

**BOARD BOOK OF
May 21, 2020**



Leslie Bingham, Vice-Chair

Paul Braden, Member

Sharon Thomason, Member

Leo Vasquez III, Member

Texas Department of Housing and Community Affairs

PROGRAMMATIC IMPACT

Fiscal Year 2019 (September 1, 2018, through August 31, 2019)

Owner Financing and Down Payment	
<ul style="list-style-type: none"> 30-year, fixed interest rate mortgage loans Mortgage credit certificates Down payment, closing cost assistance Homebuyer education 	
Programs:	
<ul style="list-style-type: none"> Homebuyer Assistance Program (HBA)* Single Family Homeownership 	
Expended Funds:	\$1,693,834,604
Total Households Served:	9,605

Energy Related Assistance	
<ul style="list-style-type: none"> Utility bill payment assistance Energy consumption education Weatherization for energy efficiency 	
Programs:	
<ul style="list-style-type: none"> Comprehensive Energy Assistance Program (CEAP) Weatherization Assistance Program (WAP) 	
Expended Funds:	\$147,270,662
Total Households Served:	162,668

Multifamily New Construction	
<ul style="list-style-type: none"> Affordable rental units financed and developed 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds Multifamily Direct Loan Program* 	
Expended Funds:	\$108,945,178
Total Households Served:	7,062

Homelessness Services	
<ul style="list-style-type: none"> Shelter building rehabilitation, conversion, operations Essential services e.g., health services, transportation, job training, employment services 	
Programs:	
<ul style="list-style-type: none"> Emergency Solutions Grant Program (ESG) Homeless Housing and Services Program (HHSP) 	
Expended Funds:	\$12,162,959
Total Individuals Served:	71,350

Multifamily Rehab Construction	
<ul style="list-style-type: none"> Affordable rental units financed and rehabilitated 	
Programs:	
<ul style="list-style-type: none"> 9% Housing Tax Credits (HTC) 4% Housing Tax Credits (HTC) Multifamily Bonds 	
Expended Funds:	\$56,792,063
Total Households Served:	2,503

Supportive Services	
Provides administrative support for essential services for low income individuals through Community Action Agencies	
Program:	
<ul style="list-style-type: none"> Community Services Block Grant Program (CSBG) 	
Expended Funds:	\$31,103,729
Total Individuals Served:	561,906

Owner Rehabilitation Assistance	
<ul style="list-style-type: none"> Home rehabilitation, reconstruction Manufactured housing unit replacement Accessibility modifications e.g., ramp, grab bar installation 	
Programs:	
<ul style="list-style-type: none"> Homeowner Rehabilitation Assistance Program (HRA)* Amy Young Barrier Removal Program 	
Expended Funds:	\$11,384,025
Total Households Served:	251

Rental Assistance	
<ul style="list-style-type: none"> Short, long term rent payment help Assistance linked with services Transitional assistance Security, utility deposits 	
Programs:	
<ul style="list-style-type: none"> Tenant-Based Rental Assistance (TBRA)* Section 8 Housing Choice Vouchers Section 811 	
Expended Funds:	\$11,021,909
Total Households Served:	1,932

Single Family Development	
<ul style="list-style-type: none"> Single family development, reconstruction, rehabilitation Do-it-yourself, "sweat equity" construction, rehabilitation Contract for Deed refinance 	
Programs:	
<ul style="list-style-type: none"> Single Family Development Program (SFD)* Contract for Deed (CFD) 	
Expended Funds:	\$3,769,888
Total Households Served:	85

Total Expended Funds:	\$2,076,285,016
Total Households Served:	817,362
All FY2019 data as reported in TDHCA's 2020 State Low Income Housing Plan and Annual Report (SLIHP).	
Note: Some households may have been served by more than one TDHCA program.	

* Administered through the federally funded HOME Investment Partnerships Program

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
GOVERNING BOARD MEETING

A G E N D A
9:00 AM
May 21, 2020

Meeting Location: In light of the March 13, 2020, disaster declaration by the Office of the Governor, and the subsequent waivers of portions of Tex. Gov't Code, Ch. 551*, this meeting of the TDHCA Governing Board will be accessible to the public via the telephone and web link information, below. In order to engage in two-way communication during the meeting, persons must first register (at no cost) to attend the webinar via the link provided. Anyone who calls into the meeting without registering online will not be able to ask questions or provide comments, but the meeting will still be audible. A recording of the meeting will be made available to the public as soon as possible following the meeting.

Governing Board Webinar registration:

<https://attendee.gotowebinar.com/register/3008196050400077325> Dial-in number: +1 (562) 247-8422, access code 197-388-021 (persons who use the dial-in number and access code without registering online will only be able to hear the Board meeting and will not be able to ask questions or provide comments). Note, this meeting will be proceeding as a videoconference under Tex. Gov't Code §551.127, as modified by waiver.

If the GoToWebinar terminates prior to adjournment of the meeting (i.e. if the webinar session "crashes") the meeting will be recessed. A new link to the meeting will be posted immediately on the TDHCA Board meetings web page (<https://www.tdhca.state.tx.us/board/meetings.htm>) along with the time the meeting will resume. The time indicated to resume the meeting will be within six hours of the interruption of the webinar. Please note that in this contingency, the original meeting link will no longer function, and only the new link (posted on the TDHCA Board meetings web page) will work to return to the meeting.

CALL TO ORDER

ROLL CALL

Leslie Bingham, Vice Chair

CERTIFICATION OF QUORUM

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

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

Resolution recognizing June as *Homeownership Month*

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent

* The list of Open Meeting laws subject to temporary suspension effective March 16, 2020, is available at: <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Open%20Meeting%20Laws%20Subject%20to%20Temporary%20Suspension.pdf>

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:

EXECUTIVE

- a) Presentation, discussion, and possible action on Board meeting minutes summary for February 27, 2020, and March 26, 2020

J. Beau Eccles
General Counsel

ASSET MANAGEMENT

- b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

Rosalio Banuelos
Director of Asset Management

16170	Whitehouse Senior Village	Whitehouse
17004	Old Dowlen Cottages	Beaumont
19235	The Reserves at Saddleback Ranch	Wolfforth

- c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement

99011	Plum Creek Townhomes	Houston
02151	Windsor Gardens Apartments	Houston
04420	Tranquility Bay Apartments	Pearland
060035	Quail Ridge Apartments	Hempstead

- d) Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount

17449	Quail Chase Apartments	Houston
-------	------------------------	---------

LEGAL

- e) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Coppertree Village (HTC 70131/CMTS 931)

Jeff Pender
Deputy General Counsel

MULTIFAMILY FINANCE

- f) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications

Teresa Morales
Director of Multifamily Bonds

20410	Trader Flats	San Antonio
20412	1604 Lofts	San Antonio
20405	Gala at Fate	Fate
20413	Residences at Merritt Hill	Rowlett
20447	Franklin Park	Austin
20450	Mira Vista	San Antonio

- g) Presentation, discussion and possible action on a waiver related to §11.101(a)(1) regarding Site Requirements and Restrictions for Palladium Port Aransas (#20401) in Port Aransas

- h) Presentation, discussion, and possible action on a waiver of certain amenity requirements in 10 TAC §11.101(b)(4) (NSP1 PI Contract #77090000603 Grim Hotel, Texarkana)

Andrew Sinnott
Multifamily Loan Programs Administrator

- i) Presentation, discussion, and possible action on a waiver of certain reserve requirements in 10 TAC §10.404(a)(3)(B)

- j) Presentation, discussion, and possible action on the Third Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability

BOND FINANCE

- k) Presentation, discussion, and possible action on Inducement Resolution No. 20-018 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

Teresa Morales
Director of
Multifamily Bonds

20610 Terrace at Southern Oaks Dallas
20613 Riverside Senior Living Fort Worth

HOUSING RESOURCE CENTER

- l) Presentation, discussion, and possible action on the draft 2021 Regional Allocation Formula Methodology

Elizabeth Yevich
Director of
Housing Resource Center

- m) Presentation, discussion, and possible action on the ratification of a substantial amendment of the 2019 State of Texas Consolidated Plan: One-Year Action Plan

SINGLE FAMILY AND HOMELESS PROGRAMS

- n) Presentation, discussion, and possible action on an order adopting the repeal and new 10 TAC Chapter 7, Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34, §7.36, §§7.41-44, Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, and directing their submission to the Texas Register for adoption
- o) Presentation, discussion, and possible action to authorize the issuance of the 2020 Emergency Solutions Grants Program Notice of Funding Availability and publication in the Texas Register

Abigail Versyp
Director of Single Family
and Homeless Programs

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Outreach and Activities Report (April-May)
- b) Report on Extension Authority Granted by the Board to the Executive Director in Response to COVID-19
- c) Housing Finance Activity Report
- d) Report on Activities Related to the Department’s Response to COVID-19 Pandemic
- e) Report on the 2021 and 2022 QAP Planning Process

Michael Lyttle
Director of
External Affairs

Teresa Morales
Director of
Multifamily Bonds

Cathy Gutierrez
Director of
Texas Homeownership

Brooke Boston
Director of Programs

Marni Holloway
Director of
Multifamily Finance

ACTION ITEMS

ITEM 3: DEPARTMENT OF POLICY & PUBLIC AFFAIRS

- a) Presentation, discussion, and possible action on the agency strategic plan for fiscal years 2021-2025

Michael Lyttle
Director of
External Affairs

ITEM 4: COMPLIANCE

- a) Presentation, discussion, and possible action on a Dispute of the Compliance Division’s assessment of the Applicant’s compliance history to be reported to the Executive Award Review Advisory Committee regarding

Patricia Murphy
Director of Compliance

20604 The Walzem San Antonio
20611 333 Holly The Woodlands

ITEM 5: BOND FINANCE

- a) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Notes (Scott Street Lofts Apartments) Resolution No. 20-019 and a Determination Notice of Housing Tax Credits
- b) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – 333 Holly) Resolution No. 20-020 and a Determination Notice of Housing Tax Credits
- c) Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – The Pines) Resolution No. 20-021 and a Determination Notice of Housing Tax Credits
- d) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (The Walzem) Resolution No. 20-022 and a Determination Notice of Housing Tax Credits

Teresa Morales
Director of
Multifamily Bonds

ITEM 6: AGENCY RESPONSE TO COVID-19 PANDEMIC AND ACTIVITY UNDER HR 748, CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT)

- a) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for Emergency Solutions Grants Program funds allocated to the State of Texas through the Coronavirus Aid, Relief, and Economic Security Act
- b) Presentation, discussion and possible action authorizing the Executive Director to waive or extend certain construction inspection requirements under 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule
- c) Presentation, discussion and possible action on the programming of Housing Choice Voucher Program Administrative funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to proceed with said programmed activities

Abigail Versyp
Director of Single Family
and Homeless Programs

Marni Holloway
Director of
Multifamily Finance

Michael De Young
Director of
Community Affairs

ITEM 7: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20416, Heritage Estates at Owen Tech, Austin extraterritorial jurisdiction)
- b) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20400, Palladium at West Francis, Midland)
- c) Presentation, discussion and possible action regarding eligibility under 10 TAC §11.101(b)(1)(C) related to Ineligibility of Developments within Certain School Attendance Zones and 10 TAC §11.101(a)(3)(B)(iv) related to Neighborhood Risk Factors for Preserve at the Port (#20468) in San Antonio
- d) Presentation, discussion, and possible action regarding requests for waiver of the Department’s Multifamily Program Rules for 20128 OST Lofts
- e) Presentation, discussion, and possible action on timely filed appeals under the Department’s Multifamily Program Rules

Teresa Morales
Director of
Multifamily Bonds

Marni Holloway
Director of
Multifamily Finance

20040	Espero Austin at Rutland	Austin
20041	Espero Austin at W. 24 th	Austin
20114	3300 Caroline Street	Houston
20148	High View Place	Killeen
20318	Cypress Creek at Spencer Landing	La Porte
20342	The Cottages at Cedar Ridge	Elgin

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):

Leslie Bingham
Vice 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 or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th 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 Elizabeth Yevich, at 512-463-7961 or Relay Texas at 1-800-735-2989, at least five 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 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.

Texas Department of Housing and Community Affairs

RESOLUTION

WHEREAS, June 2020 is Homeownership Month in Texas;

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

WHEREAS, it is the policy of the Department to support equal housing opportunities in the administration of its homebuyer and homeownership programs and services;

WHEREAS, since 1981, the Department has served as the State’s housing finance agency, providing a choice of mortgage products and services to meet the needs of low, very low, and moderate income homebuyers throughout the State;

WHEREAS, the Department offers a free online homebuyer education tool, Texas Homebuyer U, and administers funds to support the Texas Statewide Homebuyer Education Program to inform and prepare buyers for successful homeownership;

WHEREAS, the Department applauds all those who work to achieve and maintain affordable, responsible homeownership and recognizes those who provide services and resources to all homebuyers regardless of race, color, national origin, religion, sex, disability, or familial status; and

WHEREAS, the Department encourages Texans to explore the numerous affordable home buyer resources available during Homeownership Month and throughout the year;

NOW, therefore, it is hereby

RESOLVED, that in the pursuit of the goal of affordable homeownership opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs, does hereby celebrate June 2020 as Homeownership Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of Homeownership Month.

Signed this Twenty-First Day of May 2020.



Leslie Bingham, Vice Chair

Leo Vasquez, Member

Paul Braden, Member

Sharon Thomason, Member

Bobby Wilkinson, Executive Director

1a

BOARD ACTION REQUEST

BOARD SECRETARY

MAY 21, 2020

Presentation, discussion, and possible action on Board meeting minutes summaries for February 27, 2020, and March 26, 2020

RECOMMENDED ACTION

Approve the Board meeting minutes summaries for February 27, 2020, and March 26, 2020

RESOLVED, that the Board meeting minutes summary for February 27, 2020, and March 26, 2020, are hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
February 27, 2020**

On Thursday, the twenty-seventh day of February 2020, at 9:00 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held in the Texas Capitol Extension, Hearing Room E2.030, 1100 Congress Avenue, Austin, Texas.

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

- Leslie Bingham, Vice Chair
- Paul A. Braden
- Sharon Thomason
- Leo Vasquez

Leslie Bingham served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as secretary.

