teacher who provides supplementary instruction for all content areas. Content-based ESL programs focus on the learning of a second language (English) while using the language as a medium to learn core academic subjects.

It is also our understanding that there may be a community wish to maintain a dual language approach. The partnership team is open to this approach. If this is a community priority, students could receive instruction in both English and Spanish. Courses taught in Spanish would be limited to non-tested subjects since the STAAR and EOC at the middle school level are written in English. The following classes would be in English since they are tested. Other subjects would be possible candidates for Spanish instruction.

- 6<sup>th</sup> Grade: English Language Arts and Mathematics
- 7<sup>th</sup> Grade: English Language Arts and Mathematics
- 8<sup>th</sup> Grade: English Language Arts, Mathematics, Social Studies, and Science

### G. Plan for 5<sup>th</sup>-6<sup>th</sup> Grade and 8<sup>th</sup>-9<sup>th</sup> Grade Transition

The Blueprint also provides guidance on transitions.

33.3.B Hosts 5<sup>th</sup>-6<sup>th</sup> and 8<sup>th</sup>-9<sup>th</sup> orientation session(s) and summer bridge program(s) to facilitate successful student transitions and retention into a STEM-focused, college preparatory, project-based learning environment.

3.3.E Hosts parent seminars to develop deep understanding and commitment to the rigor of college readiness and the high expectations of a STEM Academy.

**Summer Bridge:** Each summer we will work with our feeder elementary schools and our high schools to develop summer bridge programs.



5<sup>th</sup>-6<sup>th</sup> grade will include a STEM day camp facilitated by UTeach Outreach, which has been providing camps for students in Austin for several years. Length of camps will vary based on camp focus and available resources.

We will work with the two high schools to ensure Mendez students are ready to transition to high school. 8<sup>th</sup>-9<sup>th</sup> grade will include bridge programs and Texas Success Initiative (TSI) readiness preparation. These bridge programs will also assist students in choosing HS pathways in collaboration with HS counselors.

**School Year Feeder Collaborations:** As a project-based school, we will work with Mendez students to provide meaningful programming to elementary students at the feeder campuses. This programming will be designed in collaboration with elementary administration and provide “buddies” and projects that enhance the educational experience of all involved. In addition, we will work with the two high schools to allow 8<sup>th</sup> graders to participate in HS programming. This could be extracurricular such as HS mentors for Mendez Students for robotics.

## Section 2 – Governance, Operations Plan, & Capacity

### A. Partner/provider capacity, including other partners who will be part of this partnership

The Texas STEM Coalition is a 501c3 non-profit. The coalition was established by the T-STEM Centers that were designated by the Texas Education Agency to support T-STEM Academies across Texas.

The Texas Science, Technology, Engineering and Mathematics (STEM) Centers address the challenges of tomorrow’s technology-driven economy by researching, developing, and supporting best practices in STEM education for K-12 schools. The Texas STEM Coalition, comprised of the T-STEM Centers and other members, work with 105 T-STEM Academies as well as all Texas schools to transform teaching and learning methods, improve achievement in STEM education, and ensure all students are college-ready, career-ready, and life-ready.

Mission



The Mission of the Texas STEM Coalition is to work with educators to ultimately prepare all Texas students to thrive in the 21st Century global economy by leveraging its extensive network of expertise, partnerships, resources and experience

to:

- transform teaching and learning,
- promote the implementation of innovative, research- and standards-based STEM practices that align with College and Career Readiness objectives, and
- facilitate its dissemination through an effective state-wide alliance.

**The T-STEM Coalition Current Center Members includes:**

- **The Ingenuity Center**
- **Institute of Instructional Excellence**
- **Transformation Central Texas STEM Center in Austin, TX**
- **STEM@ESC20 in San Antonio, TX**
- **Southeast Regional TSTEM Center in Galveston, TX**
- **STEM Center of South Texas in the Rio Grande Valley**

The T-STEM Coalition will provide personnel on-site to oversee the school and its transformation into a STEM Academy.

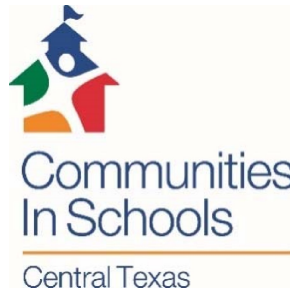
T-STEM Coalition members have experience in managing schools and implementing the T-STEM Blueprint. For example, the Ingenuity Center (T-STEM Center) has significant expertise in managing schools and in school turnaround. Texas T-STEM Centers provide technical assistance, professional development, and other support to academies statewide. TSTEM is affiliated with Project Lead the Way (a current Mendez STEM program) and provider of extracurricular programs that would be available to support Mendez. The Innovation Academies (UTTIA) will serve as the T-STEM model for Mendez. TSTEM personnel will assist in implementing the model and provide technical assistance in managing the school. We are aware that the T-STEM Blueprint has been streamlined and recently updated. That said, we plan to go beyond the new blueprint and continue implementing aspects of the 2015 Blueprint that have proven effective.

It is our goal that Mendez will also become a demonstration site in the future. It is our mission that students will leave Mendez TSI-ready within three years of academy implementation. Mendez already implements PLTW, a proven STEM program. This program will be strengthened to support Mendez students. Through world-class K–12 curriculum, PLTW helps students develop the skills needed to succeed in the global economy. Mendez currently implements **PLTW Gateway**, providing STEM curriculum for middle school students that challenges, inspires, and offers schools variety and flexibility. Students get rigorous and relevant experiences through activity-, project-, and problem-based learning. They use industry-leading technology to solve problems while gaining skills in communication, collaboration, critical thinking, and creativity. Mendez will implement a rigorous teacher professional learning community model that includes a comprehensive coaching model to support teachers and students to be successful.

Members from the TSTEM Coalition Center (IC) have experience in school turnaround and the Teacher and Student Support Model mirrors the CIS Model. We follow best practices as outlined by [TEA Turnaround](#) guidance. There is no “silver bullet” approach. It is important to be immersed in the community and school to understand the unique needs of the school. This requires the following process for the school including teachers and students. 1) Needs assessment (data driven); 2) Planning based on data; and 3) Integrated student and teacher supports; 4) Monitor, coach, and adjust, and 5) Evaluate and Process Outcomes.



## Our Partners



CIS has a 32 year history of working with schools in AISD to support students and families with more than 20 years serving Mendez M.S. The graphic below illustrates the work of CIS.

### ..... THE WORK OF CIS .....



An affiliate in good standing of Communities In Schools' national organization, CISCT is considered among the best in the country in delivering student supports, integrated into the school environment so that all children may learn at their potential.

Research shows that kids who stay in school are more likely to achieve in life, so CISCT surrounds students with a community of support proven to decrease dropout rates and increase high school graduation for students who face a variety of barriers to their education. This is accomplished through programs that support individual students, targeted populations, and the schools as a whole, creating a measurable impact on student success. In just the last three years, the percentage of students in our programs who are on track to graduate has increased by almost 20 percent.

## OUR UNIQUE MODEL



### Our Mission:

Communities In Schools of Central Texas surrounds students with a community of support, empowering them to stay in school and achieve in life. At Communities In Schools, we work directly in schools to identify and address the immediate needs of our students, from basic needs such as food and clothing, to more complex needs like counseling, mentoring, and navigating complex healthcare and other systems. We're inside schools and in students' lives, because when

students have caring adults supporting them, they see new possibilities. We surround students with a support system that fosters health, builds confidence, and empowers students to succeed. By partnering with the community, we bring relationships to the school campus that make a meaningful difference in children's lives, and help get them the services that they need. CIS also provides services to four of the five feeder elementary schools and Travis High School, where many Mendez students will enroll upon leaving 8<sup>th</sup> grade.

Communities In Schools of Central Texas currently provides the full CIS model at 66 schools in six school districts, 43 of which are in Austin ISD (including Mendez). Our long history with the Austin district is characterized by trusting relationships, active supports for students and faculty, and measurement of impact through pre-and post-data on student academics, behavior, and attendance as well as promotion or graduation. Believing that student and family needs should be met as early as possible, CIS serves many elementary schools so that students may progress to middle school ready for a new level of rigor, organization, and behavioral expectations.

Communities In Schools has received a number of awards over the years—Best Place to Work (Austin Business Journal), Wellness Workplace (City of Austin), Large Nonprofit of the Year (Mission Capital) and Mid-sized Business Best Executive Leader (Austin Chamber of Commerce).

The Board of Directors of CIS of Central Texas includes education, business, and nonprofit leaders. Christopher Kennedy, Executive Director of Leadership Austin, is our Board Chair, and highly dedicated individuals fill out our governing and oversight committees. The CIS board includes a former staff



member, a former CIS student, and a school administrator who has had CIS on his campus. Alongside the leadership of CEO Suki Steinhauser, MBA, the board is highly dedicated to the success of students of all backgrounds throughout Central Texas. This partnership for a T-STEM Academy would be the first of its kind for our organization and it is exciting to think that we will be part of a bright new future for Mendez Middle School.



### **The UTeach Institute**

As part of this initiative, the UTeach Institute will provide instructional coaching, professional development, data collection, and program evaluation, and STEM programming for student camps

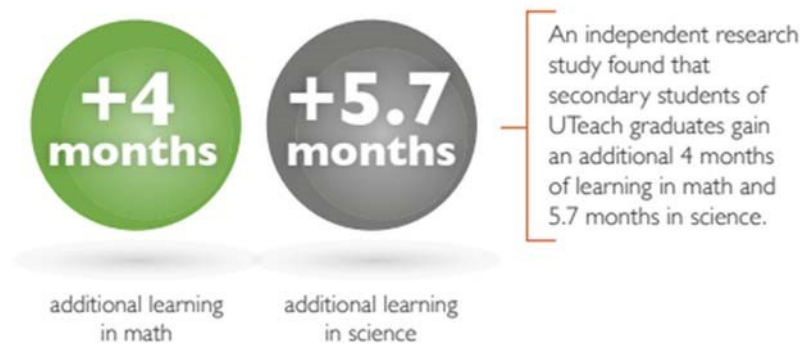
In addition, Mendez will become a natural school for UTeach to pilot the middle school lessons used in its early field experience courses, and to place student teachers interested in pursuing middle school teaching. UTeach will also facilitate a Maker program for Mendez.

UTeach's mission is to increase the number, diversity, and academic achievement of students pursuing STEM disciplines and careers. UTeach is well known as a highly successful secondary STEM teacher preparation program, begun at UT Austin in 1997 and currently operating at 45 universities nationwide. The UTeach Institute was created 11 years ago to expand the UTeach program nationwide and serves as the hub of this national network of UTeach programs. As a result of this work, the Institute has developed a comprehensive approach to the development, implementation, evaluation, and scaling of educational programs. The Institute's work to strengthen STEM education is informed by both the fundamental UTeach approach to STEM teaching and learning as well as our experience developing and managing educational programs at scale.

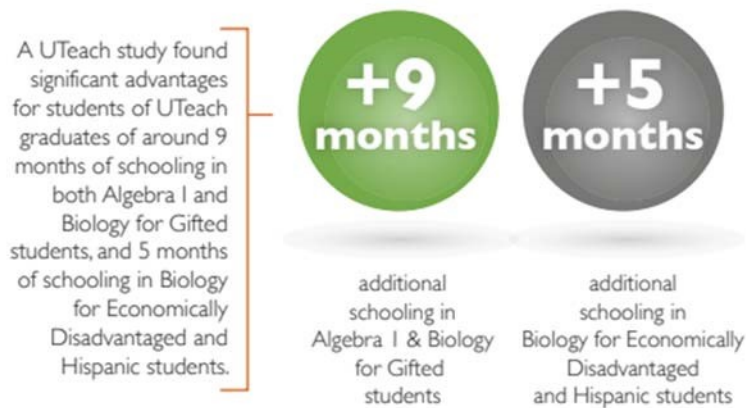
UTeach brings decades of experience in effective STEM teaching and learning, including: teacher development; effective STEM instructional design and curriculum development; STEM programming for K–12 students; assessing STEM teaching and learning; educational program design, implementation, and support; development of professional learning and networked improvement communities; sophisticated educational data analysis; and program evaluation.

UTeach's approach to preparing highly effective STEM teachers (Figure 2) has proven to be effective as demonstrated by two recent studies. Backes et al. (2016) found that secondary students of UTeach graduates gain an additional four months of learning in math and 5.7 months in science over the course of one academic year. Marder and Hamrock (2016) found significant advantages for students of UTeach graduates of nine months (Figure 3) of schooling in both Algebra I and Biology for Gifted students and five months of learning in Biology for economically disadvantaged and Hispanic students. These studies supply clear evidence that UTeach prepares teachers to successfully design learning environments that respect and acknowledge cultural and individual student learning differences while raising achievement for all students.

**Figure 2: Student Gains in STEM when taught by UTeach Graduates**



**Figure 3: Economically Disadvantaged Student Gains**



Hallmarks of the UTeach program include an emphasis on the development of deep content knowledge and developing inquiry- and project-based approaches to learning that engage ALL students in STEM.

UTeach also provides an array of professional development programs, customized to meet the needs of local schools and districts. UTeach Professional Development programs draw upon current research to promote the use of:

- inquiry-based learning methods,
- content-specific instructional practices that recognize the diverse resources learners bring to the learning experience,
- personalizing student learning,
- the meaningful integration of technology, and
- a variety of authentic assessment methods to inform instructional decisions and adjustments.

UTeach has significant experience providing professional development to middle school teachers, including teachers from Mendez M.S.

UTeach employs a team of evaluators, data specialists, and educational researchers. Dr. Michael Marder, in particular, devotes a significant amount of his time to educational data analysis.

UTeach’s approach to teacher professional development and to program development and implementation support relies heavily on the role that professional learning and networked improvement communities play in program improvement. We have extensive experience coordinating professional learning communities for a variety of improvement purposes, from local groups of teachers at a single school to a nationwide network of more than 700 university faculty.

#### **Potential Partner Austin Interfaith**

Communities In Schools and Austin Interfaith are exploring ways to collaborate to engage and support the Mendez community. That group has deep experience in engaging communities through community walks, evening meetings, and other information sharing and empowerment opportunities. CIS has served a number of schools that were also Interfaith Alliance members, always working cooperatively. Alliance Schools, studied by Rand Foundation and Annenberg Institute, have been shown to increase student outcomes.

#### **Communities In Schools’ Many Community Partners**

In addition to the UT academic partners, Communities In Schools will continue to partner with other social service agencies to serve students directly; community mentors; corporations that provide materials, donations, and time; and with the School of Social Work and other university departments to engage interns to work with students who need additional supports (emotional, academic, etc). Through the partnership for Mendez, CIS will hire additional staff to coordinate partnerships of value to the Mendez STEM goals as well as to meet the great variety of needs our students present.

CIS has worked with the following corporations recently or currently: IBM, Silicon Labs, Apple Computers, Samsung, UShip, the GAP, Target, 3M, Compass Learning, Seton Hospitals, HEB, and AMD.

CIS works closely with LifeWorks, SAFE, Girl Scouts, YWCA, Austin Center for Grief & Loss, Amala Foundation, Goodwill, OutYouth, GenAustin, Seedling Foundation, 100 Black Men, and several UT service organizations and multiple university departments who provide interns to work with our case managed students.

#### **B. Plan to meet requirements set by TEA in 19 TAC Chapter 97, including the role of the governance board, the school community, and the district in this process**

The partnership includes personnel with experience from the Ingenuity Center. Ingenuity Center personnel founded three T-STEM Academies, the Innovation Academies in Tyler, Longview, and Palestine. Ingenuity Center personnel have experience in managing three successful academies. The partners understand the requirements set by TEA in 19 TAC Chapter 97. The team includes the superintendent of the Innovation Academies along with other members who have expertise in school governance. Select individuals will closely monitor and provide guidance, ensuring the academy remains accredited. In addition, the academy will obtain membership with The Texas Charter School Association. This membership provides access to resources, materials, and legal specialists to support compliance with all TEA policies and mandates.

### **C. Plan to include current staff, leadership, and community in operational and managerial decisions on the campus**

The T-STEM Blueprint specifies how AISD personnel and community members are involved in school decision making. We believe effective school leaders must work collaboratively with stakeholders to support the success of the school. The model described supports ongoing collaborative decision making from all stakeholders. Stakeholders will be regularly included in the decision-making process. One of the most beneficial aspects of involving stakeholders is to gain different perspectives. Stakeholders have unique points of view based on their individual experiences. When a group comes together with a common goal, they are able to explore all the options more in-depth. Shared decisions are not rushed and allow enough time for personal and group reflection that allows full consideration of the pros and cons of each option thoroughly, and ultimately make a decision that will produce the greatest outcomes with the least resistance. Better decisions yield better results: a top priority for every school is to maximize student potential.

We enter into this project fully expecting to retain current high performing staff at Mendez who are willing to embrace and commit to the T-STEM model and the non-negotiable components. Some of the non-negotiable requirements include attending additional, extensive professional development, implementing the T-STEM Blueprint through a project-based learning model with fidelity, and involvement in campus and community activities and events. Staff should anticipate additional work hours and compensation in order to implement the new model. While we hope all eligible staff will choose to make this commitment, we understand it may not be the best fit for some. We have been informed that any current staff member eligible for reemployment with AISD who does not desire to remain at Mendez, or is not selected to stay, will be offered a position on a different AISD campus. It is important to note that any current Mendez employees who are currently on a professional growth plan or have received any other warnings related to performance or conduct during the 2017–2018 school year will not be eligible to remain at Mendez in the future. If we are serious about Mendez becoming a high performing school, the team must be “all in”.

All personnel, with the exception of the Executive Director for Mendez, will remain AISD employees. However, we will maintain final authority in making decisions over the hiring, dismissal, reassignment, and evaluation of all Mendez staff in accordance with AISD employment practices.

The leadership plan is outlined in the T-STEM Blueprint:

#### **1. BENCHMARK: Mission-Driven Leadership**

##### **1.1 Program Requirement: Mission and Vision**

1.1.A Develops a shared mission and vision, which is aligned with the T-STEM mission and vision, and which reflects a consensus among Charter provider, board members, design team, staff, students, parents, and community/business partners on how the Academy promotes STEM-literate graduates to support the Texas Science Technology Engineering and Mathematics Initiative.

1.1.B Develops an *Annual Action Plan* (AAP) of goals and resources aligned to the Academy’s mission and vision, the T-STEM Blueprint, and STEM-literacy; with the AAP regularly monitored and assessed.

##### **1.2 Program Requirement: Leadership and Governance**

1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.

1.2.B Develops an Academy Leadership Team and identifies the internal role each member will play in the design, governance, operations, accountability, curriculum development, professional development, etc., as well as their external role in collaborating with the design team, outreach, and other key interest groups for continuous monitoring and improvement of the T-STEM Academy plan.

1.2.C Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.

1.2.D Incorporates into Annual Action Plan goals for participation and leadership of students, teachers, parents, business and community partners, institutions of higher education, and T-STEM Coaches and Centers.

1.2.E Delineates a mission-driven decision-making structure and organization chart that is clear and understood by all stakeholders.

1.2.F Defines the academy leader's level of autonomy in supervising the Academy.

1.2.G Uses data to inform all leadership decisions and to annually review and revise the mission-driven T-STEM Academy Annual Action Plan.

### **1.3 Program Requirement: Program Review and Evaluation**

1.3.A Integrates and assesses the level of mission-driven and data-driven decision making evident in the daily work of the Academy.

1.3.B Implements a process for program review and formative evaluation to achieve mission goals that includes metrics such as attendance, demographics, and student achievement.

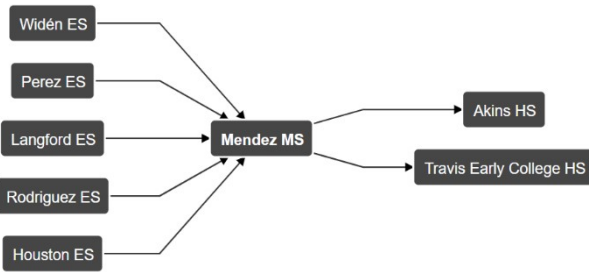
### **1.4 Program Requirement: Leadership Development and Collaboration**

1.4.A For 6th – 12th campuses, middle school and high school leadership teams regularly collaborate to advance 6-12 alignment and student retention in STEM.

1.4.B Participates and collaborates with the T-STEM Centers and T-STEM Coaches to support the transformation of STEM teaching methods, teacher preparation, and instruction to support continuous development and the achievement of long-term T-STEM goals.

1.4.C Actively participates in the T-STEM Network by collaborating with other T-STEM Academies, engaging in leadership development opportunities, utilizing T-STEM Centers' resources, and promoting broad dissemination of promising practices to improve student achievement.

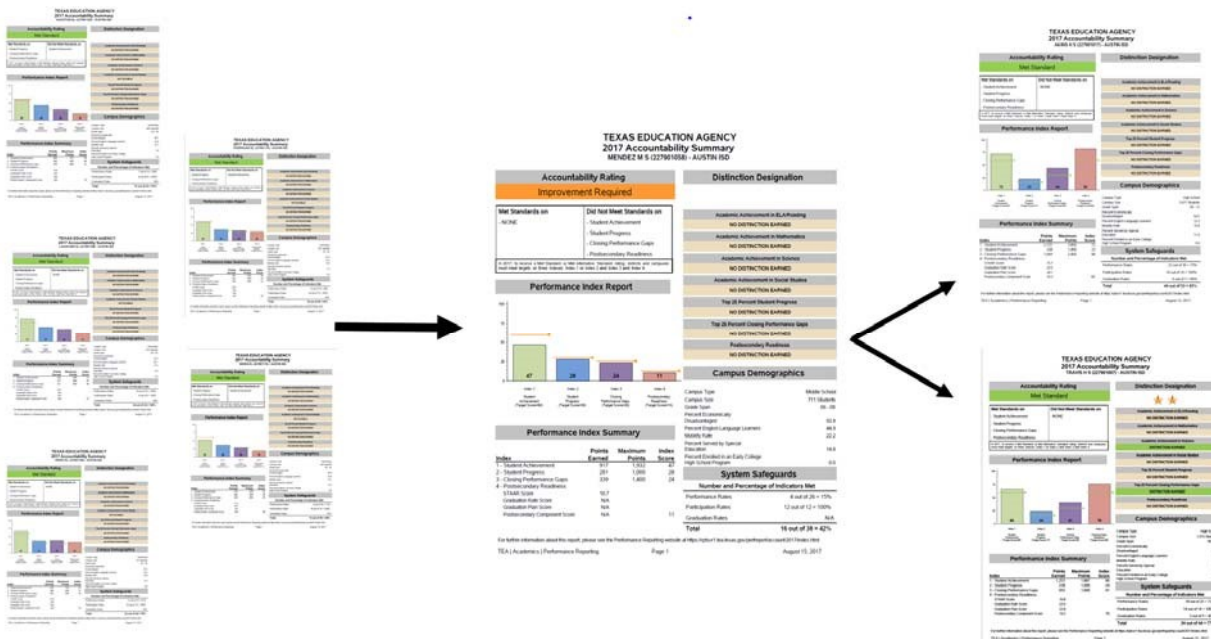
**D. Plan for the inclusion of the elementary feeder campuses in data review, gap analysis, and alignment of curriculum and instructional programming**



The figure at left shows the feeder pattern from elementary to high school. Mendez has five elementary feeder schools. We have already examined the STAAR results from each of the feeder elementary schools. All five campuses meet standard. That said, three campuses struggle with meeting Index 1. This will be problematic moving forward as the new A-F accountability is more

rigorous. CIS already serves all of the feeder elementary schools except Houston. We will work with administration at each campus to develop vertical alignment. Where feasible we will provide data workshops and professional development to the feeder elementary schools to address gaps and assure smooth transitions, including summer bridge camps for fifth graders transitioning to Mendez in sixth grade.

**Mendez Student Pathways with Accountability Reports**



**Analysis:**

Mendez misses meeting Standard by two points in Indexes 2, 3, and 4. The gap is much higher in Index 1 but we will develop strategies that focus on Index 2. To Meet Standard, we must meet the state minimum on Indexes 2, 3, and 4. Focusing on Index 2 (Student Growth) should bring Index 3 and 4 up as well, allowing Mendez to Meet Standard. A targeted plan will be developed for each individual student and teacher based on benchmark data, previous STAAR scores, and classroom student artifacts. Until we have access to the data, a specific plan is not possible for the purposes of this document. We believe if the feeder elementary schools also focus on growth, they will continue to Meet Standard as the accountability system becomes more rigorous.

### **E. Plan for the management of a governing board, including your vision and plan for the appointments and makeup of this board in partnership with the District**

The governance structure will be tailored to the school's vision, mission, and goals. The Board has the responsibility to develop its own structure, policies, and procedures consistent with applicable laws, requirements of the Academy's authorizing body, and the governance philosophy of the academy school leaders. The Board will commit to the following:

- Adopt a structure that reflects the school's mission, goals, and objectives
- Design a structure that reflects the state charter law
- Provide ongoing communication with all stakeholders
- Establish shared decision making
- Support the involvement of a variety of stakeholders in the governing board or in committees/councils
- Provide board training seminars, conferences, and/or retreats
- Focus on generating a vision and plan for school improvement

Development of an effective governing board is an essential component of building an effective T-STEM Academy. The steps in the development of an effective governing board include:

- Nominations and recruitment — the process of identifying the right individuals to meet the needs of the school, helping them understand their roles and responsibilities, and attracting them to become part of the board.
- Orientation — the steps taken to give new board directors the information they need to carry out their roles and responsibilities effectively.
- Training — the regular, ongoing efforts to build new skills and knowledge among the existing board directors to enhance performance.

The Academy will be legally incorporated entity governed by state statutes and IRS regulations governing nonprofit, tax-exempt organizations. The Board is responsible for governing the school, having a personal fiduciary duty to look out for the long-term well-being of the school. The Board is not involved in handling the day-to-day details of running the school, dealing with specific personnel issues, or addressing individual student needs. The Board delegates the responsibility for running the charter school and implementing the Board's policies to the school leader.

The governing board is intended to be large enough to provide representation to stakeholders, and small enough to efficiently make decisions. CISCT will assist the coalition for establishing, convening and record keeping for the Governing Board, which will include the following:

- Two TSTEM Coalition representative
- One representative from CIS
- One representative from UTeach Institute
- Three parents, one representing each of the three grade levels.
- A corporate/industry partner



In addition, there will be ex-officio members including but not limited to the following:

- AISD Representative
- Two students
- Teacher leader
- Principal
- PTA/PTO President

### **Design Teams**

As outlined in the Blueprint, stakeholders have the opportunity to serve on Design Teams. The Design Teams will be established upon contract being initiated. These teams are intended and employed for a high degree of engagement in various topics to come to recommendations/decisions on a wide variety of topics. In addition to teachers, students, parents, and CISCT staff, Design Teams may include Austin Interfaith representatives or staff, other community members or City/County staff with interest or expertise in the topic area. Examples of topics tackled by Design Teams are: School Culture and Climate; Out of School Time; Calendar and Bell Schedule; Student Health.

***1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.***

***In addition, the Blueprint requires an advisory board from the community.***

***1.2.C. Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline. As outlined in the Blueprint, all stakeholders have the opportunity to serve on the Design Teams. The Design Teams will be established upon contract being initiated.***

***1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.***

In addition, the Blueprint requires an advisory board from the community.

***1.2.C. Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.***



## **F. Staffing and management plan for the campus**

The operating partners enter into this process with the understanding that many of the current staff will be choose to stay at Mendez. We will also conduct a curriculum and program audit for alignment to the model and cost-benefit analyses. We are eager to work with current teachers, staff, and administrators who wish to remain at Mendez.

The process for staffing includes:

1. Meet with all personnel and explain the T-STEM Academy model and the commitment needed to implement the model successfully.
2. Meet with all personnel individually and discuss the model, PD requirements, outside requirements, etc.
3. Provide commitment letters to personnel who are selected to remain. It is our understanding that personnel who do not want to stay will work with AISD to be placed in positions elsewhere in the district.
4. Once personnel staying at Mendez STEM Academy are identified, we will post announcements for needed faculty and support positions.
5. In addition to school funded positions, we will work with the UTeach Austin program to place preservice teachers at Mendez. This will increase the number of adults that can assist individual students in meeting their learning needs.

CIS and its partners will provide a process for staffing the school, which supports opportunities for current staff to remain on the campus. We will also conduct a curriculum and program audit for alignment to the model and cost-benefit analyses.

## **G. Plan for the selection of a campus leader, and plan for their authority over assignment of district staff at the campus**

The T-STEM Coalition will appoint an Executive Director for the school turnaround to meet individually with the existing administrative team to determine if they possess the institutional knowledge, academic capacity, interpersonal communications skills, commitment to students, command and respect of teachers and staff by exhibiting a servant leadership style, and perhaps most importantly, exhibit a “no excuses” approach and tireless work ethic to drive the T-STEM Academy work on a daily basis. While full consideration will be given to the existing administrative team and community input is always valued, the Executive Director will retain final hiring and assignment authority for the campus leadership team. The administrative skills referenced above are consistent with the T-STEM leadership model..

### **1.2 Program Requirement: Leadership and Governance**

1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.

1.2.B Develops an Academy Leadership Team and identifies the internal role each member will play in the design, governance, operations, accountability, curriculum development, professional development, etc., as well as their external role in collaborating with the design team, outreach, and other key interest groups for continuous monitoring and improvement of the T-STEM Academy plan.

1.2.C Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to

support and guide facility requirements, resource acquisition, curriculum development, internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.

1.2.D Incorporates into Annual Action Plan goals for participation and leadership of students, teachers, parents, business and community partners, institutions of higher education, and T-STEM

Coaches and Centers.

1.2.E Delineates a mission-driven decision-making structure and organization chart that is clear and understood by all stakeholders.

1.2.F Defines the academy leader's level of autonomy in supervising the Academy.

1.2.G Uses data to inform all leadership decisions and to annually review and revise the mission-driven T-STEM Academy Annual Action Plan.

The school will be reorganized to include a semi-autonomous curriculum, instruction, and assessment (CIA) that will work with the principal to assure that teacher and student interventions are provided. The CIA team will develop Professional Learning Communities, provide coaching, and recommend additional professional development. The CIA Team will also work with the principal to analyze data to develop interventions for teachers and students. The campus leader will work with school administration to make staffing assignments.

**List of programs, functions, job duties, services, or similar that the partner would propose to contract with or buy back from the district**

The operator would like to explore contracting the following services with AISD. Final decisions will be determined once campus needs are identified and services are further explained. Designated staff will meet with AISD to further discuss scope of services.

1. Responsive Ed Contacts – Finance, Academics, and Facilities
2. Billing / Invoicing / General Treasury Information
3. Building Use
4. Custodial Services (After Hours)
5. Dyslexia/504 Services
6. Evaluation (Dept Evaluation & Research) 32-33
7. Homebound Services 35
8. Instructional Materials (Textbooks)
9. Materials (Purchased through Warehouse)
10. Maintenance and Ongoing Repairs
11. Printing Services
12. Special Education Services
13. Student Resource Officers
14. Technology Services
15. Transportation

## Section 3 – Financial Plan

### a. Proposed Expenditures

The Executive Director will develop a campus budget designed to fund the instructional program of the campus. Prior to the development of the budget, a thorough audit of the previous two years' expenditures will be conducted. The results of the audit will assist the operator in evaluating the effectiveness of existing programs and services to determine if future funding should be modified or discontinued. The Executive Director will present the budget to the Board, seeking approval. Amendments will be made as needed to support the financial needs of the campus.

AISD indicated we would have the opportunity to meet with the AISD Budget Office prior to the submission of a budget. It is our understanding that could not be arranged prior to the submission of this document.

### b. Additional resources required (if applicable)

In order to start the school year ready to implement PBL, it will be necessary to have funds available for four weeks of summer training for core teachers and two weeks for non-core teachers. Typically, we would use the AISD rate for teacher summer professional development.

We also plan to have summer bridge camp for all Mendez students to introduce them to the academy model in August. This will be an opportunity to set the stage for the changes and build excitement for the academy approach.

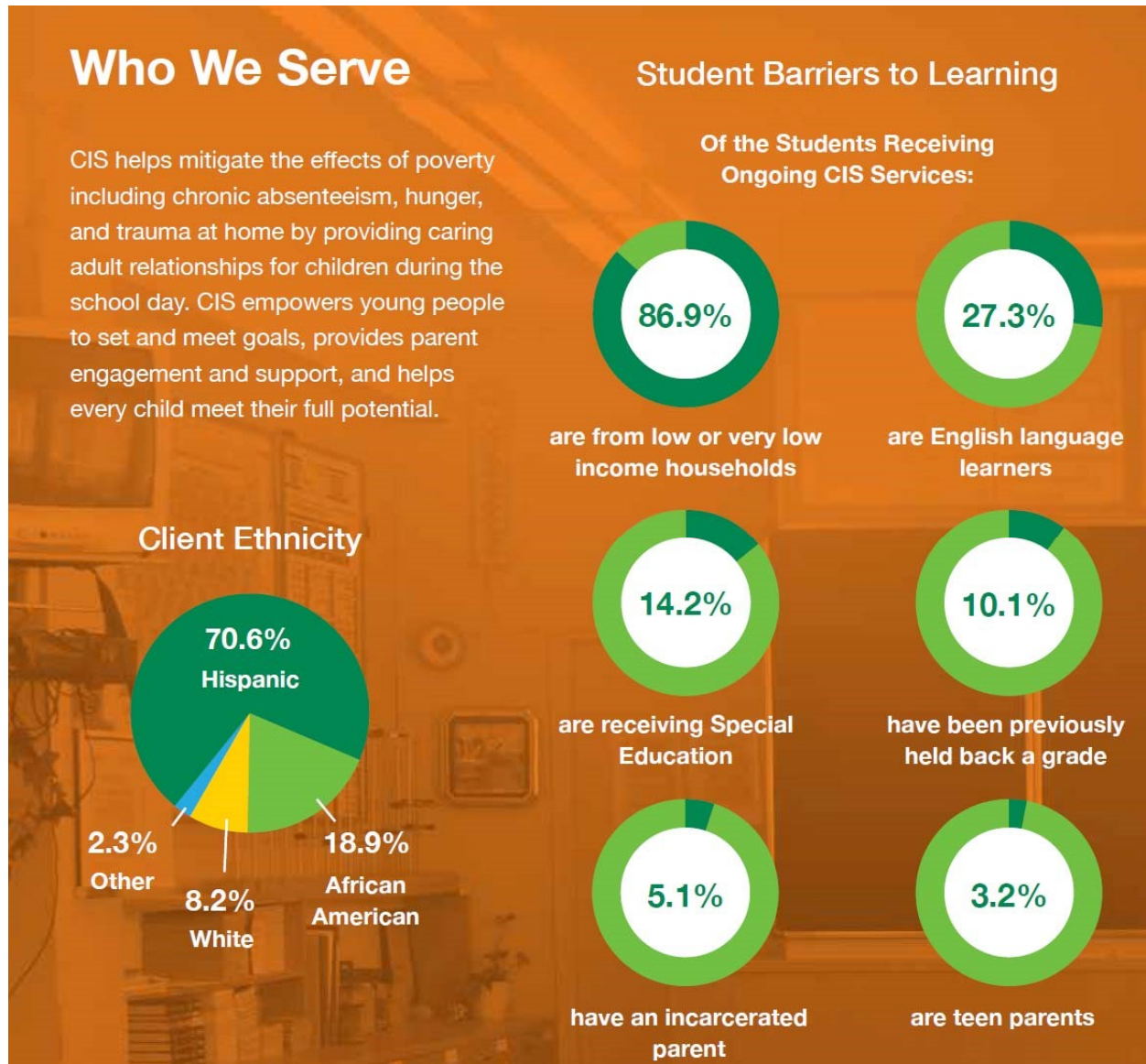
### c. Evidence of financial health of partner (if lead partner is an existing organization)

The T-STEM Coalition is a recently established 501c3. If awarded the charter from Austin ISD we will need to revise the by-laws to expand the mission of the coalition to manage schools. The 501c3 organization is less a year old and we have initiated an audit by Gollob, Morgan, and Peddy to provide the necessary financial health documents. We anticipate receiving those in the next few weeks.

## Section 4 – Community and Parental Involvement

### Introduction

CIS has a long history of working in the community and over 20 years at Mendez Middle School as the Integrated Student Supports Provider. CIS provides supports to students and families. The following graphic illustrates students case management services.



The T-STEM Blueprint requires community and parental involvement. These indicators can be found throughout the document and are presented below:

1.1.A Develops a shared mission and vision, which is aligned with the T-STEM mission and vision, and which reflects a consensus among superintendent, board members, design team, staff, students, parents, and community/business partners on how the Academy promotes STEM-literate graduates to support the Texas Science Technology Engineering and Mathematics Initiative.

1.2.A Establishes a Design Team and defines the role the team plays in the planning and development of the T-STEM Academy prior to implementation.

1.2.C Develops and demonstrates support from an Advisory Board consisting of representatives from the Academy, school board, district, community, higher education, and STEM businesses to support and guide facility requirements, resource acquisition, curriculum development,

internships, externships, and student/community outreach to ensure a successful 6th-20th STEM academic and career pipeline.

2.2.B Involves all stakeholders in developing a culture of respect, responsibility, trust, and meaningful adult and peer relationships throughout the Academy in order to foster positive student identities.

3.1.A Develops structures and processes for marketing and recruitment to encourage participation from underserved students and families (transportation or plans for transportation to the school, child care for family events, and translation of all recruitment and marketing materials).

3.1.B Actively partners with feeder middle and/or elementary schools to develop student interest in STEM education and to increase advancement rates from middle school STEM to high school STEM.

3.1.C Develops a systemic recruitment plan that includes students, parents, counselors, teachers, district, and community.

3.3.E Hosts parent seminars to develop deep understanding and commitment to the rigor of college readiness and the high expectations of a STEM Academy.

6.1.A Includes in the Annual Action Plan a school/family/student partnership plan that is culturally responsive in reflecting the needs and demographics of the student population.

6.1.B Provides opportunities to educate students/parents on STEM Academy expectations such as parental engagement, college connections, scholarship opportunities, mentorships, etc.

6.1.C Establishes multiple pathways of parental communication with the Academy such as regularly scheduled parent conferences, newsletters, websites, campus visits, etc.

6.1.D Provides opportunities for parents to share responsibility for high student performance and school decision making.

6.2.A Identifies and secures key business, industry, and community partners to support STEM Academy efforts (mentorships, service learning projects, etc.).

6.2.B Develops, implements, monitors, evaluates, and revises Annual Action Plan to introduce, inform, and engage business and community partners.

6.2.C Identifies and secures key business and industry partners to provide STEM-related job shadowing, internships, and externships for students and teachers.

6.3.C Develops crosswalk partnerships to support a college going culture and to provide STEM graduates access to college support services (college trips, college entrance aid, and P-20 initiatives).

7.1.B Develops strategic plan in collaboration with design team, T-STEM Centers, T-STEM Network, T-STEM Coach, district personnel, etc.

7.1.C Provides annual analysis, review, and revision of strategic plan and Annual Action Plan with key stakeholders

7.3.D Preserves the components of the small learning community (student voice, PLC for staff, parent/community/industry/higher education involvement, etc.).

### **Results of CIS Initiatives**

Students and families are the overwhelming beneficiary of CIS services.



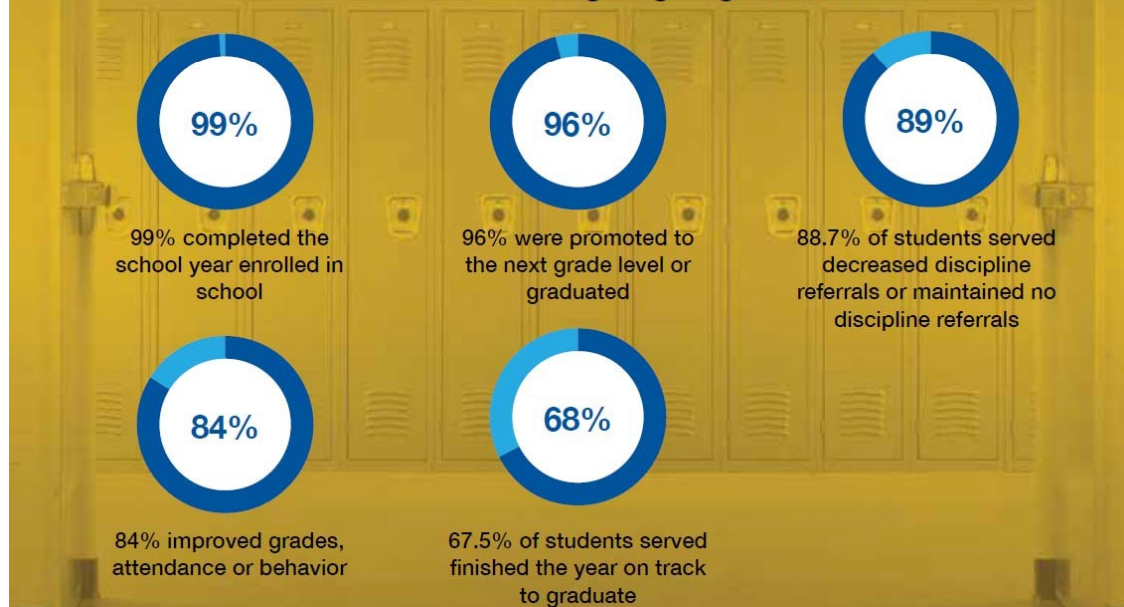
## The Results of Our Work

Studies have proven that schools that implement the CIS model of Integrated Student Supports as part of their improvement strategy see positive results including:

- Improved on-time graduation rates
- Lower dropout rates
- Higher average daily attendance rates

Additionally, students served by Communities In Schools report improved relationships with adults and peers, improved engagement with their schools, and a belief that education has value for their futures — all important outcomes linked to future success.

Of the 5,671 students receiving ongoing intensive services:



Examples of the supports CIS provides to students across Central Texas are:

- Academic Assistance
- Basic Needs
- Behavioral Interventions
- College & Career Prep
- Community and Service Learning Projects
- Learning Enrichment
- Family Engagement
- Life Skills
- Emotional and Mental Health
- Physical Health

Austin Interfaith has deep experience in engaging communities through community walks, evening meetings, and other information sharing and empowerment opportunities. The CIS Model is grounded

in leveraging high impact partners for the community. CIS has served a number of schools that were also Interfaith Alliance members. Communities In Schools and **Austin Interfaith** are exploring ways in which we can collaborate to engage and support the Mendez community at a higher impact level.

Some of their most successful initiatives are:

**1. Alliance School Initiative**

A partnership with the Austin Independent School District and individual schools to restructure relationships among staff, parents, and community in order to build a more relational culture as well as a constituency to support public education

**2. ESL Program**

An adult English as a Second Language program funding by the City of Austin and administered through Austin ISD

**3. Prime Time After School Program**

Austin ISD's after-school enrichment program funded by the City of Austin and Travis County.

**4. Summer Youth Employment Program**

A summer job-training and placement program funded and administered by Travis County.

## Section 5 – Experience and Qualifications

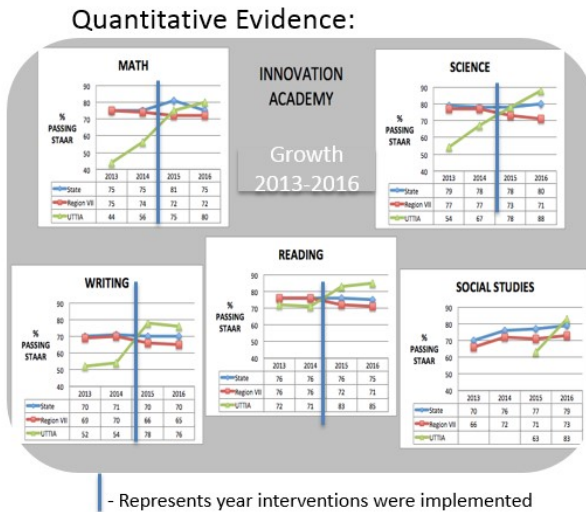
### A. Current data from previous experiences and evidence in success in serving populations similar to Mendez

The T-STEM Coalition Partnership team has significant experience in school turnaround.

**Dr. Jo Ann Simmons** is the Innovation Academy Superintendent, a TEA approved Professional Service Provider (PSP), and Charter School Mentor. Dr. Simmons also served as Principal of James S. Hogg Middle School in Tyler ISD. The make-up of the school is very similar to Mendez Middle School. The school did not meet accountability standards in prior years. Under her leadership, James S. Hogg M.S. met accountability standards, removing all state sanctions. These improvements have been maintained, even since her departure. Hogg MS is 92.1% ECD and serves 30% ELL. Mendez is 92.8% ECD and 44.9% ELL. Hogg has a higher African American population than Mendez. Mendez has a higher Special Education population. In addition, several of the schools that Dr. Simmons has supported as a Professional Service Provider (PSP) have similar populations as Mendez.

**Dr. David Simmons** is a veteran school leader with 36 years of experience as a teacher, principal, assistant superintendent, and superintendent of five Texas school districts including Presidio ISD, Wimberley ISD, Texas City ISD, Tyler ISD, and Richardson ISD. During his tenure as superintendent, each of the five school districts increased their accountability ratings and reduced the number of low performing campus while increasing the number of high performing campuses. He is currently serving as a TEA assigned Conservator, a Professional Service Provider (PSP) in three school districts and serves as interim superintendent for a school district in East Texas. Dr. Simmons has a proven track record in school improvement and turnaround by increasing student performance in schools with similar student populations to Mendez.

**Dr. Michael Odell** is the Executive Director of the Ingenuity Center, a T-STEM Center that supports T-STEM Academies. He has provided instructional coaching, professional development, and technical assistance to more than 50 T-STEM Academies. He sits on the board of the T-STEM Coalition that provides support to all T-STEM Academies.



Dr. J. Simmons and Dr. Odell worked collaboratively to turn around the Innovation Academy, taking the district from IR to one of the highest achieving districts in East Texas. The Longview IA is one of the top achieving T-STEM Academies in the state and is being studied as a model school by TEA. Not only did the IA meet standard within two years of intervention, a process of continuous improvement based on the T-STEM Blueprint and research-based practices was implemented. Almost all school districts provide some level of instructional coaching. The IC/IA coaching model provides supports to teachers and students to increase accountability scores that exceed the state averages in ***all***

subject areas. The coaching model combined with high quality PLC and dedicated teacher planning supported by coaches and administration has created a learning environment rarely experienced by most teachers and students. The model is designed to be high-touch and collaborative. 80% of eighth graders leave TSI ready in Reading and Writing.

Mendez Middle School has the potential to become a strong STEM Academy. The school has a number of elements already in place. These include an outdoor science program and the PLTW Gateway Curriculum. PLTW Gateway is also utilized by the Innovation Academies as well close to 50% of all T-STEM Academies statewide. The partnership team has experience with these established STEM programs. These programs can serve as established anchors to build upon.

## B. Vision, Mission, & Core Values

The T-STEM Blueprint outlines the process for developing a vision and mission for the Academy.

### 1.1 Program Requirement: Mission and Vision

1.1.A Develops a shared mission and vision, which is aligned with the T-STEM mission and vision, and which reflects a consensus among superintendent, board members, design team, staff, students, parents, and community/business partners on how the Academy promotes STEM-literate graduates to support the Texas Science Technology Engineering and Mathematics Initiative.

1.1.B Develops an *Annual Action Plan* (AAP) of goals and resources aligned to the Academy's mission and vision, the T-STEM Blueprint, and STEM-literacy; with the AAP regularly monitored and assessed.

As outlined in the Blueprint, we will work with stakeholders to develop a shared mission and vision for the academy that aligns to T-STEM.



As a partnership, we hold a number of core values. These include: CIS's Five Basics, which state that each child deserves:

- **A one-on-one relationship with a caring adult**
- **A safe place to learn and grow**
- **A healthy start and a healthy future**
- **A marketable skill to use upon graduation**
- **A chance to give back to peers and the community**

In addition, this Partnership aims for

- **All students to have the opportunity to learn high quality curriculum that opens doors to college and careers.** Unfortunately, high quality curriculum is often only offered in affluent schools.

### **c. Leadership Team résumés**

Resumes and Vitae can be found in the Appendices.

### **D. Qualifications**

The T-STEM Coalition Partnership Leadership Team is highly qualified to support Mendez Middle School as an AISD In-District Charter T-STEM Academy. Each partner brings unique expertise that will help Mendez Middle School Meet Standard and work toward becoming a high performing Austin ISD school.

#### **Partner Organization Expertise:**

Partnership organization expertise has been addressed throughout the document. Below is some additional expertise information that may be useful to the review committee.

**CIS** staff are trained in restorative practices, Trauma -informed care, Relationship development, social emotional learning, and a wide variety of social work topics.

**UTeach** brings expertise in Teacher Preparation and professional development and can provide a pool of future PBL trained teachers as the school grows and needs additional personnel.

**TSTEM Coalition:** The Coalition expertise in STEM (Specifically implementing the Blueprint) Bilingual/ESL in the traditional context and in the context of STEM. The T-STEM Coalition works with T-STEM Academies statewide to facilitate implementation of the T-STEM Blueprint. The coalition has been engaged in this work since 2005.

**E. Past clients**

SB 1882 is a new program. Turnaround programs in the past did not require a school takeover

<b>Client</b>	<b>Provider</b>	<b>Service</b>	<b>Outcome</b>
<b>Tyler ISD</b> Jones Elementary Ramey Elementary Bonner Elementary	J. Simmons	Professional Service Provider(PSP)	Schools Improved to "Met Standard"
<b>Tyler ISD</b> Boulter MS	Ingenuity Center	TTIPS	School Improved to "Met Standard"
<b>Laneville ISD</b> Laneville HS	J. Simmons D. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Mt. Enterprise ISD</b> Mt. Enterprise Elementary	J. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Marshall ISD</b> Crockett Elementary G.W. Carver Elementary J. H. Moore Elementary Robert E. Lee Elementary	J. Simmons	Professional Service Provider(PSP)	Schools Improved to "Met Standard"
<b>Ft. Worth ISD</b> Stripling MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Bullard ISD</b> Bullard Intermediate	J. Simmons	Professional Service Provider(PSP)	School Improved to "Met Standard"
<b>Eustace ISD</b> Eustace HS Eustace MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Greenville ISD</b> Greenville HS Greenville MS	Ingenuity Center	Math Intervention	School Improved to "Met Standard"
<b>Innovation Academy</b> Longview IA Palestine IA Tyler IA	J. Simmons, Ingenuity Center	Superintendent	Schools Improved to "Met Standard"
<b>Pineywoods Community Academy</b> Pineywoods Community Academy High School	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
Timpson Independent School District	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
<b>Nacogdoches Independent School District</b> Thomas J Rusk Academy of Fine Arts Emeline Carpenter Academy of Technology and Science Fredonia Elementary School McMichael Middle School	D. Simmons	Professional Service Provider	Schools Improved to "Met Standard"
<b>Union Hill Independent School District</b> Union Hill Elementary School	D. Simmons	Professional Service Provider	School Improved to "Met Standard"
<b>Etoile Independent School District</b> Etoile School K-8	D. Simmons	Professional Service Provider	2018 STAAR Data Pending
<b>Cumberland Charter School District</b>	D. Simmons	TEA Monitor	Improved, Released from Sanctions
<b>Sam Houston State University Charter School</b>	J. Simmons	Charter School Mentor	
<b>Trivium Academy Charter</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending
<b>The Lawson Academy Charter</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending
<b>Trinity Environmental Academy</b>	J. Simmons	Charter School Mentor	2018 STAAR Data Pending

**f. References**

<b>Name</b>	<b>Organization</b>	<b>Email</b>
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Dave Holody, CIST board Treasurer	Internal Audit, AMD Finance Committee United Way for Greater Austin	<a href="mailto:David.holody@amd.com">David.holody@amd.com</a>
Mark Williams, CIST board member	Accountant, former AISD President board of trustees, current trustee Austin Community College	<a href="mailto:Mark.williams@austincc.org">Mark.williams@austincc.org</a>
Ingenuity Center		
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The Honorable Kevin Eltife (Former) State Senator District	Tyler, Texas	903-596-9122
Jo Ann Simmons References		
Dr. Marty Crawford, Superintendent	Tyler ISD	903-262-1001
Dr. Christy Hanson Chief Academic Officer	Tyler ISD	903-262-1011
Yanira Oliveras Reference		
Dr. Steven Wurtz COO Arlington ISD	Arlington ISD	<a href="mailto:swurtz@aisd.net">swurtz@aisd.net</a>

## G. How would you measure success of the Partnership

Communities In Schools measures academics, behavior, and attendance before and after our interventions with all of our case managed students – well over 5,000 students across the six districts we serve. In addition, we monitor students’ “on track indicators” based on the Everyone Graduates Center at Johns Hopkins. The on-track indicators are: passing all four core classes, attending school 90% of the time or more and student is engaged in learning. If all three are met, these indicators predict high school graduation. We utilize an instrument measuring engagement in learning that has been validated and was provided by the research division of the CIS National Office. At intake, only 5% of CISCT students are “on track” to graduation, but by the time they are exited at the end of the school year, 67% are “on track.” We have data tracking capacity and will examine our outcomes at Mendez separately. The Blueprint provides guidance for evaluating the school and includes a rubric for evaluating success of the academy.

### 7.2 Program Requirements: Continuous Improvement and Evaluation

7.2.A Annually reviews strategic plan and Annual Action Plan to ensure Academy meets high expectations across a broad range of performance measures as indicated by Academy mission and vision, and STEM Blueprint Program Requirements.

7.2.B Annually reviews instructional and intervention plan to ensure continual growth on all of the required state accountability measures.

7.2.C Develops internal indicators and checklists unique to the Academy to measure continuous improvement towards student performance goals and the state of the Academy.

The partnership will base success on a number of metrics. These include:

- Success as measured by the Texas Education Agency Accountability Performance
- Percent of students meeting TSI at the end of 8<sup>th</sup> grade
- Percent of students who achieve “meets” or “masters” on accountability
- Student engagement (attendance, referral rates, etc.)
- Students enrolled in Algebra and other HS Courses in 8<sup>th</sup> grade
- Enrollment and retention
- Student-led climate survey and/or focus groups
- Growth of student population

### Resumes of Partner Personnel

#### CISCT

Suki Steinhauser, MBA, CEO

Sharon Vigil, MA, COO

Tony Aguilar, BSW, Program Manager Mendez Middle School

#### TSTEM Coalition

Michael Odell, PhD Executive Director of Ingenuity Center and Professor of STEM Education, Co-Founder of Innovation Academies

Joanne Simmons, PhD Superintendent of UTT School System

David Simmons, PhD Director of School Turnaround

Teresa Kennedy, PhD Professor of Bilingual STEM Education

Yanira Oliveras, PhD ESL, Dual Language and former Principal

#### UTeach Institute

Michael Marder, PhD. Physics Professor, Co-Founder of UTeach

Kim Hughes Director, UTeach Institute

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## Enrollment Policy

The MOU for operating Mendez states the following:

The term “Eligible Student” shall mean, in the following priority for secondary students in Grades 6 – 8: First, students in the Mendez Middle School attendance area; secondly, by lottery if necessary, students from the District at-large; finally, from students outside the district wishing to transfer into the district through AISD Policy FDA (Local). No student will be ineligible for admission for failure to sign a pledge. Additionally, no student shall be involuntarily removed from the T-STEM COALITION Mendez Middle School without the review and approval of AISD’s Superintendent or designee. Enrollment will be based upon Texas Education Code, age and grade eligibility, and other state law requirements. In addition, T-STEM COALITION shall prohibit discrimination in accordance with Section 12.059 of Texas Education Code (TEC).

The above policy reflects TEC 12.065. As with any Subchapter C School, enrollment is voluntary (TEC 12.0521). The Blueprint provides the following:

All T-STEM academies must implement and meet the following requirements: 1. The T-STEM recruitment and enrollment processes shall identify, recruit, and enroll the subpopulations of at-risk students (as defined by PEIMS), including, but not limited to, students who are of limited English proficiency, students with disabilities, or students who have failed a state administered assessment. Enrollment decisions shall not be based on state assessment scores, discipline history, teacher recommendation, parent or student essays, minimum grade point average (GPA), or other criteria that create barriers for student enrollment 2. The T-STEM shall identify, recruit, and enroll subpopulations (in addition to those who are at risk as defined by PEIMS) that are historically underrepresented in college courses (e.g., first generation college goers, students of low socioeconomic status, African American, Hispanic, Native American) 3. The T-STEM academy shall clearly document recruitment and enrollment policies and practices; refining and improving them annually based on data reviews 4. Recruitment and enrollment processes (including marketing and recruitment plans, materials, and timelines) shall include input from key stakeholders (e.g., parents and community members; postsecondary partners); target student populations as described in 1 and 2 above; and include regular activities to educate students, counselors, principals, parents, and school board and community members 5. If the T-STEM academy has more applicants than available space, they shall use either a performance-blind, open-access lottery system for admissions that encourages and considers applications from all students (all students have an equal opportunity for acceptance, regardless of background or academic performance) or a weighted lottery that favors students who are at-risk or who are part of the targeted subpopulations for the T-STEM

Products a. Written admission policy and enrollment application b. Written recruitment plan including a timeline of recruitment and enrollment events, and recruitment materials for distribution at feeder schools and other appropriate locations in the community c. Brochures and marketing in Spanish, English, and/or other relevant language(s) d. Written communication plan for targeting identified audiences, parents, community members, school board, higher education personnel, etc.

## Attachment 2: Discipline

### STUDENT CODE OF CONDUCT ENTER SCHOOL YEAR

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## APPLICATION OF THE CODE

The **board of trustees** of the **SCHOOL NAME** has adopted this Student Code of Conduct (the “Code”) in accordance with Section 12.131 of the Texas Education Code, in order to clearly communicate standards for expected student conduct, the disciplinary consequences which may be applied to students who violate those standards, and the applicable procedures for the implementation of disciplinary consequences. All students must comply with the Code. Definitions of words and phrases used throughout this Code are provided at the end of the Code.

Parents and students are encouraged to contact campus administration with any questions or concerns regarding the requirements and provisions of the Code. Parents and students are expected to review and be familiar with the provisions of the Code. Lack of knowledge or awareness about any School rules, including this Code, will not excuse violations of the Code. Parents and students will be required to sign a statement acknowledging receipt and understanding of the Code. A copy of this Code is available **on the district’s Web site at WEBSITE ADDRESS.**

The School has the authority to create and enforce rules related to student conduct and behavior while on school property, traveling to or in attendance at a school-sponsored or school-related event or activity, whether on or off campus. The School has the authority to issue disciplinary consequences for certain other student conduct that relates to, affects, or shares a nexus with the School, its students, or its employees regardless of when or where the conduct occurs. The School may also issue discipline based on a student’s use of electronic media, whether on or off campus.

Other School rules, codes or policies may apply to a student’s misconduct, and may result in multiple disciplinary consequences issued for the same conduct.

The school will exclude from admission students with documented history of a criminal offense(s), juvenile court adjudication(s), or disciplinary problems under subchapter A, Chapter 37 of the Education Code, as evidenced by records received from schools previously attended by the student, law enforcement, or any other relevant documentation, and may exclude the student from admission on this basis.

If a student who would otherwise be ineligible for admission to the School provides false information on an admissions application or other enrollment document and as a result of the false information is admitted to the School, the student shall be immediately withdrawn from enrollment from the School upon discovery of the falsification. Falsification of information for the purpose of gaining enrollment in a public school is a criminal offense under § 37.10 of the Texas Penal Code. The School may elect to report the falsification to law enforcement or take any other action permitted by law.



## EXPECTATIONS FOR STUDENT CONDUCT

To achieve our mission, the School must be an environment safe, secure and free from disruption. Students are expected to demonstrate behavior appropriate to the School's learning environment, to treat other students, School personnel, and visitors to the School with respect. As such, each student is expected to:

- Behave in a responsible and respectful manner, always exercising self-discipline;
- Demonstrate courtesy and respect for others, especially other students and School personnel;
- Attend classes and required School activities and events regularly and on time;
- Prepare for each class, take appropriate materials and assignments to class, and complete assignments on time;
- Respect the rights and privileges of other students and school personnel in person and online;
- Respect and care for School property and facilities;
- Follow policies related to use of technology;
- Cooperate with School personnel in maintaining safety, order and discipline;
- Dress appropriately in accordance with the School's dress code;
- Review and comply with the Student Handbook and other School and campus rules;
- Obey classroom rules and classroom expectations for behavior;
- Refrain from verbal or written acts of bullying whether in person or online;
- Avoid violations of this Code.

Students are expected to comply with the school's technology and electronic media use policies and procedures. Students are also expected to demonstrate the same behavior online or while using electronic media as is expected in the classroom, on school property, or at school-related events. Sending, posting, or possessing electronic messages that are disrespectful, disruptive, abusive, obscene, illegal, threatening, harassing or damaging to another person disrupts the learning environment and will not be tolerated.

Parent cooperation is essential to achieving the School's mission and ensuring that students learn in a safe, secure and positive environment. Parental involvement and cooperation is vital in the discipline process. Parents should understand and be familiar with the Code, ensure that his or her child understands and seeks to comply with this Code, and assist the school in counseling students regarding appropriate behavior.

## PROHIBITED CONDUCT

The following conduct constitutes a violation of the Code. Any student found to have engaged in such conduct shall be subject to one or more disciplinary consequences as identified within the Code.

### General Student Behavior

1. Violate dress and grooming standards as communicated in the student handbook;
2. Cursing, using offensive language, name calling, ethnic, racial or gender slurs, other derogatory statements, or yelling;
3. Disrespectful behavior towards adults;
4. Refuse to accept discipline management techniques assigned by a teacher or principal;
5. Failure to follow directives (insubordination);
6. Disruption of instruction or other school activities or operations;
7. Unexcused or excessive tardiness;
8. False statements or false accusations;
9. Bullying (*including cyber bullying*), teasing, or targeting other students;
10. Inappropriate cell phone or electronic media use;

### Violation of School Rules and Policies

11. Failure to comply with the Student Handbook, or other School or campus rules;
12. Leaving the classroom, school building, mandatory school activities or events, or adult supervision without permission;
13. Skipping a class period or other mandatory activity, in whole or in part, without permission;
14. Violation of School or campus policies or rules related to the use of electronic media, including personal or School-owned electronic devices (*e.g.*, cell phones, tablets, game systems, computers, cameras), or the School's network or Internet connection;
15. Engaging in actions or demonstrations that substantially disrupt or materially interfere with school activities;
16. Truancy or other failure to attend school without excuse;
17. Defacing, destroying or otherwise modifying School property without authorization;
18. Steal from students, staff, or the school;
19. Taking photographs or making video or audio recordings of students, employees, or other persons without the consent of the other person;
20. Commit extortion or blackmail (obtaining money or an object of value from an unwilling person);
21. Soliciting or attempting to solicit another student to violate the Code, School policies and rules, or the law;
22. Taking steps toward violation of the Code even if the act is not completed, as determined by appropriate School administrator;
23. Failing to follow school directives and classroom rules and expectations;
24. Disobeying rules and expectations regarding school transportation;
25. Inappropriate or unauthorized use of School property, including posting or distributing literature or materials without School authorization;

## Violent, Illegal, and Other Serious Offenses

26. Possession of prohibited items
  - Fireworks of any kind, smoke or stink bombs, or any other pyrotechnic device;
  - A razor, box cutter, chain, or any other object used in a way that threatens or inflicts bodily injury to another person.
  - A “look-alike” weapon;
  - An air gun or BB gun;
  - Ammunition;
  - A stun gun; A pocket knife or any other small knife;
  - Mace or pepper spray;
  - Matches or a lighter;
  - A laser pointer for other than an approved use;
  - Any articles not generally considered to be weapons, including school supplies, when the principal or designee determines that a danger exists;
27. Conduct which meets the elements of a criminal offense, as determined by the School;
28. Physical, verbal or sexual harassment of others;
29. Inappropriate physical or sexual behavior, including jokes, comments, gestures or unwelcome physical conduct or contact;
30. Using the Internet or other electronic communications to threaten district students, employees, or volunteers, including off school property if the conduct causes a substantial disruption to the educational environment;
31. False statements, false accusations, or perpetrate hoaxes regarding school safety;
32. Hazing or initiations;
33. Participation in a gang, soliciting or attempt to solicit participation in a gang;
34. Possessing, distributing, using or being under the influence of tobacco products, electronic cigarettes, drugs, alcohol, or controlled substances, including prescription drugs if the student has not been prescribed the drugs or is taking the drugs in excess of the dosage specified by the prescription;
35. Have or take prescription drugs or over-the-counter drugs at school other than as provided by district policy;
36. Possessing or selling look-alike drugs or attempt to pass items off as drugs or contraband;
37. Possessing, using, giving, or selling paraphernalia related to any prohibited substance;
38. Stealing, lying, cheating, or copying the work of another without authorization (plagiarism);
39. Commit or assist in a robbery or theft even if it does not constitute a felony according to the Texas Penal Code;
40. Deliberately, and without School authorization, accessing, damaging, or altering School data and records, including but not limited to confidential records, electronic data, networks or systems;
41. Violence of any kind, including dating violence;
42. Throwing objects that can cause bodily injury or property damage;
43. Fighting;
44. Gambling;
45. Setting or attempting to set a fire;
46. Discharging a fire extinguisher without valid cause;

47. Inappropriate or indecent exposure of body parts;
48. Retaliation of any form against other students or School personnel;
49. Conduct which requires the student's registration as a sex offender;
50. Possession or distribution of pictures, text messages, electronic messages or other material of a sexual, obscene, abusive, threatening, harassing, damaging to another's reputation or illegal nature;
51. Endangering the health or safety of others;
52. Other conduct as identified within this Code.

The district may impose campus or classroom rules in addition to those found in the Code. These rules may be posted in classrooms or given to the student and may or may not constitute violations of the Code.

## DETERMINING APPROPRIATE DISCIPLINE

Depending on the nature and severity of the offense, discipline may be issued by the student's classroom teacher, campus administrator, or administrator's designee, in accordance with this Code. In order to make a determination of misconduct or issue disciplinary consequences under this Code, the authorized School employee must have a reasonable belief that the student engaged in the suspected conduct. The employee's conclusion may be based on any relevant evidence including, but not limited to, observation, other personal knowledge, verbal or written witness statements, other forms of documentation, or information received from law enforcement.