- 1) The Board unanimously approved a resolution recognizing and celebrating the 20th anniversary of the Texas Bootstrap Loan Program
- 2) The Board unanimously approved the Consent Agenda as presented.
- 3) Action Item 3 – Housing Finance Activity Report – was presented by Cathy Gutierrez, TDHCA Director of Texas Homeownership Programs. The Board heard the report and took no action.
- 4) Action Item 4 – Presentation, discussion, and possible action regarding approval of a Multifamily Direct Loan assumption for 1001800 The Lakeshore Apartments Homes in Lake Dallas – was presented by Rosalio Banuelos, TDHCA Director of Asset Management. The Board unanimously approved staff recommendation to approve the loan assumption with conditions.
- 5) Action Item 5(a) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.204(15) regarding the requirements for a Feasibility Report for proposed Rehabilitation Development Applications – was presented by Marni Holloway, TDHCA Director of Multifamily Finance. The Board unanimously approved staff recommendation to waiver relating to feasibility reports for each submitted 2020 rehabilitation application.
- 6) Ms. Holloway, with additional information from Bobby Wilkinson, TDHCA Executive Director, and Mr. Eccles, presented Action Item 5(b) – Presentation, discussion, and possible action on penalties for failure to meet deadlines under 10 TAC §11.9(c)(8) Readiness to Proceed for 19070 South Rice Apartments, Houston; 19074 900 Winston, Houston; 19077 Telephone Road Elderly, Houston; 19085 Gala at McGregor, Houston; 19242 The Tramonti, Houston; 19245 Huntington Chimney Rock, Houston; and 19296 McKee City Living, Houston.

The Board unanimously approved staff recommendation for no penalties for 19070 South Rice Apartments, 19074 900 Winston, 19085 Gala at McGregor, and 19296 McKee City Living.

Following public comment (listed below), the Board unanimously approved a motion to impose a one-point penalty on the Houston Housing Authority for the 2020 application round.

- James Williams, Sr., Houston Housing Authority, provided information regarding 19077 Telephone Road Elderly
- Sarah Scott, Coats Rose attorney representing HHA, provided information regarding 19077 Telephone Road Elderly

Following public comment (listed below), the Board unanimously approved staff recommendation to impose a penalty on 19242 The Tramonti and 19245 Huntington Chimney Rock and moved to assess a two-point penalty against MGroup for the 2020 application round.

- Mark Musemeche, MGroup, testified in opposition to staff recommendation

7) Action Item 5(c) – Presentation, discussion, and possible action on the First Multifamily Direct Loan Notice of Funding Availability – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to approve the NOFA.

8) Action Item 5(d) – Presentation, discussion, and possible action regarding the cancellation of the 2020-2 Multifamily Direct Loan Special Purpose Notice of Funding Availability and approval of the 2020-2B Multifamily Direct Loan Special Purpose Notice of Funding Availability – was presented by Ms. Holloway with additional information from Mr. Wilkinson. The Board unanimously approved staff recommendation to cancel the 2020-2 NOFA and approve the 2020-2B NOFA.

9) Action Item 5(e) – Presentation, discussion, and possible action regarding the approval for publication in the *Texas Register* of the 2020-4 Multifamily Direct Loan Special Purpose Notice of Funding Availability (NOFA) – was presented by Ms. Holloway. The Board unanimously approved staff recommendation to publish the NOFA.

10) Action Item 6 – Presentation, discussion, and possible action on the proposed repeal and proposed new 10 TAC Chapter 7, Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34, §7.36, §§7.41-44, Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, and directing publication for public comment in the *Texas Register* – was presented by Naomi Cantu, TDHCA Administrator of Homeless Programs. The Board unanimously approved staff recommendation to publish the draft rules.

11) Action Item 7 – Presentation, discussion, and possible action on Inducement Resolution No. 20-010 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications

for Private Activity Bond Authority for 20602 Vermillion Apartments, Houston; and 20604 The Walzem, San Antonio ETJ – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to approve the resolution inducing the housing bonds.

12) During the Public Comment portion of the meeting the follow persons provided comment:

- Lauren Loney, Texas Housers, shared concerns her organization has with Sandpiper Cove, a housing tax credit development in Galveston, and the ownership of the development.
- Tim Alcott, San Antonio Housing Authority, provided comments on the existing Qualified Allocation Plan (QAP) and referenced a possible change in the next QAP and his concerns about that change.
- Jaime Longoria, Hidalgo County Community Service Agency (HCCSA), thanked the Board and Staff for recent awards which his organization used to develop a mobile service van which assists citizens with accessing critical services.
- Ricardo Saldaña, Hidalgo County Emergency Management Coordinator, also thanked the Board and Staff for recent awards which HCCSA used to develop a mobile service van which assists citizens with accessing critical services.
- Ernie Palacios, TDHCA Staff, was recognized on the occasion of his retirement from TDHCA after 28 ½ years of service.

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

There being no further business to come before the Board, the meeting adjourned at 10:26 a.m. The next meeting is set for Thursday, March 26, 2020.

Secretary

Approved:

Chair

**Texas Department of Housing and Community Affairs Governing Board
Board Meeting Minutes Summary
March 26, 2020**

On Thursday, the twenty-sixth day of March 2020, at 9:00 a.m., the regular meeting of the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or the Department) was held online via telephone and web link.

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

- Leslie Bingham, Vice Chair
- Paul A. Braden
- Sharon Thomason
- Leo Vasquez

Leslie Bingham served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as secretary.

1) The Board unanimously approved a resolution recognizing and celebrating April 2020 as Fair Housing Month in Texas.

2) The Board unanimously approved the Consent Agenda as presented except for Item 1(e) – Presentation, discussion, and possible action on the draft 2020-2024 State of Texas Consolidated Plan – which required revision and was moved to the Action Item agenda.

3) Action Item 1(e) – Presentation, discussion, and possible action on the draft 2020-2024 State of Texas Consolidated Plan – was presented by Elizabeth Yevich, TDHCA Director of the Housing Resource Center. The Board unanimously approved staff recommendation as amended to approve the draft plan.

4) Action Item 3(a) – Review and possible acceptance of the State Auditor’s Office audit of the TDHCA Financial Statement – was presented by Sharon Thomason, Chair of the TDHCA Board Audit and Finance Committee. Following public comment (listed below), the Board unanimously approved to accept the audit.

- Robert Pagenkopf, State Auditor’s Office, provided information on the item

5) Action Item 3(b) – Report on the meeting of the Internal Audit and Finance Committee – was presented by Ms. Thomason. The Board heard the report and took no action.

6) Action Item 4(a) – Presentation, discussion, and possible action on a proposed amendment to a Colonia Self-Help Center Program Contract with El Paso County in accordance with 10 TAC Chapter 25, the Colonia Self-Help Center Program Rule – was presented by Abigail Versyp,

TDHCA Director of Single Family and Homelessness Programs. The Board unanimously approved staff recommendation to approve the amendment to the contract.

7) Action Item 5(a) – Presentation, discussion, and possible action regarding the Issuance of a Multifamily Note (The Reserves at San Marcos Apartments) Resolution No. 20-012 and a Determination Notice of Housing Tax Credits – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation approving the resolution and issuance of the tax credits.

8) Action Item 6(a) – Presentation, Discussion and Possible Action authorizing the Executive Director to extend certain deadlines under 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), and 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule and related Notices of Funding Availability (NOFA) – was presented by Marni Holloway, TDHCA Director of Multifamily Finance. Following public comment (listed below), the Board unanimously approved staff recommendation to authorize the executive director to extend certain deadlines.

- Sarah Andre, Structure Development, provided information on the item

9) Action Item 6(b) – Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for state and federal funds administered by the Single Family and Homeless Programs Division for disaster response for qualified persons and households most impacted by COVID-19, and authorization to submit a minor amendment to the State of Texas 2019 Action Plan – was presented by Ms. Versyp. The Board unanimously approved staff recommendation to grant the waivers and submit the minor amendment to the plan.

10) Action Item 6(c) – Presentation, discussion, and possible action on the reprogramming of Program Year 2019 and programming of 2020 Community Services Block Grant Administrative and Discretionary funds for response to COVID-19 – was presented by Michael DeYoung, TDHCA Director of Community Affairs, with additional information from Bobby Wilkinson, TDHCA Executive Director, and Brooke Boston, TDHCA Director of Programs. The Board unanimously approved staff recommendation to reprogram the 2019 funds and program the 2020 funds as outlined in the item.

11) Action Item 6(d) – Presentation, discussion, and possible action authorizing the Executive Director to take extend certain deadlines and take possible waiver action for provisions of 10 TAC Chapter 6, Community Affairs Programs, and related Notices of Funding Availability (NOFAs) and contracts, for federal funds administered by the Community Affairs Division for disaster response for qualified persons and households impacted most impacted by COVID-19 – was presented by Mr. DeYoung. The Board unanimously approved staff recommendation to authorize the executive director to extend certain deadlines and seek certain waivers.

12) During the Public Comment portion of the meeting the follow persons provided comment:

- Meredith Maycotte expressed concerns about 20041 Espero Austin, a 2020 9% housing tax credit application
- Rowena Dasch expressed concerns about 20041 Espero Austin, a 2020 9% housing tax credit application
- Jennifer Hicks, Tru Casa Consulting and representing 20041 Espero Austin, provided comments addressing concerns expressed by the previous two commenters

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

There being no further business to come before the Board, the meeting adjourned at 10:15 a.m. The next meeting is set for Thursday, April 23, 2020.

Secretary

Approved:

Chair

1b

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Whitehouse Senior Village (HTC #16170)

RECOMMENDED ACTION

WHEREAS, Whitehouse Senior Village (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2016 for the new construction of 72 multifamily units in Whitehouse, Smith County;

WHEREAS, Whitehouse Senior Village, Ltd. (the Development Owner or Owner) requests approval for a 50.53% (1,681 square feet) reduction in the common area, going from 3,327 square feet to 1,646 square feet;

WHEREAS, Board approval is required for a reduction of three percent or more in the common areas as directed in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D), and the Owner has complied with the amendment requirements therein; and

WHEREAS, the requested change does not negatively affect the Development, impact the viability of the Development, impact the scoring of the Application, or affect the amount of the tax credits awarded;

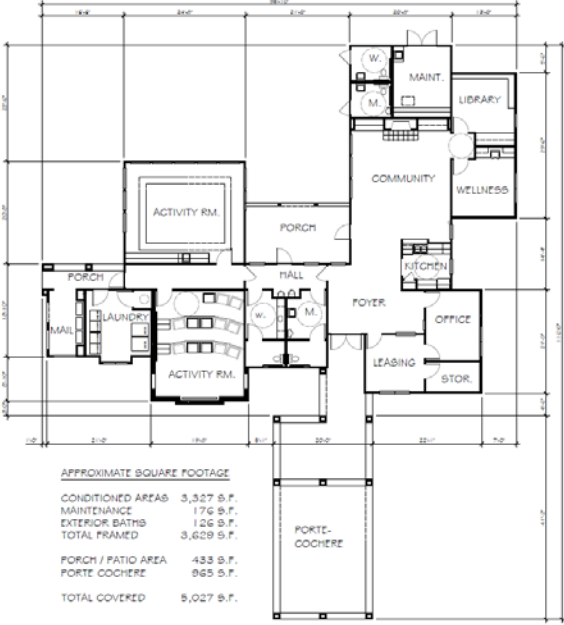
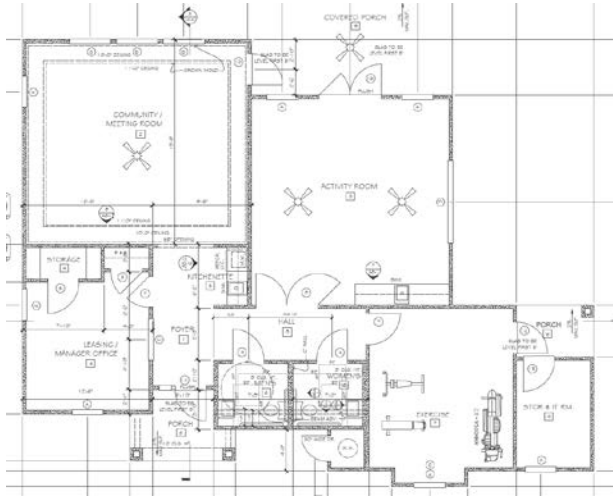
NOW, therefore, it is hereby

RESOLVED, that the requested material amendment for Whitehouse Senior Village is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Whitehouse Senior Village received a 9% HTC award in 2016 for the new construction of 72 multifamily units (56 of which are HTC) in Whitehouse, Smith County. Construction of the Development is complete, and the cost certification documentation has been submitted to the Department. Staff's review of the cost certification documentation revealed changes to the Development, and in a letter dated April 28, 2020, Leslie Holleman, the Manager of the General Partner for the Development Owner, requested approval for a material amendment to the

original common area design. Specifically, the request seeks approval for a 50.53% decrease, or 1,681 square foot reduction, to the common area, from 3,327 square feet to 1,646 square feet. A comparison of original and revised common area is shown in the following table:

Material Alterations as defined in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D)															
Application	Amendment														
Common Area: Clubhouse: 3,327 s.f.	Common Area: Clubhouse: 1,646 s.f.														
<p style="text-align: center;">Clubhouse:</p>  <p style="text-align: center;">APPROXIMATE SQUARE FOOTAGE</p> <table border="1"> <tr><td>CONDITIONED AREAS</td><td>3,327 S.F.</td></tr> <tr><td>MAINTENANCE</td><td>176 S.F.</td></tr> <tr><td>EXTERIOR BATHS</td><td>126 S.F.</td></tr> <tr><td>TOTAL FRAMED</td><td>3,629 S.F.</td></tr> <tr><td>PORCH / PATIO AREA</td><td>433 S.F.</td></tr> <tr><td>PORTE-COCHERE</td><td>969 S.F.</td></tr> <tr><td>TOTAL COVERED</td><td>5,027 S.F.</td></tr> </table>	CONDITIONED AREAS	3,327 S.F.	MAINTENANCE	176 S.F.	EXTERIOR BATHS	126 S.F.	TOTAL FRAMED	3,629 S.F.	PORCH / PATIO AREA	433 S.F.	PORTE-COCHERE	969 S.F.	TOTAL COVERED	5,027 S.F.	<p style="text-align: center;">Clubhouse:</p> 
CONDITIONED AREAS	3,327 S.F.														
MAINTENANCE	176 S.F.														
EXTERIOR BATHS	126 S.F.														
TOTAL FRAMED	3,629 S.F.														
PORCH / PATIO AREA	433 S.F.														
PORTE-COCHERE	969 S.F.														
TOTAL COVERED	5,027 S.F.														

The amendment request letter explains that the originally proposed square footage of the common area is much larger than would be typically used for a development of only 72 units. Additionally, according to the Owner, there were steep, unexpected increases in construction pricing due to the threat of tariffs, and when construction bids were received, the project was more than \$1M over budget. The Owner indicated that a reduction to the size of the clubhouse was one of the value engineering measures undertaken; however, the required number of amenity points and appropriate common space for the number of units were still provided.

In addition to the material reduction to the common area, the as-built survey submitted as part of the cost certification indicates a total site area of 14.528 acres, which is a 1.97% reduction from the 14.82 acre site area reported at Application. The difference is due to a right-of-way dedication for the extension of Leamington Spa Road in the northeast corner of the

Development, which breaks out the development site into two lots of 14.247 acres and 0.281 acres. This is considered a Notification Item under 10 TAC §10.405(a)(2)(A).

Staff has reviewed the original Application and determined that the revisions noted above do not negatively affect the Development and do not affect the scoring of the Application or the tax credit award. The final recommended HTC amount will be determined upon finalization of the cost certification analysis.

Staff recommends approval of the requested material amendment to the Application for the reduction of common area and acknowledgment of the reduced development site area.

Whitehouse Senior Village, Ltd.
404 E. Worth Street
Grapevine, TX 76051

April 28, 2020

Mr. Rosalio Banuelos
Director of Multifamily Asset Management
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: #16170 Whitehouse Senior Village: Material Amendment Request

Dear Rosalio:

As you are aware, as part of the Cost Certification review process, the need for a Material Amendment was identified due to a change in common area square footage. At Application, the conceptual floor plan of the club house included 3,340 square feet of conditioned space, which is much larger than would be typically be used for a development of only 72 units.

As you may recall, there was quite a bit instability in the tax credit market after the 2016 election. While Whitehouse Senior Village, Ltd. was fortunate that it was able to maintain its credit pricing, the Partnership experienced steep increases in construction pricing due to the threat of tariffs; when construction bids were received, the project was more than \$1M over budget. As mentioned in the Cost Certification RFI, value engineering measures had to be undertaken. One such measure was to reduce the size of the clubhouse, while still maintaining the required number of amenity points, and appropriate common area space for the number of units.

The increase in construction pricing was unforeseen and could not have been anticipated by the Applicant. Furthermore, the difference in size of the club house would not have change the Application's score during 2016 Application Round.

Should you have any question, or need additional information, please contact me at (325) 784-9797 or by email at leslie@holleman-associates.com.

Sincerely,



Leslie Holleman
Manager of the General Partner

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for Old Dowlen Cottages (HTC #17004)

RECOMMENDED ACTION

WHEREAS, Old Dowlen Cottages (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2017 for the new construction of 72 multifamily units in Beaumont, Jefferson County;

WHEREAS, Structure Development, LP, the consultant for Old Dowlen Cottages Apartments, LP (the Development Owner or Owner), requests approval for an overall 8.76% reduction in the common area and for non-material changes to the design plans;

WHEREAS, Board approval is required for a reduction of three percent or more in the common areas, as directed in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D), and the Owner has complied with the amendment requirements therein; and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the application, or affect the amount of the tax credits awarded;

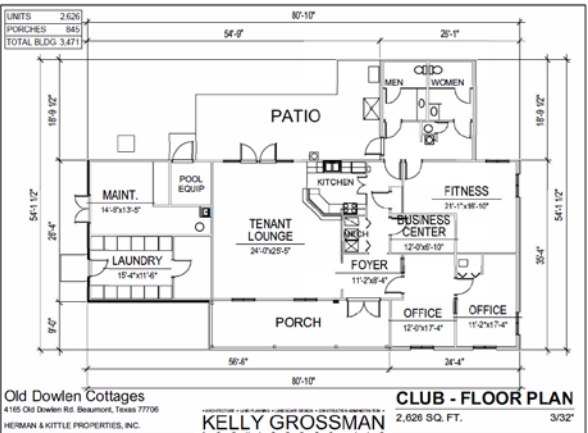
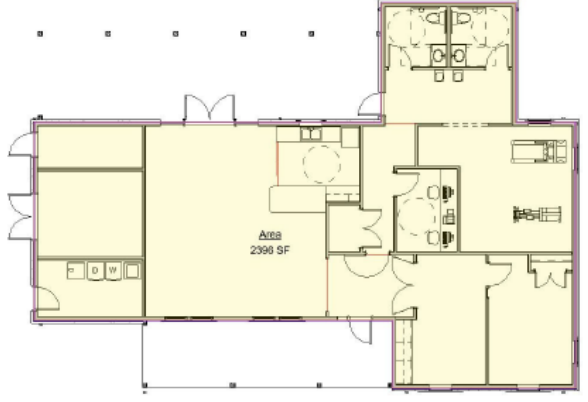
NOW, therefore, it is hereby

RESOLVED, that the requested material amendment for Old Dowlen Cottages is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

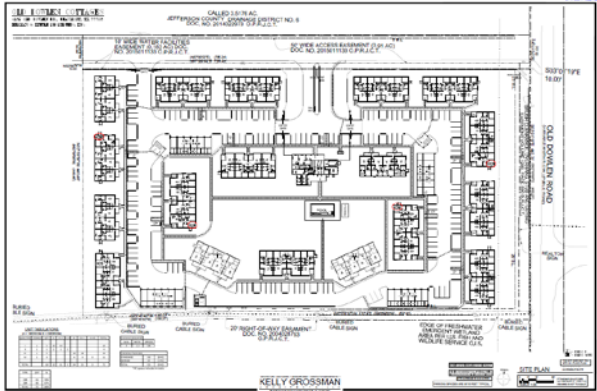
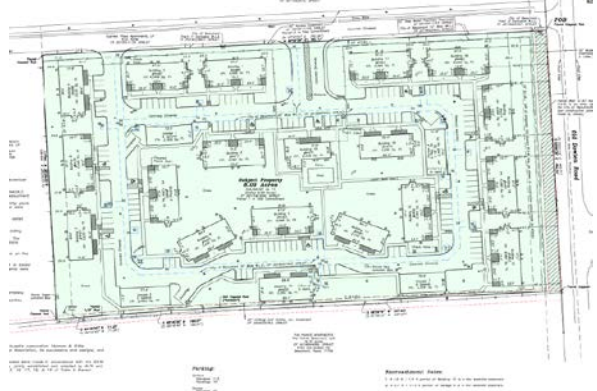
Old Dowlen Cottages received a 9% HTC award in 2017 to construct 72 units in Beaumont, Jefferson County. In a letter dated March 24, 2020, Sarah Andre, the consultant for the Development Owner, requested approval for a material amendment to the original common area design and for non-material changes to the original design plans. Specifically, the request seeks approval for an overall 8.76% (or 230 square foot) reduction to the common area, going from 2,626 square feet to 2,396 square feet.

The amendment request letter states that there was a reduction in the community laundry room to make it the appropriate size for the required number of washers and dryers provided and that there was a reduction in the restrooms in which a toilet partition in the center of each room was eliminated, making it a single user space. A comparison of original and revised Common Area is identified in the following table:

Material Alterations as defined in Tex. Gov't Code §2306.6712(d)(4) and 10 TAC §10.405(a)(4)(D)	
Application	Amendment
Common Area: Clubhouse 2,626 s.f.	Common Area Clubhouse 2,396 s.f.
Clubhouse: 	Clubhouse: 

In addition to the material reduction to the common area, the revised design plan identifies some changes that are considered Notification Items under 10 TAC §10.405(a)(2)(B). The Owner identified changes to the parking that was proposed at Application. Originally, the parking was designed with 132 free, open parking spaces, 23 paid garage parking spaces, and one garage space used for property maintenance. However, the arrangement of buildings has been modified slightly, and with the revised design, the Owner will eliminate nine free, open parking spaces, bringing the number of open parking spaces down to 123. The Development now has 24 paid garage spaces, as the Owner no longer will use one of the garage bays for property maintenance. The Owner indicated that the reduction of the parking spaces was due to a couple of reasons. One reason was that a building was moved to avoid moving existing storm water drainage piping, which eliminated some parking spaces. The second reason was that the Owner decided to eliminate one parking space in front of several buildings to allow for wider parking spots that would provide a larger turning radius and make it easier for residents to get in and out of cars. According to the Owner, the city requires a total of 108 parking spaces (1.5 per unit) for the Development, and therefore, the Development will continue to meet the

requirement in 10 TAC §10.101(b)(4)(M), which specifies that adequate parking spaces consistent with local code must be available at no cost to the tenants.

Notification Items under 10 TAC §10.405(a)(2)(B)	
Application	Amendment
<p>Total Free Parking Spaces: 132 Total Paid Garages: 23 Maintenance Garage: 1</p> 	<p>Total Free Parking Spaces: 123 Total Paid Garages: 24</p> 

Ms. Andre states that the amended design plans did not impact construction costs. She indicated that these changes are routine in the construction process, as the preliminary plans often change slightly during the actual permitting and construction and that no amenities provided to the tenants at the Development will be affected by these changes. The cost certification documentation for the Development is currently under review by the Department, and the final recommended HTC amount will be determined upon finalization of the cost certification analysis.

Staff has reviewed the original Application and determined that the revisions to the design plans noted above do not negatively affect the Development and do not affect the scoring of the Application or the tax credit award. In addition, the Development will continue to meet the accessibility requirements.

Staff recommends approval of the requested material amendment to the Application.



March 24, 2020

Mr. Kent Bedell
Asset Manager (Regions 4, 5, and 11)
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

Re: Old Dowlen Cottages, #17004, Beaumont, Texas

Dear Mr. Bedell:

Please accept this formal request for an amendment to project 17004 Old Dowlen Cottages to adjust the size of the common area. Also included in this packet is one item that requires notification. There has been a modification to the Site Plan since Application. The arrangement of buildings has been modified slightly. This did not affect the unit count or the unit sizes. It did affect the parking count on the Site. The parking has decreased from 132 spaces to 123 surface spaces and 24 garages. This number is still well above the 108 parking spaces required by local code. The revised Site Plan is included for your reference.

SECTION 1

Changes Requested

Old Dowlen Cottages is a new construction project. At application, the proposed Community Center had 2,626 square feet, 1,222 square feet of which was common area for tenants. As built, the Community Center has 2,396 square feet, of which 1,142 square feet is for tenant use. The common area for tenant use decreased from 1,222 square feet to 1,142 square feet, a decrease of approximately 6.5%. This decrease constitutes a Material Amendment.

Reason the Change is Necessary

The reason for the change in square feet is due to two items. First, the Community Laundry Room was decreased in size to make it the correct size for the required number of washers and dryers provided. This reduced the size of the Laundry Room and as a result, decreased the length of the Community Center. Second, the Men's and Women's restrooms were decreased in size. By eliminating the toilet partition in the middle of the room, and treating the room as a single user space, the accessibility clearances could still be met.

Good Cause for the Change

The Community Center plan submitted at Application was a preliminary plan. As is often the case, preliminary plans change slightly during the actual permitting and construction. The changes noted are routine in construction process and do not take away from the amenities provided to tenants at the Development. The development is constructed and operable. As built figures are often slightly off from projections during application.

Explanation of Foreseeable or Preventable Nature

The change was not foreseeable. The plans submitted at Application were preliminary plans, and is often the case, slight modifications were made during the construction process.

SECTION 2

Per the Amendment Request Form Section 2 requirements, the Signed Statement of No Financial Impact is attached. I am also attaching the As-built floor plan for the Community Center and the revised Site Plan. The amendment fee of \$2500 has been mailed to the TDHCA PO Box.

Please feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Andre", with a long horizontal stroke extending to the right.

Sarah Andre
Consultant to the Project

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application for The Reserves at Saddleback Ranch (HTC #19235)

RECOMMENDED ACTION

WHEREAS, The Reserves at Saddleback Ranch (the Development) received an award of 9% Housing Tax Credits (HTCs) and a Multifamily Direct Loan (HOME) in 2019 for the new construction of 40 units of multifamily housing in Wolfforth, Lubbock County;

WHEREAS, OPG Saddleback Ranch Partners, LLC (the Applicant) requests approval for a significant modification of the site plan, a change in the architectural design, which includes the modification in the number of residential buildings (from three to two) and clubhouse (from one standalone building to inclusion in new Building A), a modification in the number of stories in each building (from two to three), and a modification in the site location of buildings;

WHEREAS, Board approval is required for a significant modification of the site plan and for a significant modification of the architectural design of the Development, as directed in Tex. Gov't Code §2306.6712(d)(1) and (5) and 10 TAC §10.405(a)(4)(A) and (E), and the Applicant has complied with the amendment requirements therein; and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the application, or affect the amount of the tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested amendments for The Reserves at Saddleback Ranch are approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

The Reserves at Saddleback Ranch was approved in 2019 for an award of 9% Housing Tax Credits and a HOME Multifamily Direct Loan in the amount of \$950,000 to construct 40 units, of which 34 units are designated as rent and income restricted, in Wolfforth, Lubbock County.