In reaching a decision regarding a student discipline matter, the School may consider the specific facts and circumstances of the situation, including but not limited to:

- The student's intent;
- The student's age and grade level;
- The student's past disciplinary history;
- Whether the student's conduct may have been the manifestation of a disability;
- The extent of the student's cooperation during the investigation of the matter;
- The nature and severity of the alleged conduct;
- Whether the student has previously engaged in similar conduct;
- Whether self-defense was involved;
- The student's remorsefulness for the conduct;
- The severity of the effect or harm of the conduct on other persons or property;
- The frequency of the conduct.

The School may issue discipline based on a determination that a student has engaged in conduct which meets the elements of a criminal offense. The School has the authority to make such a determination without regard for whether the student is arrested, charged, or otherwise processed by the criminal justice system for the criminal offense. The School may consider information received from law enforcement or other entities within the criminal justice system in issuing discipline under this Code.

Since the district's primary responsibility in transporting students in district vehicles is to do so as safely as possible, the operator of the vehicle must focus on driving and not have his or her attention distracted by student misbehavior. Therefore, when appropriate disciplinary management techniques fail to improve student behavior or when specific misconduct warrants immediate removal, the principal may restrict or revoke a student's transportation privileges, in accordance with the law.

Actions will not be based on a student's race, ethnicity, national origin, gender, sex, religion, disability, or any other unlawful consideration.

## INVESTIGATION OF DISCIPLINE ISSUES

In order to determine whether a violation of the Code has occurred, campus administrators or other authorized individuals may conduct an investigation. Investigations of student misconduct may involve, but are not limited to, interviews of other students, employees and adults, review of school surveillance footage, review of relevant documents, review of information on School-owned computers, verification of tips received from other individuals, gathering of physical evidence, contact of or cooperation with law enforcement agencies and officials. Law enforcement may be contacted and informed of student conduct which may constitute a criminal offense.

Students should have no expectation of privacy with respect to School-owned property. Lockers, desks, and other items provided for student use remains School property, and students do not have a reasonable expectation of privacy in School property or in personal items placed inside School property. School administrators or other authorized personnel may monitor and search student desks and lockers for any reason. School officials may search any School property, including School property that is within a student's possession or otherwise being used by a student, at any time, with or without notice to the student and without consent. School officials may confiscate any items found during a search, including prohibited items, dangerous items or other items that violate School policy.

Authorized school officials may search a student's person or property if the official has a reasonable belief that the search will result in the discovery of evidence of a violation of the Code or of the law. Any personal property that is brought onto school property or to a school-sponsored or school-related activity or event, on or off school property, may be subject to search (*e.g.*, student cell phone, backpack, personal computer, purse, car, etc.).

## DISCIPLINE OF STUDENTS WITH SPECIAL NEEDS

Students eligible for services under the Individuals with Disabilities in Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 (Section 504) are subject to discipline under those laws and in accordance with the provisions of this Code.

The School may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability under Section 504 who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the School would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to disciplinary action for the use or possession of illegal drugs or alcohol. However, a student who is eligible for special education under the IDEA should have a manifestation determination review conducted to address any use or possession of illegal drugs or alcohol if such conduct could result in a change of placement.

Any disciplinary action that would constitute a “change in the placement” of a student receiving special education services may be taken only after the student’s Admission, Review, and Dismissal (ARD) committee conducts a manifestation determination review in order to determine whether the student’s conduct was a manifestation of his or her disability.

A change in placement occurs if a student is:

1. Removed from the student’s current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
  - a. The series of removals total more than ten school days in a school year;
  - b. The student’s behavior is substantially similar to the student’s behavior in the previous incidents that resulted in the series of removals; and
  - c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

The School will determine, on a case-by-case basis, whether a pattern of removals constitutes a change in placement.

A student who has not been determined eligible for special education services and who has engaged in behavior that violates the Code is entitled to the protections under the IDEA regarding discipline of a student with special needs described above if the school has knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. If the school does not have knowledge that a student is a student with a disability prior to taking disciplinary action, the student may be subject to the disciplinary actions applied to students without disabilities. If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary action, the evaluation shall be conducted in an expedited manner.

Refer to the [Student Handbook](#) for more information regarding special education services.

## TYPES OF DISCIPLINE

Available disciplinary consequences include:

- Parent conference;
- Verbal correction, oral or written;
- Cooling-off time or “time-out”;
- Seating changes within the classroom or vehicles owned or operated by the district;
- Counseling;
- Conference with teacher or administrator;
- Grade reductions for cheating, plagiarism, and as otherwise permitted by policy;
- Education/training;
- Behavior contract;
- Community service;
- School-related assigned tasks or duties;
- Loss or restriction of privileges (*e.g.*, eligibility to hold special positions, exemption from exams, etc.);
- Consequences related to student participation in extracurricular activities, including removal, suspension, or restriction of participation;
- Removal from class to campus office;
- Restriction or revocation of district transportation privileges;
- School-assessed and school-administered probation;
- Issuance of demerits;
- Confiscation of items;
- Detention, including outside regular school hours;
- In-School Suspension;
- Other alternative placement;
- Out-of-School Suspension;
- Referral to an outside agency or legal authority for criminal prosecution in addition to disciplinary measures imposed by the district.
- Expulsion.
- Other strategies and consequences as determined by school officials.

One or more of these disciplinary consequences may be issued to a student found to have violated the Code. If the Code does not specify the appropriate disciplinary consequence for a particular type of student conduct, the School may issue whatever disciplinary consequence is deemed reasonable and appropriate, with the exception of expulsion. A teacher may have additional rules and consequences for student conduct in the classroom, which may result in discipline under this Code or may be enforced in addition to any discipline issued under this Code.

If a student withdraws from the School before completing assigned In-School Suspension, Out-of-School Suspension, or Expulsion, the School shall send documentation of the discipline to the next school that enrolls the student. If a student withdraws from the School before the expulsion process is completed, the School may choose to complete the expulsion process and send documentation of



the expulsion decision to the next school that enrolls the student. If the student returns to enroll in the School at a later date and has not been required to complete the disciplinary consequences previously required, the School may require the student to complete the discipline upon return.

The Code shall be applied and enforced consistently and equitably among students, with the understanding that every disciplinary situation will differ and decisions will be made based on the individual facts and circumstances of a given situation.

## **DETENTION / IN-SCHOOL SUSPENSION**

A student may be assigned to one or more sessions of detention or placed in in-school suspension for engaging in prohibited conduct under this Code. The student's parent or guardian will be notified by phone and in writing of the student's conduct and assignment to detention or in-school suspension. Detention will be held outside of the instructional day, either before or after school, during lunch period, or during recess. In-school suspension will require the student to report to the in-school suspension classroom for all or part of one or more school days. While in in-school suspension, the student will be provided the appropriate class assignments and will be expected to complete those assignments as if the student were in the regular classroom.

## **OUT-OF-SCHOOL SUSPENSION**

A student may be suspended for one or more school days for engaging in prohibited conduct under this Code. In deciding whether to order out-of-school suspension, the district shall take into consideration self-defense, intent or lack of intent at the time other student engaged in the conduct, and the student's disciplinary history. Before being suspended a student shall have an informal conference with the appropriate administrator, who shall advise the student of the conduct of which he or she is accused. The student shall be given the opportunity to explain his or her version of the incident before the administrator's decision is made. The student's parent or guardian will be notified by phone and in writing of the student's conduct and the length of the period of suspension. A student may not be suspended for more than three consecutive school days; with no limit on the number of times a student may be suspended in a semester or school year. The appropriate administrator shall determine any restrictions on participation in school-sponsored or school-related extracurricular and cocurricular activities. Student assignments or other class work completed during a period of suspension will be accepted for grading if completed in a timely fashion.

## **Removal from the School Bus**

A bus driver may refer a student to the principal's office to maintain effective discipline on the bus. The principal must employ additional discipline management techniques, as appropriate, which can include restricting or revoking a student's bus riding privileges.

## **Sexual Assault and Campus Assignments**

If a student has been convicted of continuous sexual abuse of a young child or children or convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault against another student on the same campus, and if the victim's parent or another person with the authority to act on behalf of the victim requests that the board transfer the offending student to another campus, the offending student shall be transferred to another campus in the district.

## REASONS FOR EXPULSION

A student **will** be expelled from the School if he or she is found to have committed any of the acts listed below.

1. **Weapons.** The student used, exhibited, or possessed any of the following while on school property or while attending a school-sponsored or school-related activity on or off school property:
  - a. A firearm;
    - i. Any firearm muffler or firearm weapon.
    - ii. A firearm (any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use), unless the use, exhibition, or possession of the firearm occurs at an off-campus approved target range facility while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.
  - b. An illegal knife;
    - i. An illegal knife, such as a knife with a blade over 5.5 inches; hand instrument, designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.
  - c. A club; or
    - i. A club such as an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.
  - d. A prohibited weapon.
    - i. Any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive.
    - ii. The frame or receiver of any such weapon.
    - iii. Such as an explosive weapon, a machine gun, a short-barrel firearm, a firearm silencer, knuckles, armor-piercing ammunition, a chemical dispensing device, a zip gun, or a tire deflation device.
  - e. Any destructive device, such as any explosive, incendiary or poison gas bomb, or grenade.
  
2. **Violent Conduct.** The student engaged in conduct that contains the elements of the following offenses within the Texas Penal Code, regardless of location, date on which the student's conduct occurred, whether the student was enrolled in the district, or whether the student has successfully completed any court disposition requirements imposed in connection with the conduct:

- a. Aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a child or children;
  - b. Assault against another student, an employee, or a volunteer of the School;
  - c. Deadly conduct;
  - d. A Title V felony under the Penal Code.
3. **Disruptions.** The student engaged in conduct that contains the elements of the following offenses within the Texas Penal Code, regardless of location:
- a. False alarm or report or terroristic threat involving a public school;
  - b. An offense related to an abusable volatile chemical;
  - c. Breach of computer security if the conduct involves accessing a computer network, or computer system owned by or operated on behalf of a public school and the student knowingly alters, damages, or deletes school district property or information or commits a breach of any other computer, computer network, or computer system;
  - d. Criminal mischief if the conduct is punishable as a felony;
  - e. Public lewdness or indecent exposure.
4. **Drugs and Alcohol.** The student engaged in conduct that contains the elements of the following offenses within the Texas Penal Code:
- a. On school property, at school-sponsored or school-related event, or within 300 feet of school property:
    - i. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of marijuana, dangerous drug, or alcoholic beverage.
  - b. Regardless of location:
    - i. Sells, gives, delivers to another person or possesses or uses or is under the influence of marijuana or a dangerous drug, as defined by the Health and Safety Code, if the conduct is punishable as a felony.
    - ii. Sells, gives, delivers to another person an alcoholic beverage, as defined by the Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol or possesses, uses, or is under the influence of an alcoholic beverage, and the conduct is punishable as a felony.

5. **Other.** The student, while on campus or at a school-sponsored or school-related event, on or off campus:
  - a. Engages in conduct that constitutes a felony;
  - b. Commits an assault;
  - c. Commits frequent violations of this Code that cause significant disruption to the School environment or substantial interference with the instructional process.
  
6. **Property of Another District.** A student **will** be expelled for committing any offense that is a state-mandated expellable offense if the offense is committed on the property of another district in Texas or while the student is attending a school-sponsored or school-related activity of a school in another district in Texas.

## EXPULSION PROCESS

### Emergency

In an emergency, the principal or the principal's designee may order the immediate expulsion of a student for any reason for which expulsion may be made on a nonemergency basis. The student shall be given verbal notice of the reason for the action. Within ten days after the date of the emergency expulsion, the student shall be given appropriate due process required for a student facing expulsion.

### Written Notice

If the school administrator or administrator's designee determines that the student's conduct warrants expulsion, the administrator shall provide written notice to the parent, guardian, or adult student of the proposed expulsion of the student. The written notice shall also include the reason(s) for the proposed expulsion and the date, time, location and procedure for the expulsion hearing.

### Expulsion Hearing

The student is entitled to a hearing with the campus administrator during which the student and/or the student's representative (*e.g.*, parent, guardian, attorney, other) will have the opportunity to review and present evidence and information. Until a hearing can be held, the principal may place the student in another appropriate classroom, in-school suspension, or out-of-school suspension.

The parent, guardian or adult student may choose to **voluntarily** waive the right to an expulsion hearing by signing a hearing waiver form provided with the notice of proposed expulsion. If the hearing is waived, the administrator will review the relevant evidence and issue a written decision to the parent as described above.

The campus administrator may place reasonable restrictions on the conduct of the hearing, including the length of the presentations. At the end of the hearing, the campus administrator may issue a decision immediately or may wait until a later date to communicate a decision. The decision will take into account if the student's presence in the regular classroom threatens the safety of other students or teachers, will be detrimental to the educational process, or is not in the best interest of the district's students. State and federal law require a student to be expelled from the regular classroom for a period of at least one calendar year for bringing a firearm, as defined by federal law, to school. However, the superintendent may modify the length of the expulsion on a case-by case basis. Students who commit offenses that require expulsion at the end of one school year may be expelled into the next school year to complete the term of expulsion.

### Expulsion Order

The administrator shall send written communication of the decision to the parent, guardian or adult student. If the administrator determines that expulsion is appropriate, the written decision ("Expulsion Order") shall include the length of the term of expulsion. The length of an expulsion shall be correlated to the seriousness of the offense, the student's age and grade level, the frequency of misbehavior, the student's attitude, and statutory requirement. No later than the second business day after the hearing, the **DESIGNEE** shall deliver to the juvenile court a copy of the expulsion order and the information required by Section 52.04 of the Family Code. If the length of the expulsion is inconsistent with the guidelines included in the Student Code of Conduct, the expulsion order shall give notice of the inconsistency. The student is subject to the placement until the student graduates from high school,

charges are dismissed or reduced to a misdemeanor offense, or the student completes the term of the placement or is assigned to another program. A student who enrolls in the district before completing a placement under this section from another school district must complete the term of the placement.

The School will notify the independent school district in which the student resides of the student's expulsion within three business days of the Expulsion Order.

### **Withdrawal during Process**

When a student has violated the district's Code in a way that requires or permits expulsion from the district and the student withdraws from the district before the expulsion hearing takes place, the district may conduct the hearing after sending written notice to the parent and student.

If the student then reenrolls in the district during the same or subsequent school year. The district may enforce the expulsion order at that time, less any expulsion period that has been served by the student during enrollment in another district.

If the appropriate administrator or the board fails to issue an expulsion order after the student withdraws, the next district in which the student enrolls may complete the proceedings.

### **Restrictions during Expulsion**

Expelled students are prohibited from being on school grounds or attending school-sponsored or school-related activities during the period of expulsion. Failure to comply with this prohibition will result in the filing of criminal trespass charges against the student.

No district academic credit shall be earned for work missed during the period of expulsion unless the student is enrolled in a JJAEP or another district-approved program. Except as otherwise required by law, students will not receive educational services during a period of expulsion.

### **Newly Enrolled Students**

The district shall continue the expulsion of any newly enrolled student expelled from another district or an open-enrollment charter school until the period of the expulsion is completed.

If a student expelled in another state enrolls in the district, the district may continue the expulsion under the terms of the expulsion order or allow the student to attend regular classes if:

1. The out-of-state district provides the district with a copy of the expulsion order, and
2. The offense resulting in the expulsion is also an expellable offense in the district in which the student is enrolling.

If a student is expelled by a district in another state for a period that exceeds one year and the district continues the expulsion, the district shall reduce the period of the expulsion so that the entire period does not exceed one year, unless after a review it is determined that:

1. The student is a threat to the safety of other students or district employees, or
2. Extended placement is in the best interest of the student.

## TERMS OF EXPULSION

The period of expulsion may be determined by many factors, including the severity of the conduct and the existence of a continuing risk of harm to other students and employees if the student were allowed to return. An expulsion may be temporary or permanent. A temporary expulsion may range in length from 4 school days to one calendar year. A permanent expulsion allows the School to deny future admission to the student based on consideration of the student's past disciplinary history. In each instance, the Expulsion Order must explain the circumstances that justify the length of the expulsion.

A student expelled from the School for any length of time is not eligible for readmission to the school at any time based on the district's admission/enrollment policies as they relate to discipline.

## DISCIPLINE APPEAL PROCESS

Questions from parents regarding disciplinary measures should be addressed to the teacher or campus administration, as appropriate.

Consequences shall not be deferred pending the outcome of a grievance.

A parent, legal guardian, or adult student may appeal an expulsion decision by filing a written appeal with the Superintendent within 5 business days of the date of the Expulsion Order. The Superintendent or Superintendent's designee will review the record of the expulsion proceedings at the campus level, along with any other relevant information, and will issue a written decision to the appealing party within 10 business days of receiving the request for review.

If the appealing party is not satisfied with the decision of the Superintendent or Superintendent's designee, he or she may appeal that decision to the **school board** by filing a request for review with the Superintendent's office within 5 business days of the date of the decision. The Superintendent shall notify the **School Board President** and arrange for the **school board** to hear the complaints of the appealing party at the next available board meeting. The Superintendent shall notify the appealing party of the location, date and time of the hearing in front of the **school board**. The decision of the governing body is final and not appealable. An expulsion action will not be delayed during the appeal process.



## DEFINITIONS

The following definitions are provided to further detail and define the terms of this Code. The **school board** shall have final authority to interpret or amend any terms or provisions within this Code.

**Abusable volatile chemicals:** Those substances as defined in Texas Health and Safety Code § 485.001.

**Alcoholic Beverage:** Those substances as defined in Texas Alcoholic Beverage Code § 1.04.

**Assault:** Intentionally, knowingly, or recklessly causing bodily injury to another.

**Bullying:** Written or verbal expression or physical conduct that (1) has the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or (2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

**Club:** An instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk.

**Controlled substance:** Substances as defined in Chapter 481 of the Texas Health & Safety Code or 21 U.S.C. § 801 et seq.

**Deadly conduct:** Recklessly engaging in conduct that places another in imminent danger of serious bodily injury or knowingly discharging a firearm in the direction of an individual, habitation, building, or vehicle.

**Electronic media:** Refers to all forms, kinds and types of electronic devices, communication systems, networks, software, websites, and any other technology resources including, but not limited to, social media, text messaging, instant messaging, electronic mail (e-mail), Web logs (blogs), electronic forums (chat rooms), video-sharing or file sharing Web sites, cellular telephones, portable electronic devices, computers.

**False alarm or report:** Knowingly initiating, communicating, or circulating a report of a present, past, or future bombing, fire, offense, or other emergency that is known to be false or baseless and that would ordinarily: (1) cause action by an official or volunteer agency organized to deal with emergencies; (2) place a person in fear of imminent serious bodily injury; or (3) prevent or interrupt the occupation of a building, room, or place of assembly.

**Firearm (federal):** (1) any weapon, including a starter gun that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any such weapon; (3) any firearm muffler or firearm weapon; or (4) any destructive device, such as an explosive, incendiary, or poison gas bomb, or grenade.

**Firearm (state):** Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

**Gang:** An organization, combination, or association of persons composed wholly or in part of students that: (1) seeks to perpetuate itself by taking in additional members on the basis of the decision of the membership rather than on the free choice of the individual, or (2) that engages in illegal and/or violent activities. In identifying gangs and associated gang attire, signs, or symbols, the School will consult with law enforcement authorities.

**Harassment:** Threatening to cause harm or bodily injury to another, engaging in sexually intimidating conduct, causing physical damage to the property of another, subjecting another to physical confinement or restraint, maliciously taking any action that substantially harms another's physical or emotional health or safety, alone or in combination with other conduct prohibited by School policy, rules or the Code.

**Hazing:** Any act, occurring on or off campus, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purposes of pledging, initiation into, affiliation with, holding office in, or maintaining membership in an organization or group. Consent to or acquiescence in the hazing activity does not excuse the student of responsibility for the misconduct.

**Illegal knife:** A knife with a blade over 5 ½ inches; hand instrument designed to cut or stab another by being thrown; dagger, including but not limited to a dirk, stiletto, and poniard; bowie knife; sword; or spear.

**Paraphernalia:** Any article or device used or intended for use to inject, ingest, inhale, or otherwise introduce marijuana, a controlled substance, or a dangerous drug into the human body, including but not limited to roach clips, rolling papers, needles, baggies with residue, razor blades, bongs and pipes.

**Possession:** Regardless of the student's knowledge or intent to possess the item, to have in or on: (1) a student's person or in the student's personal property, such as the student's clothing, purse, or backpack; (2) in any vehicle used by the student for transportation to or from school or school-related activities, such as an automobile, truck, motorcycle, or bicycle; or (3) any other school property used by the student, such as a locker or desk.

**Prohibited item:** Includes but is not limited to (1) alcoholic beverages, marijuana, controlled substances, or dangerous drugs; (2) paraphernalia; (3) prohibited weapons; (4) any other item prohibited by this Code.

**Prohibited weapons:** Includes the following items: armor-piercing ammunition, chemical dispensing device, explosive weapon, firearm silencer, knuckles, machine gun, short-barrel firearm, switchblade knife, or zip gun, taser gun.

**Retaliation:** Harming or threatening to harm another: (1) on account of their service as a School employee or volunteer, (2) to prevent or delay another's service to the School, or (3) because the person intends to report a crime or violation of this Code.

**Self-defense:** When the person who is not the aggressor in an encounter uses the minimum force required to remove himself or herself from immediate danger of harm. Actions that escalate or continue the encounter will not be considered self-defense.

**Sexual harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with a student's performance or creates an intimidating, hostile, or offensive educational environment.

**Soliciting:** Requesting, commanding, or attempting to induce another student to engage in specific conduct that would constitute a violation of the Code, and with the intent that a violation of the Code be committed.

**Short-barrel firearm:** A rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun if, as altered, it has an overall length of less than 26 inches.

**Switchblade knife:** Any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device located on the handle or opens or releases a blade from the handle or sheath by the force of gravity or centrifugal force.

**Terroristic threat:** Threats to commit an offense involving violence to any person or property with intent to: (1) cause a reaction by an official or volunteer agency organized to deal with emergencies; (2) place any person in fear of imminent serious bodily injury; (3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place; (4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; (5) place the public or a substantial group of the public in fear of serious bodily injury; or (6) influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state (including the School).

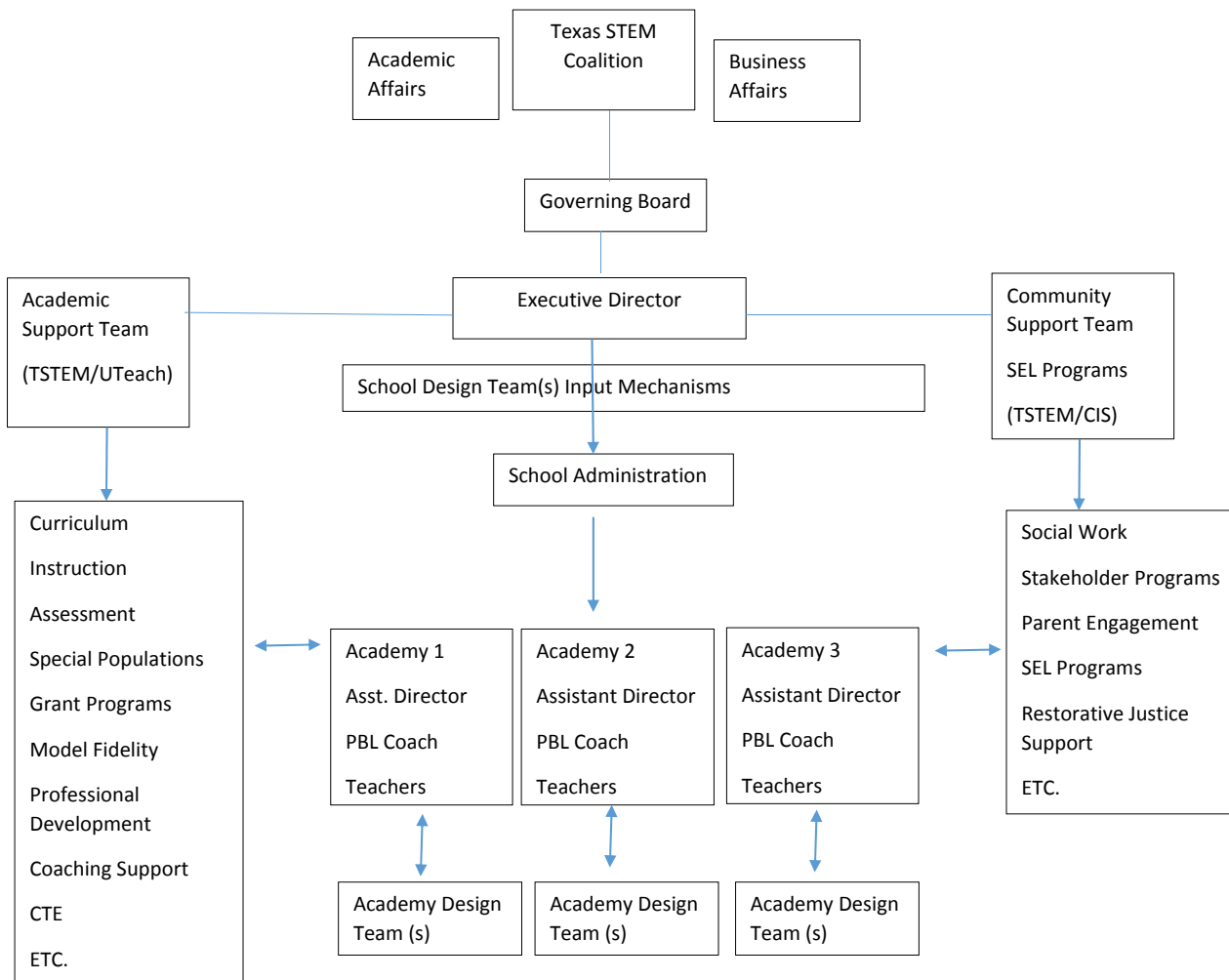
**Title 5 felony offenses:** Offenses against the person that, depending on the circumstances, may include the following offenses under the Penal Code: murder; capital murder; transport; assault; aggravated assault; sexual assault; aggravated sexual assault; improper relationship between educator and student; indecency with a child; injury to a child, an elderly person, or a disabled person; abandoning or endangering a child; improper photography or visual recording; coercing, soliciting, or inducing gang membership; deadly conduct; terroristic threat; aiding a person to commit suicide; harassment by a person in a correctional facility; continuous sexual abuse of a young child or children; and tampering with a consumer product.

**Under the influence:** When in an employee's professional judgment, the student does not have the normal use of mental or physical faculties likely attributable to the student's use of marijuana, a controlled substance, dangerous drug or alcoholic beverage. Such impairment may be evidenced by

the symptoms typically associated with drug or alcohol use or other abnormal or erratic behavior. The student need not be legally intoxicated.

**Use:** With respect to substances, voluntarily injecting, ingesting, inhaling, or otherwise introducing a prohibited substance into the body. With respect to objects or devices, putting into action or service or carrying out an action or purpose with the object or device.

**Zip gun:** A device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.



**Charter Board Members (Initial)**

As described in the proposal. This is the initial board. Because we want to include all stakeholders some positions will be filled once the contract is approved.

Resumes are Attached following this page.

**Board Members**

Michael Odell, Ph.D. (T-STEM Representative)

Jo Ann Simmons, Ed.D. (T-STEM Representative)

Kim Hughes (UTeach)

Suki Steinhauser (CISCT)

Patent 1 TBD

Parent 2 TBD

Parent 3 TBD

Ex-Officio Members TBD

**CURRICULUM VITAE**  
**University of Texas at Tyler**

**NAME:** Odell, Michael Robert Linley  
**E-MAIL:** [mrlodell@gmail.com](mailto:mrlodell@gmail.com)  
[modell@uttyler.edu](mailto:modell@uttyler.edu)

**DATE:** December 15, 2017  
**OFFICE:** (903) 566-7132  
**CELL:** (208) 301-0542

**CURRENT POSITION(s):** University of Texas at Tyler  
 Sam and Celia Roosth Chair in Education

**RANK:** Professor (STEM Education)

**APPOINTMENT:** College of Education and Psychology (Tenured)/College of Engineering

**EDUCATION BEYOND HIGH SCHOOL:**

**Degrees:**

Ph.D.	Curriculum and Instruction	August 1993	Indiana University
M.A.T.	Science Education	August 1989	University of Texas-Dallas
B.A.	Geosciences	May 1984	University of Texas-Dallas

**CURRENT CONTEXT:**

Michael R.L. Odell, Ph.D. is a Professor of STEM Education and holds the endowed Roosth Chair in Education. He also is the Executive Director of the Ingenuity Center, a UT System approved Research and Development Center. Dr. Odell holds a joint appointment in the College of Education and Psychology and the College of Engineering. Dr. Odell began his career in education as an Earth Science teacher in Irving, Texas (1984-1990). After six years in K-12 education, Dr. Odell pursued his doctorate and transitioned to higher education. He has been instrumental in implementing innovative programs that have resulted in increased enrollments, extramural research grants, and gifts from alumni and industry. Programs initiated by Dr. Odell include the UTeach Replication, which has doubled the number of STEM teachers produced by the university. The establishment of two Core Research facilities for UT System at UT Tyler, one in Education and one in Engineering. He also established the UT Tyler Innovation Academy charter schools and the UT Tyler Virtual Dual Credit Senior High School (opens Fall 2018). Dr. Odell oversees the curriculum and culture for the open enrollment charters which serve as Laboratory Schools for the School of Education located at the UT Tyler main campus (Tyler, TX) and extension campuses in Longview and Palestine. He also established the Ingenuity Center, the largest of seven designated STEM Centers in Texas that has an annual budget of \$11 million dollars (revenue) including grants, contracts, and fee for service projects. Dr. Odell oversees the management of the Discovery Science Place, a Family STEM Museum and associated Mobile STEM Outreach. Dr. Odell currently serves on the Discovery Science Place Board, the Innovation Academy School Board, UTeach STEM Education Association Board, and the Texas STEM Center Coalition Board of Directors.

**EXPERIENCE:**

***University of Texas at Tyler (2006-Present)***

**Sam and Celia Roosth Chair in Education (Endowed Chair 2006-Present)**

***School of Education.***

**Vice President, Office of Research and Technology Transfer (ORTT) (2013-2017)**

**Director, Federal Relations (2013-2017)**

### **Other Duties**

**Advancement:** I work with the Office of University Advancement to raise private dollars to support research and education outreach.

**Research Center Support:** I initiated new research center development that added over 60,000 sq. ft. of facilities on campus.

**State Government Relations:** During the 2017 Texas Legislative Session, I worked with the State Government Relations Office to address three Education Bills that passed concerning the High School Math Sequence, Instructional Minutes in Schools, and Financial Reporting for University Charter Schools.

### **Associate Vice President, Office of Sponsored Research and Director, Federal Relations (2010-13)**

**Innovation Academy (UTTIA):** I co-founded the UTTIA in 2012 and serve as the chief architect of the Charter School Model that functions as a Laboratory School and model T-STEM Academy. There are three academies managed by UT Tyler and a replication site at UT Permian Basin in Odessa, Texas. In 2016, the Innovation Academy Longview was the top achieving school district in Gregg County and recognized as one of the top schools in Texas. The Innovation Academy in Palestine is a Title 1 School and is the top performing school in Anderson County. The Innovation Academy in Tyler is currently the second top achieving school district in Smith County. The Academies are host sites for educator preparation programs including the UTeach Replication and Teacher Residency Program. The Innovation Academy serves grades K-12 and is currently the only University Open Enrollment Charter School in Texas to include High School grades.

**Discovery Science Place (DSP):** I oversee the management of the DSP, a local Children's Science Museum. I negotiated an MOU in 2010 (renewed in 2017) to manage the museum and have since created three mobile museums that serve Texas and beyond. The DSP serves over 60,000 attendees annually and the mobile museums host over 100,000 attendees annually. The DSP is also the host of the Tyler Maker Fair. Oversight includes the retail enterprise as well as the non-profit outreach enterprise. The DSP provides internship opportunities for UT Tyler students in Education, Business, and Engineering.

### **Executive Director, Ingenuity Center: A Texas STEM Center (2006-2013; 2017-Present)**

As Roosth Chair, I established the Ingenuity Center (IC), an R&D Center approved by the UT System. The IC has become the umbrella organization for the UT Tyler Education Core Research Facility that is available to all system institutions for research purposes. I have brought in over \$40 million in external funds to UT Tyler through the IC. The Ingenuity Center is the largest unit on campus (see appendix) employing over 500 staff, including 200 students annually. The Ingenuity Center is one of seven Texas Education Agency designated STEM Centers. The center manages multiple externally funded programs and has a current annual budget of approximately \$11 million dollars. The center also provides technical assistance services to schools, non-profits, and universities.

### **Director, School of Education (Interim), 2008-2009**

### **Professor, Science, Technology, Engineering, and Mathematics Education (2006-Present)**

As a Professor of STEM Education I teach one class each semester, recruit students, and maintain an active externally funded research agenda in the area of STEM Education. I am a member of the Graduate Research Faculty. I hold faculty appointments in Education and in Engineering. I also on occasion teach Earth Science courses for the College of Arts and Sciences.