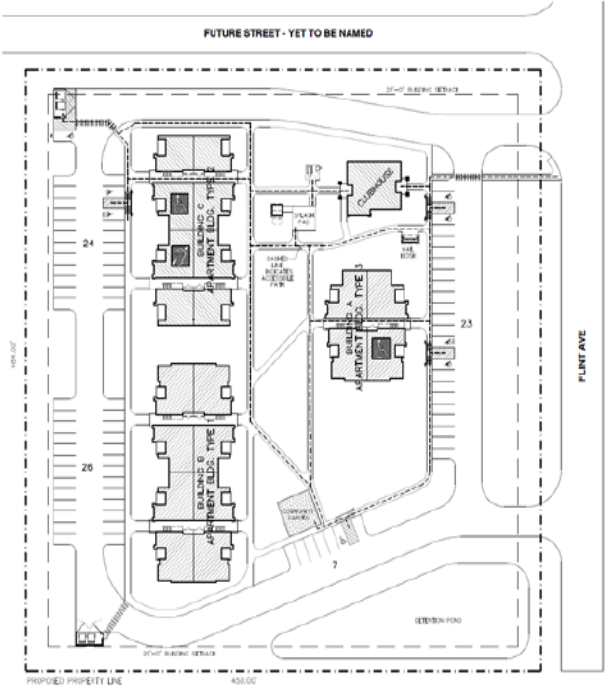
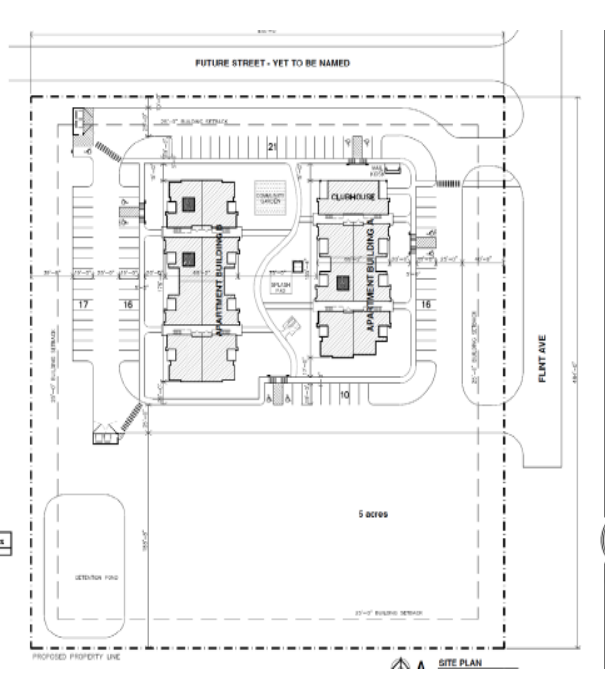
In a letter as of February 11, 2020, Alyssa Carpenter, consultant for the Applicant, OPG Saddleback Ranch Partners, LLC, requested approval for a material amendment to the Application due to a modification to the site plan and change in architectural design, including a reduction in the number of buildings. These changes are being requested due to increased construction costs, including costs to extend a street and utilities to the site that were unforeseen at the time of Application. These changes are necessary due to access requirements and general cost increases. According to the amendment request, the good cause for the change is to keep affordable units in Wolfforth.

This is a 5-acre development site on a to-be-extended street. At Application, it was contemplated that the Development would pay a portion of the road extension paving and utility extension costs because total costs would be shared with other landowners adjacent to the street extension. The site plan also proposed spreading buildings and parking over the entire five acres with a second point of ingress/egress at the southern portion of the site.

Subsequent to Application, road and utility extension costs were higher than estimated because the developer would need to pay for all of the costs due to the denial of adjacent landowners to contribute. As a result of these additional costs and higher development costs in general for the Development, the site plan has been reconfigured to be more efficient and lower construction costs. Instead of three residential buildings and one clubhouse building proposed at Application, this amendment proposes two residential buildings, one of which includes clubhouse amenities. Additionally, the buildings and parking areas have been consolidated to the northern part of the site, which limits costs and reduces the length of the overall street extension. Parking totals are the same as at application.

At Application, the three residential buildings were two stories and the clubhouse was one story. In order to improve efficiency and limit costs, this amendment proposes two buildings that are both three stories in height. Clubhouse amenities are now on the first floor of Building A. Interior and covered patio tenant common area at Application was 1,617 square feet and is proposed to be 1,596 square feet, which is a reduction of 21 square feet or 1.3%. The size and number of units did not change from Application. A comparison of the site plan from Application to this amendment request is in the table below.

Material Alterations as defined in Tex. Gov't Code §2306.6712(d)(1)(5) and 10 TAC §10.405(a)(4)(A)(E)

Application	Amendment
<p data-bbox="321 310 662 340">Original Building & Site Plan:</p>  <p>The original site plan shows a rectangular property bounded by a 'FUTURE STREET - YET TO BE NAMED' to the north and 'FLINT AVE' to the east. The site contains several buildings: 'BUILDING C APARTMENT BLDG. TYPE', 'BUILDING B APARTMENT BLDG. TYPE', 'BUILDING A APARTMENT BLDG. TYPE', and a 'Clubhouse'. There are parking spaces, a 'SEWER POND', and a 'PROPOSED PROPERTY LINE' indicated. Dimensions include 140.00' on the west side and 450.00' on the south side.</p>	<p data-bbox="971 310 1312 340">Revised Building & Site Plan:</p>  <p>The revised site plan shows the same property boundaries. The buildings are now labeled 'APARTMENT BUILDING' and 'CLUBHOUSE'. The parking layout has been reconfigured, and a '5 acres' area is now shown at the bottom of the site. The 'SEWER POND' and 'PROPOSED PROPERTY LINE' are also present. Dimensions include 140.00' on the west side and 450.00' on the south side. A north arrow and the text 'SITE PLAN' are included at the bottom right.</p>

Revised financial exhibits were also submitted at the time of the amendment request, including an updated Rent Schedule, Annual Operating Expenses schedule, Development Cost Schedule, Summary of Sources and Uses, 15 Year Operating Pro Forma, new term sheets and a revised equity letter. The Real Estate Analysis (REA) Division re-evaluated the transaction pursuant to Tex. Gov't Code §2306.6712(b) and has concluded that the Development remains feasible. The REA Addendum is attached. In summary, total development costs increased by \$73K or less than 1%. MHDF replaced Horizon Bank, providing permanent financing of \$1.412M (increase of \$212K) at a more favorable interest rate of 4.6% instead of 6%. Total debt service decreased slightly (less than 2%), but there was also a slight decrease in total Debt Coverage Ratio (DCR) from 1.16 to 1.15. Also, an updated term sheet from MHEG indicates decreased credit price at \$0.90 (down from \$0.92). This generates a loss of \$144K in equity proceeds.

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

Staff recommends approval of the requested material amendments to the Application.

February 11, 2020

Rene Ruiz
TDHCA Asset Management Division
PO Box 13941
Austin, TX 78711

RE: Application Amendment for 19235 The Reserves at Saddleback Ranch

Dear Mr. Ruiz:

Please find the attached application amendment for HTC 19235 The Reserves at Saddleback Ranch in Wolfforth. This amendment concerns a modification to the site plan and change in architectural design including a reduction in the number of buildings. These changes are being requested due to increased construction costs including costs to extend a street and utilities to the site that were unforeseen at the time of Application. These changes are necessary due to access requirements and general cost increases. The good cause for the change is to keep affordable units in Wolfforth.

Modification to Site Plan

This is a 5-acre development site on a to-be-extended street. At Application, it was contemplated that the development would pay a portion of the road extension paving and utility extension costs because total costs would be shared with other landowners adjacent to the street extension. The site plan also proposed spreading buildings and parking over the entire 5 acres with a second point of ingress/egress at the southern portion of the site.

Subsequent to Application, road and utility extension costs were higher than estimated because the developer would need to pay for all of the costs due to the denial of adjacent landowners to contribute. As a result of these additional costs and higher development costs in general for the development, the site plan has been reconfigured to be more efficient and lower construction costs. Instead of 3 residential and 1 clubhouse building proposed at Application, this amendment proposes 2 residential buildings, one of which includes clubhouse amenities. Additionally, the buildings and parking areas have been consolidated to the northern part of the site, which limits costs and reduces the length of the overall street extension. Parking totals are the same as at application.

Change in Architectural Design

At Application, the 3 residential buildings were two stories and the clubhouse was one story. In order to improve efficiency and limit costs, this amendment proposes 2 buildings that are both three stories in height. Clubhouse amenities are now on the first floor of Apartment Building A. Interior and covered patio tenant common area at Application was 1,617 sf and is 1,596 sf in this amendment, which is a reduction of 21 sf or 1.3%. The size and number of units did not change from Application.

Please see the revised architectural drawings. Please also see the revised financing exhibits that reflect the current costs for the development.

Thank you for your attention and please contact me at 512-789-1295 with any questions.

Regards,

A handwritten signature in black ink, appearing to read 'Alyssa', followed by a long horizontal line extending to the right.

Alyssa Carpenter



Addendum to Underwriting Report

TDHCA Application #: 19235 Program(s): 9% HTC/MDL

The Reserve at Saddleback Ranch

Address/Location: W side of Flint Ave., S of 12th St.

City: Wolfforth County: Lubbock Zip: 79382

APPLICATION HISTORY	
Report Date	PURPOSE
04/03/20	Amendment Memo
07/19/19	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)	\$950,000	2.50%	30	15	\$950,000	2.50%	30	15	2
LIHTC (0% Credit)	\$722,312				\$722,312				

* 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

- 0 Receipt and acceptance at Closing
 - **New Condition to be Confirmed at Closing: Annual Debt Service on the Senior Debt Must Not Exceed \$81,241.**
- 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.

f: Updated TDHCA application exhibits (rent schedule, operating expenses, long-term pro forma, development cost schedule, schedule of sources)

Status: Pending

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

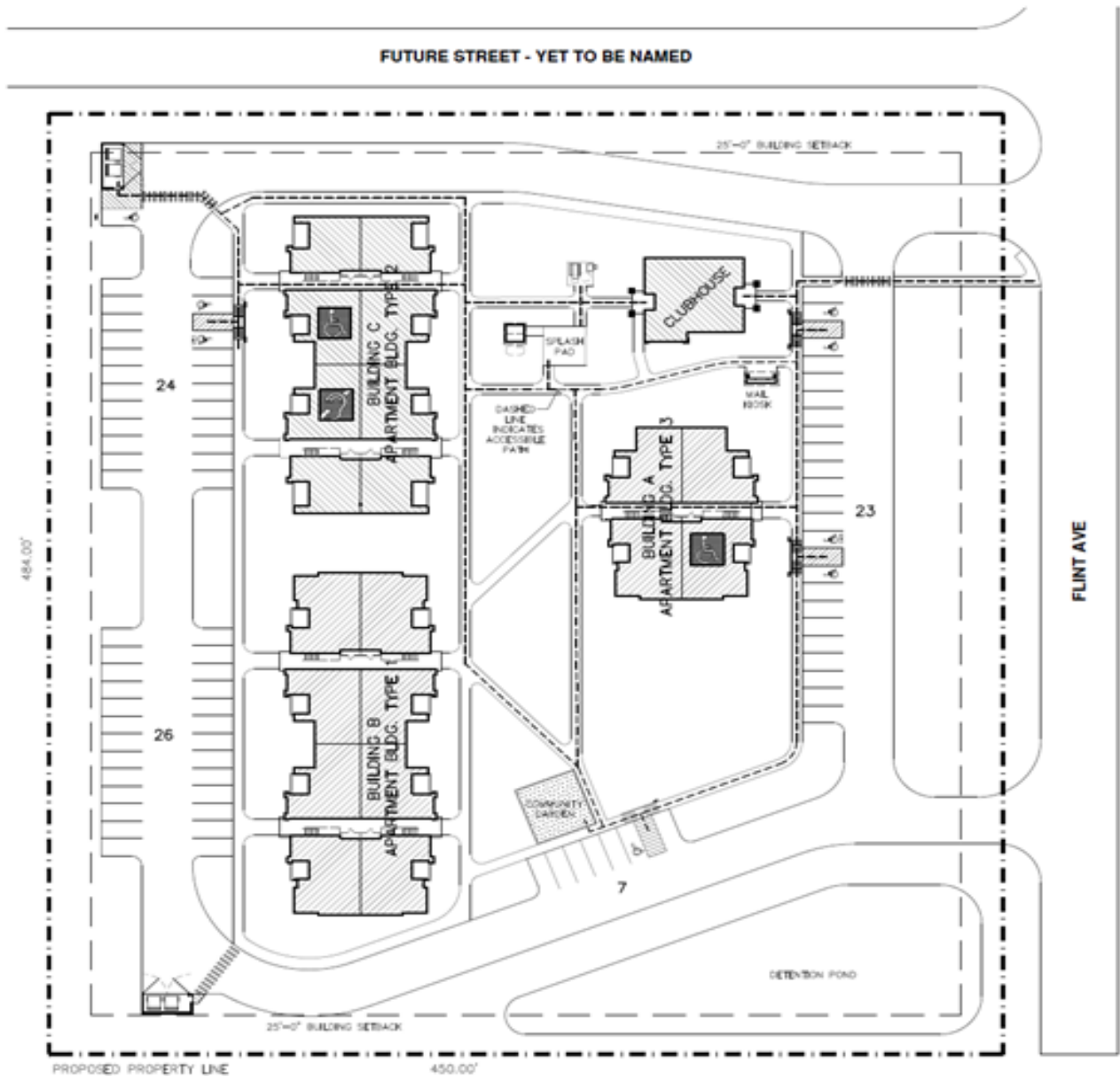
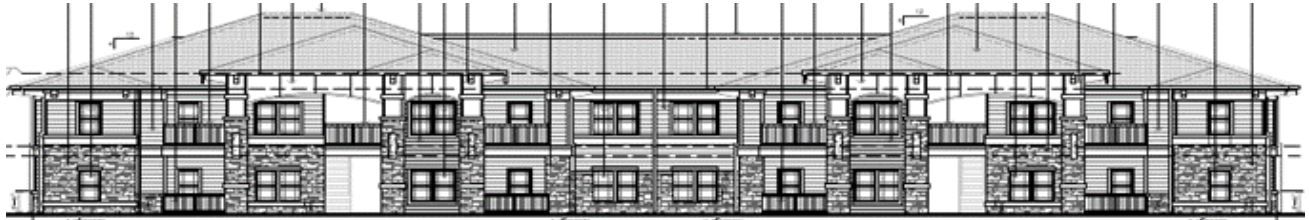
TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
30% of AMI	30% of AMI	3
50% of AMI	50% of AMI	7
60% of AMI	60% of AMI	24

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	3
50% of AMFI	Low HOME	7

ANALYSIS

Applicant has submitted an amendment request for a modification to the site plan and change in architectural design including a reduction in the number of buildings.

ORIGINAL BUILDING & SITE PLAN



These changes are being requested due to increased construction costs, including costs to extend a street and utilities to the site that were unforeseen at the time of Application.

At Application, it was contemplated that total costs of the road and utility extension would be shared with the landowners adjacent to the street extension. The site original site plan also spread buildings and parking over the entire 5 acres tract, with a second point of ingress/egress at the southern portion of the site.

Subsequent to Application, adjacent landowners declined to contribute. As a result of the burden of these additional costs, the site plan has been reconfigured to be more efficient and lower construction costs. Instead of the three 2-story residential and one 1-story clubhouse buildings proposed at Application, this amendment proposes two 3-story residential buildings, one of which will include the clubhouse amenities. Interior and covered patio tenant common area at Application was 1,617 sf and is now 1,596 sf in this amendment. This is a reduction of 21 sf or 1.3%. The size and number of units did not change from Application.

Additionally, the buildings and parking areas have been consolidated to the northern part of the site, which limits costs and reduces the length of the overall street extension. Parking totals are the same as at Application.

Operating Pro Forma

Applicant updated rents based on the current 2019 HTC rents . These rent updates reflect less than 1% increase in rental income. Applicant's expenses also increased by less than 1%, and NOI shows an increase of \$2.3K. Underwriter's NOI reflects similar updates to rents and expenses.

Applicant's updated proforma remains within 5% of the Underwriter's and is used to determine feasibility.

Development Cost

Previously underwritten Total Hard Cost, were derived based on a G703 of a comparable property by the same developer, and were generally in-line with the Applicant's total cost budget at that time. A contract as of March 2020 was provided and is consistent with the Applicant's current total Hard Cost estimate \$5.78M (13% increase).

Underwritten costs reflect the contract figures. Total Development Costs have increased by \$73K (less than 1%).

Sources of Funds

MHDF replaced Horizon Bank, providing permanent financing of \$1.4M (increase of \$200K) at a more favorable interest rate of 4.6%. Total debt service decreased slightly (less than 2%), resulting in a decrease in total Debt Coverage Ratio (DCR) from 1.16 to 1.15. Per 10 TAC §13.8(b), since the reduction to total DCR decreased by less than 5%, Board approval is not required.

Confirmation at closing that the senior debt be limited to an amount that produces 1.15 debt coverage will be required. Specifically, annual debt service on the senior debt must not exceed \$81,241.

Updated term sheet from MHEG indicates decreased credit price at \$0.90 (down from \$0.92). This generates a loss of \$144K in equity proceeds.

Underwriter recommends no changes to the previous tax credit or MDL awards.

Underwriter:	<u>Diamond Unique Thompson</u>
Manager of Real Estate Analysis:	<u>Thomas Cavanagh</u>
Director of Real Estate Analysis:	<u>Brent Stewart</u>

UNIT MIX/RENT SCHEDULE

The Reserve at Saddleback Ranch, Wolforth, 9% HTC/MDL #19235

LOCATION DATA	
CITY:	Wolforth
COUNTY:	Lubbock
Area Median Income	\$62,200
PROGRAM REGION:	1

UNIT DISTRIBUTION								
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total	
Eff	-	0.0%	0	0	20%	-	0.0%	
1	8	20.0%	0	3	30%	3	7.5%	
2	20	50.0%	0	4	40%	-	0.0%	
3	12	30.0%	0	3	50%	7	17.5%	
4	-	0.0%	0	0	60%	24	60.0%	
5	-	0.0%	0	0	70%	-	0.0%	
						80%	-	0.0%
						MR	6	15.0%
TOTAL	40	100.0%	-	10	TOTAL	40	100.0%	

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	84.81%
APP % Acquisition	3.42%
APP % Construction	9.00%
Average Unit Size	1,042 sf

UNIT MIX / MONTHLY RENT SCHEDULE

HTC		TDHCA Direct Loan Program		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 30%	\$350	30%/30%	\$350	1	1	1	814	\$350	\$74	\$276	(\$0)	\$0.34	\$276	\$276	\$276	\$276	\$0.34	\$0	\$925	\$1.14	\$925
TC 50%	\$583	LH/50%	\$593	2	1	1	814	\$583	\$74	\$509	(\$0)	\$0.63	\$509	\$1,018	\$1,018	\$509	\$0.63	\$0	\$925	\$1.14	\$925
TC 60%	\$700			4	1	1	814	\$700	\$74	\$626	(\$0)	\$0.77	\$626	\$2,504	\$2,505	\$626	\$0.77	\$0	\$925	\$1.14	\$925
MR				1	1	1	814	\$0	\$74		NA	\$1.04	\$850	\$850	\$850	\$850	\$1.04	NA	\$850	\$1.04	\$925
TC 30%	\$420	30%/30%	\$420	1	2	2	1,035	\$420	\$93	\$327	\$0	\$0.32	\$327	\$327	\$327	\$327	\$0.32	\$0	\$1,000	\$0.97	\$1,000
TC 50%	\$700	LH/50%	\$711	3	2	2	1,035	\$700	\$93	\$607	\$0	\$0.59	\$607	\$1,821	\$1,821	\$607	\$0.59	\$0	\$1,000	\$0.97	\$1,000
TC 60%	\$840			13	2	2	1,035	\$840	\$93	\$747	\$0	\$0.72	\$747	\$9,711	\$9,710	\$747	\$0.72	\$0	\$1,000	\$0.97	\$1,000
MR				3	2	2	1,035	\$0	\$93		NA	\$0.92	\$950	\$2,850	\$2,850	\$950	\$0.92	NA	\$950	\$0.92	\$1,000
TC 30%	\$485	30%/30%	\$485	1	3	2	1,204	\$485	\$112	\$373	\$0	\$0.31	\$373	\$373	\$373	\$373	\$0.31	\$0	\$1,075	\$0.89	\$1,075
TC 50%	\$808	LH/50%	\$821	2	3	2	1,204	\$808	\$112	\$696	\$0	\$0.58	\$696	\$1,392	\$1,392	\$696	\$0.58	\$0	\$1,075	\$0.89	\$1,075
TC 60%	\$970			7	3	2	1,204	\$970	\$112	\$858	\$0	\$0.71	\$858	\$6,006	\$6,006	\$858	\$0.71	\$0	\$1,075	\$0.89	\$1,075
MR				2	3	2	1,204	\$0	\$112		NA	\$0.87	\$1,050	\$2,100	\$2,100	\$1,050	\$0.87	NA	\$1,050	\$0.87	\$1,075
TOTALS/AVERAGES:				40			41,660				\$0	\$0.70	\$731	\$29,228	\$29,228	\$731	\$0.70	\$0	\$1,001	\$0.96	\$1,008

ANNUAL POTENTIAL GROSS RENT:		\$350,736	\$350,736
-------------------------------------	--	------------------	------------------

STABILIZED PRO FORMA

The Reserve at Saddleback Ranch, Wolfforth, 9% HTC/MDL #19235

STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
	Database	County Comps	% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$0.70	\$731	\$350,736	\$355,812	\$355,812	\$350,736	\$731	\$0.70		0.0%	\$0
late fees, pet fees, app fees, NSF fees						\$18.75	\$9,000	7,200						
retained deposits and interest income						\$0.00	\$0	0						
Total Secondary Income						\$18.75			7,200	\$9,000	\$18.75		0.0%	\$0
POTENTIAL GROSS INCOME						\$359,736	\$363,012	\$363,012	\$359,736				0.0%	\$0
Vacancy & Collection Loss				7.5% PGI		(26,980)	(27,226)	(27,226)	(26,980)	7.5% PGI			0.0%	(0)
Rental Concessions						-	0	0	-				0.0%	-
EFFECTIVE GROSS INCOME						\$332,756	\$335,786	\$335,786	\$332,755				0.0%	\$0

General & Administrative	\$17,417	\$435/Unit	\$16,507	\$413	4.75%	\$0.38	\$395	\$15,800	\$15,800	\$17,417	\$17,417	\$435	\$0.42	5.23%	-9.3%	(1,617)
Management	\$19,913	7.4% EGI	\$15,589	\$390	5.00%	\$0.40	\$416	\$16,638	\$16,789	\$16,789	\$16,638	\$416	\$0.40	5.00%	0.0%	0
Payroll & Payroll Tax	\$41,509	\$1,038/Unit	\$40,665	\$1,017	12.65%	\$1.01	\$1,052	\$42,080	\$42,080	\$41,509	\$41,509	\$1,038	\$1.00	12.47%	1.4%	571
Repairs & Maintenance	\$31,107	\$778/Unit	\$21,278	\$532	7.21%	\$0.58	\$600	\$24,000	\$24,000	\$24,000	\$24,000	\$600	\$0.58	7.21%	0.0%	-
Electric/Gas	\$6,875	\$172/Unit	\$7,041	\$176	2.07%	\$0.17	\$172	\$6,880	\$6,880	\$7,041	\$7,041	\$176	\$0.17	2.12%	-2.3%	(161)
Water, Sewer, & Trash	\$17,657	\$441/Unit	\$22,171	\$554	5.23%	\$0.42	\$435	\$17,400	\$17,400	\$22,171	\$22,171	\$554	\$0.53	6.66%	-21.5%	(4,771)
Property Insurance	\$11,960	\$0.29/sf	\$13,772	\$344	4.51%	\$0.36	\$375	\$14,998	\$14,998	\$13,772	\$13,772	\$344	\$0.33	4.14%	8.9%	1,226
Property Tax (@ 100%) 2.6169	\$18,926	\$473/Unit	\$32,400	\$810	11.42%	\$0.91	\$950	\$38,010	\$38,607	\$32,400	\$32,400	\$810	\$0.78	9.74%	17.3%	5,610
Reserve for Replacements	\$12,512	\$313/Unit	\$10,329	\$258	3.01%	\$0.24	\$250	\$10,000	\$10,000	\$10,000	\$10,000	\$250	\$0.24	3.01%	0.0%	-
Supportive Services			\$2,056	\$51	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$1,968	\$49	0.41%	\$0.03	\$34	\$1,360	\$1,360	\$1,360	\$1,360	\$34	\$0.03	0.41%	0.0%	-
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)			\$0	\$0	0.10%	\$0.01	\$9	\$340	\$340	\$340	\$340	\$9	\$0.01	0.10%	0.0%	-
TOTAL EXPENSES					56.35%	\$4.50	\$4,688	\$ 187,506	\$188,254	\$186,800	\$186,648	\$4,666	\$4.48	56.09%	0.5%	\$ 858
NET OPERATING INCOME ("NOI")					43.65%	\$3.49	\$3,631	\$145,250	\$147,532	\$148,986	\$146,107	\$3,653	\$3.51	43.91%	-0.6%	\$ (858)

CONTROLLABLE EXPENSES		\$2,654/Unit										\$2,803/Unit				
-----------------------	--	--------------	--	--	--	--	--	--	--	--	--	--------------	--	--	--	--

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

The Reserve at Saddleback Ranch, Wolfforth, 9% HTC/MDL #19235

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	Prior Underwriting		Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App						Applicant	TDHCA						DCR	LTC
MHDF		1.80	1.79	\$1,241	4.60%	35	15	\$1,412,000	\$1,200,000	\$1,200,000	\$1,412,000	15	35	4.60%	\$81,241	1.79	15.4%
TDHCA		1.16	1.15	\$45,044	2.50%	30	15	\$950,000	\$950,000	\$950,000	\$950,000	15	30	2.50%	\$45,044	1.15	10.3%
CASH FLOW DEBT / GRANTS																	
McPherson (MCP Group)		1.16	1.15		0.00%	0	0	\$48,450	\$48,450	\$48,450	\$48,450	0	0	0.00%		1.15	0.5%
City of Wolfforth		1.16	1.15		0.00%	0	0	\$250	\$250	\$250	\$250	0	0	0.00%		1.15	0.0%
				\$126,285	TOTAL DEBT / GRANT SOURCES			\$2,410,700		\$250	\$2,410,700	TOTAL DEBT SERVICE			\$126,285	1.15	26.2%
NET CASH FLOW		\$19,822	\$18,965					APPLICANT NET OPERATING INCOME				\$145,250	\$18,965	NET CASH FLOW			

EQUITY SOURCES														
APPLICANT'S PROPOSED EQUITY STRUCTURE						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							(25% Deferred)
MHEG	LIHTC Equity	71.1%	\$722,312	0.90	\$6,536,270	\$6,680,718	\$6,680,718	\$6,536,858	\$0.9050	\$722,312	71.1%	\$18,058	Applicant Request	
Overland Property Group	Deferred Developer Fees	3.9%	(37% Deferred)		\$358,774	\$353,047	\$353,047	\$246,199			2.7%	Total Developer Fee:	\$977,500	
Additional (Excess) Funds Req'd		0.0%						\$0			0.0%			
TOTAL EQUITY SOURCES		75.0%			\$6,895,044	\$7,033,765	\$7,033,765	\$6,783,057			73.8%			
TOTAL CAPITALIZATION					\$9,305,744	\$9,232,465	\$9,232,465	\$9,193,757					15-Yr Cash Flow after Deferred Fee:	\$148,325

DEVELOPMENT COST / ITEMIZED BASIS														
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE		
Eligible Basis	Acquisition	New Const. Rehab	Total Costs			Prior Underwriting		Total Costs			Eligible Basis		%	\$
						Applicant	TDHCA				New Const. Rehab	Acquisition		
Land Acquisition			\$15,000 / Unit	\$600,000	\$600,000	\$600,000	\$600,000	\$600,000	\$15,000 / Unit			0.0%	\$0	
Building Acquisition	\$0		\$ / Unit	\$0	\$0	\$0	\$0	\$ / Unit		\$0		0.0%	\$0	
Off-Sites			\$13,125 / Unit	\$525,001	\$400,000	\$400,000		\$ / Unit				0.0%	\$525,001	
Site Work		\$501,191	\$12,530 / Unit	\$501,191	\$555,402	\$555,402	\$1,016,776	\$25,419 / Unit	\$501,191			-50.7%	(\$515,585)	
Site Amenities		\$115,512	\$2,888 / Unit	\$115,512	\$195,579	\$195,579	\$111,343	\$2,784 / Unit	\$115,512			3.7%	\$4,169	
Building Cost		\$4,306,780	\$103.38 /sf	\$107,670/Unit	\$4,306,780	\$3,679,083	\$3,482,359	\$4,321,419	\$108.035/Unit	\$103.73 /sf	\$4,321,419	-0.3%	(\$14,639)	
Contingency		\$334,200	6.79%	6.13%	\$334,200	\$271,503	\$271,503	\$334,200	6.13%	6.77%	\$334,200	0.0%	\$0	
Contractor Fees		\$921,565	17.53%	15.94%	\$921,565	\$620,209	\$620,209	\$809,723	14.00%	14.00%	\$738,125	13.8%	\$111,842	
Soft Costs	0	\$533,497	\$13,962 / Unit	\$558,497	\$710,167	\$710,167	\$558,497	\$13,962 / Unit	\$533,497	\$0		0.0%	\$0	
Financing	0	\$434,500	\$11,638 / Unit	\$465,500	\$651,148	\$651,148	\$465,500	\$11,638 / Unit	\$427,000	\$0		0.0%	\$0	
Developer Fee	\$0	\$977,500	13.68%	12.74%	\$977,500	\$1,391,671	\$1,352,326	\$977,500	13.06%	14.02%	\$977,500	0.0%	\$0	
Reserves			Months	\$0	\$157,703	\$156,975	\$52,156	2 Months				-100.0%	(\$52,156)	
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)		\$0	\$8,124,745	\$232,644 / Unit	\$9,305,746	\$9,232,465	\$8,995,668	\$9,247,114	\$231,178 / Unit	\$7,948,444	\$0	0.6%	\$58,632	
Acquisition Cost	\$0			\$0	\$0									
Contingency		\$0		\$0	\$0									
Contractor's Fee		(\$185,489)		(\$111,989)	\$0									
Financing Cost		(\$7,500)												
Developer Fee	\$0	\$0		\$0	(\$0)									
Reserves				\$0	\$0									
ADJUSTED BASIS / COST		\$0	\$7,931,756	\$229,844/unit	\$9,193,757	\$9,232,465	\$9,247,114	\$231,178/unit	\$7,948,444	\$0	-0.6%	(\$53,357)		
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):						\$9,193,757								