**Illinois State University (2005-06)****Assistant Dean** (Interim), College of Education (2006)**Chair**, Curriculum and Instruction (2005)**University of Idaho (1993-2005)****Indiana University (1990-93)** Associate Instructor**Irving Independent School District (1984-90)****Certificates and Licenses:**

Secondary Level (6-12) Earth Science/Secondary Level (7-12) English, Texas

**Teaching Accomplishments:**

I have taught at the K-12 and University levels. As a Middle School teacher, I taught Earth Science. At the High School level, I taught Environmental Science and English. At the university level, I have taught a range of courses including Geoscience courses for undergraduates and Education and Research courses at the undergraduate and graduate levels. I am committed to developing new strategies and integrating new technologies to improve student learning and provide access to a broader population of students. A list of courses taught is located in the appendices.

**Co-Director, University of Texas at Tyler UTeach Program:****Co-Director, University of Texas at Tyler GLOBE Partnership:****Affiliate Director, Texas Project Lead the Way (PLTW)****Director, Advanced Placement Summer Institutes (APSI):****Scholarship:**

In Print: Odell, M.R.L. & Pedersen, J.L. (2018). Project and Problem-Based Teaching and Learning. In B. Akpan & T.J. Kennedy (Eds.), *Science Education in Theory and Practice*. (Chapter 23, pp. xxx). Switzerland: Springer International Publishing. Expected publication date: 30 September 2018.

Crow, J.E., Kennedy, T.J., Odell, M.R.L., Ophus, J.D. & Abbitt, J.T. (2013). "Using Just-in-Time PD to Technologically Prepare High School STEM Teachers." In M.M. Capraro, R.M. Capraro, & C.W. Lewis, (Eds.), *Improving Urban Schools: Equity and Access in K-16 STEM Education*, Chapter 9, 143-157. Information Age Publishing. <http://www.infoagepub.com/products/Improving-Urban-Schools>

Kennedy, T.J., Abbitt, J.T., & Odell, M.R.L. (2010). "Pre-service ELL Science Teacher Preparation in the Southeast United States." In D.W. Sunal, C.V. Sunal, & E. L. Wright (Eds.), *Research in Science Education: Teaching Science with Hispanic ELLs in K-16 Classrooms*, Chapter 8, 183-199. Information Age Publishing.

Kennedy, T.J. and Odell, M.R.L. (2014). "Engaging Students in STEM Education." *Science Education International* 25 (3), 246-258.

Odell, M.R.L. and Kennedy, T.J., 2008, Texas STEM Centers (T-STEM): Working to Improve STEM Education across Texas, *Insights*, summer 2008, pp. 25-31.

## **Jo Ann Simmons, Ed.D.**

3820 Brighton Creek Circle  
Tyler, Texas 75707  
903-456-7832

### **Formal Preparation**

#### **Doctorate**

**Education Leadership** (August 2011)  
Stephen F. Austin State University  
Nacogdoches, Texas

#### **Superintendent Certification** (Dec. 2003)

**Educational Administration**  
University of Texas at Tyler  
Tyler, Texas

#### **Master of Education** (July, 2003)

**Educational Administration**  
University of Texas at Tyler  
Tyler, Texas

#### **Bachelor of Science** (May 2000)

**Education**  
University of Texas at Tyler  
Tyler, Texas

#### **General Studies** (May 2000)

Tyler Junior College  
Tyler, Texas

### **Professional Experiences**

#### **Innovation Academy, Superintendent**

University of Texas at Tyler (October 2014-present)  
Tyler, Texas

#### **Professional Service Provider**

Texas Center for District & School Support (September 2014-present)  
Austin, Texas

#### **University of Texas at Tyler Innovation Academy**

Assistant Superintendent for Operations and Student Services (June 2013-October 2014)  
Tyler, Texas

#### **James S. Hogg Middle School**

Principal (May, 2006 – June 2013)  
Tyler, Texas

#### **Texas A&M -Texarkana**

Adjunct Professor (May, 2011- present)  
Texarkana, Texas

#### **University of Texas at Tyler**

Adjunct Professor (August 2012-present)  
Tyler, Texas

#### **Robert E. Lee High School**

Teacher/ Coach (August, 2003 - May, 2004)  
Tyler, Texas

#### **A. T. Stewart Middle School**

Teacher/Coach (July, 2004 - May, 2006)  
Tyler, Texas

#### **Hubbard Middle School**

Teacher/Coach (August, 2000 - May, 2004)  
Tyler, Texas

### **Professional Experience Detailed**

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**Innovation Academy, Superintendent**  
University of Texas at Tyler

**Innovation Academy, Assistant Superintendent for Operations and Student Services**  
University of Texas at Tyler

**MAJOR ACCOMPLISHMENTS**

- Improved campus and district ratings from needs improvement to met standard with distinctions
- Improved District “Frist Report” rating to “Superior Rating”
- Received T-STEM Designation for District/Campuses
- Started a University Charter School
- Started a University Charter School High School
- Completed a district audit identifying Special Education, 504, At-Risk, Etc.
- Completed an audit on PEIMS
- Served as the District Coordinator of School Improvement (DCIS)
- Assisted the Professional Service Provider (PSP)

**Professional Service Provider (PSP)**  
Texas

**MAJOR ACCOMPLISHMENTS**

- Serve as a liaison between the Texas Center for District and School Support (TCOSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**The University of Texas at Tyler, Visiting Professor of Educational Leadership**

Tyler, Texas

#### MAJOR ACCOMPLISHMENTS

- Taught EDLR 5270 *Practicum in the Principalship* through Blackboard
- Taught EDLR 5311 *Developmental Supervision* through Blackboard
- Completed a Chapter Review for Interim Department Chair
- Presenting at Learning Forward Conference on Professional Learning Communities

**The University of Texas at Tyler, Adjunct Professor**

Tyler, Texas

#### MAJOR ACCOMPLISHMENTS

- Taught EDLR 5360 *The Superintendent*
- Taught EDLR 5350 *Personnel Administration*
- Mentored students EDLR 5330 *The Principalship*
- Mentored students EDLR 5337 *School Building Operations*

**James S. Hogg Middle School, Principal**

Tyler Independent School District

#### MAJOR ACCOMPLISHMENTS

- Received the district's highest secondary attendance during 2010-2011 School Year
- Gold Performance Acknowledgements from TEA in Math and Reading
- High Performing School from National Center for Education Achievement
- TEA Best Practices Clearinghouse Recognition in Algebra Readiness
- Moved from Academically Unacceptable status to Recognized status in one year
- Implemented Positive Behavior Intervention Support (PBIS)
- Developed Professional Learning Communities
- Implemented an Intervention Program in the master schedule.
- Implemented the Advancement Via Individual Determination (AVID) program that encourages students to take Advanced Placement classes.
- Implemented campus-wide student agenda system improving discipline and safety
- Organized professional development that addressed the specific needs of the campus
- Organized TAKS Camps for identified students

- Implemented an Awards Ceremony designed to recognize student effort and achievement
- Implemented student incentives rewarding character, attendance, and academics.
- Created Teacher and Student Handbook
- Organized Razorback Newsletter
- Implemented National Junior Honor Society, Student Council, Student Leadership Advisory Team, Yearbook Team, Fellowship of Christian Athletes, Chess Club, Cheerleaders, Math Counts, and Academic UIL Teams
- Hosted Razorback Back-to-School Bash and Second Semester Kick-Off Bash
- Hosted TAKS motivational breakfast for parents, teachers, and students
- Assisted in the International Baccalaureate Middle Years Program accreditation visit
- Mentored students through principal internship through The University of Texas at Tyler

### **Texas A&M -Texarkana, Adjunct Professor**

Texarkana, Texas

- Taught ED557 *Innovative Learner-Centered Teaching Strategies* through Blackboard
- Taught ED520 *Education Research and Literature Techniques* through Blackboard
- Taught ED590 *Curriculum Alignment for School Improvement* through Blackboard
- Taught ED573 *Leadership Mentoring in Education* through Blackboard
- Taught ED547 *Evaluating Learning* through Blackboard
- Taught ED577 *Public School Law* through Blackboard
- Taught RDG562 *Prescriptive Reading* through Blackboard
- Taught ED506 *Classroom Management and Law for Teachers* through INACT

### **Trainings**

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Teacher Evaluation Support System T-TESS

Principal Evaluation Support System T-PESS

Annual Board Governance Training

Site-Based Decision Making Training

Instructional Leadership Training

Texas Essential Knowledge Skills (TEKS) for Leaders Training

International Baccalaureate Certification Training

Documentation Done Right Training with John Hardy

Project Based Learning

Professional Learning Communities with Richard DuFour

Creating Classroom-Based Assessment Training

Advancement Via Individual Determination (AVID) Training

### **Professional Associations**

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Texas Charter School Association

Texas Association of School Administrators

Texas Association of Supervision and Curriculum Development (ASCD)

### **Community Affiliations**

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Green Acres Baptist Church

Served as Summer Camp Coordinator at Salvation Army Tyler, Texas

### **References**

Dr. Marty Crawford, Superintendent  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-1001

Dr. Christy Hanson, Chief Academic Officer  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-1011

Dr. Karen Raney, Former Supervisor  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-3142

Dr. Teri Fowler, Professor  
Texas A&M University-Texarkana  
7101 University Avenue  
Texarkana, Texas 75503  
903-280-4334

Dr. Michael Odell, Professor  
The University of Texas at Tyler  
3900 University Boulevard  
Tyler, Texas 75799  
903-566-7132

Kim Tunnell, Superintendent  
Mineola Independent School District  
1000 West Loop 564  
Mineola, Texas 75733  
903-780-0250

**Kimberly Hughes****Current Position**

Director  
The UTeach Institute  
The University of Texas at Austin

**Office Address**

UTeach – College of Natural Sciences  
120 Inner Campus Drive – Stop G2550  
The University of Texas at Austin  
Austin, TX 78712-0549  
(512) 232-5850

**Professional Preparation**

Indiana University	Bloomington, IN	Education	B.S.	1992
The University of Texas	Austin, TX	Curriculum & Instruction	M.Ed.	1997

**Appointments**

2011– Present	Director, The UTeach Institute, The University of Texas at Austin
2007-2011	Manager, Knowledge Development, The UTeach Institute
2005-2007	Manager, System Implementation, TaskStream
2001-2005	Program Associate, Southwest Educational Development Laboratory, Austin, TX
2001-2002	Online Course Facilitator, Teachscape ( <a href="http://www.teachscape.com">www.teachscape.com</a> )
1998-2001	Technology Coordinator, Lake Travis ISD, Austin, TX
1997-1998	Instructional Technology Specialist, Texas Education Network, The University of Texas at Austin
1996-1997	Graduate Research Assistant, The University of Texas at Austin
1995-1996	Editor/Writer, Publisher's Resource Group, Austin, TX
1993-1995	Science Teacher, Austin Independent School District, Austin, TX
1992-1993	Science Teacher, School City of Hammond, Hammond, IN

**Related Products**

**Hughes, K.** (2013). *The UTeach Secondary STEM Teacher Preparation Model and Current Standards Reform Initiatives* (rep.). The UTeach Institute. <http://www.uteach-institute.org/files/uploads/uteach-and-standards-reform.pdf>

Beth, A. D., **Hughes, K.**, Romero, P., Walker, M. H., & Dodson, M. M. (2011). *Replication as a strategy for expanding educational programs that work: The UTeach Institute's approach to program replication*. Paper presented at the annual meeting of the American Association of Colleges for Teacher Education, San Diego, CA. The UTeach Institute. <http://www.uteach-institute.org/files/uploads/AACTE2011.pdf>

**Other Products**

**Hughes, K.** (2014). Teaching the teachers. *Texas CEO*, 5(3), pp.12 - 13 May/June. <http://texasceomagazine.com/departments/teaching-the-teachers/>

**Hughes, K.**, Romero, P., Welch, A., Beth, A.D., Walker, M., & Chavez, A. (2014). *The UTeach Operations Manual*. (A. Winters, Ed.). The UTeach Institute. <https://members.uteach.utexas.edu/publications/detail/category/program-implementation/>

**Synergistic Activities**

- Co-creator of The UTeach Institute's approach to national expansion of the UTeach secondary STEM teacher preparation program (currently 45 university partner programs). (2008)
- Instructional designer and developer of the complete UTeach secondary STEM teacher preparation curriculum for national expansion, consisting of nine courses: *Step 1: Inquiry Approaches to Teaching*; *Step 2: Inquiry-Based Lesson Design*; *Knowing and Learning in Mathematics and Science*; *Classroom Interactions*; *Project-Based Instruction*; *Functions and Modeling*; *Research Methods*; *Perspectives on Mathematics and Science*; *Apprentice Teaching*. (2008-2010)
- Instructional designer and developer of the UTeach Institute's instructional support program consisting of a series of nine faculty course workshops for university UTeach partner programs. (2008-2010)
- Producer and director of a series of UTeach course companion videos: *Perspectives on Science and Mathematics: A UTeach Course* (2013); *Functions and Modeling: A UTeach Course* (2011); *Research Methods: A UTeach Course* (2011); *Trying Out Teaching: Next Steps - Introduction to the Step 2 Course* (2010); *Trying Out Teaching* (2010)
- Founder of the UTeach STEM Educators Association, an organization that unites UTeach program faculty, staff, alumni, and affiliated organizations, and whose mission is to develop STEM literacy for all students through innovation and excellence in university-based teacher education. (2014)



**Suki Steinhauser**

4003 Rosedale Ave.

Austin, Texas 78756

(512) 619-4683

**EDUCATION**

**The University of Texas at Austin  
Austin, Texas**

Master of Business Administration, 1990. Coursework in all areas of this Generalist M.B.A. program

**Syracuse University Syracuse,  
New York**

Bachelor of Arts, 1982. Magna cum laude. Major: International Relations and South Asian Studies. Phi Beta Kappa. Vice President of Student Government Association.

**EXPERIENCE**

**Communities In Schools of Central Texas  
Austin, Texas**

*Chief Executive Officer*

Overall leadership of sustainable growth and consistent high quality for local affiliate of a national non-profit dedicated to helping kids succeed in school. February 2006 to present.

- Set goals for the organization and impart vision to the staff and community.
- Stewardship of \$9.3 million in revenues to carry out programs on 66 public school campuses.
- Support volunteer board to set vision and policy and raise funds to best meet the mission.
- Build agency profile in the community and advance the cause of keeping kids in school.
- Supervise multiple department heads – operations, resource development, communications - ensuring excellence
- Consistently build quality of program services through oversight of evaluation and management of staff.
- Raise funds from private sources including corporations, foundations and individuals.
- Maintain relationships with funding and program partners in school districts, multiple public entities, and the state and national offices of Communities In Schools.
- Ensure ethical relationships and actions at all levels of organization.

*Director of Projects*

Responsible for the coordination and management of 20 special projects that prepare at-risk students for success. Major projects included AmeriCorps program, providing tutoring, mentoring and service learning projects within the schools; the XY-Zone, a positive fraternity for 300 young men on their journey to manhood; case management and after-school programming for students residing in public housing. Worked in partnership with the Executive Director and Management Council. February 1998 – February 2006.

- Managed projects to secure resources, oversee service delivery, and ensure contract compliance.
- Managed complex budgeting in competitive funding environment.
- Evaluated, supervised and supported personnel on special projects.
- Developed and maintained relationships with businesses, local and state government representatives and other nonprofit organizations.
- Overall responsibility for one hundred staff members.

*Even Start Coordinator*

Responsible for coordinating a team which delivered the ASPIRE Even Start Family Literacy Program, including parenting education, early childhood education, and adult education, for three elementary schools. Expanded HIPPO school-readiness program from one to nine elementary schools. October 1994-February 1998.

- Coordinated Even Start contract planning and implementation and coordinated team of thirty staff.
- Managed \$450,000 Even Start and HIPPO budgets.
- Collaborated with multiple community partners.
- Implemented research and evaluation tools.

**Texas****Development****Institute  
Austin****n, Texas***Director of Administration*

Responsible for development of administrative and financial systems, ongoing personnel management and fundraising coordination for this not-for-profit focused on community economic development. October 1992 - May 1994.

- Supervised administrative staff; recruited and supervised university student interns.
- Wrote chapters on risk and financial management for TDHCA's non-profit organization operating manual.
- Planned and coordinated seminars and conferences.
- Developed project, program, and consolidated budgets.
- Developed chart of accounts for complex fund accounting requirements.

**Peterson****&****Associates  
Austin****n, Texas***Staff Consultant*

Developed and implemented strategic planning and team building sessions for Boards of not-for-profits. Managed recruitment process, jointly facilitated, analyzed and reported findings of multiple focus groups for the Texas Commissioner of Health and Human Services. June 1991-1992.

**Austin Habitat for Humanity  
Austin**

**n, Texas**

*President of the Board of Directors*

Head of policy making body overseeing \$440,000 annual budget for affordable housing program. Also, Chair of Land Acquisition Committee, Board Vice President and Secretary. 1986-1994.

**American Institute for Learning  
Austin**

**n, Texas**

*Fiscal Manager*

Maintained AP, voucher and record systems. Computerized and prepared payroll for 120 employees. 1986-1988.

**U.S. Peace Corps  
Swazilan**

**d, Africa**

*Secondary School Mathematics Instructor*

Taught mathematics to 7<sup>th</sup> and 8<sup>th</sup> graders. Established, raised funds for and staffed school library. Conceived and scheduled work team system for 240 laborers who built ferro-cement water storage facility. 1982-1986.

**OTHER  
ACTIVITIES**

**Former:** Public school volunteer 1993 to present. Hosted exchange student 2004-2005. Co-Chair Public Policy Committee and President One Voice Central Texas social services advocacy group, Communities In Schools' Best of Texas Executive Director of the Year 2011. Board member of Basic Transportation Needs Fund, Member of Seedling Foundation Advisory Council, Graduate of Leadership Austin Essential Class of 2007. Member Mentoring Advisory Committee to Joint Subcommittee AISD/City of Austin/Travis County 2015-2017.

**Current:** Volunteer mentor with Communities In Schools, Executive Committee member of CIS of Texas E.D. Association, Trained in Beyond Diversity, CIS' Racial Equity framework. Member of Early Childhood Results Count – Mental Health workgroup, Member of ACC's Truth, Racial Healing and Transformation Center Steering Committee. 2017 Winner of the Greater Austin Business Leadership Award (mid-size company).

**Operating Partners Staff**

David Simmons (Executive Director)

Michael Odell (Curriculum, Instruction, Assessment, Blueprint Fidelity, PLTW)

Jo Ann Simmons (Policy, Operations)

Yanira Oliveras (Academic Coaching, Bilingual ESL)

Teresa Kennedy (PLC, Bilingual/ESL, STEM)

Suki Steinhauser (SEL, Community Engagement)

Kim Hughs (PD, Academic Coaching)

Once we have determined what personnel are remaining at Mendez MS we will update the above list.

3820 Brighton Creek Circle

Tyler, Texas 75707

903-780-8323 (cell)

[dsimmons816@gmail.com](mailto:dsimmons816@gmail.com)

## David E. Simmons, Ph.D.

### Experience

**August, 2016-Present                      Martinsville ISD    Martinsville, Texas**  
**Interim Superintendent (385 Students)**

- Responsible for managing district finances
- Responsible for organizing and conducting monthly board meetings
- Responsible for monitoring district personnel and assisting in personnel decisions
- Serve as a support for campus administrators
- Serve as the district athletic director
- Assist in developing school and community relationships

**August, 2015-Present                      Professional Service Provider (PSP)    Texas**

- Serve as a liaison between the Texas Center for District and School Support (TCDSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**August, 2015-Present                      Texas Education Agency (TEA) Monitor/Conservator                      Texas**

- Coordinate with the regional Education Service Center to develop improvement plans and strategies
- Report the district's progress to the appropriate divisions
- Advise the Commissioner on any additional sanctions for consideration
- Draft preliminary quarterly reports detailing activities during the reporting period, the findings, progress on the LEA's corrective action plans, and any recommendations to the agency for further actions

**March, 2011 – May, 2015    Louisiana Department of Education    Baton Rouge, LA**  
**Deputy Network Leader**

- Responsible for supporting 13 school districts in NW Louisiana to improve student achievement
- Responsible for serving as the primary contact person for school district superintendents in NW Louisiana with the Louisiana Department of Education in Baton Rouge
- Responsible for assisting districts with the implementation of multiple educational reforms including increased student learning standards and a new performance based evaluation system for teachers and administrators

**May, 2011 – August, 2013    Texas A&M-Texarkana    Texarkana, Texas**  
**Adjunct Professor**

- Responsible for teaching education leadership classes

**Retired under Teacher Retirement System of Texas in November, 2010 at age 51.**

**February, 2010-October, 2010    Houston I.S.D.    Houston, Texas**  
**Chief School Officer of High Schools**

- Responsible for the leadership and support of 46 high schools serving 75,000 students.
- Responsible for closing achievement gaps within all student populations.

**January, 2007-August 2009    Richardson I.S.D.    Richardson, Texas**  
**Superintendent (35,000 Students)**

- Maintained TEA Recognized status for 3 consecutive years. Largest and most diverse district in Texas to accomplish this goal
- RISD selected as outstanding school district in Texas by HEB corporation in 2007

- Increased the number of exemplary campuses and recognized campuses each year
- Expanded career and technology programs

**August, 2002-December 2006**                      **Tyler I.S.D.**                      **Tyler, Texas**  
**Superintendent (18,000 Students)**

- Improved relations with community and civic organization including Smith County Association of Taxpayers, the City of Tyler, and Tyler Area Chamber of Commerce
- Restructured central administration to improve efficiency and increase accountability
- Posted consistent gains in student achievement as measure by TAKS
- Tyler ISD Board of Trustees Selected as Outstanding School Board Of The Year in 2006
- Worked with the TISD Board and community groups for successful passage for a \$96 million school construction bond

**August, 1999-August 2002**                      **Texas City ISD**                      **Texas, City TX**  
**Superintendent (6,000 Students)**

- Raised district accountability rating from Academically Acceptable to Recognized
- Implemented cost-reduction program to remedy problems incumbent to Chapter 41 school districts

**January, 1997 – August, 1999**                      **Wimberley I.S.D.**                      **Wimberley, TX**  
**Superintendent (1,800 Students)**

- Raised district accountability rating from Recognized to Exemplary
- Actively participated in all phased of the state comptroller's Texas School Performance Review
- Developed re-organization plan to increase effectiveness of expenditures by directing funding toward instruction

**October, 1995 – January, 1997**                      **Presidio I.S.D.**                      **Presidio, TX**  
**Superintendent (1,500 Students)**

- Raised district accountability rating from Academically Unacceptable to Academically Acceptable

<b>1994-1995</b>	<b>Monahans-Wickett-Pyote I.S.D.</b>	<b>Monahans, TX</b>
<b>Assistant Superintendent</b>		
<b>1993-1994</b>	<b>Jacksonville I.S.D.</b>	<b>Jacksonville, TX</b>
<b>High School Principal</b>		
<b>1992-1993</b>	<b>Region VII Education Service Center</b>	<b>Kilgore, TX</b>
<b>Field Service Agent</b>		
<b>1990-1992</b>	<b>Martinsville I.S.D.</b>	<b>Martinsville, TX</b>
<b>Principal K-12</b>		
<b>1987-1989</b>	<b>Pleasant Grove I.S.D.</b>	<b>Texarkana, TX</b>
<b>High School Teacher/Coach</b>		
<b>1985-1987</b>	<b>Gary I.S.D.</b>	<b>Gary, TX</b>
<b>Elementary and High School Teacher/Coach</b>		
<b>1982-1985</b>	<b>Deer Park I.S.D.</b>	<b>Deer Park, TX</b>
<b>Middle School Teacher/Coach</b>		

### **Education**

August, 2001	Texas A & M University	College Station, TX
	<ul style="list-style-type: none"> <li>▪ Doctor of Philosophy in Educational Administration</li> <li>▪ Dissertation: <i>The Effectiveness of Wealth Recapture Legislation on Achieving Financial Equity Among the Public School Districts in Texas</i></li> </ul>	
May, 1987	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Master of Education</li> <li>▪ Major: Educational Administration</li> <li>▪ Mid-Management Certification</li> <li>▪ Superintendence Certification</li> </ul>	
May, 1982	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Bachelor of Science</li> </ul>	



**Trainings**

Teacher Evaluation Support System T-TESS

Annual Board Governance Training

**Affiliations**

Texas Association of School Administrators

American Association of School Administrators

Board of Directors of the Equity Center

Texas School Alliance

**Civic & Community**

Member Green Acres Baptist Church Tyler, Texas

**CURRICULUM VITAE****University of Texas at Tyler****NAME:** Odell, Michael Robert Linley**E-MAIL:** [mrlodell@gmail.com](mailto:mrlodell@gmail.com)[modell@uttyler.edu](mailto:modell@uttyler.edu)**DATE:** December 15, 2017**OFFICE:** (903) 566-7132**CELL:** (208) 301-0542**CURRENT POSITION(s):** University of Texas at Tyler  
Sam and Celia Roosth Chair in Education**RANK:** Professor (STEM Education)**APPOINTMENT:** College of Education and Psychology (Tenured)/College of Engineering**EDUCATION BEYOND HIGH SCHOOL:****Degrees:**

Ph.D.	Curriculum and Instruction	August 1993	Indiana University
M.A.T.	Science Education	August 1989	University of Texas-Dallas
B.A.	Geosciences	May 1984	University of Texas-Dallas

**CURRENT CONTEXT:**

Michael R.L. Odell, Ph.D. is a Professor of STEM Education and holds the endowed Roosth Chair in Education. He also is the Executive Director of the Ingenuity Center, a UT System approved Research and Development Center. Dr. Odell holds a joint appointment in the College of Education and Psychology and the College of Engineering. Dr. Odell began his career in education as an Earth Science teacher in Irving, Texas (1984-1990). After six years in K-12 education, Dr. Odell pursued his doctorate and transitioned to higher education. He has been instrumental in implementing innovative programs that have resulted in increased enrollments, extramural research grants, and gifts from alumni and industry. Programs initiated by Dr. Odell include the UTeach Replication, which has doubled the number of STEM teachers produced by the university. The establishment of two Core Research facilities for UT System at UT Tyler, one in Education and one in Engineering. He also established the UT Tyler Innovation Academy charter schools and the UT Tyler Virtual Dual Credit Senior High School (opens Fall 2018). Dr. Odell oversees the curriculum and culture for the open enrollment charters which serve as Laboratory Schools for the School of Education located at the UT Tyler main campus (Tyler, TX) and extension campuses in Longview and Palestine. He also established the Ingenuity Center, the largest of seven designated STEM Centers in Texas that has an annual budget of \$11 million dollars (revenue) including grants, contracts, and fee for service projects. Dr. Odell oversees the management of the Discovery Science Place, a Family STEM Museum and associated Mobile STEM Outreach. Dr. Odell currently serves on the Discovery Science Place Board, the Innovation Academy School Board, UTeach STEM Education Association Board, and the Texas STEM Center Coalition Board of Directors.

**EXPERIENCE:*****University of Texas at Tyler (2006-Present)******Sam and Celia Roosth Chair in Education (Endowed Chair 2006-Present)******School of Education.***

**Vice President, Office of Research and Technology Transfer (ORTT) (2013-2017)**  
**Director, Federal Relations (2013-2017)**

**Other Duties**

**Advancement:** I work with the Office of University Advancement to raise private dollars to support research and education outreach.

**Research Center Support:** I initiated new research center development that added over 60,000 sq. ft. of facilities on campus.

**State Government Relations:** During the 2017 Texas Legislative Session, I worked with the State Government Relations Office to address three Education Bills that passed concerning the High School Math Sequence, Instructional Minutes in Schools, and Financial Reporting for University Charter Schools.

**Associate Vice President, Office of Sponsored Research and Director, Federal Relations (2010-13)**

**Innovation Academy (UTTIA):** I co-founded the UTTIA in 2012 and serve as the chief architect of the Charter School Model that functions as a Laboratory School and model T-STEM Academy. There are three academies managed by UT Tyler and a replication site at UT Permian Basin in Odessa, Texas. In 2016, the Innovation Academy Longview was the top achieving school district in Gregg County and recognized as one of the top schools in Texas. The Innovation Academy in Palestine is a Title 1 School and is the top performing school in Anderson County. The Innovation Academy in Tyler is currently the second top achieving school district in Smith County. The Academies are host sites for educator preparation programs including the UTeach Replication and Teacher Residency Program. The Innovation Academy serves grades K-12 and is currently the only University Open Enrollment Charter School in Texas to include High School grades.

**Discovery Science Place (DSP):** I oversee the management of the DSP, a local Children's Science Museum. I negotiated an MOU in 2010 (renewed in 2017) to manage the museum and have since created three mobile museums that serve Texas and beyond. The DSP serves over 60,000 attendees annually and the mobile museums host over 100,000 attendees annually. The DSP is also the host of the Tyler Maker Fair. Oversight includes the retail enterprise as well as the non-profit outreach enterprise. The DSP provides internship opportunities for UT Tyler students in Education, Business, and Engineering.

**Executive Director, Ingenuity Center: A Texas STEM Center (2006-2013; 2017-Present)**

As Roosth Chair, I established the Ingenuity Center (IC), an R&D Center approved by the UT System. The IC has become the umbrella organization for the UT Tyler Education Core Research Facility that is available to all system institutions for research purposes. I have brought in over \$40 million in external funds to UT Tyler through the IC. The Ingenuity Center is the largest unit on campus (see appendix) employing over 500 staff, including 200 students annually. The Ingenuity Center is one of seven Texas Education Agency designated STEM Centers. The center manages multiple externally funded programs and has a current annual budget of approximately \$11 million dollars. The center also provides technical assistance services to schools, non-profits, and universities.

**Director, School of Education (Interim), 2008-2009**

**Professor, Science, Technology, Engineering, and Mathematics Education (2006-Present)**

As a Professor of STEM Education I teach one class each semester, recruit students, and maintain an active externally funded research agenda in the area of STEM Education. I am a member of the Graduate

Research Faculty. I hold faculty appointments in Education and in Engineering. I also on occasion teach Earth Science courses for the College of Arts and Sciences.

**Illinois State University (2005-06)**

**Assistant Dean** (Interim), College of Education (2006)

**Chair**, Curriculum and Instruction (2005)

**University of Idaho (1993-2005)**

**Indiana University (1990-93)** Associate Instructor

**Irving Independent School District (1984-90)**

**Certificates and Licenses:**

Secondary Level (6-12) Earth Science/Secondary Level (7-12) English, Texas

**Teaching Accomplishments:**

I have taught at the K-12 and University levels. As a Middle School teacher, I taught Earth Science. At the High School level, I taught Environmental Science and English. At the university level, I have taught a range of courses including Geoscience courses for undergraduates and Education and Research courses at the undergraduate and graduate levels. I am committed to developing new strategies and integrating new technologies to improve student learning and provide access to a broader population of students. A list of courses taught is located in the appendices.

**Co-Director, University of Texas at Tyler UTeach Program:**

**Co-Director, University of Texas at Tyler GLOBE Partnership:**

**Affiliate Director, Texas Project Lead the Way (PLTW)**

**Director, Advanced Placement Summer Institutes (APSI):**

**Scholarship:**

In Print: Odell, M.R.L. & Pedersen, J.L. (2018). Project and Problem-Based Teaching and Learning. In B. Akpan & T.J. Kennedy (Eds.), *Science Education in Theory and Practice*. (Chapter 23, pp. xxx).

Switzerland: Springer International Publishing. Expected publication date: 30 September 2018.

Crow, J.E., Kennedy, T.J., Odell, M.R.L., Ophus, J.D. & Abbitt, J.T. (2013). "Using Just-in-Time PD to Technologically Prepare High School STEM Teachers." In M.M. Capraro, R.M. Capraro, & C.W. Lewis, (Eds.), *Improving Urban Schools: Equity and Access in K-16 STEM Education*, Chapter 9, 143-157.

Information Age Publishing. <http://www.infoagepub.com/products/Improving-Urban-Schools>

Kennedy, T.J., Abbitt, J.T., & Odell, M.R.L. (2010). "Pre-service ELL Science Teacher Preparation in the Southeast United States." In D.W. Sunal, C.V. Sunal, & E. L. Wright (Eds.), *Research in Science Education: Teaching Science with Hispanic ELLs in K-16 Classrooms*, Chapter 8, 183-199. Information Age Publishing.

Kennedy, T.J. and Odell, M.R.L. (2014). "Engaging Students in STEM Education." *Science Education International* 25 (3), 246-258.

Odell, M.R.L. and Kennedy, T.J., 2008, Texas STEM Centers (T-STEM): Working to Improve STEM Education across Texas, *Insights*, summer 2008, pp. 25-31.