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS

The Reserve at Saddleback Ranch, Wolfforth, 9% HTC/MDL #19235

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
	ADJUSTED BASIS	\$0	\$7,931,756	\$0
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$7,931,756	\$0	\$7,948,444
High Cost Area Adjustment		130%		130%
TOTAL ADJUSTED BASIS	\$0	\$10,311,282	\$0	\$10,332,977
Applicable Fraction	84.81%	84.81%	84.81%	84.81%
TOTAL QUALIFIED BASIS	\$0	\$8,745,284	\$0	\$8,763,684
Applicable Percentage	3.42%	9.00%	3.42%	9.00%
ANNUAL CREDIT ON BASIS	\$0	\$787,076	\$0	\$788,732
CREDITS ON QUALIFIED BASIS	\$787,076		\$788,732	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price	Variance to Request	
			\$0.9050	Credits	Proceeds
Eligible Basis	\$787,076	\$7,122,962	----	----	----
Needed to Fill Gap	\$749,517	\$6,783,057	----	----	----
Applicant Request	\$722,312	\$6,536,858	\$722,312	\$0	\$0

BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Garden (Up to 4-story)	41,660 SF	\$69.42	2,892,031
Adjustments				
Exterior Wall Finish	2.56%		1.78	\$74,036
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.32%		2.30	96,015
Roof Adjustment(s)			(0.25)	(10,415)
Subfloor			(0.86)	(35,828)
Floor Cover			2.56	106,650
Breezeways	\$27.82	5,380	3.59	149,645
Balconies	\$27.70	3,596	2.39	99,615
Plumbing Fixtures	\$1,070	96	2.47	102,720
Rough-ins	\$525	80	1.01	42,000
Built-In Appliances	\$1,780	40	1.71	71,200
Exterior Stairs	\$2,280	10	0.55	22,800
Heating/Cooling			2.21	92,069
Storage Space	\$27.82	0	0.00	0
Carports	\$12.25	0	0.00	0
Garages		0	0.00	0
Common/Support Area	\$99.40	1,633	3.90	162,313
Elevators		0	0.00	0
Other:			0.00	0
Fire Sprinklers	\$2.59	48,673	3.03	126,063
SUBTOTAL			95.80	3,990,913
Current Cost Multiplier	0.99		(0.96)	(39,909)
Local Multiplier	0.87		(12.45)	(518,819)
Reserved				0
TOTAL BUILDING COSTS			82.39	\$3,432,185
Plans, specs, survey, bldg permits	3.30%		(2.72)	(113,262)
Contractor's OH & Profit	11.50%		(9.47)	(394,701)
NET BUILDING COSTS		\$73,106/unit	\$70.19/sf	\$2,924,222

Long-Term Pro Forma

The Reserve at Saddleback Ranch, Wolfforth, 9% HTC/MDL #19235

	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%	\$332,756	\$339,411	\$346,199	\$353,123	\$360,186	\$397,674	\$439,064	\$484,762	\$535,217	\$590,923	\$652,426
TOTAL EXPENSES	3.00%	\$187,506	\$192,965	\$198,584	\$204,368	\$210,323	\$242,828	\$280,407	\$323,856	\$374,101	\$432,208	\$499,417
NET OPERATING INCOME ("NOI")		\$145,250	\$146,446	\$147,615	\$148,755	\$149,863	\$154,846	\$158,658	\$160,906	\$161,116	\$158,714	\$153,009
EXPENSE/INCOME RATIO		56.3%	56.9%	57.4%	57.9%	58.4%	61.1%	63.9%	66.8%	69.9%	73.1%	76.5%
MUST -PAY DEBT SERVICE												
TOTAL DEBT SERVICE		\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285	\$126,285
DEBT COVERAGE RATIO		1.15	1.16	1.17	1.18	1.19	1.23	1.26	1.27	1.28	1.26	1.21
ANNUAL CASH FLOW												
ANNUAL CASH FLOW		\$18,965	\$20,161	\$21,330	\$22,470	\$23,578	\$28,561	\$32,373	\$34,621	\$34,831	\$32,430	\$26,724
Deferred Developer Fee Balance		\$227,234	\$207,073	\$185,743	\$163,273	\$139,695	\$6,457	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$0	\$0	\$0	\$0	\$0	\$0	\$148,325	\$317,646	\$492,304	\$660,429	\$806,937

1c

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement for Plum Creek Townhomes (HTC #99011)

RECOMMENDED ACTION

WHEREAS, Plum Creek Townhomes (the Development) received an award of 9% Housing Tax Credits (HTCs) in 1999 for the new construction of 152 units of multifamily housing in Houston, Harris County;

WHEREAS, Plum Creek Affordable Housing Partners, Ltd. (the Development Owner or Owner) requests approval for a substantive modification to the Resident Supportive Services that are referenced in the Application and also in the Land Use Restriction Agreement (LURA), specifically for the removal of credit counseling, home ownership counseling, parenting classes, computer classes, GED classes, and nutritional counseling, and the addition of a food pantry, an annual health fair, weekly exercise classes, notary services, twice monthly arts and crafts, and twice monthly on-site social events;

WHEREAS, the Department has determined that while these resident supportive services were not specifically listed at the time of award, the amount and quality of the services is equivalent or greater than the selections that were selected at the time of Application;

WHEREAS, Board approval is required for a substantive modification of the scope of tenant services as directed in Tex. Gov't Code §2306.6712(d)(3) and 10 TAC §10.405(a)(4)(C), and the Owner has complied with the amendment and notification requirements as directed in §10 TAC 10.405(b); and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the Application, or affect the amount of the tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment to the Application and LURA for Plum Creek Townhomes is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Plum Creek Townhomes received a 9% HTC award in 1999 for the new construction of 152 multifamily units in Houston, Harris County. In a letter dated April 15, 2020, H. Chris Richardson, President of Blazer Residential, Inc., the General Partner of the Development Owner, Plum Creek Affordable Housing Partners, Ltd., requested approval to amend the Application and LURA related to the tenant supportive services requirement.

In the 1999 HTC Application, the Development Owner selected five points worth of tenant supportive services, based on the duration of the service agreement, the accessibility and appropriateness of the service to the tenants, the experience of the service provider, and the importance of the service in enhancing the tenants' standard of living. The Application and the LURA require that the supportive services be provided by a local Tax Exempt Organization, which originally were Avance, Inc. and Texas Inter-Faith Management Corporation; however, those organizations were replaced with Education Based Housing, Inc. The 1999 Qualified Allocation Plan did not have a list of optional supportive services from which an applicant could choose. The following tenant supportive services are included in the LURA: credit counseling, home ownership counseling, parenting classes, computer & GED classes, nutritional counseling, and day care center. The supportive services are required to be provided throughout the 25-year Compliance Period, which runs through December 31, 2025.

The Development Owner states that in recent years, due to changing resident demographics and needs and due to lack of interest by the residents, the Development has been unsuccessful at continually providing credit counseling, home ownership counseling, parenting classes, computer classes, GED classes, and nutritional counseling.

The Development conducted a community survey in 2018 to ascertain resident preferences for supportive services. The Development also held public hearings on April 25, 2019, and on April 22, 2020. Based on the results of the survey and feedback from the public hearings, the Development Owner has requested to eliminate credit counseling, home ownership counseling, parenting classes, computer classes, GED classes, and nutritional counseling, which along with the day care center, were worth a total of five total points at application. The day care center will continue to be provided, as reflected in the LURA. However, the Development Owner also proposes to amend the LURA by having the following six replacement services listed:

- Health Supportive Services:
 - Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank;
 - Annual health fair provided by a health care professional;

- Weekly exercise classes (offered at times when most residents would be likely to attend);
- Community Supportive Services:
 - Notary Services during regular business hours (§2306.6710(b)(3));
 - Twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes); and
 - Twice monthly on-site social events (i.e., potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.).

The requested changes do not materially alter the Development in a negative manner and were not reasonably foreseeable or preventable by the Development Owner at the time of Application.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on April 22, 2020, via conference call. There were no negative comments at the public hearing.

Staff recommends approval of the requested material Application and LURA amendment as presented herein.



April 15, 2020

VIA EMAIL

Ms. Lucy Trevino
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 99011 – Plum Creek Townhomes (the “Property”)

Dear Lucy:

Plum Creek Affordable Housing, Ltd., a Texas limited partnership; is the current owner of the Property. This letter constitutes request for a material LURA amendment in order to replace the ongoing requirements for Tenant Services outlined in the Property’s LURA with the selected services from the menu of Resident Supportive Services outlined in §11.101(b)(7) of the 2019 Qualified Allocation Plan.

Request to Modify Supportive Service Requirements

The Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (the “LURA”) for the Property has been included as Exhibit A and requires the Partnerships to make specifically designated Supportive Services available to Tenants throughout the Compliance Period. The LURA lists specific Supportive Services required to be provided but seems to be out dated and no longer serves the needs of the residents.

Therefore, the Partnerships hereby request that the Property’s LURA be amended to allow for the supportive services framework outlined in the attached exhibit. This was carefully considered based on a survey conducted on the property. Plum Creek Townhomes agree to provide a sufficient number of supportive services to meet the following point requirements.

<u>TDHCA#</u>	<u>Property Name</u>	<u>Point Election</u>
99011	Plum Creek Townhomes	10 points

The attached exhibit is outlined to demonstrate the exact tailored Supportive Services that better suits the resident’s needs.

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

Sincerely,

PLUM CREEK AFFORDABLE HOUSING PARTNERS, LTD.

By: BLAZER RESIDENTIAL, INC.,
a Texas corporation,
its general partner

By: 
H. Chris Richardson, President

Exhibit A

Plum Creek

Current Supportive Service	Requested Supportive Services
Parenting Classes	Food Pantry
Credit Counseling	Health Fair
Home ownership counseling	Exercise Classes
Daycare Center (This service will remain)	Notary Services
Computer Classes	Arts & Crafts
GED Classes	Onsite social events
Nutritional Counseling	

Stats

Based on a community survey conducted in 2018, we discovered the following:

- 80% of respondents have at least a high school diploma
- 42% of respondents were either retired or disabled, not able to work

Additional pertinent stats and information

- Park at Clear Creek offers Section 811 units
- According to the 2019 Kinder Houston Area Survey, in 2017 33% respondents had a problem paying for food in the past year. Additionally, according to the Houston State of Health Report, compared to Texas counties, Harris County has a value of 16.3% which is in the 2nd worst quartile of counties.
- At the public hearing, close to 50% of the attendees were disabled

Rationale

Given the above information, property demographics, and residents' input at the public hearing prior to the LURA amendment request, services that meet that focuses on health, children services, and social activities for disabled residents would be of most benefit to the residents.

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement for Windsor Gardens Apartments (HTC #02151)

RECOMMENDED ACTION

WHEREAS, Windsor Gardens Apartments (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2002 for the new construction of 192 units of multifamily housing in South Houston, Harris County;

WHEREAS, Windsor Gardens Housing, Ltd. (the Development Owner or Owner) requests approval for a substantive modification to the Resident Supportive Services that are referenced in the Application and also in the Land Use Restriction Agreement (LURA), specifically for the removal of career counseling, ESL classes, GED preparation classes and basic skills tutoring, and the addition of a food pantry, an annual health fair, weekly exercise classes, notary services, twice monthly arts and crafts, and twice monthly on-site social events;

WHEREAS, the Department has determined that while these resident supportive services were not specifically listed at the time of award, the amount and quality of the services is equivalent or greater than the selections that were specifically listed as available at the time of Application, and the Application allowed the Department to approve other services in writing

WHEREAS, Board approval is required for a substantive modification of the scope of tenant services, as directed in Tex. Gov't Code §2306.6712(d)(3) and 10 TAC §10.405(a)(4)(C), and the Owner has complied with the amendment and notification requirements as directed in §10 TAC 10.405(b); and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the application, or affect the amount of the tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment to the Application and LURA for Windsor Gardens Apartments is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Windsor Gardens Apartments received a 9% HTC award in 2002 for the new construction of 192 multifamily units in South Houston, Harris County. In a letter dated April 15, 2020, H. Chris Richardson, President of Blazer Land, LLC, the General Partner of the Development Owner, Windsor Gardens Housing, Ltd., requested approval to amend the Application and LURA related to the tenant supportive services requirement.

In the 2002 HTC Application, the Development Owner selected five points worth of tenant supportive services, based on the cost of services, availability of services, duration of contract, experience of the service provider, and appropriateness of services. The 2002 Qualified Allocation Plan offered a list of services to select from and also allowed any other services approved in writing by the Department. The organization providing these services is and has always been Education Based Housing, Inc. The following tenant supportive services were included in the Application and are included in the LURA: on-site day care, career counseling, ESL classes, GED preparation classes, and basic skills tutoring. The supportive services are required to be provided throughout the 25-year Compliance Period, which runs through December 31, 2028.

The Development Owner states that in recent years, due to changing resident demographics and needs and due to lack of interest by the residents, the Development has been unsuccessful at continually providing career counseling, ESL classes, GED preparation classes, and basic skills tutoring.

The Development conducted a community survey in 2018 to ascertain resident preferences for supportive services. The Development also held public hearings on April 23, 2019, and on April 22, 2020. Based on the results of the survey and feedback from the public hearings, the Development Owner has requested to eliminate career counseling, ESL classes, GED preparation classes, and basic skill tutoring. The on-site day care will continue to be provided, as reflected in the LURA. However, the Development Owner also proposes to amend the LURA by having the following six replacement services listed:

- Health Supportive Services:
 - Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank;
 - Annual health fair provided by a health care professional;
 - Weekly exercise classes (offered at times when most residents would be likely to attend);
- Community Supportive Services:

- Notary Services during regular business hours (§2306.6710(b)(3));
- Twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes); and
- Twice monthly on-site social events (i.e., potluck dinners, game night, sing-alongs, movie nights, birthday parties, holiday celebrations, etc.).

The requested changes do not materially alter the Development in a negative manner and were not reasonably foreseeable or preventable by the Development Owner at the time of Application.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on April 22, 2020, via conference call, but other than Owner staff, there were no other participants at the public hearing.

Staff recommends approval of the requested material Application and LURA amendment as presented herein.



April 15, 2020

VIA EMAIL

Ms. Lucy Trevino
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 02151 – Windsor Gardens Apartments (the “Property”)

Dear Lucy:

Windsor Gardens Housing, Ltd., a Texas limited partnership; (the “Partnership”) is the current owner of the Property. This letter constitutes request for a material LURA amendment in order to replace the ongoing requirements for Tenant Services outlined in the Property’s respective LURA with the selected services from the menu of Resident Supportive Services outlined in §11.101(b)(7) of the 2019 Qualified Allocation Plan.

Request to Modify Supportive Service Requirements

The Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (the “LURA”) for the Property has been included as Exhibit A that requires the Partnership to make specifically designated Supportive Services available to Tenants throughout the Compliance Period. The LURA lists specific Supportive Services required to be provided but seems to be out dated and no longer serves the needs of the residents.

Therefore, the Partnership hereby request that LURA be amended to allow for the supportive services framework outlined in the attached exhibit. This was carefully considered based on a survey conducted on the property mentioned above. Windsor Gardens agree to provide a sufficient number of supportive services to meet the following point requirements.

<u>TDHCA#</u>	<u>Property Name</u>	<u>Point Election</u>
02151	Windsor Gardens Apartments	10 points

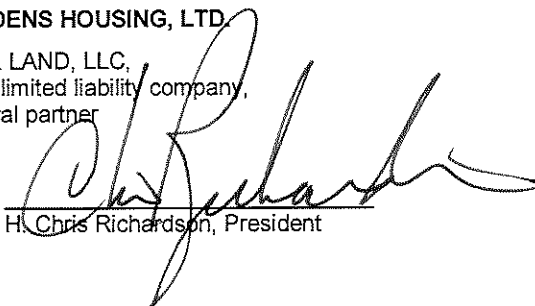
The attached exhibit is outlined to demonstrate the exact tailored Supportive Services that better suits the resident’s needs.

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

Sincerely,

WINDSOR GARDENS HOUSING, LTD.

By: BLAZER LAND, LLC,
a Texas limited liability company,
its general partner

By: 
H. Chris Richardson, President

LURA Amendment Requested Services

Exhibit A

Windsor Gardens

Current Supportive Service	Requested Supportive Services
Career Counseling	Food Pantry
ESL Classes	Health Fair
GED Preparation Classes	Exercise Classes
Onsite Daycare (This service will remain)	Notary Services
Basic Skills Tutoring	Arts & Crafts
	On-site Social Events

Stats

Based on a community survey conducted in 2018, we discovered the following:

- When surveyed, 48% of survey respondents indicated that GED and ESL classes would be the least beneficial to their household
- Only 12% of survey respondents have less than a high school diploma
- Only 3% of survey respondents are not employed, looking for work
- 59% of respondents work full-time

Additional pertinent statistics are as follows:

- According to the 2019 Kinder Houston Area Survey, in 2017 33% respondents had a problem paying for food in the past year. Additionally, according to the Houston State of Health Report, compared to Texas counties, Harris County has a value of 16.3% which is in the 2nd worst quartile of counties.

Rationale

Given the above information, property demographics, and residents' input at the public hearing prior to the LURA amendment request, services that meet that focus on health, social interaction, and children would be of most benefit to the residents. Furthermore, there is a significant number disabled and elderly resident living on property.

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement for Tranquility Bay Apartments (HTC #04420)

RECOMMENDED ACTION

WHEREAS, Tranquility Bay Apartments (the Development) received an award of 4% Housing Tax Credits (HTCs) and bonds in 2004 for the new construction of 246 units of multifamily housing in Pearland, Brazoria County;

WHEREAS, Tranquility Housing, Ltd. (the Development Owner or Owner) requests approval for a substantive modification to the Resident Supportive Services that are referenced in the Application and also in the Land Use Restriction Agreement (LURA), specifically for the removal of GED classes, financial counseling, computer classes, adult literacy, and parenting classes, and the addition of a food pantry, an annual health fair, weekly exercise classes, notary services, twice monthly arts and crafts, and scholarships to residents;

WHEREAS, the Department has determined that while these resident supportive services were not specifically listed at the time of award, the amount and quality of the services is equivalent or greater than the selections that were specifically listed as available at the time of Application, and the Application allowed the Department to approve other services in writing;

WHEREAS, Board approval is required for a substantive modification of the scope of tenant services as directed in Tex. Gov't Code §2306.6712(d)(3) and 10 TAC §10.405(a)(4)(C), and the Owner has complied with the amendment and notification requirements as directed in §10 TAC 10.405(b); and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the application, or affect the amount of the tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment to the Application and LURA for Tranquility Bay Apartments is approved as presented at this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Tranquility Bay Apartments received a 4% HTC and bond award in 2004 for the new construction of 246 multifamily units in Pearland, Brazoria County. In a letter dated April 15, 2020, H. Chris Richardson, President of Tranquility Housing GP, LLC, the General Partner of the Development Owner, Tranquility Housing, Ltd., requested approval to amend the Application and LURA related to the tenant supportive services requirement.

In the 2004 HTC Application, the Development Owner selected multiple tenant supportive services in order to meet threshold application requirements. The organization providing these services is and has always been Education Based Housing, Inc. The 2004 Qualified Allocation Plan offered a list of services to select from and also allowed any other services approved in writing by the Issuer. The following tenant supportive services were included in the Application and are included in the LURA: on-site day care, GED classes, financial counseling, computer classes, adult literacy, and parenting classes. The supportive services are required to be provided throughout the 15-year Compliance Period, which runs through December 31, 2020.

The Development Owner states that in recent years, due to changing resident demographics and needs and due to lack of interest by the residents, the Development has been unsuccessful at continually providing GED classes, financial counseling, computer classes, adult literacy and parenting classes.

The Development conducted a community survey in 2018 to ascertain resident preferences for supportive services. The Development also held public hearings on April 29, 2019, and on April 23, 2020. Based on the results of the survey and feedback from the public hearings, the Development Owner has requested to eliminate GED classes, financial counseling, computer classes, adult literacy, and parenting classes, which along with the on-site day care, met the threshold requirements of the application. The on-site day care will continue to be provided, as reflected in the LURA. However, the Development Owner also proposes to amend the LURA by having the following six replacement services listed:

- Health Supportive Services:
 - Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank;
 - Annual health fair provided by a health care professional;
 - Weekly exercise classes (offered at times when most residents would be likely to attend);
- Community Supportive Services:
 - Notary Services during regular business hours (§2306.6710(b)(3));

- Twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes); and
- Provision, by either the Development Owner or a community partner, of an education tuition- or savings-match program or scholarship to residents who may attend college.

The requested changes do not materially alter the Development in a negative manner and were not reasonably foreseeable or preventable by the Development Owner at the time of Application.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on April 23, 2020, via conference call, but other than Owner staff, there were no other participants at the public hearing.

Staff recommends approval of the requested material Application and LURA amendment as presented herein.



April 15, 2020

VIA EMAIL

Ms. Lucy Trevino
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 04420 – Tranquility Bay Apartments (the "Property")

Dear Lucy:

Tranquility Housing, Ltd., a Texas limited partnership; (the "Partnership") is the current owner of the Property. This letter constitutes request for a material LURA amendment in order to replace the ongoing requirements for Tenant Services outlined in the Property's LURA with the selected services from the menu of Resident Supportive Services outlined in §11.101(b)(7) of the 2019 Qualified Allocation Plan.

Request to Modify Supportive Service Requirements

The Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (the "LURA") for the Property have been included as Exhibit A and requires the Partnership to make specifically designated Supportive Services available to Tenants throughout the Compliance Period. The LURA lists specific Supportive Services required to be provided but seems to be out dated and no longer serves the needs of the residents.

Therefore, the Partnership hereby request that the Property's LURA be amended to allow for the supportive services framework outlined in the attached exhibit. This was carefully considered based on a survey conducted on the property mentioned above. Tranquility Bay Apartments agree to provide a sufficient number of supportive services to meet the following point requirements.

<u>TDHCA#</u>	<u>Property Name</u>	<u>Point Election</u>
04420	Tranquility Bay Apartments	8 points

The attached exhibit is outlined to demonstrate the exact tailored Supportive Services that better suits the resident's needs.

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

Sincerely,

TRANQUILITY HOUSING, LTD.

By: TRANQUILITY HOUSING GP, LLC
a Texas limited liability company,
its general partner

By: 
H. Chris Richardson, President

Exhibit A

Tranquility Bay

Current Supportive Service	Requested Supportive Services
Parenting Classes	Food Pantry
GED Classes	Health Fair
Onsite Daycare (This service will remain)	Exercise Classes
Financial Counseling	Notary Services
Computer Classes	Arts & Crafts
Adult Literacy	Scholarship to residents

Stats

Based on a community survey conducted in 2018, we discovered the following:

- 100% of respondents have at least a high school diploma
- 68% of respondents work full-time
- 53% of residents do not find GED classes to be of benefit to their household, and 27% of respondents find none of the services offered to be of benefit to their household
- When given a chance to list additional services that would be of benefit, health and wellness related services were most popular

Additional pertinent states and information

- 51% of residents are considered Minor Child
- During the resident hearing, most resident said they would like to see more services geared towards children.

Rationale

Given the above information, property demographics, and residents' input at the public hearing prior to the LURA amendment request, services that meet that focuses on health, children services, and ways to incentivize education would be of most benefit to the residents. Furthermore, there is a significant number of disabled and elderly resident living on property.

BOARD ACTION REQUEST

ASSET MANAGEMENT DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement for Quail Ridge Apartments (HTC #060035)

RECOMMENDED ACTION

WHEREAS, Quail Ridge Apartments (the Development) received an award of 9% Housing Tax Credits (HTCs) in 2006 for the new construction of 76 units of multifamily housing in Hempstead, Waller County;

WHEREAS, Quail Ridge Housing, Ltd. (the Development Owner or Owner) requests approval for a substantive modification to the Resident Supportive Services that are referenced in the Application and also in the Land Use Restriction Agreement (LURA), specifically for the removal of adult education, home buyer education, credit counseling, health and nutrition classes, computer class/lab, GED classes, and ESL classes, and the addition of a food pantry, an annual health fair, weekly exercise classes, notary services, twice monthly arts and crafts, and twice monthly on-site social events;

WHEREAS, the Department has determined that while these resident supportive services were not specifically listed at the time of award, the amount and quality of the services is equivalent or greater than the selections that were specifically listed as available at the time of Application, and the Application allowed the Department to approve other services in writing;

WHEREAS, Board approval is required for a substantive modification of the scope of tenant services as directed in Tex. Gov't Code §2306.6712(d)(3) and 10 TAC §10.405(a)(4)(C), and the Owner has complied with the amendment and notification requirements as directed in §10 TAC 10.405(b); and

WHEREAS, the requested changes do not negatively affect the Development, impact the viability of the transaction, impact the scoring of the application, or affect the amount of the tax credits awarded;

NOW, therefore, it is hereby

RESOLVED, that the requested material amendment to the Application and LURA for Quail Ridge Apartments is approved as presented at this meeting, and the

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

BACKGROUND

Quail Ridge Apartments received a 9% HTC award in 2006 for the new construction of 76 multifamily units in Hempstead, Waller County. In a letter dated April 15, 2020, H. Chris Richardson, President of Blazer Land, LLC, the General Partner of the Development Owner, Quail Ridge Housing, Ltd., requested approval to amend the Application and LURA related to the tenant supportive services requirement.

In the 2006 HTC Application, the Development Owner selected six points worth of tenant supportive services. The 2006 Qualified Allocation Plan offered a list of services to select from and also allowed any other services approved in writing by the Department. The organization providing these services is and has always been Education Based Housing, Inc. The following tenant supportive services were included in the Application and are included in the LURA: adult education, home buyer education, credit counseling, health and nutrition classes, computer class/lab, GED and ESL classes, and on-site day care. The supportive services are required to be provided throughout the 15-year Compliance Period, which runs through December 31, 2022.

The Development Owner states that in recent years, due to changing resident demographics and needs and due to lack of interest by the residents, the Development has been unsuccessful at continually providing adult education, home buyer education, credit counseling, health and nutrition classes, computer class/lab, and GED and ESL classes.

The Development conducted a community survey in 2018 to ascertain resident preferences for supportive services. The development also held public hearings on April 23, 2019, and on April 22, 2020. Based on the results of the survey and feedback from the public hearings, the Development Owner has requested to eliminate adult education, home buyer education, credit counseling, health and nutrition classes, computer class/lab, and GED and ESL classes, which along with the on-site day care, were worth a total of six total points at application. The on-site day care will continue to be provided, as reflected in the LURA. However, the Development Owner also proposes to amend the LURA by having the following services listed:

- Health Supportive Services:
 - Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a resident. While it is possible that transportation may be provided to a local food bank to meet the requirement of this resident service, the resident must not be required to pay for the items they receive at the food bank;
 - Annual health fair provided by a health care professional;

- Weekly exercise classes (offered at times when most residents would be likely to attend);
- Community Supportive Services:
 - Partnership with local law enforcement and/or local first responders to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.);
 - Notary Services during regular business hours (§2306.6710(b)(3));
 - Twice monthly arts, crafts, and other recreational activities (e.g. Book Clubs and creative writing classes); and
 - Twice monthly on-site social events (i.e., potluck dinners, game night, sing-a-longs, movie nights, birthday parties, holiday celebrations, etc.).