## **Jo Ann Simmons, Ed.D.**

3820 Brighton Creek Circle  
Tyler, Texas 75707  
903-456-7832

### **Formal Preparation**

#### **Doctorate**

**Education Leadership** (August 2011)  
Stephen F. Austin State University  
Nacogdoches, Texas

#### **Superintendent Certification** (Dec. 2003)

**Educational Administration**  
University of Texas at Tyler  
Tyler, Texas

#### **Master of Education** (July, 2003)

**Educational Administration**  
University of Texas at Tyler  
Tyler, Texas

#### **Bachelor of Science** (May 2000)

**Education**  
University of Texas at Tyler  
Tyler, Texas

#### **General Studies** (May 2000)

Tyler Junior College  
Tyler, Texas

### **Professional Experiences**

#### **Innovation Academy, Superintendent**

University of Texas at Tyler (October 2014-present)  
Tyler, Texas

#### **Professional Service Provider**

Texas Center for District & School Support (September 2014-present)  
Austin, Texas

#### **University of Texas at Tyler Innovation Academy**

Assistant Superintendent for Operations and Student Services (June 2013-October 2014)  
Tyler, Texas

#### **James S. Hogg Middle School**

Principal (May, 2006 – June 2013)  
Tyler, Texas

#### **Texas A&M -Texarkana**

Adjunct Professor (May, 2011- present)  
Texarkana, Texas

#### **University of Texas at Tyler**

Adjunct Professor (August 2012-present)  
Tyler, Texas

#### **Robert E. Lee High School**

Teacher/ Coach (August, 2003 - May, 2004)  
Tyler, Texas

#### **A. T. Stewart Middle School**

Teacher/Coach (July, 2004 - May, 2006)  
Tyler, Texas

#### **Hubbard Middle School**

Teacher/Coach (August, 2000 - May, 2004)  
Tyler, Texas

## **Professional Experience Detailed**

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### **Innovation Academy, Superintendent**

University of Texas at Tyler

### **Innovation Academy, Assistant Superintendent for Operations and Student Services**

University of Texas at Tyler

#### MAJOR ACCOMPLISHMENTS

- Improved campus and district ratings from needs improvement to met standard with distinctions
- Improved District “Frist Report” rating to “Superior Rating”
- Received T-STEM Designation for District/Campuses
- Started a University Charter School
- Started a University Charter School High School
- Completed a district audit identifying Special Education, 504, At-Risk, Etc.
- Completed an audit on PEIMS
- Served as the District Coordinator of School Improvement (DCIS)
- Assisted the Professional Service Provider (PSP)

### **Professional Service Provider (PSP)**

Texas

#### MAJOR ACCOMPLISHMENTS

- Serve as a liaison between the Texas Center for District and School Support (TCDSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**The University of Texas at Tyler, Visiting Professor of Educational Leadership**  
Tyler, Texas

MAJOR ACCOMPLISHMENTS

- Taught EDLR 5270 *Practicum in the Principalship* through Blackboard
- Taught EDLR 5311 *Developmental Supervision* through Blackboard
- Completed a Chapter Review for Interim Department Chair
- Presenting at Learning Forward Conference on Professional Learning Communities

**The University of Texas at Tyler, Adjunct Professor**  
Tyler, Texas

MAJOR ACCOMPLISHMENTS

- Taught EDLR 5360 *The Superintendent*
- Taught EDLR 5350 *Personnel Administration*
- Mentored students EDLR 5330 *The Principalship*
- Mentored students EDLR 5337 *School Building Operations*

**James S. Hogg Middle School, Principal**  
Tyler Independent School District

MAJOR ACCOMPLISHMENTS

- Received the district's highest secondary attendance during 2010-2011 School Year
- Gold Performance Acknowledgements from TEA in Math and Reading
- High Performing School from National Center for Education Achievement
- TEA Best Practices Clearinghouse Recognition in Algebra Readiness
- Moved from Academically Unacceptable status to Recognized status in one year
- Implemented Positive Behavior Intervention Support (PBIS)
- Developed Professional Learning Communities
- Implemented an Intervention Program in the master schedule.
- Implemented the Advancement Via Individual Determination (AVID) program that encourages students to take Advanced Placement classes.
- Implemented campus-wide student agenda system improving discipline and safety
- Organized professional development that addressed the specific needs of the campus

- Organized TAKS Camps for identified students
- Implemented an Awards Ceremony designed to recognize student effort and achievement
- Implemented student incentives rewarding character, attendance, and academics.
- Created Teacher and Student Handbook
- Organized Razorback Newsletter
- Implemented National Junior Honor Society, Student Council, Student Leadership Advisory Team, Yearbook Team, Fellowship of Christian Athletes, Chess Club, Cheerleaders, Math Counts, and Academic UIL Teams
- Hosted Razorback Back-to-School Bash and Second Semester Kick-Off Bash
- Hosted TAKS motivational breakfast for parents, teachers, and students
- Assisted in the International Baccalaureate Middle Years Program accreditation visit
- Mentored students through principal internship through The University of Texas at Tyler

### **Texas A&M -Texarkana, Adjunct Professor**

Texarkana, Texas

- Taught ED557 *Innovative Learner-Centered Teaching Strategies* through Blackboard
- Taught ED520 *Education Research and Literature Techniques* through Blackboard
- Taught ED590 *Curriculum Alignment for School Improvement* through Blackboard
- Taught ED573 *Leadership Mentoring in Education* through Blackboard
- Taught ED547 *Evaluating Learning* through Blackboard
- Taught ED577 *Public School Law* through Blackboard
- Taught RDG562 *Prescriptive Reading* through Blackboard
- Taught ED506 *Classroom Management and Law for Teachers* through INACT

### **Trainings**

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Teacher Evaluation Support System T-TESS

Principal Evaluation Support System T-PESS

Annual Board Governance Training

Site-Based Decision Making Training

Instructional Leadership Training

Texas Essential Knowledge Skills (TEKS) for Leaders Training



International Baccalaureate Certification Training

Documentation Done Right Training with John Hardy

Project Based Learning

Professional Learning Communities with Richard DuFour

Creating Classroom-Based Assessment Training

Advancement Via Individual Determination (AVID) Training

### **Professional Associations**

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Texas Charter School Association

Texas Association of School Administrators

Texas Association of Supervision and Curriculum Development (ASCD)

### **Community Affiliations**

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Green Acres Baptist Church

Served as Summer Camp Coordinator at Salvation Army Tyler, Texas

### **References**

Dr. Marty Crawford, Superintendent  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-1001

Dr. Christy Hanson, Chief Academic Officer  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-1011

Dr. Karen Raney, Former Supervisor  
Tyler Independent School District  
1319 Earl Campbell Parkway  
Tyler, Texas 75701  
903-262-3142

Dr. Teri Fowler, Professor  
Texas A&M University-Texarkana  
7101 University Avenue  
Texarkana, Texas 75503  
903-280-4334

Dr. Michael Odell, Professor  
The University of Texas at Tyler  
3900 University Boulevard  
Tyler, Texas 75799  
903-566-7132

Kim Tunnell, Superintendent  
Mineola Independent School District  
1000 West Loop 564  
Mineola, Texas 75733  
903-780-0250

**Kimberly Hughes****Current Position**

Director  
The UTeach Institute  
The University of Texas at Austin

**Office Address**

UTeach – College of Natural Sciences  
120 Inner Campus Drive – Stop G2550  
The University of Texas at Austin  
Austin, TX 78712-0549  
(512) 232-5850

**Professional Preparation**

Indiana University	Bloomington, IN	Education	B.S.	1992
The University of Texas	Austin, TX	Curriculum & Instruction	M.Ed.	1997

**Appointments**

2011– Present	Director, The UTeach Institute, The University of Texas at Austin
2007-2011	Manager, Knowledge Development, The UTeach Institute
2005-2007	Manager, System Implementation, TaskStream
2001-2005	Program Associate, Southwest Educational Development Laboratory, Austin, TX
2001-2002	Online Course Facilitator, Teachscape ( <a href="http://www.teachscape.com">www.teachscape.com</a> )
1998-2001	Technology Coordinator, Lake Travis ISD, Austin, TX
1997-1998	Instructional Technology Specialist, Texas Education Network, The University of Texas at Austin
1996-1997	Graduate Research Assistant, The University of Texas at Austin
1995-1996	Editor/Writer, Publisher’s Resource Group, Austin, TX
1993-1995	Science Teacher, Austin Independent School District, Austin, TX
1992-1993	Science Teacher, School City of Hammond, Hammond, IN

**Related Products**

**Hughes, K.** (2013). *The UTeach Secondary STEM Teacher Preparation Model and Current Standards Reform Initiatives* (rep.). The UTeach Institute. <http://www.uteach-institute.org/files/uploads/uteach-and-standards-reform.pdf>

Beth, A. D., **Hughes, K.**, Romero, P., Walker, M. H., & Dodson, M. M. (2011). *Replication as a strategy for expanding educational programs that work: The UTeach Institute’s approach to program replication*. Paper presented at the annual meeting of the American Association of Colleges for Teacher Education, San Diego, CA. The UTeach Institute. <http://www.uteach-institute.org/files/uploads/AACTE2011.pdf>

**Other Products**

**Hughes, K.** (2014). Teaching the teachers. *Texas CEO*, 5(3), pp.12 - 13 May/June. <http://texasceomagazine.com/departments/teaching-the-teachers/>

**Hughes, K.**, Romero, P., Welch, A., Beth, A.D., Walker, M., & Chavez, A. (2014). *The UTeach Operations Manual*. (A. Winters, Ed.). The UTeach Institute. <https://members.uteach.utexas.edu/publications/detail/category/program-implementation/>

**Synergistic Activities**

- Co-creator of The UTeach Institute's approach to national expansion of the UTeach secondary STEM teacher preparation program (currently 45 university partner programs). (2008)
- Instructional designer and developer of the complete UTeach secondary STEM teacher preparation curriculum for national expansion, consisting of nine courses: *Step 1: Inquiry Approaches to Teaching*; *Step 2: Inquiry-Based Lesson Design*; *Knowing and Learning in Mathematics and Science*; *Classroom Interactions*; *Project-Based Instruction*; *Functions and Modeling*; *Research Methods*; *Perspectives on Mathematics and Science*; *Apprentice Teaching*. (2008-2010)
- Instructional designer and developer of the UTeach Institute's instructional support program consisting of a series of nine faculty course workshops for university UTeach partner programs. (2008-2010)
- Producer and director of a series of UTeach course companion videos: *Perspectives on Science and Mathematics: A UTeach Course* (2013); *Functions and Modeling: A UTeach Course* (2011); *Research Methods: A UTeach Course* (2011); *Trying Out Teaching: Next Steps - Introduction to the Step 2 Course* (2010); *Trying Out Teaching* (2010)
- Founder of the UTeach STEM Educators Association, an organization that unites UTeach program faculty, staff, alumni, and affiliated organizations, and whose mission is to develop STEM literacy for all students through innovation and excellence in university-based teacher education. (2014)

**Suki Steinhauser**

4003 Rosedale Ave.

Austin, Texas 78756

(512) 619-4683

**EDUCATION**

**The University of Texas at Austin  
Austin, Texas**

Master of Business Administration, 1990. Coursework in all areas of this Generalist M.B.A. program

**Syracuse University Syracuse,  
New York**

Bachelor of Arts, 1982. Magna cum laude. Major: International Relations and South Asian Studies. Phi Beta Kappa. Vice President of Student Government Association.

**EXPERIENCE**

**Communities In Schools of Central Texas  
Austin, Texas**

*Chief Executive Officer*

Overall leadership of sustainable growth and consistent high quality for local affiliate of a national non-profit dedicated to helping kids succeed in school. February 2006 to present.

- Set goals for the organization and impart vision to the staff and community.
- Stewardship of \$9.3 million in revenues to carry out programs on 66 public school campuses.
- Support volunteer board to set vision and policy and raise funds to best meet the mission.
- Build agency profile in the community and advance the cause of keeping kids in school.
- Supervise multiple department heads – operations, resource development, communications - ensuring excellence
- Consistently build quality of program services through oversight of evaluation and management of staff.
- Raise funds from private sources including corporations, foundations and individuals.
- Maintain relationships with funding and program partners in school districts, multiple public entities, and the state and national offices of Communities In Schools.
- Ensure ethical relationships and actions at all levels of organization.

*Director of Projects*

Responsible for the coordination and management of 20 special projects that prepare at-risk students for success. Major projects included AmeriCorps program, providing tutoring, mentoring and service learning projects within the schools; the XY-Zone, a positive fraternity for 300 young men on their journey to manhood; case management and after-school programming for students residing in public housing. Worked in partnership with the Executive Director and Management Council. February 1998 – February 2006.

- Managed projects to secure resources, oversee service delivery, and ensure contract compliance.
- Managed complex budgeting in competitive funding environment.
- Evaluated, supervised and supported personnel on special projects.
- Developed and maintained relationships with businesses, local and state government representatives and other nonprofit organizations.
- Overall responsibility for one hundred staff members.

*Even Start Coordinator*

Responsible for coordinating a team which delivered the ASPIRE Even Start Family Literacy Program, including parenting education, early childhood education, and adult education, for three elementary schools. Expanded HIPPO school-readiness program from one to nine elementary schools. October 1994-February 1998.

- Coordinated Even Start contract planning and implementation and coordinated team of thirty staff.
- Managed \$450,000 Even Start and HIPPO budgets.
- Collaborated with multiple community partners.
- Implemented research and evaluation tools.

**Texas****Development****Institute  
Austin****n, Texas***Director of Administration*

Responsible for development of administrative and financial systems, ongoing personnel management and fundraising coordination for this not-for-profit focused on community economic development. October 1992 - May 1994.

- Supervised administrative staff; recruited and supervised university student interns.
- Wrote chapters on risk and financial management for TDHCA's non-profit organization operating manual.
- Planned and coordinated seminars and conferences.
- Developed project, program, and consolidated budgets.
- Developed chart of accounts for complex fund accounting requirements.

**Peterson****&****Associates  
Austin****n, Texas***Staff Consultant*

Developed and implemented strategic planning and team building sessions for Boards of not-for-profits. Managed recruitment process, jointly facilitated, analyzed and reported findings of multiple focus groups for the Texas Commissioner of Health and Human Services. June 1991-1992.

**Austin Habitat for Humanity  
Austin**

**n, Texas**

*President of the Board of Directors*

Head of policy making body overseeing \$440,000 annual budget for affordable housing program. Also, Chair of Land Acquisition Committee, Board Vice President and Secretary. 1986-1994.

**American Institute for Learning  
Austin**

**n, Texas**

*Fiscal Manager*

Maintained AP, voucher and record systems. Computerized and prepared payroll for 120 employees. 1986-1988.

**U.S. Peace Corps  
Swazilan**

**d, Africa**

*Secondary School Mathematics Instructor*

Taught mathematics to 7<sup>th</sup> and 8<sup>th</sup> graders. Established, raised funds for and staffed school library. Conceived and scheduled work team system for 240 laborers who built ferro-cement water storage facility. 1982-1986.

**OTHER  
ACTIVITIES**

**Former:** Public school volunteer 1993 to present. Hosted exchange student 2004-2005. Co-Chair Public Policy Committee and President One Voice Central Texas social services advocacy group, Communities In Schools' Best of Texas Executive Director of the Year 2011. Board member of Basic Transportation Needs Fund, Member of Seedling Foundation Advisory Council, Graduate of Leadership Austin Essential Class of 2007. Member Mentoring Advisory Committee to Joint Subcommittee AISD/City of Austin/Travis County 2015-2017.

**Current:** Volunteer mentor with Communities In Schools, Executive Committee member of CIS of Texas E.D. Association, Trained in Beyond Diversity, CIS' Racial Equity framework. Member of Early Childhood Results Count – Mental Health workgroup, Member of ACC's Truth, Racial Healing and Transformation Center Steering Committee. 2017 Winner of the Greater Austin Business Leadership Award (mid-size company).



## Yanira Oliveras-Ortiz, Ph.D.

817.706.9056

yoliveras@aol.com

### EDUCATION

---

#### **Ph. D. in Curriculum & Instruction**

Emphasis: Language & Literacy and Curriculum & Supervision  
The Pennsylvania State University. University Park, PA, May 2014

**Topic:** The Empirical Relationship Between Administrator Ratings of Teacher Effectiveness and Student Achievement on the State of Texas Assessments of Academic Readiness.

#### **Educational Leadership**

18 semester doctoral credit hours: Educational Leadership Dallas Baptist University. Dallas, TX

#### **Principal Certification**

University of Texas at Arlington. Arlington, TX, 2002 & 2006

#### **Master of Education in Curriculum and Instruction**

Emphasis: Language and Literacy

The Pennsylvania State University. University Park, PA, 1997

#### **Bachelor of Science in Elementary & Kindergarten Education**

The Pennsylvania State University. University Park, PA, 1994

### EXPERIENCE

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#### **The University of Texas at Tyler**

2014-Present

*Assistant Professor of Educational Leadership*  
School of Education

- Curriculum & Instruction Graduate Degree and Post-Baccalaureate Initial Teacher Certification Program Coordinator (January 2018 – Present)

#### **Irving Independent School District, Irving, Texas**

*Principal, Brandenburg Elementary* 2011 – 2014

- Title I Two-Way Dual Language PBL School

*Principal, John R. Good Elementary* 2007 – 2010

- Title I One-Way Dual Language School

*Assistant Principal, John R. Good Elementary* 2002 – 2007

*Elementary Math Curriculum Coordinator* 2001 – 2002

*Bilingual Teacher* 1997 – 2001

#### **Colegio San Agustin, Cabo Rojo, Puerto Rico**

*Bilingual Teacher* 1994 – 1995

### SELECTED PUBLICATIONS

---

Oliveras-Ortiz, Y., Bouillion, D. E., & Asbury, L. (2018). Learning spaces matter: Student engagement in new learning environments. *Submitted for publication.*

Hickey, W. & Oliveras-Ortiz, Y. (2017). *Proficient to Distinguished: Mastering the T-TESS.* Dubuque, IA: Kendall Hunt.

Oliveras-Ortiz, Y. (2017). School administrators as instructional coaches: Teachers' trust and perceptions of administrators' capacity. *School Leadership Review, 12*(1), 38-45.

Oliveras-Ortiz, Y. (2015). The impact of high-stakes testing on school leadership. *School Leadership Review, 10* (2), 7-19.

Oliveras-Ortiz, Y. (2015). Teacher effectiveness and student achievement on STAAR: Implications for school leaders. *Journal of Texas Women School Executives, 4*(1), 103-109.

### CONFERENCE PAPER PRESENTATIONS

- Oliveras-Ortiz, Y. (2018). Teacher Evaluations for Instructional Supervision: Lessons Learned from a Practicing Principal. Invited Supervision & Instructional Leadership SIG Teacher Evaluation Panel. 2018 American Educational Research Association Annual Meeting. New York, NY.
- Oliveras-Ortiz, Y., Bouillion, D., & Asbury, L. (2018). Panel: The Impact of Learning Environments on Student Engagement. SXSW Edu. Austin, TX.
- Oliveras-Ortiz, Y. (2016). School Principals as Instructional Leaders: Factors That Impact Their Practices. Council of Professors of Instructional Supervision Fall Conference. Tampa, FL, October.
- Oliveras-Ortiz, Y. (2015). Instructional leadership amidst the accountability frenzy. Council of Professors of Instructional Supervision (COPIS) Fall Conference. Ft. Worth, TX, October.

### K-12 SERVICE

- Midland ISD Bilingual/ESL Program Evaluation and Program Model & Implementation Proposal. October 2017 – March 2018.
- Hereford ISD Middle School Instructional Coaching focused on Student Language Development in collaboration with EL Saber Enterprises. November 2017 – January 2018.
- Dalhart ISD Bilingual Curriculum Development and Teacher Coaching in collaboration with EL Saber Enterprises. May 2017 – January 2018.
- Dalhart ISD Bilingual Program Implementation. Developed the program model and implementation timeline in collaboration with EL Saber Enterprises. April, 2017.
- STAAR Reading and Math Intervention Plan. Prepared for Gladewater ISD and Dr. Wes Hickey. May, 2016.
- Bilingual/ESL Program Evaluation. Conducted for Wichita Falls ISD contracted by EL Saber Enterprises. January – May, 2016
- Instructional Coaching: Increasing Rigor through Depth of Knowledge. Services provided for CHISD Ninth Grade Center, Cedar Hill, TX. September, 2015.
- STAAR Reading Intervention Plan. Prepared for Ore City Middle School and Dr. Wes Hickey. May, 2015

### CONDUCTED PROFESSIONAL DEVELOPMENT

- Oliveras-Ortiz, Y. (2017). *Instructional coaching for school administrators*. Nederland Independent School District, Nederland, TX.
- Oliveras-Ortiz, Y. (2017). *Differentiate Instruction*. Gilmer Elementary, Gilmer, TX.
- Oliveras-Ortiz, Y. (2017). *Student Learning Objectives as a Measure of Student Growth*. Tyler, TX. Richardson, TX. Melissa, TX.
- Oliveras-Ortiz, Y. (2017, February). *Teaching with rigor through Depth of Knowledge*. Presented at Veteran's Hill Elementary, Hutto ISD, Round Rock, TX.
- Oliveras-Ortiz, Y. (2016). *Texas Teacher Evaluation and Support System Appraiser Training*. Tyler, TX. Richardson, TX. Garland, TX. Grand Prairie, TX.
- Oliveras-Ortiz, Y. (2016, January). *Stra-tiques: Strategies and Techniques for All Students Part I*. Presented in collaboration with EL Saber at Garland ISD English Language Learners Department, Garland, TX.
- Oliveras-Ortiz, Y. & Garza, T. (2015, August). *Sheltered Instruction: Language Acquisition and Comprehensible Input*. Presented at McAuliffe Elementary, Tulsa, OK.

### CERTIFICATES

- Texas Principal – Grades EC-12
- Texas Elementary Self-Contained – Grades 1-8 Texas Bilingual/ESL-Spanish – Grades 1-8



**Teresa J. Kennedy, Ph.D.**

**a. Professional Preparation**

<b>Institution</b>	<b>Major</b>	<b>Degree</b>	<b>Year</b>
University of Idaho	Spanish Language & Literature	B.A.	1983
University of Idaho	Sec. Education: Bilingual/ESL; Earth/Natural Science	B.S.	1984
University of Idaho	Spanish Language & Literature	M.A.	1985
University of Idaho	Curriculum & Instruction/Bilingual Science Education	Ph.D.	1998

**b. Appointments**

2009-Present	Professor, University of Texas at Tyler, Tyler, TX. <a href="http://www.uttyler.edu/oip/staff/kennedy.php">www.uttyler.edu/oip/staff/kennedy.php</a> -Bilingual/ELL/STEM Education, School of Education, College of Education (2009) -Engineering Education, College of Engineering (2014) -GLOBE Program U.S. Partner Co-Director at the University of Texas at Tyler (2013).
1996-2012	The GLOBE Program, NASA/UCAR. Positions during this time included: GLOBE Program Office (GPO) International Division Director (2009-2012); GPO Deputy Director (2007-2009); GPO International and U.S Partners Director (2003-2006); GPO Deputy Chief Educator/Assistant Director of U.S. Partners (2001-2003); Co-Director Idaho GLOBE Partnership/Spanish Master Trainer (1996-2001). Assignments in Washington D.C.; Boulder, CO; Tyler, TX; and Moscow, ID.
2002-2003	Affiliate Associate Research Professor, College of Education, University of Idaho, ID.
1997-2002	Director, Center for Evaluation, Research and Public Service (CERPS) and Adjunct Assistant Research Professor, Teaching, Learning and Leadership. Instructor, methods courses in general education: Curriculum/design, science/technology education, ESL, bilingual and second/foreign language education, University of Idaho, Moscow, ID.
1989-1990	Washington State University, Assist to Director, International Programs, Pullman, WA.
1988-1989	Tillamook Bay Community College, Faculty, ESL/Bilingual/Spanish, Tillamook, OR.
1982-2003	K-12 Teaching: 8 years Secondary/7 year middle/elementary bilingual/ESL focus on Earth/Natural Science/Social Studies/Spanish, ID, OR, and WA.

**c. Products**

**PRODUCTS MOST CLOSELY RELATED**

- Kennedy, T.J. & Sundberg, C. (2016-in print). "International Perspectives and Recommendations on Equity and Gender: Development Studies in Science Education". In B. Akpan (Ed.), *Science Education: A Global Perspective: International Addition*, Chapter 15, pages TBD. Springer Publishing.
- Kennedy, T.J. and Odell, M.R.L. (2014). "Engaging Students in STEM Education." *Science Education International* 25 (3), 246-258.
- Crow, J.E., Kennedy, T.J., Odell, M.R.L., Ophus, J.D. & Abbitt, J.T. (2013). "Using Just-in-Time PD to Technologically Prepare High School STEM Teachers." In M.M. Capraro, R.M. Capraro, & C.W. Lewis, (Eds.), *Improving Urban Schools: Equity and Access in K-16 STEM Education*, Chapter 9, 143-157. Information Age Publishing. [www.infoagepub.com/products/Improving-Urban-Schools](http://www.infoagepub.com/products/Improving-Urban-Schools)
- Kennedy, T.J., Abbitt, J.T., & Odell, M.R.L. (2010). "Pre-service ELL Science Teacher Preparation in the Southeast United States." In D.W. Sunal, C.V. Sunal, & E. L. Wright (Eds.), *Research in Science Education: Teaching Science with Hispanic ELLs in K-16 Classrooms*, Chapter 8, 183-199. Information Age Publishing.
- Odell, M.R.L. and Kennedy, T.J., 2008, *Texas STEM Centers (T-STEM): Working to Improve STEM Education across Texas*, *Insights*, summer 2008, pp. 25-31.

## FIVE OTHER SIGNIFICANT PRODUCTS

1. Kennedy, T.J. & Charlevoix, D.J. (2011). "Student research for an informed generation." World Meteorological Organization Magazine. *The Bulletin*, 60(1), 44-47.
2. Riddaway R., Flemming, G., Jayanthi, N., Kennedy, T.J., Kootval, H., Kwong, H.L., Sponberg, K. & Zyncencko, N. (2006). "Public Weather Services Strategy for Developing Public Education and Outreach." World Meteorological Organization. PWS-14; WMO/TD No. 1354.
3. Center for Economic Development. (2006). "Education for Global Leadership: The Importance of International Studies and Foreign Language Education for U.S. Economic and National Security." ED502294, Eric Resources Information Center.
4. Cantrell, C., Kennedy, T.J., Morss, R., Moser, S., Poulos, G., & Wesley, D. (2005). Advocacy in the Atmospheric Sciences: Summary of Findings from the UCAR Leadership Academy "Advocacy" Project. University Corporation for Atmospheric Research (UCAR Presidents Council).
5. Michael Padilla, M., Anderson, H., Arndt, L., Dawson, G., Forbes, D., Kennedy, T.J., Penick, J., Shugrue, S., Turina, P., & Tweed, A. (2005). Developing a World View for Science Education: In North America and Across the Globe. Final Report of the International Task Force, National Science Teachers Association (NSTA) [www.nsta.org/international/](http://www.nsta.org/international/)

### d. Synergistic Activities

1. International/National Committees:
  - President, International Council of Associations for Science Education (ICASE), 2014-17. [www.icaseonline.net/index/html](http://www.icaseonline.net/index/html)
  - International Advisory Board, National Science Teachers Association (NSTA), 2014-2016. <http://www.nsta.org/international/>
  - Co-Chair, ACTFL LLC SIG (America Council of Teachers of Foreign Language, Language Learning for Children Special Interest Group), 2014-2016; 2009-2013. [www.actfl.org](http://www.actfl.org)
  - Southwest Regional Representative (2015-2017) and Texas State Representative (2010-2015), National Network for Early Language Learning (NNELL), Texas Representative. [www.nnell.org](http://www.nnell.org)
2. Fulbright Scholar:
  - Specialist, Neuquén, Argentina, *National University of Comahue*, July 2014-August 2015.
  - Educator, Quito, Ecuador, *Universidad Tecnológica Equinoccial*, June-August 1993.

**School Leaders**

Executive Director

Dr. David Simmons

As described in the proposal, the rest of the leadership will be determined after meeting with current Mendez personnel.

3820 Brighton Creek Circle  
 Tyler, Texas 75707  
 903-780-8323 (cell)  
[dsimmons816@gmail.com](mailto:dsimmons816@gmail.com)

## David E. Simmons, Ph.D.

### Experience

**August, 2016-Present      Martinsville ISD      Martinsville, Texas**  
**Interim Superintendent (385 Students)**

- Responsible for managing district finances
- Responsible for organizing and conducting monthly board meetings
- Responsible for monitoring district personnel and assisting in personnel decisions
- Serve as a support for campus administrators
- Serve as the district athletic director
- Assist in developing school and community relationships

**August, 2015-Present      Professional Service Provider (PSP)      Texas**

- Serve as a liaison between the Texas Center for District and School Support (TCDSS), Texas Education Agency (TEA), local education service center (ESC), and district/campus
- Assist in building the capacity of campus/district leaders, teachers, and staff to understand the Texas Accountability Intervention System (TAIS) continuous improvement process
- Identify opportunities for continuous improvement at the district and campus level
- Utilize research-based practices and interventions to address the identified campus needs
- Monitor the progress of activities and strategies contained within the targeted improvement plan and facilitates the on-going refinement of the plan

**August, 2015-Present      Texas Education Agency (TEA) Monitor/Conservator      Texas**

- Coordinate with the regional Education Service Center to develop improvement plans and strategies
- Report the district's progress to the appropriate divisions
- Advise the Commissioner on any additional sanctions for consideration
- Draft preliminary quarterly reports detailing activities during the reporting period, the findings, progress on the LEA's corrective action plans, and any recommendations to the agency for further actions

**March, 2011 – May, 2015    Louisiana Department of Education    Baton Rouge, LA**  
**Deputy Network Leader**

- Responsible for supporting 13 school districts in NW Louisiana to improve student achievement
- Responsible for serving as the primary contact person for school district superintendents in NW Louisiana with the Louisiana Department of Education in Baton Rouge
- Responsible for assisting districts with the implementation of multiple educational reforms including increased student learning standards and a new performance based evaluation system for teachers and administrators

**May, 2011 – August, 2013    Texas A&M-Texarkana    Texarkana, Texas**  
**Adjunct Professor**

- Responsible for teaching education leadership classes

**Retired under Teacher Retirement System of Texas in November, 2010 at age 51.**

**February, 2010-October, 2010    Houston I.S.D.    Houston, Texas**  
**Chief School Officer of High Schools**

- Responsible for the leadership and support of 46 high schools serving 75,000 students.
- Responsible for closing achievement gaps within all student populations.

**January, 2007-August 2009    Richardson I.S.D.    Richardson, Texas**  
**Superintendent (35,000 Students)**

- Maintained TEA Recognized status for 3 consecutive years. Largest and most diverse district in Texas to accomplish this goal
- RISD selected as outstanding school district in Texas by HEB corporation in 2007

- Increased the number of exemplary campuses and recognized campuses each year
- Expanded career and technology programs

**August, 2002-December 2006**                      **Tyler I.S.D.**                      **Tyler, Texas**  
**Superintendent (18,000 Students)**

- Improved relations with community and civic organization including Smith County Association of Taxpayers, the City of Tyler, and Tyler Area Chamber of Commerce
- Restructured central administration to improve efficiency and increase accountability
- Posted consistent gains in student achievement as measure by TAKS
- Tyler ISD Board of Trustees Selected as Outstanding School Board Of The Year in 2006
- Worked with the TISD Board and community groups for successful passage for a \$96 million school construction bond

**August, 1999-August 2002**                      **Texas City ISD**                      **Texas, City TX**  
**Superintendent (6,000 Students)**

- Raised district accountability rating from Academically Acceptable to Recognized
- Implemented cost-reduction program to remedy problems incumbent to Chapter 41 school districts

**January, 1997 – August, 1999**                      **Wimberley I.S.D.**                      **Wimberley, TX**  
**Superintendent (1,800 Students)**

- Raised district accountability rating from Recognized to Exemplary
- Actively participated in all phased of the state comptroller's Texas School Performance Review
- Developed re-organization plan to increase effectiveness of expenditures by directing funding toward instruction

**October, 1995 – January, 1997**                      **Presidio I.S.D.**                      **Presidio, TX**  
**Superintendent (1,500 Students)**

- Raised district accountability rating from Academically Unacceptable to Academically Acceptable

<b>1994-1995</b>	<b>Monahans-Wickett-Pyote I.S.D.</b>	<b>Monahans, TX</b>
<b>Assistant Superintendent</b>		
<b>1993-1994</b>	<b>Jacksonville I.S.D.</b>	<b>Jacksonville, TX</b>
<b>High School Principal</b>		
<b>1992-1993</b>	<b>Region VII Education Service Center</b>	<b>Kilgore, TX</b>
<b>Field Service Agent</b>		
<b>1990-1992</b>	<b>Martinsville I.S.D.</b>	<b>Martinsville, TX</b>
<b>Principal K-12</b>		
<b>1987-1989</b>	<b>Pleasant Grove I.S.D.</b>	<b>Texarkana, TX</b>
<b>High School Teacher/Coach</b>		
<b>1985-1987</b>	<b>Gary I.S.D.</b>	<b>Gary, TX</b>
<b>Elementary and High School Teacher/Coach</b>		
<b>1982-1985</b>	<b>Deer Park I.S.D.</b>	<b>Deer Park, TX</b>
<b>Middle School Teacher/Coach</b>		

### **Education**

August, 2001	Texas A & M University	College Station, TX
	<ul style="list-style-type: none"> <li>▪ Doctor of Philosophy in Educational Administration</li> <li>▪ Dissertation: <i>The Effectiveness of Wealth Recapture Legislation on Achieving Financial Equity Among the Public School Districts in Texas</i></li> </ul>	
May, 1987	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Master of Education</li> <li>▪ Major: Educational Administration</li> <li>▪ Mid-Management Certification</li> <li>▪ Superintendence Certification</li> </ul>	
May, 1982	Stephen F. Austin State University	Nacogdoches, TX
	<ul style="list-style-type: none"> <li>▪ Bachelor of Science</li> </ul>	

**Trainings**

Teacher Evaluation Support System T-TESS

Annual Board Governance Training

**Affiliations**

Texas Association of School Administrators

American Association of School Administrators

Board of Directors of the Equity Center

Texas School Alliance

**Civic & Community**

Member Green Acres Baptist Church Tyler, Texas



**Exhibit J:**  
**Workforce Solutions Back-Up**

# Google Maps Workforce Solutions Capital Area (South)



## Workforce Solutions Capital Area (South)

2.3 ★★☆☆ · 4 reviews

Employment Center


6505 Burleson Rd, Austin, TX 78744

[wfscapitalarea.com](http://wfscapitalarea.com)

(512) 381-4200

Open now: 8AM–5PM

# Job Seekers

 A group of proud workers

## Job Seekers

Workforce Solutions Capital Area helps Central Texans prepare for the workforce and get back to work.

### How Can You Help Me?

WFS Capital Area is your go-to source for job search assistance and employment-related services in Travis County. Named as the “Best Place to Look for a Job” by The Austin Chronicle, our Career Centers can help you:

- Find a Job
- Build Your Resume
- Prepare for Interviews
- Earn a GED
- Gain Occupational Skills

### How Do I Get Started?

If you are ready to find your next job opportunity, we have three convenient [locations](#) that are open to the general public and offer services for job seekers at no cost.

#### Step One:

Register for [WorkInTexas.com](http://WorkInTexas.com).

For more information view [WorkInTexas.com](http://WorkInTexas.com)

**Step Two:**

Attend one of our free Career Center Orientations. Orientations are offered several times a week at all three of our career centers. Please check our [Calendar of Events](#) for a full schedule.

**Step Three:**

Email, fax or drop off your Universal Services Application at one of the [Career Centers](#).

**Exhibit K:  
Realtor Listings for  
Neighborhood**

# Dove Springs

## Navigation

Only 6 miles from Downtown Austin, Dove Springs desirable location and generally large lot sizes may make it the next neighborhood to be transformed by eager buyers looking for a deal on a property that's "close-in" and ready to rehab.

McKinney Falls State Park is nearby, and The City of Austin operates an 18,000-square-foot recreation center, the [Dove Springs Recreation Center](#), located along the eastern part of the neighborhood.

With the City Council's new 10-1 representation model, it's possible we'll to hear more from this community as well – and perhaps see an increase in City services, etc.

A typical Dove Springs home was built in the 70s or 80s, is one story, 3-4 bedrooms, around 1,350 sf, and sits on a comparatively large lot (in comparison with other central-ish Austin neighborhoods).

## Dove Springs IDX

# Franklin Park Homes for Sale

## Franklin Park Real Estate Listings

Realty Austin Agent

Ex: Neighborhood, Address, City, Zip, School, MLS#, etc.

- Type/Status
  - Source
    - Pocket Listing Austin MLS
    - Open House
    - Property Status
      - Coming Soon Active Active - Contingent Contract Pending - Taking Backups
      - Pending ([Unlock](#)) Sold ([Unlock](#))
      - Property Type
        - Home Condo Townhome Lot Farm/Ranch Multi-Family Commercial
        - Only Show Distressed
        - Unlock Pending & Sold Listings [Verify Email to view!](#)
- Price
  - Price Range
    - to
    - Year Built
      - to
      - Days on Website
      - Last Reduced
- Size
  - Bedrooms
    - to
    - Bathrooms
      - to
      - Bedrooms Downstairs
      - Lot Size (Acres)
        - to

Square Feet

to

Living Rooms

Stories

Garage Spaces

Dining Rooms

- Features

House Features

Master on Main Guest Quarters Fireplace Disability Features Historic Design  
Green Designation Exercise Room Game Room Media Room Office/Study Wine  
Room Workshop

---

Property Features

Fenced Yard

Pool

City View Hill Country View Panoramic View Golf Course View Waterfront  
(Select) Water View Backs To Golf Course Backs To Greenbelt Greenbelt View  
Private Dock

---

Community Features

HOA

Gated Community Community Pool Playground Dog Park Fitness Center Golf  
Course Tennis Courts Horses Allowed Airplane Facilities Lake Access Boat Dock

- Status-Active [Remove](#)
- Status-Contingent Contract [Remove](#)
- Status-Coming Soon [Remove](#)
- Status-Taking Backups [Remove](#)

[Reset Search](#) [Save Search](#)

There are currently no listings available in Franklin Park. [Save this Search](#) to be notified by email as soon as new Franklin Park listings hit the market.

Displaying 0 out of 0 results. Listings updated 9 minutes ago.

- [Show Map](#)



## Polygon Search

Click on the map to draw your polygon search.

## Radius Search

Click on the map to draw your radius search.

## Our Listings First

## Price, High to Low

## [What is Drivetime?](#)

ToFrom

Arriving at

in

## [Search by Drivetime](#)

# Franklin Park Housing Market Trends

	# Listings	Average DOM	Average Price	Average \$/SqFt	Median Price	Median \$/SqFt	Average % Reduced
<a href="#">Active Listings</a>	0	0	\$0	\$0	\$0	\$0	0%
<a href="#">Pending Listings</a>	0	0	\$0	\$0	\$0	\$0	0%
Sold Last 6 Months <a href="#">(Unlock Sold Listings)</a>	12	15	\$204,865	\$142	\$200,000	\$131	1%

\*Franklin Park Market Stats are based on Austin MLS data as of August 2nd, 2018 at 12:25pm CDT.

## Franklin Park Austin

This established neighborhood in the up-and-coming 78744 zip code of Travis County is an excellent option for buyers looking for proximity to Downtown Austin in a quiet setting close to parks, schools, and major highways for easy commutes.

Franklin Park homes for sale are in a large area that includes a wide variety of architectural styles, mostly mid-century one-story homes built in the 1970s, with brick, stone, and siding facades. Homes feature 3 and 4 bedrooms, 2 to 3 baths, and fenced back yards

with shade and ornamental trees. Some have fireplaces or covered porches for entertaining, and many have updated interiors with tile floors, granite countertops, and open kitchens.

## Where is Franklin Park Austin TX?

Franklin Park homes for sale are in Southeast Austin, in the 78744 zip code of Travis County, bordered by East St. Elmo Road, Interstate 35, Nuckols Crossing Road, and the Williamson Creek Greenbelt. I-35 and Hwy 71 offer easy access to most parts of the city. Downtown Austin is 5 miles north and Austin-Bergstrom International Airport 8.6 miles east.

## Things to do near Franklin Park

This neighborhood offers convenience to everything that makes Austin such a great place to live. Outdoor enthusiasts love its proximity to the Roy Kizer Golf Course, McKinney Falls State Park, and the Onion Creek Soccer Complex and Metropolitan Park. Music lovers are less than 5 miles from many of the city's prestigious music venues. Franklin Park homes for sale are just 4 miles from the cool shops and restaurants of South Congress Avenue and 5 miles from Southpark Meadows, a large shopping center that's home to major retailers, restaurants, and a movie theater.

## Franklin Park Schools

Franklin Park is part of the Austin ISD. Students attend Rodriguez Elementary (PK -5), Mendez Middle (6-8), and Travis High School (9-12). There are private schools nearby, including Austin Montessori School (PK-9), which is just 4 miles away. These homes are roughly 6 miles from The University of Texas at Austin, 5.5 miles from an Austin Community College campus, and 2.5 miles from St. Edwards University.

**Click any link below to see listings that are aligned with Franklin Park school boundaries:**

## Austin ISD

- Elementary
  - [Hermelinda Rodriguez](#)
  - [Widen](#)
  
- Middle
  - [Mendez](#)
  
- High
  - [Akins](#)
  - [Johnston](#)
  - [Travis](#)

*Contact Franklin Park REALTOR® **Mary Jane Moran** today.*

Interested in Buying in the Franklin Park area?

Have a home to Sell in the Franklin Park area?

Fill out the form below, email [mj@realtyaustin.com](mailto:mj@realtyaustin.com) or call/text **(512) 656-7600**.

**Exhibit L:**  
**Community Articles and Back-**  
**Up**

# Austin launches Anti-Displacement Task Force to combat gentrification

The city of Austin is kicking off its latest task force to tackle gentrification with a public forum Saturday, which proponents hope will offer more substantial action to combat the displacement of minorities than previous efforts.

The latest effort is the city's new Anti-Displacement Task Force, a 17-member group of appointees who will have until October to deliver action items to the City Council.

The city has a long history of creating task forces and resolutions to address the systematic racism that has plagued the city and which many believe is now contributing to gentrification in East Austin.

## **[OPINION: How an environmental deal led to Austin's gentrification](#)**

Since 2000, the city has created 541 recommendations and resolutions related to gentrification and displacement, [according to a recent city audit](#). Of those, 133 were found to be actionable items related to displacement, and 56 have been reported as implemented, the audit said.

"There have been numerous task forces, there have been numerous resolutions and recommendations, and yet we find in our community that as our economy continues to grow, the problem with displacement and gentrification is not getting better," Mayor Steve Adler said. "It is getting worse. The challenges continue to grow."

While the city has struggled to slow down the redevelopment of East Austin and other minority strongholds, officials are placing their hopes on this group to come back with solutions in October.

"We must come up with concrete action items that the city can pursue along with appropriate funding mechanisms to finance each initiative we propose," said Nefertitti Jackmon, the vice chair of the task force and the executive director of the nonprofit Six Square. "We do not have the luxury of waiting."

## **[READ: Gentrification, rising rents put squeeze on more Austin households](#)**

The task force will work in conjunction with University of Texas professors who are also studying gentrification and displacement in Austin.

The group will return to the Austin City Council with a preliminary report in April.

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### **If you go**

The public can meet with the Anti-Displacement Task Force from 1-4 p.m. Saturday at the Conley-Guerrero Senior Center, 808 Nile St. Topics up for discussion include affordable housing, land development, small businesses and cultural assets.



## ANTI-DISPLACEMENT TASK FORCE

Review and recommend the specific strategies in five categories of action, which include:

1. Preserving and expanding the supply of affordable housing;
2. Controlling land for community development;
3. Preserving and growing small businesses and cultural assets;
4. Income and asset creation by providing needed services - childcare, transportation, a basic retail sector, access to health care, and employment opportunities - as a precondition for success; and
5. Financing strategies to provide community- specific ways to fund the other four categories of action. The task force will commit to a 10-month process that will culminate in identifying sources of information that will reveal the depth of the problem in our communities, set metrics and goals, and give preliminary recommendations for displacement prevention.

[Resolution No. 20170817-053](#)

### **Members:**

Jose Velasquez - Mayor Adler

Raul Alvarez - Mayor Adler

Nefertiti Jackmon - Mayor Adler

John Henneberger - Mayor Adler

Bree Williams - Mayor Adler

Yvette Crawford-Lee - Mayor Adler

Diana Zuniga - Mayor Adler

Ruby Roa - Mayor Pro Tem Tovo

Sharon Mays - CM Houston

Jonathan Mays - CM Garza

Vincent Limon-Viteritt - CM Renteria

Shoshana Krieger - CM Casar

Juliana Gonzales - CM Kitchen

Solveij Rosa Praxis - CM Flannigan

Ann Teich - CM Pool

J.D. Rimman - CM Troxclair

Ed Wendler, Jr. - CM Alter

## Meetings:

- Meetings begin at 9 a.m. unless otherwise specified.
- Street-Jones Building, 1000 East 11th St., Ste. 400A, Austin, TX 78702.

## 2018 Meeting Schedule:

- January 5, 2018
- February 2, 2018
- March 2, 2018
- March 16, 2018 - Special Called
- April 6, 2018
- May 4, 2018
- June 1, 2018
- July 6, 2018
- August 3, 2018

## Meeting Documents:

[View Agendas, Approved Minutes and Supporting Documents](#)

## Staff:

Erica Leak, Neighborhood Housing and Community Development, 512-974-9375

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BETA



Thursday, March 8, 2018 by Jack Craver (<https://www.austinmonitor.com/stories/author/jack-craver/>)

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## Council considers gentrification and ‘right to return’ policy

On Tuesday, City Council members got their first glimpse at a study they voted to authorize that examines gentrification in Austin.

The first phase of the study (<http://www.austintexas.gov/edims/document.cfm?id=294216>), conducted by three University of Texas professors, analyzed the demographic profile of nearly every census tract in the city. The analysis sought to highlight areas that have experienced significant gentrification as well as neighborhoods that are most likely to gentrify in the coming years.



For the most part, the study's findings aligned with popular perceptions of what's going on in the city, said professor Heather Way, who is the director of the Entrepreneurship and Community Development Clinic at UT Law School and helped lead the study.

Areas of the city south and east of downtown that used to have large populations of low-income and minority residents have experienced significant demographic change as a result of rising housing costs.

"Many of the neighborhoods in Central-East Austin are in the late stages of gentrification," she said. "But it's threading into neighborhoods farther away from downtown."

In recent years, the subject of gentrification in Austin has largely focused on the major changes to neighborhoods just east of Interstate 35, such as the Holly, Chestnut, MLK and Montopolis neighborhoods. The study confirmed the perception that those areas have changed significantly as residents who are wealthier and whiter have moved in and lower-income and minority residents have moved out.

The study also showed, however, that between 2000 and 2016 significant demographic change occurred throughout a large swath of South-Central Austin, the area bordered by Lady Bird Lake to the north, State Highway 71 to the south, I-35 to the east and MoPac Expressway to the west.

The research also highlighted parts of the city where residents are the most vulnerable to displacement in the future. For the most part, those are neighborhoods on the outer edges of the urban core: east, north and south.

"Oftentimes where the gentrification is about to happen is ahead of where the political conversation may be," said Council Member Greg Casar, whose district includes large portions of North-Central Austin located to the north of U.S. Highway 183.

Casar added that it was important for Council to not simply respond to gentrification taking place but to also anticipate the areas where it will come next so that it can try to prevent displacement.

He also suggested that examining policies that have prevented the construction of housing in wealthier parts of the city may help explain the effects of gentrification in poorer areas.

Council Member Delia Garza similarly noted that some parts of Central Austin have actually seen a population decrease in recent years.

In a clear contrast with Casar and Garza's focus on building more housing, Council Member Alison Alter suggested that the researchers examine whether allowing certain types of development can lead to displacement.

“There are a lot of things we can do in zoning that can exacerbate this,” she said.

The study authors so far have not suggested any policies that could help people stay in their neighborhoods amid rising property values. They plan to develop a set of proposals and present them to Council in August, said Way.

Mayor Pro Tem Kathie Tovo has proposed establishing a “right to return” policy that would offer current or former residents of gentrifying areas preference for income-restricted housing. A resolution she authored asks city staff to examine how such a policy could be crafted and whether there are any legal barriers.

The resolution, which Council will take up Thursday, references a recently implemented policy in Portland, Oregon, which helps those who have been displaced or are at risk of displacement to pay for a down payment on a house. Currently, the city only has enough money to help 65 families, *The Guardian* reported (<https://www.theguardian.com/cities/2018/mar/01/portland-anti-gentrification-housing-scheme-right-return>), out of 1,100 who have applied.

The only skepticism of the resolution came from Garza, who took issue with the resolution’s focus on census tracts that are gentrifying.

“Why are we focusing on tracts as opposed to need?” she asked.

She also suggested that Council should not only focus on helping people return to areas that have been gentrified, but also on opening up housing opportunities for them in wealthy areas, to “promote economic integration.”

Tovo replied that her intention was not to “preclude looking at other areas,” but, “We absolutely want them to consider a policy that does look to those (gentrifying) census tracts.”

*Photo by Wally Gobetz (<https://www.flickr.com/photos/wallyg/8049263177>) made available through a Creative Commons license (<https://creativecommons.org/licenses/by/2.0/>).*

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Read latest Whispers ▶ (/stories/whispers/)

# Grand Opening of Largest, Most Modern Community Health Center in Central Texas Offers Innovative Approach to Better Health for Low-Income Residents

(Austin, TX) - The long-awaited completion of the Central Health Southeast Health & Wellness Center (the Center) means residents from nearby Dove Springs, Montopolis and Del Valle neighborhoods now have easy access to “one-stop” care and wellness opportunities.

From an educational garden and teaching kitchen for healthy cooking classes to primary care and specialty doctors and an on-site pharmacy, the Center focuses on the whole person by offering a vast array of health, social and wellness services and resources all at one location.

“This center was conceived and created by local residents and numerous community groups,” said Central Health Board Chair Katrina Daniel. “They told us they wanted more than a medical clinic. They wanted a center of health and wellness that would care for the whole person and whole family. Central Health and our Board of Managers listened, and we leaned on a core group of dedicated leaders who met regularly to make this community vision a reality.”

Community members created a checklist of the services and programs they wished to see at the Center. Of the 70 priority items, 68 have been implemented or are in progress. Input for the project was received from organizations such as: Austin Interfaith, Alliance of African American Health in Central Texas, Dove Springs Neighborhood Association, Latino HealthCare Forum, Montopolis Neighborhood Association, Wat Buddhananachat of Austin, and League of United Latin American Citizens (LULAC).

The Central Health Southeast Health & Wellness Center houses one of the largest Federally Qualified Health Centers in Texas, CommUnityCare, which operates more than 20 locations throughout Travis County. The clinic is expecting 80,000 visits in 2016, and will offer an array of services for low-income and uninsured residents including:

- Primary care and specialty care; including endocrinology (diabetes care), gastroenterology, and pulmonology (respiratory diseases)
- Walk-in, same-day appointments
- Radiology and mammography
- Behavioral health care including individual counseling and group therapy
- Dental services
- On-site pharmacy
- Prenatal education and care

Other features and services at the Center go beyond medical care and include:

- A teaching kitchen for healthy cooking classes
- A community educational garden
- Free exercise classes
- A “Centering Pregnancy Program” where expecting and new mothers participate in group visits and learn from one another
- Diabetes support and education classes
- A WIC (Women, Infants and Children) office with expanded services
- Ample public meeting and gathering spaces including an outdoor plaza, playground, and community rooms
- Community Resource Center to assist with eligibility and enrollment for health care coverage, screening for the federal Supplemental Nutrition Assistance Program (SNAP) and Central Health’s Medical Access Program (MAP).

“Central Health Southeast Health & Wellness Center represents our innovative model in which we focus on health outcomes instead of just more care,” said Patricia Young Brown, President and CEO of Central Health. “Here under one roof, an expectant mom with diabetes can fill her prescriptions, attend prenatal classes, healthy cooking classes or a Zumba class. After she delivers her baby, she continues to see her doctor here then relax outside on the plaza, watch her child play on the play scape, and even learn how and when to plant tomatoes in our educational garden. It really is a one-stop destination for healthier living.”

Central Health Southeast Health & Wellness Center opened in phases beginning in October 2014, and was fully completed in February. It is part of Central Health's vision of making Central Texas a model healthy community by creating access to health care for those who need it most.

“Almost five years ago, I laid out 10 goals in 10 years to create a model healthy community in Central Texas,” said Texas State Sen. Kirk Watson. “Those goals included a medical school, modern 21<sup>st</sup> century teaching hospital, and uniquely Austin, patient-centered clinics throughout the community that keep people well. Central Health Southeast Health & Wellness Center is the embodiment of that promise.”

# Austin City Council Member Delia Garza, District 2

## Biography

Council Member Delia Garza comes from a very civically engaged family. Her parents – a firefighter and a stay-at-home mom – were actively involved in their community and encouraged their three daughters to give back and pursue higher education. Council Member Garza’s upbringing inspired her to dedicate her career to public service and advocating for working families.

Following in her father’s footsteps, she became a firefighter, serving as one of the first Mexican-American female firefighters in the Austin Fire Department. Her entire career was spent in fire stations that serve the South Austin community – most notably, fire station 17 at South 1st and Ben White, one of the busiest in the city (an assignment she requested). Council Member Garza lived in Dove Springs while a fire cadet, and in 2003 she purchased a home in her responding territory near the Sweetbriar neighborhood.



As a firefighter and member of the Austin Firefighter Association, Local 975, Council Member Garza worked tirelessly for her union advocating for fair wages and safe working conditions. She represented firefighters during two contract negotiating cycles, was elected to the local’s executive board, and was the first female appointed to chair the local’s political action committee.

Remaining committed to public service, Council Member Garza left the Austin Fire Department in 2007 after six years of service to pursue a law degree and extend the reach of her advocacy. She served as an Assistant Attorney General where she advocated for Texas families in the Child Support Division. Council Member Garza has also been involved in numerous community-based efforts surrounding affordable housing, education, and fair and equitable district representation.

Currently, Council Member Garza is the Chair of the Regional Affordability Committee and the Vice Chair for the Health and Human Services Committee. In addition, she serves on the Capital Metropolitan Transportation Authority (CapMetro) Board, Austin Energy Utility Oversight Committee, and Mobility Committee.

In the past, she has served as a mentor at Rodriguez Elementary in Dove Springs through the Seedling Foundation, and has served on several boards and committees including Hermanos de East Austin, the Dove Springs Recreation Center Advisory Board, the Capital City A&M Club Scholarship Committee, and the City’s Charter Revision Committee. She has a bachelor’s degree from Texas A&M University and a law degree from Gonzaga University School of Law.

Council Member Garza's years of work as a firefighter, community advocate, and attorney for social services has afforded her extensive experience in addressing injustices, mediating competing groups and interests, and solving complex problems. She will continue to fight for working families struggling to stay in Austin and is committed to improving the lives of all Austinites.

She is married to Ramiro Martinez, Jr. and they are the proud parents of their daughter, Lourdes.

## Contact Information

**Phone:** 512-978-2102 | **Email:** [district2@austintexas.gov](mailto:district2@austintexas.gov) | **Webpage:** <http://austintexas.gov/department/district-2>

# Council moves forward on largest bond in Austin history



City Council took a crucial first step late Thursday toward presenting voters with the largest bond package in the city's history.

Just before 11 p.m., Council endorsed a \$925 million general obligation bond that will include major pots of money for housing, transportation, parks, stormwater infrastructure and cultural facilities.

The vote only instructed city staff to put together the bond. Council will have another chance to either change the amount of money in the bond or reject it entirely when staff presents the final package in August.

A majority of Council members, however, appear committed to the large measure and are already making the case to the public to support it at the ballot box despite the tax increase of roughly 2 cents per \$100 of property valuation that it will lead to.

“This is a bond I will be proud to support and promote because I think it reflects where our city is right now,” said Mayor Steve Adler shortly before the vote.

“We need to ask the community to vote on this,” said Council Member Ann Kitchen. “This is such a critical need in our community.”

The biggest piece of the bond is the \$250 million for affordable housing, a major change from the initial bond proposal submitted by city staff more than a year ago, which for housing included only \$85 million. The proposal released this spring by the Bond Election Advisory Task Force included \$161 million.

An intense advocacy effort by a coalition of progressive groups to allocate \$300 million for housing, including a rally in front of City Hall attended by five Council members, appeared to have an effect. On Thursday, Kitchen (who had not attended the rally) offered an amendment to increase the funding for housing to \$250 million.

Scores of activists, including a large contingent of members of the Democratic Socialists of America, showed up to voice their support for the housing measure.

Council Member Greg Casar, an outspoken supporter of increased subsidized housing, celebrated the news on Twitter: “Together, we can truly confront our housing crisis, our gentrification and segregation. We’ll need your support for this bond come November!”

The housing funding includes \$100 million for the city to buy land to provide affordable housing, either directly or more likely through a partnership with for-profit or nonprofit developers.

The rest of the housing funds are directed toward rental assistance (\$94 million), home repair for low-income homeowners (\$28 million) and a program that provides financial assistance to developers to create homes that will be owned by low- or moderate-income people (\$28 million).

In addition, the proposed bond package includes the following categories, all of which voters can vote to approve or reject separately:

- **Parks and Recreation, \$149 million:** \$40 million to build a new pool at Colony Park and renovate existing pools; \$45 million to acquire more parkland; \$17.5 million to build new trails, playscapes and other park infrastructure; \$25 million for general park improvements; and \$21.5 million for building improvements.



- **Transportation, \$160 million:** \$50 million to replace the Redbud Trail Bridge over Lady Bird Lake, \$66.5 million for street reconstruction, \$20 million for sidewalk repairs, \$4.5 million for new traffic signals and other technology, \$15 million for safety projects associated with Vision Zero, \$3 million for urban trails and \$1 million for the Neighborhood Partnering Program.
- **Flood Mitigation, \$184 million:** \$112 million for drainage improvement projects and to continue buyouts of properties in flood-prone areas; \$72 million to acquire land for water quality protection.
- **Libraries and Cultural Centers, \$128 million:** \$34.5 million for renovations of branch libraries and converting the old Faulk Central Library into an archive for the Austin History Center; \$56.5 million for improvements and expansions to the Mexican American Cultural Center, the Asian American Resource Center, George Washington Carver Museum and Mexic-Arte Museum; \$25 million to replace the Dougherty Arts Center; and \$12 million to acquire property to turn into public creative spaces for local artists.
- **Health and Human Services, \$16 million:** for a new Dove Springs Health Center.
- **Public Safety, \$38 million:** \$13 million to renovate fire stations and \$25 million to renovate EMS stations.

Transportation was the category that ended up with less funding than recommended by staff and the Bond Election Advisory Task Force.

Assistant City Manager Robert Goode warned Council that Austin roads are in desperate need of repairs and that even the amount of spending recommended by staff would not be enough to keep the current percentage of streets rated at least at a “satisfactory” level: 74 percent.

Council Member Ora Houston acknowledged the passion of the scores of people who showed up in support of various bond priorities, notably housing, but said that she needed to keep in mind the many people who didn’t show up at City Hall but were “hurting” due to rising property taxes. She therefore offered an alternative bond package worth \$647.5 million. It included \$200 million for housing as well as far less funding for transportation (including no funds for street reconstruction) and no funding for the renovations of police and fire stations.

Houston's proposal failed, with only Council members Ellen Troxclair, Alison Alter and Leslie Pool joining her in support.

Council Member Jimmy Flannigan, who had abstained from all of the votes regarding amendments to the bond package, said that he supported the big investment in housing but that he wasn't convinced that the bond reflected a willingness to make tough choices about where to spend.

Flannigan also said that the impact of the housing bond would not be as great unless the city was willing to embrace meaningful reforms through CodeNEXT that will allow more housing to be built.

Troxclair predicted that the measure would have a hard time gaining support in her district due to the prospect of the tax increase and what Troxclair viewed as too much money for housing and too little for street repairs.

The bond was approved 8-3, with Troxclair, Flannigan and Houston in opposition.

*Photo by Jericho [CC BY 3.0], via Wikimedia Commons.*

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# Gentrification or a Renaissance in Austin's Dove Springs Neighborhood?



The new Arbor Ridge development located on Nuckols Crossing Road has some homes finished and some under construction.

Ilana Panich-Linsman/KUT

[Dove Springs in Southeast Austin](#) is just six miles from downtown – what many real estate agents consider a prime location. But the area is also one of the poorest parts of Austin. And for decades, it's had a [less than desirable reputation](#).

Despite all that, [change is coming to Dove Springs](#) – with some believing they're witnessing the beginning of gentrification.

The area has traditionally been filled with low-income renters, many who are recent immigrants and don't speak English. Data may still point to those facts. But on the ground, the neighborhood is going through what many believe is a fast transformation.

Is this what gentrification looks like? Margaret Valenti, a senior planner with the City of Austin, doesn't think so.

"There's no grocery store, there's no movie theater too terribly close. I don't think there are any coffee shops," she says. "So, those types of things that make a neighborhood desirable – in terms of gentrification – are not existing in Dove Springs."

The bulk of the housing stock in Dove Springs is old, with many homes from the 1940s. But there is a brand new subdivision being built right in the heart of Dove Springs – and it can barely keep up with sales.



Visitors at McKinney State Park's Lower Falls.

Credit Ilana Panich-Linsman/KUT

Luis Montejano is one of the salespeople for the Arbor Ridge development. In his office, he's surrounded by glossy pictures of nearby McKinney Falls.

"There's 725 acres back there. There is a trail that actually leads you back there. So, there are upper falls and lower falls. So, it's kind of like a mini-Niagara Falls back there," Montejano says.

Homes in the new development are going quickly – an interesting fact considering this particular lot sat vacant for years.



"We had the advantage of being able to build in a very reduced cost lot because it sat vacant for so long," Milestone Community Builders CEO Garrett Martin says.



A home under construction in the Arbor Ridge development.

Credit Ilana Panich-Linsman/KUT

The homes with high living room ceilings, sitting in walkable neighborhoods start at \$140,000.

The gated community that Martin is building does not clash with the neighborhood the way "McMansions" do in East Austin. And that is just one of the – some would say – positive changes the community has experienced recently.

“What I see happening here is a renaissance – people are coming out, they are getting engaged,” Valenti says. “Instead of the G word I would talk about the R word for this particular neighborhood, because it’s a groundswell of interest and input from the community and that puts pressures and shines a light on the need for the community from city programs and city decisions – and that’s a great thing.”



Tina Domino walks her dog in the Arbor Ridge subdivision.  
Credit Ilana Panich-Linsman/KUT

Just six miles away from downtown Austin, new parks are being developed near bodies of water in a part of town that is still fairly affordable. And the longtime residents are getting to enjoy it – because they haven't been pushed out yet.

## Land Use Goals (1-8) and Action Items (1-21)

### Residential Areas

The Franklin Park NPA is home to the majority of residences to be found within the three planning areas, with McKinney coming in second and the Southeast Area a distant third. A large portion of the housing units in the Franklin Park NPA consists of duplexes, which over the years has added considerably to the large number of renters in this part of Austin. Absentee ownership of single-family homes seems to be a fairly common reality, and concerns the community. In the SCPA, residents are eager to see levels of home ownership rise, with the hope that pride of ownership will engender a spirit of commitment, and participation in neighborhood improvement efforts will increase.

The community is supportive of providing housing options to accommodate the residential needs of all members of the community. At the time this plan is being written, there are several multi-family, single-family, and duplex construction projects going on that will add approximately 1,000 living units to the supply of housing. A common theme expressed by the community was the desire for quality multi-family developments. Ideal characteristics of a multi-family project include: building construction that is unobtrusive and doesn't dominate the natural surroundings; a site plan that respects the presence of natural features and the environmental sensitivity in parts of the area; attractive landscaping; well-maintained grounds; amenities for youth; and good access points to ensure the comfortable flow of automobile traffic. Area residents have cited the County-sponsored public housing project, Eastern Oaks Apartments, as an example of an ideal type of development because it is "friendly to the eye," blends well with the natural and built environment, boasts a style that is durable,



*Eastern Oaks Apartments  
4922 Nuckols Crossing*

and incorporates some infrastructure for children. The future Woodway Village is also touted by the Southeast community as an example of a positive multi-family development. Its proactive site plan

takes measures to protect and preserve the environmental features on and around the project site. The developer was very committed to working with the community on this project and discussions centered on such things as setting the appropriate density, setbacks from the creek, site amenities, masonry, and the location of buildings.

# City council looks to turn the tide of gentrification in east Austin



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The view of an east Austin street from Givens Park. (KXAN Photo/ Alyssa Goard.) [[+](#) [-](#)]

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## Video

AUSTIN (KXAN) - Thursday, the Austin City Council amended and approved a resolution to give the city manager the green light to explore a policy to reverse gentrification in east Austin.

The city's Institutional Racism and Systemic Inequities Task Force recommends that Austin adopt their own version of Portland, Oregon's policy for bringing former residents back to gentrified areas. Austin's policy hasn't been finalized yet, but it would give priority status to people applying for affordable housing in east Austin who are part of families who have lived in the area for years or who have been forced out by gentrification.

According to city council documents, generational ties to the city wouldn't be the sole factor in determining eligibility, but they will be given more consideration under this pol-



icy. It would only apply in areas that have experienced displacement, a city policy adviser explained.

The city's efforts here lean on a partnership with researchers at UT Austin who have been documenting and calculating displacement in east Austin. This research will be used to map vulnerable neighborhoods and craft a "right to return" policy.

Their findings show that both families who have been in the area for generations and people of color are being pushed out by changes there. The displacement of these residents is especially complicated in east Austin, which at one point was the part of the city designated for people of color by Jim Crow laws. Many residents who once felt strong communities in the area, now feel that sense of community disappearing, the UT researchers reported.

Those researchers with the Institute for Urban Policy Research and Analysis reported that Austin is the only fast-growing major city in the U.S. to show a decline of African Americans between 2000 and 2010. Within a decade, they found that East Austin's white population increased by 442%, the black population decreased by 66%, and the latino population decreased by 33%.

"African Americans who were previously so singularly confined to East Austin became singularly displaced by gentrification," said IUPRA researcher Eric Tang, UT Austin associate professor of African and African diaspora studies. "Few people have been able to hang on, and they aren't hanging on because the changes are beneficial. Rather, they're hanging on because they feel a responsibility to black and brown East Austin, a right to the city."

The researchers also noted a decline in the number of children in east Austin, their findings show that while children once made up 30% of the neighborhood's population, they now make up less than 12%. While 93% of long-term East Austin residents surveyed for this research said they were concerned about rising property taxes, the researchers said the largest neighborhood concern was that the sense neighborhood community had been shaken.

"The community blended with each other," said Devren Balancier in regards to what his neighborhood off of Martin Luther King Jr. Blvd. used to be like. Balancier lives in East Austin, as have his parents and grandparents. "Because most of the community was fami-

ly --cousins and offsets and they were married into each other's families -- and they were with each other for a long time."

Balancier has noticed construction and gentrification going on all around him. But he's also seen services around the neighborhood improve and change.

"Now it's just more frequency with strangers, with people who are basically touring, if you can call it that," Balancier said. "Walking through here, I'm amazed at the things you see and [people] taking advantage of opportunities I never thought I'd see in my lifetime."

While there are parts of all the change he sees as positive, Balancier believes it's important that the people who shaped East Austin's history don't feel pushed out.

"A lot of the things that people have went through and experienced in this area, those are memories you can't replace by moving somewhere else with a dollar value, these are memories and life long friendships with people," Balancier said.

Kay Green, who has lived in east Austin since 2000, believes her neighborhood needs more affordable housing.

"There's just so much construction going on, you just go by a street and two months later it's totally different, it's just all the houses are gone, and you just wonder where all those people went," she said.

Green was able to afford her house back when she bought it thanks to affordable housing assistance from the city at the time. But she's seen many of her neighbors move away because they can't afford the taxes, housing, and cost of living.

She can sense that the market for housing developers is active in her area, she said people offering to buy her home contact her at least once a week. Green declines their offers because she doesn't want to move and she believes those people are not offering her what her home is actually worth.

According to the UT researchers, more than 70% of their survey respondents had been routinely asked to sell their homes to prospective buyers, saying that the offers had been aggressive and "insultingly low compared to market value."

Instead, Green has gone on her own to get a degree in construction. Her dream is to build an affordable housing community for her neighbors, especially the single moms and seniors who might otherwise be displaced.

Austin City Manager Spencer Cronk has been directed to look at the policy for operational and legal issues, then report back to the council by May 25, 2018.

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The University of Texas at Austin  
Institute for Urban Policy  
Research & Analysis  
*College of Liberal Arts*

# THOSE WHO STAYED

ARE THERE MORE DOGS THAN CHILDREN IN EAST AUSTIN? ADDENDUM  
TO THE MARCH 2018 REPORT

## **MAY 2018**

ERIC TANG, PHD, AMAHREE ARCHIE, KATHERINE DAFFIN, NAVEED PEJMAN, ADERIUS ROSS,  
JAVONTE STARLING, OLIVIA SULLINGS

## OVERVIEW

In March 2018, the University of Texas at Austin's Institute for Urban Policy Research and Analysis (IUPRA) released a report titled "Those Who Stayed: The Impact of Gentrification on Longstanding Residents of East Austin."<sup>1</sup> The goals of the report were twofold: 1) To collect data on how longstanding residents perceive of the changes brought about by gentrification; 2) To understand why these longstanding residents continue to stay in heavily gentrified neighborhoods when so many of their peers have left.

This is a follow-up to the report that answers a question some have asked since its publication: *Do dogs now outnumber children in this gentrified East Austin neighborhood?*<sup>2</sup> The question was prompted by the longstanding residents themselves. The original survey did not ask about pets or children, but in its qualitative section respondents commented on how dogs appeared to outnumber children in the neighborhood. In their view, this shift epitomized the drastic changes brought about by gentrification.

Longstanding residents are correct in their perceptions. Dogs now outnumber children in the neighborhood nearly two to one. A profound absence of children, not an abundance of dogs, explains the disparity. Dog ownership rates in the neighborhood appear to be on par with national averages. However, the seventeen-and-under population in the neighborhood falls well below the city and regional averages. Moreover, one can assume that the majority of these losses were among children of color. Between 2000 and 2010 the neighborhood's Black population decreased by 60 percent, its Latino population decreased by 33 percent and its white population increased by 442 percent.

The loss of children is perhaps the clearest indicator that a neighborhood has been thoroughly gentrified, and it could also serve as a bellwether for economic and racial disparities in other communities throughout Austin.

### On the Absence of Children and the Prevalence of Dogs: A sample of quotes from the "Those Who Stayed" report:

***"Most people are white. They spend the whole day walking the dogs. They don't have kids... they have dogs."***

– African-American female, 87

***"A lot of people who move here have no kids, so a lot of elementary schools talking about tearing them down. Then going to build them up for the people who can afford it. When I was growing up there used to be a lot of kids. Now a lot more dogs and cats around."***

– African-American male, 55

***"[There are] no kids in the neighborhood... They need to put children back in neighborhood."***

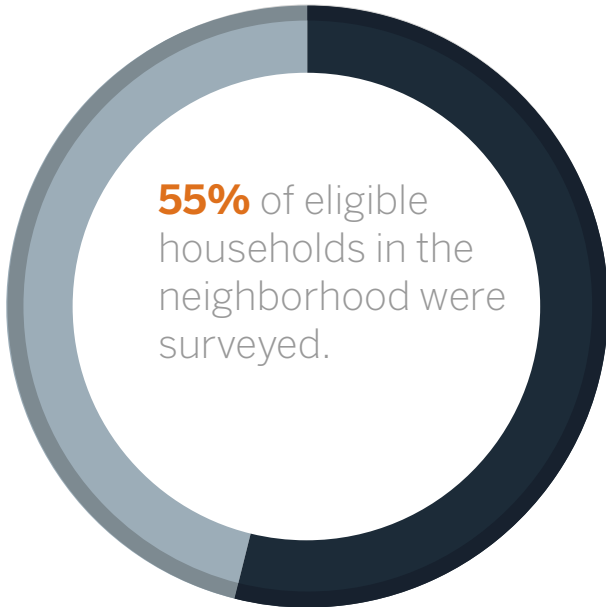
– African American female, 61

<sup>1</sup>Tang, E., & Falola, B. (2018). *Those who stayed: The impact of gentrification on longstanding residents of East Austin*. Retrieved from [https://liberalarts.utexas.edu/iupra/\\_files/Those-Who-Stayed.pdf](https://liberalarts.utexas.edu/iupra/_files/Those-Who-Stayed.pdf)

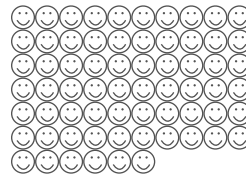
<sup>2</sup>Findell, E. (2018, April 22). In gentrifying East Austin, are dogs replacing children? *Austin American-Statesman*.

## KEY FINDINGS

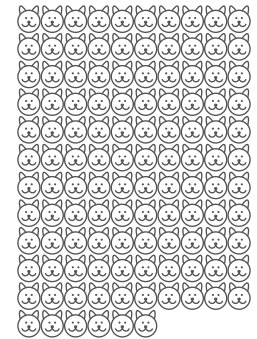
After surveying 55 percent of eligible households in the neighborhood, we counted 116 dogs and 66 children.



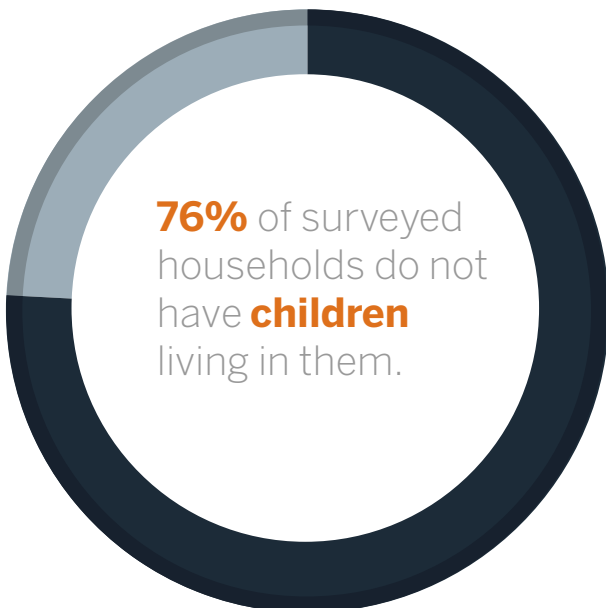
**66 CHILDREN**



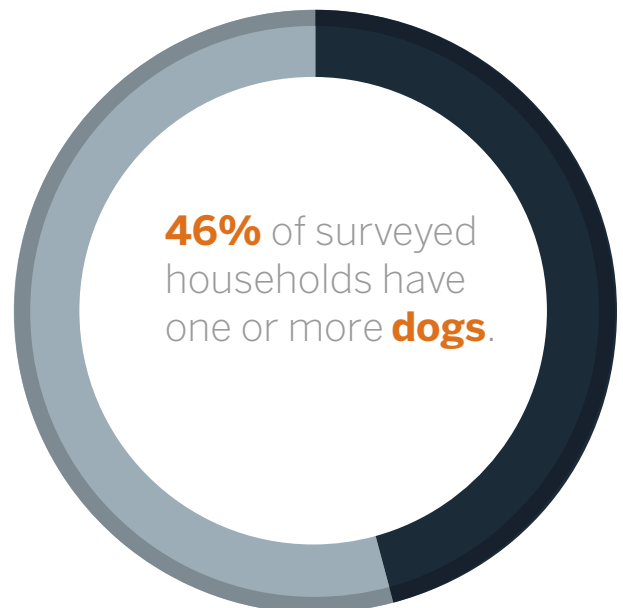
**116 DOGS**



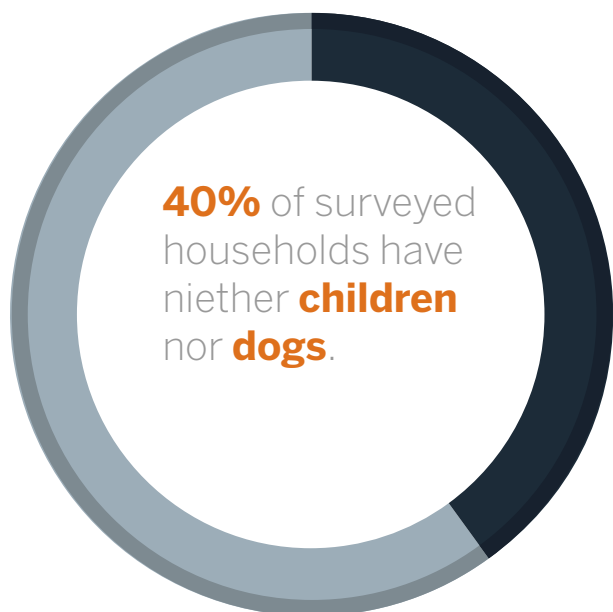
Seventy-six percent of the surveyed households (130 out of 171) do not have children living in them.



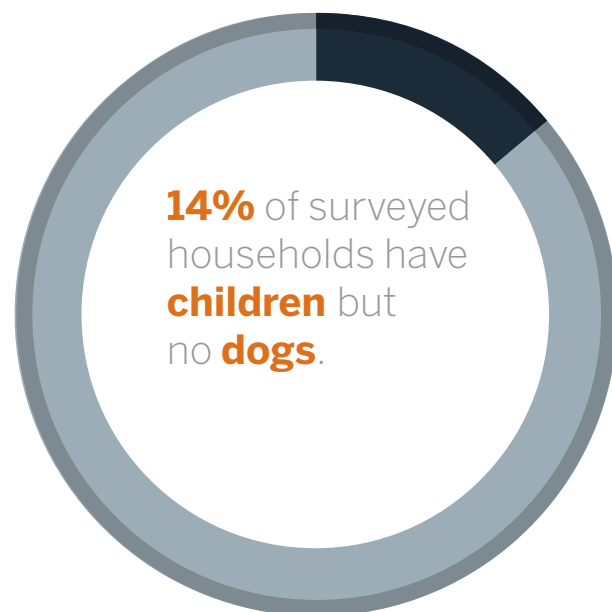
Forty-six percent of the surveyed households (79 out of 171) have one or more dogs.



Forty percent of the surveyed households (68 out of 171) have neither children nor dogs.



Fourteen percent of the surveyed households (24 out of 171) have at least one child and no dogs.



## BACKGROUND AND METHODOLOGY

The “Those Who Stayed” report was based on surveys of longstanding residents (those whose residency dates back to at least 1999) who live in Census Tract 9.01, block group 1.

The neighborhood was once the heart of Austin’s “Negro District”—a racially segregated part of downtown created by the City of Austin in 1928. Back then, city leaders sought to confine the African-American population to one area of the urban core. Prior to this, African Americans lived in various enclaves throughout the entire city.

The report concluded that most longstanding residents feel negatively about the changes they have witnessed. They are not the beneficiaries of the ostensible “upside” to gentrification. Although gentrification has led to the establishment of new businesses, lower crime, infrastructural improvements, and higher property values, most respondents claimed that they did not see a marked improvement in their own quality of lives.

To the contrary, respondents claimed that their neighborhood had lost its sense of community. Underscoring this loss is the absence of children. Whereas children once served as a bonding force in the neighborhood—they occupied its public spaces and served as a key link between neighborhood families—they were, by 2016, only 15.6 percent of the population, according to census data.

The loss of children led some respondents to seriously question whether or not dogs now outnumbered children in the neighborhood. In April 2018, a group of faculty and students from the University of Texas at Austin returned to the neighborhood to study the question.

Our survey team canvassed the neighborhood, knocking on the doors of all single- family homes. Apartment units were excluded from the survey, owing to possible restrictions on pet ownership imposed by property owners or management.

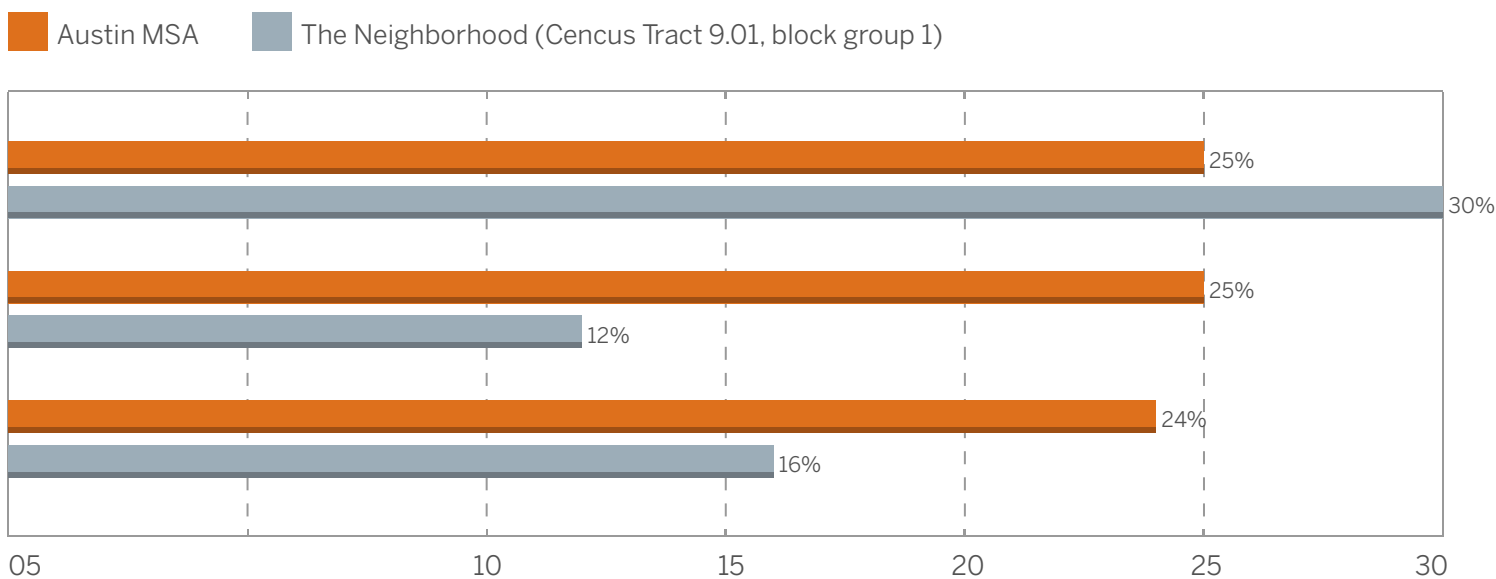
After cross referencing a map of parcels from the Travis County Central Appraisal District with Google Maps satellite images of neighborhood homes, we determined that there were 341 single family homes in the neighborhood. We surveyed 171 of them (55 percent).

The survey consisted of two sets of questions: the first having to do with the type and quantity of household pets, and the second having to do with the total number of children who resided in the home.

## DISCUSSION

The number of dogs (116) is nearly double the number of children (66), confirming longstanding neighborhood residents' beliefs about the relative numbers of each. The 66 children were counted among 55 percent of the eligible households in the neighborhood. According to the U.S. Census, there were a total 145 children in the neighborhood in 2016 (55 percent of this equals 79 children). Our findings comport with census data showing that the share of children in the neighborhood is very low when compared to that of the broader Austin metropolitan statistical area (MSA) since 2000:

### Percentage of Children: Austin MSA Compared to East Austin



Sources: 2000 and 2010 data based on 2000 and 2010 U.S. Decennial Census; 2016 data based on 2016 American Community Survey, 1-year estimates.

Between 2000 and 2016, the seventeen-and-under population remained consistently between 24 and 30 percent of the Austin MSA population. During this same period, the share of children in East Austin dropped dramatically. The dearth of children in the neighborhood is highly localized, and a sign of gentrification that cannot be attributed to broader social factors such shifting maternity rates.<sup>3</sup>

<sup>3</sup>Stone, L. (2018, February 13). American women are having fewer children than they'd like. *New York Times*.



Forty-six percent of the households we surveyed had one or more dogs. Dog ownership in the neighborhood is not significantly higher than it is throughout the rest of the United States: just under half of all U.S. households have dogs.<sup>4</sup>

As we canvassed the neighborhood, our survey team noted that one or more dogs were present at approximately one-third of the homes where nobody answered. Had we been able to survey these households, our dog count would have increased, but not significantly enough to make this neighborhood stand out when it comes to dog ownership. It is impossible to say whether or not we would have counted more children at these properties.

The displacement of children is the defining characteristic of gentrification in the neighborhood. During our eight canvassing sessions – all of them took place in evening between 6:00pm to 8:00pm—our team encountered children playing in the streets only once. On one other occasion, we noted two children riding bicycles with an adult. We did not spot children in public spaces outside of these two instances.

By contrast, during each of our outings, we noted multiple residents walking their dogs. The absence of children leaves one with the impression that there is an abundance of dogs, but our findings suggest that the former factor, not the latter one, tells the truer story about gentrification.

The residential neighborhoods of East Austin were planned with children in mind. This is reflected not only in zoning regulations that call for single family homes, but in the establishment of neighborhood parks and public schools. Over the past two decades, gentrification has displaced most of these children, and future research should focus on what happened to them: How did they fare socially, economically and educationally after moving out? Considering that gentrification trends move from one neighborhood to the next, how many of these children were subjected to multiple displacements?

The loss of children is conterminous with the rise of incomes in the neighborhood. Between 2000 and 2016, the median family income (MFI) in the neighborhood jumped from \$28,929 to \$69,570. If this trend continues, then the urban core will become increasingly economically and socially homogeneous (and the MSA as a whole more economically segregated) as families with children and moderate incomes are pushed to outlying areas. Current efforts to rewrite Austin's land development code (i.e. "CodeNext") call for diversifying the type of housing stock that can be built in the urban core, but the question remains whether or not such housing will be appropriate and affordable for families with children. Data from the Austin Independent School District show that a miniscule number of its students live in the thousands of new apartment units that have been created in central Austin over the past five years.<sup>5</sup>

The creation of new affordable housing (as well as the maintenance of existing affordable units) is the key factor that will allow for the repopulation of families with children in the neighborhoods of central East Austin. This requires public intervention—from the public capitalization of new affordable homes, to municipal programs that conduct targeted outreach and marketing to families in need, to city agencies that monitor public-private agreements in which developers are incentivized to create affordable units. In this sense, gentrification is not simply a market issue, but a phenomenon profoundly shaped by the actions taken (and not taken) by city officials.

<sup>4</sup> Findell, E. (2018, April 22). In gentrifying East Austin, are dogs replacing children? *Austin American-Statesman*.

<sup>5</sup> This is based on cross referencing AISD data with the addresses of new apartment buildings in East Austin neighborhoods. The data show only six AISD students living in the 1,930 new apartment units.

**Exhibit M:**  
**Community Partners at**  
**Mendez Middle School**

En Español | Contact Us | Directory

STAFF • STUDENTS • PARENTS/GUARDIANS



HOME	ABOUT US	SCHOOL BOARD	SCHOOLS	DEPARTMENTS	COMMUNICATIONS	CAREERS
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## About Our Schools



**MENDEZ**  
MIDDLE SCHOOL

AUSTIN Independent School District



**5106 Village Square Drive**  
**Austin, TX 78744**  
Map [↗](#)  
**Phone: (512) 414-3284**  
**Fax: (512) 442-5738**

**CAMPUS WEBSITE**



## PARTNERS ON CAMPUS

Through partnerships, we are able to effectively address the holistic needs of AISD students. The following partner organizations offer programs for this campus. Click on any of the names for program information, or go to <http://ysm-austin.org> for more Advanced Search options (e.g., by demographics, age groups, key words, zip codes, community-based sites, etc.).

Staff Directory

Trustee District

Bus Finder

Menus

Campus Improvement Plan

Targeted Improvement Plan

School Report Card & TAPR/AEIS Information

Transfer Status

Gifted and Talented

Partners on Campus

**Moving? [Learn how to transfer within your child's school boundaries.](#)**

**Serve at Location:**

Access Dental
Advancing America, LLC
Anti-Defamation League Austin
Any Baby Can Child and Family Resource Center
Austin Chamber Music Center
Austin Classical Guitar Society
Austin Partners in Education
Austin Shakespeare
Austin Voices for Education and Youth
Beyond the Grade
Breakthrough
Capital Area Food Bank of Texas
City of Austin - Austin Public Health
Colorado River Alliance
Communities In Schools of Central Texas
CommUnityCare Health Centers
Con Mi MADRE
CYD Enterprises
Future Doctors of America
Girls Empowerment Network
Integral Care
Kickstart Kids
Latinitas
Lettuce Networks
LifeWorks
LULAC National Educational Service Center
Meretz
Phoenix House
SAFE Alliance
Seedling
St. Edward's University
The Arc of the Capital Area
The Edge of Imagination Station
The Ghisallo Foundation
Travis County Attorney's Underage Drinking Prevention Program
United Way for Greater Austin
UT Division of Diversity and Community Engagement

Wonders & Worries
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Workers Assistance Program, Inc.
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**Available Upon Request at Location:**

Athletes Global
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Austin Chamber Music Center
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Austin Community Steelband
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Austin Energy
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Austin Public Library Friends Foundation
--

Austin Zoo
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B*Tru Arts
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Beyond the Grade
------------------

Camp Fire USA Balcones Council
--------------------------------

CATCH Global Foundation (Coordinated Approach to Child Health)
--

Coding with Kids
------------------

Council on at Risk Youth (CARY)
---------------------------------

Creative Action
-----------------

CYD Enterprises
-----------------

Dance Another World
---------------------

Early Recognition Is Critical
-------------------------------

Girls Empowerment Network
---------------------------

Keep Austin Beautiful
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LUPE Arte
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SAFE Alliance
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Southwest Key Programs
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Successful Smiles of Texas
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Sylvan Learning of Austin
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Teens in the Driver Seat
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Texas AgriLife Extension Service Expanded Food and Nutrition Education Program
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Texas Music Partners
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The Christi Center
--------------------

Total City Sports Volleyball
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Workers Assistance Program, Inc.
----------------------------------

Yellow Bike Project
---------------------

YouthLaunch
-------------

**Exhibit N:**  
**Info on Communities in**  
**Schools**

# Partnerships

At Communities In Schools, we work directly in schools to identify and address the immediate needs of our students, from basic needs such as food and clothing, to more complex needs like counseling and mentoring. We're inside schools and in students' lives, because when students have caring adults supporting them, they see new possibilities. We surround students with a support system that fosters health, builds confidence and empowers students to succeed.

By partnering with the community, we bring relationships to the school campus that make a meaningful difference in children's lives, and help get them the exact services that they need.

**Communities In Schools of Central Texas is proud to partner with these organizations:**



**austintexas**★gov  
the official website of the City of Austin

**CAPRY**  
**Council on  
At-Risk Youth**



**G A P**







# COMMUNITIES IN SCHOOLS OVERVIEW

Research shows that kids who stay in school are more likely to achieve in life, so CIS surrounds students with a community of support proven to decrease dropout rates and increase high school graduations for Central Texas' most challenged schools.

We do that through programs that support individual students, targeted populations and schools at large, creating a measurable impact on student success. In just the last three years, the percentage of students in our programs who are on track to graduate has increased by almost 20 percent, and we're not done. With your help, we can empower every Central Texas student to achieve in life, making our community safer and more prosperous for all.

**Our mission:** Communities In Schools of Central Texas surrounds students with a community of support, empowering them to stay in school and achieve in life.



**Communities In Schools** (CIS) is the nation's largest and most effective dropout prevention organization. For 40 years, Communities In Schools has been helping students achieve in school, graduate and go on to bright futures.

[CIS Reunion Video](#) from [CIS of Central TX](#) on [Vimeo](#).

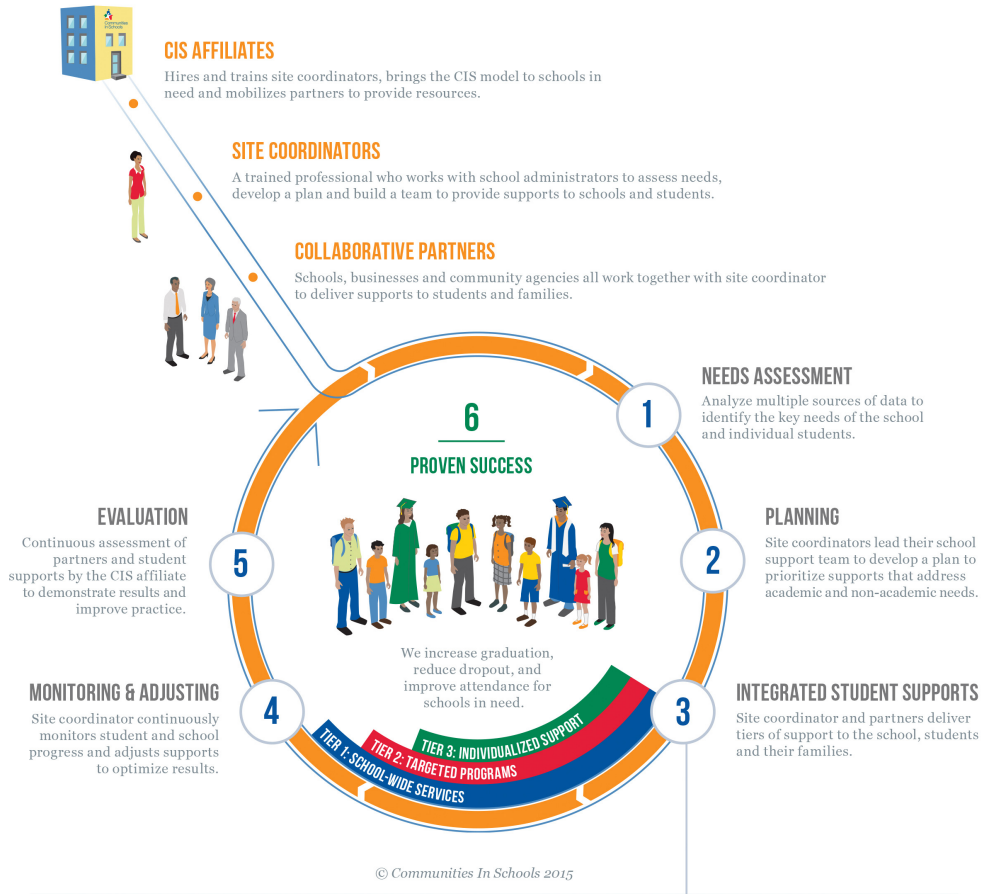
# THE COMMUNITIES IN SCHOOLS MODEL

**Our model is unique.** Most communities have resources available to help students succeed in school and prepare for life – but they may be in the wrong place. Children and families must first locate and then travel to agencies scattered all over town, usually during school hours and with no way to coordinate the various services.

CIS reverses this process, bringing resources and relationships to where children already spend their days – the public school. These resources are delivered in a caring, coordinated manner.

Our evidence-based approach, adapted to meet the unique needs of Central Texas children, is the basis for our success. 99% of the students intensively served by Communities In Schools of Central Texas stay in school.

# OUR UNIQUE MODEL



- ACADEMIC ASSISTANCE
- BASIC NEEDS
- BEHAVIORAL INTERVENTIONS
- COLLEGE & CAREER PREP
- COMMUNITY & SERVICE LEARNING
- ENRICHMENT
- FAMILY ENGAGEMENT
- LIFE SKILLS
- MENTAL HEALTH
- PHYSICAL HEALTH

5b

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**NOVEMBER 8, 2018**

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer and an Award of Direct Loan Funds (#18407) Sphinx at Sierra Vista Senior Villas, Fort Worth

**RECOMMENDED ACTION**

**WHEREAS**, an application for both 4% Housing Tax Credits and Direct Loan funds for Sphinx at Sierra Vista Senior Villas, sponsored by Sphinx Development Corporation and Fort Worth Housing Finance Corporation (an instrumentality of the city of Fort Worth), was submitted to the Department on August 14, 2018;

**WHEREAS**, the Direct Loan application was submitted under the General Set-Aside in the 2018-1 Multifamily Direct Loan Notice of Funding Availability;

**WHEREAS**, in lieu of a Certification of Reservation, a Carryforward Designation Certificate from the Texas Bond Review Board was issued on January 4, 2018, and will expire on December 31, 2020;

**WHEREAS**, the proposed issuer of the bonds is the Tarrant County Housing Finance Corporation;

**WHEREAS**, the Governing Board previously approved the Sphinx at Sierra Vista Senior Villas application at the Board meeting of March 22, 2018; however, due to adjustments in the financing, an application was submitted that included a request for Direct Loan funds, which prompted staff to re-review the application for 4% Housing Tax Credits based on the updated financing exhibits and new financing source;

**WHEREAS**, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated a Category 4 and was found acceptable by the Executive Award and Review Advisory Committee (“EARAC”) and subject to the conditions as noted herein, after review and discussion;

**WHEREAS**, the EARAC recommends the issuance of the Determination Notice with the condition that the closing occur within 120 days (on or before March 8, 2019); and

**WHEREAS**, staff has the ability to recommend an interest rate lower than the 4.0% and recommends an interest rate of 0% that is recommended in 10 TAC §13.8(a) for Direct Loan awards under the General Set-Aside;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$1,652,337 in 4% Housing Tax Credits and \$3,600,000 in Neighborhood Stabilization Program Round 1 Program Income (“NSP1 PI”), subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department’s website for Sphinx at Sierra Vista Senior Villas and providing for an interest rate at 0% per annum, is hereby approved as presented to this meeting;

**FURTHER RESOLVED**, that provided the Applicant has not closed on the bond financing on or before March 8, 2019, the Board authorizes the Director of Multifamily Finance or the Executive Director to approve or deny an extension of the Determination Notice date, subject to an updated previous participation review, if necessary; and

**FURTHER RESOLVED**, this Determination Notice and direct loan award are made subject to the following conditions proposed by the Applicant and found acceptable by EARAC:

1. SDC will outsource compliance monitoring and administration of its portfolio to a third party company.
2. SDC will engage a third party consultant, of its choosing, to review its compliance and monitoring systems for its portfolio and make required improvements recommended by the consultant.
3. SDC will ensure that all on-site managers and assistant managers receive two days training on compliance issues and compliance requirements from an Organization of its choosing.
4. SDC will ensure Sphinx Residential, LLC develops and implements a continuing education program in management and compliance training for property management and compliance staff engaged for SDC’s portfolio.

### **BACKGROUND**

*General Information:* Sphinx at Sierra Vista Senior Villas, proposed to be located at 2942 South Riverside Drive in Fort Worth, Tarrant County, involves the new construction of 272 units - all of which will be restricted under a Housing Tax Credit (“HTC”) Land Use Restriction Agreement. For HTC purposes 13 will be rent and income restricted at 50% of Area Median Family Income (“AMFI”) and the remaining 259 will be rent and income restricted at 60% of AMFI. Layered among the HTC-restricted units will be 27 Direct Loan restricted units which will carry HOME income and rent restrictions: six units restricted at 50% AMFI (Low HOME rent) and 21 units restricted at 60% AMFI (High HOME rent). The Development will also have an additional three units restricted at 50% and 10 units restricted at 60% from the City of Fort Worth’s HOME funds, all of which will be considered Permanent Supportive Housing units by the City of Fort Worth. The development will serve an Elderly Limitation population and the site is currently zoned appropriately. The census tract (1045.05) has a median household income of \$26,688, is in the fourth quartile, and has a poverty rate of 34.9%.

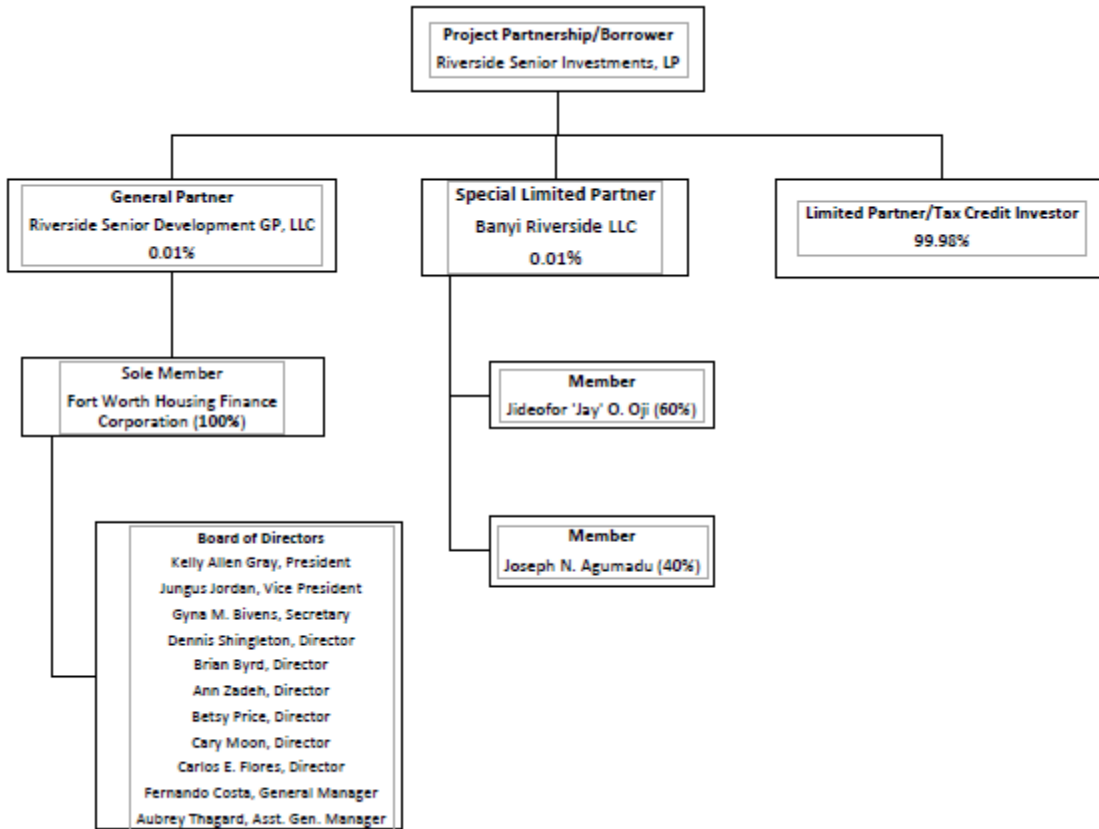
The Direct Loan award, funded with NSP1 PI, has been reduced from the Applicant’s requested \$4,000,000 to \$3,600,000, while being underwritten and recommended at a 0% interest rate with a 30 year amortization and structured as a second lien construction to permanent loan with a 15 year term. The 0% interest rate is required in order for the transaction to remain feasible.

*Organizational Structure and Previous Participation:* The Borrower is Riverside Senior Investments, LP, and includes the entities and principals as indicated in Exhibit A. The applicant's portfolio is considered a Category 4 and the previous participation was found acceptable by EARAC, subject to the aforementioned conditions, after review and discussion.

*Public Comment:* The Department has not received any letters of support or opposition.



# EXHIBIT A





**Addendum to Underwriting Report**

TDHCA Application #: **18407** Program(s): **4% HTC**

**Sphinx at Sierra Vista Senior Villas**

Address/Location: 2942 South Riverside Drive

City: Fort Worth County: Tarrant Zip: 76119

APPLICATION HISTORY	
Report Date	PURPOSE
10/31/18	2018 MDL Request and Re-Evaluation of 4% HTC Allocation
03/15/18	2018 4% Allocation
07/20/17	2017 4% Original Underwriting

**ALLOCATION**

TDHCA Program	Request				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
Multifamily Direct Loan (Repayable)	\$4,000,000	0.00%	30	15	\$3,600,000	0.00%	30	15	2
LIHTC (Annual)	\$1,625,720	(Previous Allocation)			\$1,652,337				

\* Multifamily Direct Loan Terms:

\* Pursuant to 10 TAC §13.8(a), the term of a Multifamily Direct Loan should match the term of any superior loan (within 6 months).

\* Lien position after conversion to permanent. The Department's lien position during construction may vary.

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Closing
  - a: Substantially final construction contract with Schedule of Values.
  - b: Updated term sheets with substantially final terms from all lenders
  - c: Substantially final draft of limited partnership agreement.
  - d: Documentation identifying any required matching funds, and confirming that the source is eligible to be counted as matching funds under HUD and TDHCA requirements.
  - e: Certification from the Architect that all recommendations from the noise study are incorporated into the development plans.
- 2 Receipt and acceptance by Cost Certification:
  - Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	50% of AMI	13
60% of AMI	60% of AMI	259

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
50% of AMFI	Low HOME	6
60% of AMFI	High HOME	21

**ANALYSIS**

Applicant is requesting a \$4M Multifamily Direct Loan (MDL), likely to be funded from NSP1 funds. The request comes in response to increased interest rates and development costs and a decrease in equity pricing from \$0.95 to \$0.88.

The MDL LURA will restrict 27 units at 50% and 60% levels.

**Operating Pro Forma**

2018 rents were utilized in this analysis and increased income by \$96k, or 4%. All expenses remain the same as the previous 2018 analysis, except the management fee which adjusts based on NOI.

The 27 proposed MDL units are layered with HTC units; the MDL and HTC rents are very similar and do not make a material difference in income.

Applicant's NOI is within 1% of Underwriter's, therefore, Applicant's pro forma is used for analysis.

**Development Cost**

In prior underwriting, the extension fees were overstated by \$25k.

Building costs increased \$1.3M due to general material cost increases throughout the construction industry and the addition of another elevator.

Applicant increased developer fee \$283k based on the increased costs; Underwriter limited actual and eligible developer fee to the previous 2018 underwritten amount of \$4.815M pursuant to §13.5(d)(2)(C).

Financing costs increased \$1.1M due to increased interest rates on the construction loan, mainly. The operating reserve increased by \$422k to reflect a full 6 months of operating expenses and debt service as required by equity partner.

**Sources of Funds**

The previous underwriting assumed \$24.5M in bonds from Tarrant County HFC during construction at 3.25% with a \$19.84M permanent loan from Citigroup at 5%. This current underwriting assumes \$25M in bonds converting to \$19.125M in permanent debt from Citigroup at 5.09%. The construction debt has two tranches averaging around 5% interest during construction. This generates a \$1.1M increase in interest cost.

The equity partner has switched from Hunt Capital Partners, LLC to RBC and credit price has decreased from \$0.95 to \$0.88, causing a \$998k reduction in equity financing.

The Applicant has already been awarded the \$1.1M in HOME funds from the City of Fort Worth. Payment is subject to available cash flow. Operating pro forma indicates sufficient cash flow to repay by year 18, and the Promissory Note indicates a firm obligation to repay. As such, the loan is assumed to be bona fide debt.

The \$550k from the City of Fort Worth has been approved by the city council as a waiver of permits and fees. Underwriter has excluded the cost of the permits and fees from eligible basis. This \$550k serves as the MDL match funds.

To fill gap from increased costs and decreased equity, the Applicant is requesting \$4M in MDL funds at 0% interest with 30-year amortization and \$3.76M deferred fee.

The TDHCA recommended MDL loan terms are determined by the MDL program area within the parameters of the NOFA, not Section 10.302(d)(4)(D)(i) of the REA rules. The amount is adjusted to \$3.6M at 0.00% with a 30-year amortization. This produces a 1.15 DCR and a 15-year residual cash flow of \$825k. The \$4.14M deferred fee pays off in year 14.

**Market Analysis**

Since the 2018 underwriting, application #18018 Columbia Renaissance Sq II Senior has been approved for 9% credits by the TDHCA board. This competitive property is located one mile east of Subject and will have 54 units in direct competition with it; both properties will be in lease up at approximately the same time.

The updated GCR is 6.8%, which is under the 10% maximum, suggesting there is enough qualified demand in the PMA to support both HTC properties. The highest unit capture rate is 60% one bedrooms at 18%.

Underwriter recommends an annual tax credit allocation of \$1,652,337 as currently requested by Applicant. (Previous recommendation was \$1,625,720.)

A Direct Loan is recommended in the amount of \$3,600,000 at 0.00% with a 15 year term, 30-year amortization.

Underwriter:	<u>Jeanna Rolsing</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

**UNIT MIX/RENT SCHEDULE**

*Sphinx at Sierra Vista Senior Villas, Fort Worth, 4% HTC #18407*

LOCATION DATA	
CITY:	Fort Worth
COUNTY:	Tarrant
Area Median Income	\$75,200
PROGRAM REGION:	3

UNIT DISTRIBUTION						
# Beds	# Units	% Total	MDL	Income	# Units	% Total
Eff	-	0.0%	0	30%	-	0.0%
1	187	68.8%	18	40%	-	0.0%
2	85	31.3%	9	50%	13	4.8%
3	-	0.0%	0	60%	259	95.2%
4	-	0.0%	0	MR	-	0.0%
<b>TOTAL</b>	<b>272</b>	<b>100.0%</b>	<b>27</b>	<b>TOTAL</b>	<b>272</b>	<b>100.0%</b>

Applicable Programs
4% Housing Tax Credits

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.43%
APP % Construction	3.43%
Average Unit Size	820 sf

**UNIT MIX / MONTHLY RENT SCHEDULE**

HTC	TDHCA MDL NSP1		Fort Worth HOME	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	Mrkt Analyst	
TC 50%	\$705	LH/50%	\$705	0	4	1	1	686	\$705	\$59	\$646	(\$1)	\$0.94	\$645	\$2,580	\$2,582	\$646	\$0.94	\$0	\$902	\$1.31	\$902	
TC 60%	\$846	HH/60%	\$838	0	4	1	1	686	\$838	\$59	\$779	(\$1)	\$1.13	\$778	\$3,112	\$3,114	\$779	\$1.13	\$0	\$902	\$1.31	\$902	
TC 50%	\$705			LH/50%	\$705	2	1	1	693	\$705	\$59	\$646	(\$1)	\$0.93	\$645	\$1,290	\$1,291	\$646	\$0.93	\$0	\$908	\$1.31	\$908
TC 60%	\$846				0	20	1	1	693	\$846	\$59	\$787	(\$1)	\$1.13	\$786	\$15,720	\$15,731	\$787	\$1.13	\$0	\$908	\$1.31	\$908
TC 60%	\$846	HH/60%	\$838	0	2	1	1	707	\$838	\$59	\$779	(\$1)	\$1.10	\$778	\$1,556	\$1,557	\$779	\$1.10	\$0	\$917	\$1.30	\$917	
TC 60%	\$846				0	15	1	1	709	\$846	\$59	\$787	(\$1)	\$1.11	\$786	\$11,790	\$11,798	\$787	\$1.11	\$0	\$919	\$1.30	\$919
TC 60%	\$846				0	15	1	1	716	\$846	\$59	\$787	(\$1)	\$1.10	\$786	\$11,790	\$11,798	\$787	\$1.10	\$0	\$925	\$1.29	\$925
TC 60%	\$846			HH/60%	\$838	3	1	1	722	\$838	\$59	\$779	(\$1)	\$1.08	\$778	\$2,334	\$2,336	\$779	\$1.08	\$0	\$877	\$1.21	\$877
TC 60%	\$846			HH/60%	\$838	4	1	1	734	\$838	\$59	\$779	(\$1)	\$1.06	\$778	\$3,112	\$3,114	\$779	\$1.06	\$0	\$888	\$1.21	\$888
TC 60%	\$846	HH/60%	\$838	0	5	1	1	741	\$838	\$59	\$779	(\$1)	\$1.05	\$778	\$3,890	\$3,893	\$779	\$1.05	\$0	\$894	\$1.21	\$894	
TC 50%	\$705				0	3	1	1	743	\$705	\$59	\$646	(\$1)	\$0.87	\$645	\$1,935	\$1,937	\$646	\$0.87	\$0	\$896	\$1.21	\$896
TC 60%	\$846				0	68	1	1	743	\$846	\$59	\$787	(\$1)	\$1.06	\$786	\$53,448	\$53,485	\$787	\$1.06	\$0	\$896	\$1.21	\$896
TC 60%	\$846	HH/60%	\$838	0	3	1	1	728	\$838	\$59	\$779	(\$1)	\$1.07	\$778	\$2,334	\$2,336	\$779	\$1.07	\$0	\$883	\$1.21	\$883	
TC 60%	\$846				0	16	1	1	760	\$846	\$59	\$787	(\$1)	\$1.03	\$786	\$12,576	\$12,585	\$787	\$1.03	\$0	\$911	\$1.20	\$911
TC 60%	\$846				0	4	1	1	769	\$846	\$59	\$787	(\$1)	\$1.02	\$786	\$3,144	\$3,146	\$787	\$1.02	\$0	\$919	\$1.20	\$919
TC 60%	\$846				0	9	1	1	770	\$846	\$59	\$787	(\$1)	\$1.02	\$786	\$7,074	\$7,079	\$787	\$1.02	\$0	\$920	\$1.19	\$920
TC 60%	\$846				0	1	1	1	773	\$846	\$59	\$787	(\$1)	\$1.02	\$786	\$786	\$787	\$787	\$1.02	\$0	\$923	\$1.19	\$923
TC 60%	\$846				0	3	1	1	820	\$846	\$59	\$787	(\$1)	\$0.96	\$786	\$2,358	\$2,360	\$787	\$0.96	\$0	\$996	\$1.21	\$996
TC 60%	\$846				0	3	1	1	939	\$846	\$59	\$787	(\$1)	\$0.84	\$786	\$2,358	\$2,360	\$787	\$0.84	\$0	\$1,025	\$1.09	\$1,025
TC 60%	\$846				0	3	1	1	1,016	\$846	\$59	\$787	(\$1)	\$0.77	\$786	\$2,358	\$2,360	\$787	\$0.77	\$0	\$1,094	\$1.08	\$1,094
TC 60%	\$1,015			HH/60%	\$1,054	3	2	1	861	\$1,015	\$78	\$937	(\$0)	\$1.09	\$937	\$2,811	\$2,811	\$937	\$1.09	\$0	\$948	\$1.10	\$948
TC 50%	\$846				0	1	2	2	911	\$846	\$78	\$768	(\$0)	\$0.84	\$768	\$768	\$768	\$768	\$0.84	\$0	\$972	\$1.07	\$972
TC 60%	\$1,015				0	13	2	2	911	\$1,015	\$78	\$937	(\$0)	\$1.03	\$937	\$12,181	\$12,183	\$937	\$1.03	\$0	\$972	\$1.07	\$972
TC 50%	\$846			LH/50%	\$846	1	2	2	930	\$846	\$78	\$768	(\$0)	\$0.83	\$768	\$768	\$768	\$768	\$0.83	\$0	\$989	\$1.06	\$989
TC 60%	\$1,015				0	11	2	2	930	\$1,015	\$78	\$937	(\$0)	\$1.01	\$937	\$10,307	\$10,308	\$937	\$1.01	\$0	\$989	\$1.06	\$989
TC 60%	\$1,015	HH/60%	\$1,054	0	5	2	2	943	\$1,015	\$78	\$937	(\$0)	\$0.99	\$937	\$4,685	\$4,686	\$937	\$0.99	\$0	\$1,000	\$1.06	\$1,000	
TC 60%	\$1,015				0	3	2	2	1,006	\$1,015	\$78	\$937	(\$0)	\$0.93	\$937	\$2,811	\$2,811	\$937	\$0.93	\$0	\$1,057	\$1.05	\$1,057
TC 60%	\$1,015				0	3	2	1	1,008	\$1,015	\$78	\$937	(\$0)	\$0.93	\$937	\$2,811	\$2,811	\$937	\$0.93	\$0	\$1,059	\$1.05	\$1,059
TC 60%	\$1,015	HH/60%	\$1,054	0	2	2	2	1,013	\$1,015	\$78	\$937	(\$0)	\$0.92	\$937	\$1,874	\$1,874	\$937	\$0.93	\$0	\$1,063	\$1.05	\$1,063	
TC 60%	\$1,015				0	3	2	2	1,023	\$1,015	\$78	\$937	(\$0)	\$0.92	\$937	\$2,811	\$2,811	\$937	\$0.92	\$0	\$1,072	\$1.05	\$1,072
TC 50%	\$846	LH/50%	\$846	0	2	2	2	1,037	\$846	\$78	\$768	(\$0)	\$0.74	\$768	\$1,536	\$1,536	\$768	\$0.74	\$0	\$1,085	\$1.05	\$1,085	
TC 60%	\$1,015				0	13	2	2	1,037	\$1,015	\$78	\$937	(\$0)	\$0.90	\$937	\$12,181	\$12,183	\$937	\$0.90	\$0	\$1,085	\$1.05	\$1,085
TC 60%	\$1,015				0	9	2	2	1,055	\$1,015	\$78	\$937	(\$0)	\$0.89	\$937	\$8,433	\$8,434	\$937	\$0.89	\$0	\$1,101	\$1.04	\$1,101
TC 60%	\$1,015				0	9	2	2	1,066	\$1,015	\$78	\$937	(\$0)	\$0.88	\$937	\$8,433	\$8,434	\$937	\$0.88	\$0	\$1,111	\$1.04	\$1,111
TC 60%	\$1,015				0	3	2	2	1,088	\$1,015	\$78	\$937	(\$0)	\$0.86	\$937	\$2,811	\$2,811	\$937	\$0.86	\$0	\$1,139	\$1.05	\$1,139
TC 60%	\$1,015				0	4	2	2	1,089	\$1,015	\$78	\$937	(\$0)	\$0.86	\$937	\$3,748	\$3,749	\$937	\$0.86	\$0	\$1,140	\$1.05	\$1,140
<b>TOTALS/AVERAGES:</b>					<b>272</b>				<b>223,144</b>			<b>(\$0)</b>	<b>\$1.01</b>	<b>\$825</b>	<b>\$224,514</b>	<b>\$224,628</b>	<b>\$826</b>	<b>\$1.01</b>	<b>\$0</b>	<b>\$954</b>	<b>\$1.16</b>	<b>\$954</b>	

<b>ANNUAL POTENTIAL GROSS RENT:</b>		<b>\$2,694,168</b>	<b>\$2,695,535</b>
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**STABILIZED PRO FORMA**

*Sphinx at Sierra Vista Senior Villas, Fort Worth, 4% HTC #18407*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				2018 APP	2018 APP	TDHCA				VARIANCE	
	Database	Mgmt/Devel oper Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.01	\$825	\$2,694,168	\$2,590,632	\$2,590,632	\$2,695,535	\$826	\$1.01		-0.1%	(\$1,367)
Application, late fee, laundry, pet fees, cabl						\$22.00	\$71,820	\$71,820						
Total Secondary Income						\$22.00		65,280	\$65,280	\$20.00			10.0%	\$6,540
<b>POTENTIAL GROSS INCOME</b>						\$2,765,988	\$2,662,452	\$2,655,912	\$2,760,815				0.2%	\$5,173
Vacancy & Collection Loss						7.5% PGI (207,449)	(199,684)	(199,193)	(207,061)	7.5% PGI			0.2%	(388)
<b>EFFECTIVE GROSS INCOME</b>						\$2,558,539	\$2,462,768	\$2,456,719	\$2,553,754				0.2%	\$4,785

General & Administrative	\$107,316	\$395/Unit	164,163	\$604	3.89%	\$0.45	\$366	\$99,550	\$99,550	\$107,316	\$107,316	\$395	\$0.48	4.20%	-7.2%	(7,766)
Management	\$100,073	4.4% EGI	118,600	\$436	4.00%	\$0.46	\$376	\$102,400	\$98,600	\$122,836	\$127,688	\$469	\$0.57	5.00%	-19.8%	(25,288)
Payroll & Payroll Tax	\$323,929	\$1,191/Unit	339,401	\$1,248	11.90%	\$1.36	\$1,119	\$304,343	\$304,343	\$304,343	\$304,343	\$1,119	\$1.36	11.92%	0.0%	-
Repairs & Maintenance	\$177,423	\$652/Unit	163,825	\$602	7.47%	\$0.86	\$703	\$191,172	\$191,172	\$163,200	\$163,200	\$600	\$0.73	6.39%	17.1%	27,972
Electric/Gas	\$66,848	\$246/Unit	50,898	\$187	1.95%	\$0.22	\$184	\$50,000	\$50,000	\$66,774	\$66,774	\$245	\$0.30	2.61%	-25.1%	(16,774)
Water, Sewer, & Trash	\$178,382	\$656/Unit	170,068	\$625	7.23%	\$0.83	\$680	\$185,000	\$185,000	\$178,382	\$178,382	\$656	\$0.80	6.99%	3.7%	6,618
Property Insurance	\$75,608	\$0.34 /sf	59,097	\$217	2.35%	\$0.27	\$221	\$60,000	\$60,000	\$50,850	\$50,850	\$187	\$0.23	1.99%	18.0%	9,150
Property Tax (@ 100%)	\$183,973	\$676/Unit	127,841	\$470	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements	\$91,614	\$337/Unit	-	\$0	2.66%	\$0.30	\$250	\$68,000	\$68,000	\$68,000	\$68,000	\$250	\$0.30	2.66%	0.0%	-
TDHCA LIHTC/HOME Compliance Fees			-	\$0	0.43%	\$0.05	\$40	\$10,880	\$10,880	\$10,880	\$11,798	\$43	\$0.05	0.46%	-7.8%	(918)
Security			-	\$0	0.21%	\$0.02	\$20	\$5,500	\$5,500	\$5,500	\$5,500	\$20	\$0.02	0.22%	0.0%	-
Fire Safety			-	\$0	0.04%	\$0.00	\$4	\$1,000	\$1,000	\$1,000	\$1,000	\$4	\$0.00	0.04%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>42.13%</b>	<b>\$4.83</b>	<b>\$3,963</b>	<b>\$ 1,077,845</b>	<b>\$ 1,074,045</b>	<b>\$1,079,081</b>	<b>\$ 1,084,850</b>	<b>\$3,988</b>	<b>\$4.86</b>	<b>42.48%</b>	<b>-0.6%</b>	<b>\$ (7,005)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>57.87%</b>	<b>\$6.64</b>	<b>\$5,444</b>	<b>\$1,480,694</b>	<b>\$1,388,723</b>	<b>\$1,377,638</b>	<b>\$1,468,903</b>	<b>\$5,400</b>	<b>\$6.58</b>	<b>57.52%</b>	<b>0.8%</b>	<b>\$ 11,791</b>

CONTROLLABLE EXPENSES							\$3,052/Unit					\$3,015/Unit				
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Sphinx at Sierra Vista Senior Villas, Fort Worth, 4% HTC #18407*

DEBT / GRANT SOURCES																		
APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE										AS UNDERWRITTEN DEBT/GRANT STRUCTURE								
DEBT (Must Pay)	Fee	Cumulative DCR		Pmt	Rate	Amort	Term	Principal	2018 App	2018 App	Principal	Term	Amort	Rate	Pmt	Cumulative		
		Applicant	TDHCA						DCR	LTC								
Citi Community Capital, Citigroup Glob		1.25	1.26	1,171,465	5.09%	35	15	\$19,125,000	\$19,837,000	\$19,837,000	\$19,125,000	15	35	5.09%	\$1,171,465	1.26	44.4%	
<b>TDHCA Repayable MDL</b>		1.14	1.15	\$114,286	0.00%	30	15	\$4,000,000	\$0	\$0	\$3,600,000	15	30	0.00%	\$120,000	1.15	8.4%	
<b>CASH FLOW DEBT / GRANTS</b>																		
City of Fort Worth (HOME)		1.14	1.15		1.00%	35	17	\$1,100,000	\$1,100,000	\$1,100,000	17	35	1.00%	\$0	1.15	2.6%		
City of Fort Worth (fee waiver)		1.14	1.15		0.00%	0	17	\$550,000	\$550,000	\$550,000					1.15	1.3%		
				<b>\$1,285,751</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$24,775,000</b>	<b>\$21,487,000</b>	<b>\$21,487,000</b>	<b>\$24,375,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$1,291,465</b>	1.15	56.6%	
<b>NET CASH FLOW</b>	\$183,152	\$194,943											<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$1,480,694	\$189,229	<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	2018 App	2018 App	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
						Applicant	TDHCA						
RBC	LIHTC Equity	33.8%	\$1,652,337	0.88	\$14,537,659	\$15,565,572	\$15,441,248	\$14,537,659	\$0.88	\$1,652,337	33.8%	\$6,075	Applicant Request
Developer Fee	Deferred Developer Fees	8.7%	(78% Deferred)		\$3,764,492	\$3,354,679	\$3,411,229	\$4,135,474	(86% Deferred)		9.6%	Total Developer Fee:	\$4,815,000
Additional (Excess) Funds Req'd		0.0%				\$0	\$0	\$0			0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>42.5%</b>			<b>\$18,302,151</b>	<b>\$18,920,251</b>	<b>\$18,852,477</b>	<b>\$18,673,133</b>			<b>43.4%</b>		
<b>TOTAL CAPITALIZATION</b>					<b>\$43,077,151</b>		<b>\$43,048,133</b>		<b>15-Yr Cash Flow after Deferred Fee:</b>			<b>\$825,373</b>	

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
Acquisition	New Const. Rehab	Total Costs		2018 App	2018 App	Total Costs		Eligible Basis		%	\$		
		Applicant	TDHCA	Applicant	TDHCA	New Const. Rehab	Acquisition						
Land Acquisition		\$5,974 / Unit	\$1,625,000	\$1,650,000	\$1,650,000	\$1,625,000	\$5,974 / Unit			0.0%	\$0		
Brokerage Fee			\$75,000	\$75,000	\$75,000	\$75,000					\$0		
Off-Sites		\$184 / Unit	\$50,000	\$50,000	\$50,000	\$50,000	\$184 / Unit			0.0%	\$0		
Site Work		\$3,454,600	\$12,701 / Unit	\$3,454,600	\$3,454,600	\$3,454,600	\$12,701 / Unit	\$3,454,600		0.0%	\$0		
Site Amenities		\$698,200	\$2,567 / Unit	\$698,200	\$698,200	\$698,200	\$2,567 / Unit	\$698,200		0.0%	\$0		
Building Cost		\$19,198,000	\$86.03 /sf	\$70,581/Unit	\$19,198,000	\$17,886,000	\$18,528,719	\$18,577,948	\$68,301/Unit	\$83.26 /sf	\$18,577,948	3.3%	\$620,052
Contingency		\$1,405,000	6.02%	6.29%	\$1,471,990	\$1,553,690	\$1,553,690	\$1,471,990	6.46%	6.18%	\$1,405,000	0.0%	\$0
Contractor Fees		\$3,473,000	14.03%	13.96%	\$3,473,000	\$3,546,000	\$3,399,929	\$3,395,383	14.00%	14.00%	\$3,379,005	2.3%	\$77,617
Soft Costs	0	\$1,533,000	\$8,210 / Unit	\$2,233,000	\$2,233,000	\$2,233,000	\$8,210 / Unit	\$1,533,000			\$0	0.0%	\$0
Financing	0	\$3,620,054	\$17,378 / Unit	\$4,726,938	\$3,579,821	\$3,579,821	\$4,726,938	\$17,378 / Unit			\$0	0.0%	\$0
Developer Fee	\$0	\$4,815,000	14.42%	14.37%	\$4,815,000	\$4,815,000	\$4,815,000	\$4,815,000	14.71%	14.76%	\$4,815,000	0.0%	\$0
Reserves		\$4,513 / Unit	\$1,227,405	\$805,640	\$805,640	\$1,227,405	\$4,513 / Unit				\$0	0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$0</b>	<b>\$38,196,854</b>	\$158,265 / Unit	<b>\$43,048,133</b>	\$40,346,951	\$40,843,599	<b>\$42,350,464</b>	\$155,700 / Unit	<b>\$37,436,956</b>	<b>\$0</b>	<b>1.6%</b>	<b>\$697,669</b>
Acquisition Cost	\$0			\$0	\$0								
Contingency		\$0		\$0	(\$7,474)								
Contractor's Fee		(\$7,188)											
Interim Interest		(\$45,850)											
Developer Fee	\$0	\$0		\$0	\$0								
Reserves		\$0		\$0	\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$0</b>	<b>\$38,143,816</b>	\$158,265/unit	<b>\$43,048,133</b>	\$40,339,477	\$40,843,599	<b>\$42,350,464</b>	\$155,700/unit	<b>\$37,436,956</b>	<b>\$0</b>	<b>1.6%</b>	<b>\$697,669</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$43,048,133</b>								

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**

*Sphinx at Sierra Vista Senior Villas, Fort Worth, 4% HTC #17419*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$0	\$38,143,816	\$0	\$37,436,956
				\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$38,143,816	\$0	\$37,436,956
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$49,586,961	\$0	\$48,668,043
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$49,586,961	\$0	\$48,668,043
Applicable Percentage	3.43%	3.43%	3.43%	3.43%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$1,700,833	\$0	\$1,669,314
<b>CREDITS ON QUALIFIED BASIS</b>		\$1,700,833		\$1,669,314

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8798	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$1,700,833	\$14,964,336	----	----	----
Needed to Fill Gap	\$2,122,371	\$18,673,133	----	----	----
<b>Applicant Request</b>	\$1,652,337	\$14,537,659	<b>\$1,652,337</b>	<b>\$0</b>	<b>\$0</b>

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$25,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$50,000,000				
	Applicant	TDHCA			
Land Cost	\$1,625,000	\$1,625,000			
Depreciable Bldg Cost	\$34,198,844	\$33,455,325			
<b>Aggregate Basis for 50% Test</b>	<b>\$35,823,844</b>	<b>\$35,080,325</b>			
			amount aggregate basis can increase before 50% test fails	\$14,176,156 39.6%	\$14,919,675 42.5%

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Elevator Served	223,144 SF	\$64.78	14,454,923
Adjustments				
Exterior Wall Finish	8.00%		5.18	\$1,156,394
Elderly	3.00%		1.94	433,648
9-Ft. Ceilings	4.00%		2.59	578,197
Roof Adjustment(s)			(0.25)	(55,659)
Subfloor			0.20	44,629
Floor Cover			2.84	633,729
Breezeways	\$27.94	52,340	0.00	0
Balconies	\$25.24	1,961	0.22	49,496
Plumbing Fixtures	\$990	277	1.23	274,230
Rough-ins	\$485	544	1.18	263,840
Built-In Appliances	\$1,725	272	2.10	469,200
Exterior Stairs	\$2,280	18	0.18	41,040
Heating/Cooling			2.14	477,528
Enclosed Corridors	\$56.80	52,340	13.32	2,972,831
Carports	\$11.94	8,784	0.47	104,881
Garages		0	0.00	0
Comm &/or Aux Bldgs	\$77.08	12,278	4.24	946,388
Elevators	\$105,600	4	1.89	422,400
<b>20,000 sf of TPO roof</b>			0.54	80,000
Fire Sprinklers	\$2.47	340,102	3.76	840,052
<b>SUBTOTAL</b>			<b>108.58</b>	<b>24,227,892</b>
Current Cost Multiplier	1.01		1.09	242,279
Local Multiplier	0.89		(11.94)	(2,665,068)
<b>TOTAL BUILDING COSTS</b>			<b>97.72</b>	<b>\$21,805,103</b>
Plans, specs, survey, bldg permits	3.30%		(3.22)	(\$719,568)
Contractor's OH & Profit	11.50%		(11.24)	(2,507,587)
<b>NET BUILDING COSTS</b>		\$68,301/unit	\$83.26/sf	\$18,577,948



## Long-Term Pro Forma

*Sphinx at Sierra Vista Senior Villas, Fort Worth, 4% HTC #18407*

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35
EFFECTIVE GROSS INCOME	2.00%	\$2,558,539	\$2,609,710	\$2,661,904	\$2,715,142	\$2,769,445	\$3,057,691	\$3,375,938	\$3,727,308	\$4,115,249	\$4,543,568	\$5,016,466
TOTAL EXPENSES	3.00%	\$1,077,845	\$1,109,156	\$1,141,387	\$1,174,563	\$1,208,713	\$1,395,112	\$1,610,563	\$1,859,626	\$2,147,583	\$2,480,547	\$2,873,587
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$1,480,694</b>	<b>\$1,500,553</b>	<b>\$1,520,517</b>	<b>\$1,540,579</b>	<b>\$1,560,732</b>	<b>\$1,662,579</b>	<b>\$1,765,375</b>	<b>\$1,867,682</b>	<b>\$1,967,666</b>	<b>\$2,063,021</b>	<b>\$2,142,879</b>
EXPENSE/INCOME RATIO		42.1%	42.5%	42.9%	43.3%	43.6%	45.6%	47.7%	49.9%	52.2%	54.6%	57.3%
<b>MUST -PAY DEBT SERVICE</b>												
Citi Community Capital, Citigroup Global N		\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465	\$1,171,465
TDHCA Repayable MDL		\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000
Adjustment to Debt Per §10.302(c)(2)												
<b>TOTAL DEBT SERVICE</b>		<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>	<b>\$1,291,465</b>
DEBT COVERAGE RATIO		1.15	1.16	1.18	1.19	1.21	1.29	1.37	1.45	1.52	1.60	1.66
<b>ANNUAL CASH FLOW</b>												
<b>ANNUAL CASH FLOW</b>		<b>\$189,229</b>	<b>\$209,089</b>	<b>\$229,053</b>	<b>\$249,115</b>	<b>\$269,267</b>	<b>\$371,114</b>	<b>\$473,910</b>	<b>\$576,217</b>	<b>\$676,202</b>	<b>\$771,557</b>	<b>\$851,415</b>
Deferred Developer Fee Balance		\$3,946,245	\$3,737,156	\$3,508,103	\$3,258,989	\$2,989,722	\$1,338,468	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$825,373</b>	<b>\$3,502,377</b>	<b>\$6,684,769</b>	<b>\$10,354,224</b>	<b>\$14,459,717</b>