The requested changes do not materially alter the Development in a negative manner and were not reasonably foreseeable or preventable by the Development Owner at the time of Application.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a public hearing on the matter on April 23, 2020, via conference call. There were no negative comments at the public hearing.

Staff recommends approval of the requested material Application and LURA amendment as presented herein.



April 15, 2020

VIA EMAIL

Ms. Lucy Trevino
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: TDHCA File No. 06035 – Quail Ridge Apartments (“Property”)

Dear Lucy:

Quail Ridge Housing, Ltd., a Texas limited partnership (the “Partnerships”) is the current owner of the Property. This letter constitutes request for a material LURA amendment in order to replace the ongoing requirements for Tenant Services outlined in the Property’s LURA with the selected services from the menu of Resident Supportive Services outlined in §11.101(b)(7) of the 2019 Qualified Allocation Plan.

Request to Modify Supportive Service Requirements

The Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits (the “LURA”) for the Property has been included as Exhibit A-1 and requires the Partnership to make specifically designated Supportive Services available to Tenants throughout the Compliance Period. The LURA lists specific Supportive Services required to be provided but seems to be out dated and no longer serves the needs of the residents.

Therefore, the Partnership hereby request that the Property’s LURA be amended to allow for the supportive services framework outlined in the attached exhibit. This was carefully considered based on a survey conducted on the property mentioned above. Quail Ridge Apartments agree to provide a sufficient number of supportive services to meet the following point requirements.

<u>TDHCA#</u>	<u>Property Name</u>	<u>Point Election</u>
06035	Quail Ridge Apartments	10 points

The attached exhibit is outlined to demonstrate the exact tailored Supportive Services that better suits the resident’s needs.

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

Sincerely,

QUAIL RIDGE HOUSING, LTD.

By: BLAZER LAND, LLC,
a Texas limited liability company,
its general partner

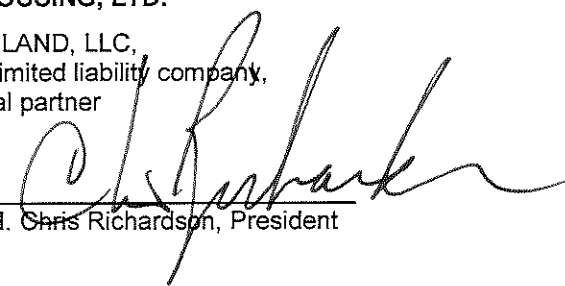
By: 
H. Chris Richardson, President

Exhibit A

Quail Ridge

Current Supportive Service	Requested Supportive Services
Computer Classes	Food Pantry
Credit Counseling	Health Fair
Onsite Day Care Center (This service will remain)	Exercise Classes
GED Classes	Notary Services
Home Buyer Class	Arts & Crafts
Health and Nutrition Class	On-site Social Events
Adult Education	Community Supportive Services
ESL	

Stats

- 47% of residents are considered Minor Child
- 78% of residents are Not-Hispanic or Latino

Based on a community survey conducted in 2018, we discovered the following:

- 100% of respondents have at least a high school diploma or equivalent
- 44% of residents indicated that computer classes are not of benefit to their household. None of the residents find GED or ESL classes to be of benefit to their household.
- Many of the residents would like to see more services for children rather than for themselves.

Rationale

Given the above information, property demographics, and residents' input at the public hearing prior to the LURA amendment request, services that meet that focus on health, social interaction, and children would be of most benefit to the residents.

1d

BOARD ACTION REQUEST
ASSET MANAGEMENT DIVISION
MAY 21, 2020

Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount for Quail Chase Apartments (HTC #17449)

RECOMMENDED ACTION

WHEREAS, Quail Chase Apartments (the Development) received a 4% Housing Tax Credit (HTC) award in 2017 to acquire and rehabilitate 248 multifamily units in Houston, Harris County;

WHEREAS, rehabilitation of the Development has been completed, and Houston Leased Housing Associates VI, LLLP (the Development Owner or Owner) requests, at cost certification, to increase the annual HTC amount to \$1,132,464, which is 113.22% of \$1,000,236, the amount of tax credits reflected in the Determination Notice;

WHEREAS, §42(m)(2) of the Internal Revenue Code allows an increase of tax credits for a bond financed project when the increase is determined necessary as demonstrated through the submission of the cost certification package;

WHEREAS, 10 TAC §10.402(c) requires approval by the Board if an increase to the amount of tax credits exceeds 110% of the amount of credit reflected in the Determination Notice; and

WHEREAS, a review of the cost certification package submitted by the Development Owner supports the need for the additional tax credits requested, and staff has determined that the increase is necessary for the viability of the transaction;

NOW, therefore, it is hereby

RESOLVED, that the housing tax credit increase for Quail Chase Apartments requested by the Development Owner is approved as presented to this meeting, and the Executive Director and his designees are each authorized, directed, and empowered to take all necessary action to effectuate the foregoing.

BACKGROUND

Quail Chase Apartments received a 4% HTC award in 2017 to acquire and rehabilitate 248 multifamily units in Houston, Harris County. On February 23, 2018, a Determination Notice was issued with an approved annual tax credit amount of \$1,000,236. The residential buildings in the Development placed in service on December 20, 2018, and the final cost certification was received by the Department on May 1, 2019.

In conjunction with the cost certification, Ryan J. Lunderby, the representative for the Development Owner, requested to increase the annual tax credit award to \$1,132,464, an increase of \$132,228 (13.22%) from the amount reflected in the Determination Notice. Through the cost certification review process, the representative for the Development Owner explained that the Development incurred increased costs during construction, mainly as a result of additions to the scope of work.

The construction contract was signed in March 2018, and construction started timely. After the construction contract was signed, several additions and upgrades were made to the scope of work. The additions are meant to increase the quality of housing for the residents, including the installation of granite countertops in all units, the replacement of all kitchen appliances, the addition of an outdoor splash pad play area, an upgrade to the outdoor playground structure, replacement of all storefront windows in the existing clubhouse, and installation of recessed medicine cabinets in all unit bathrooms. The total amount of change orders was \$1,630,561.

A comparison of the development costs from the time of the Application, in early 2018, to cost certification indicates that total development costs increased almost \$2.4M (7.54%), from \$31,680,679 to approximately \$34 million. Construction costs, including contractor fees, increased over \$2M (29.79%), from \$6,894,999 to \$8,948,804. Indirect construction costs decreased slightly (\$234,350 or 16.5%). Developer fees increased over \$233K (6.18%), from \$3,773,458 to \$4,006,608, and financing costs increased more than \$963K (56.31%), from \$1,711,621 to \$2,675,369. According to the Owner, financing costs increased significantly as a result of payment of interest during the construction period that was not included in the original budget at the time of application.

The syndication rate remained unchanged at \$1.00. However, the requested additional credits will result in an increase of over \$1.1M (10.87%) in syndication proceeds. The deferred developer fee amount increased by \$1,283,180, from \$2,656,758 to \$3,930,077 (a 48.3% increase). The third-party debt remained unchanged at \$18,760,000.

Staff's analysis of this transaction at cost certification has concluded that the Development supports a tax credit allocation of the requested amount, and that the requested increase is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period. This results in a 13.22% increase from the original annual HTC amount in the Determination Notice, going from \$1,000,236 to \$1,132,464. In accordance with 10 TAC §10.402(c), Board approval is required because the requested tax credit amount exceeds 110% of the HTC amount reflected in the Determination Notice. The Development Owner will be required to submit the Tax-

Exempt Bond Credit Increase Request Fee required in 10 TAC §11.901(8) for the increase to the HTC amount prior to issuance of Forms 8609.

Staff recommends approval of the increase in the tax credit award as presented herein.



DOMINIUMSM

VIA EMAIL

May 7, 2020

Lucy Trevino
Senior Asset Manager
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Quail Chase (TDHCA #17449) Request for Increased Credit Amount

Dear Ms. Trevino,

Please accept this letter as a formal request to increase the credit amount for Quail Chase (TDHCA #17449) from \$1,000,236.00, as approved in the Determination Notice on February 23, 2018 to \$1,132,464.00.

Sincerely,

Ryan J. Lunderby
Vice President
Houston Leased Housing Associates VI, LLLP

UNIT MIX/RENT SCHEDULE
Quail Chase Apartments, Houston, TX, # 17449

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
PROGRAM REGION:	6

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Income	# Units
Eff			30%	0
1	72	29.0%	40%	0
2	96	38.7%	50%	0
3	80	32.3%	60%	248
4			MR	0
TOTAL	248	100.0%	TOTAL	248

PRO FORMA ASSUMPTIONS	
REVENUE GROWTH:	2.00%
EXPENSE GROWTH:	3.00%
HIGH COST ADJUSTMENT:	130%
APPLICABLE FRACTION:	100.00%
APP % - ACQUISITION:	3.23%
APP % - CONSTRUCTION:	3.32%
AVERAGE SF	929

UNIT MIX / MONTHLY RENT SCHEDULE																				
HTC		Unit Mix				APPLICABLE PROGRAM RENT				APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Tenant Pd UA's (Verified)	Max Net Program Rent	Delta to Max Program	Rent per NRA	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent per NRA	Delta to Max Program	Market Rent	Rent per NRA	TDHCA Savings to Market	
TC60%	\$859	72	1	1	715	\$859	\$48	\$811	\$0	\$1.13	\$811	\$58,392	\$58,392	\$811	\$81.67	\$0		0.00		
TC60%	\$1,030	48	2	2	925	\$1,030	\$62	\$968	\$0	\$1.05	\$968	\$46,464	\$46,464	\$968	\$50.23	\$0		0.00		
TC60%	\$1,030	48	2	2	926	\$1,030	\$62	\$968	\$0	\$1.05	\$968	\$46,464	\$46,464	\$968	\$50.18	\$0		0.00		
TC60%	\$1,191	80	3	2	1,125	\$1,191	\$76	\$1,115	\$0	\$0.99	\$1,115	\$89,200	\$89,200	\$1,115	\$79.29	\$0		0.00		
TOTALS / AVERAG		248			230,328				\$0	\$1.04	\$970	\$240,520	\$240,520	\$970	\$68.60	\$0	\$0	\$0.00	(\$970)	

ANNUAL POTENTIAL GROSS RENT:		\$2,886,240	\$2,886,240
-------------------------------------	--	--------------------	--------------------

PRO FORMA ANALYSIS & DEVELOPMENT COSTS

POTENTIAL GROSS RENT	Secondary Income	Washer / Dryer Rental	Per Unit/Month	\$20.00	TDHCA CC	TDHCA -Prior	% DIFF	APP - Orig	Owner CC			
POTENTIAL GROSS INCOME					\$2,945,760	\$2,785,632	0%	\$2,785,632	\$2,945,952			
Vacancy & Collection Loss			% of PGI	-7.5%	(\$220,932)	(208,922)	0%	(208,922)	(220,946)		-7.5%	% of PGI
EO/Non-Rental Units/Concessions					\$0	-	#DIV/0!	-	-			
EFFECTIVE GROSS INCOME					\$2,724,828	\$2,576,710	0.01%	\$2,576,710	\$2,725,006			

MULTIFAMILY COMPARATIVE ANALYSIS (continued)

Quail Chase Apartments, Houston, TX, # 17449

DIRECT CONSTRUCTION COST ESTIMATE				
CATEGORY	FACTOR	UNITS/ SF	PER SF	AMOUNT
Base Cost:				0
Adjustments				
Exterior Wall Finish	0.00%		0	\$0
	0.00%		0	0
	0.00%		0	0
Roofing			0.00	0
Subfloor			#DIV/0!	#DIV/0!
Floor Cover			3.07	707,107
Breezeways	\$0.00	0	0.00	0
Balconies	\$0.00	0	0.00	0
Plumbing Fixtures	\$1,070	0	0.00	0
Rough-ins	\$525	0	0.00	0
Built-In Appliances	\$1,780	248	1.92	441,440
Exterior Stairs	\$2,450	0	0.00	0
Heating/Cooling			2.33	536,664
Enclosed Corridors	(\$14.38)		0.00	0
Carports	\$13.05	0	0.00	0
Garages	\$44.75	0	0.00	0
Comm &/or Aux Bldgs	\$0.00	0	0.00	0
Other:			0.00	0
Other: fire sprinkler	\$2.59	230,328	2.59	596,550
SUBTOTAL			#DIV/0!	#DIV/0!
Current Cost Multiplier	0.99		#DIV/0!	#DIV/0!
Local Multiplier	0.87		#DIV/0!	#DIV/0!
TOTAL DIRECT CONSTRUCTION COSTS			#DIV/0!	#DIV/0!
Plans, specs, survey, bldg permits	3.90%		#DIV/0!	#DIV/0!
Contractor's OH & Profit	11.50%		#DIV/0!	#DIV/0!
NET DIRECT CONSTRUCTION COSTS			#DIV/0!	#DIV/0!

PROPOSED PAYMENT COMPUTATION

First Lien: Freddie Mac - Tax Exe	\$18,760,000	Amort	420
Int Rate	4.42%	DCR	1.33

Other:	\$0	Amort	0
Int Rate	0.00%	DCR	1.33

of floors

Other:	\$0	Amort	0
Int Rate	0.00%	DCR	1.33

Other:	\$0	Amort	0
Int Rate	0.00%	DCR	1.33

Other:	\$0	Amort	0
Int Rate	0.00%	DCR	1.33

RECOMMENDED FINANCING STRUCTURE: APPLICANT'S NOI

First Lien: Freddie Mac - Tax Exempt Loan	\$1,054,270
Other:	0
Other:	0
Other:	0
Other:	0
Other:	0
Other:	0
Other:	0
TOTAL DEBT SERVICE	\$1,054,270

First Lien: Freddie Mac - Tax Exer	\$18,760,000	Amort	420
Int Rate	4.42%	DCR	1.31

Other:	\$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.31

Other:	\$0	Amort	0
Int Rate	0.00%	Aggregate DCR	1.31

LONG TERM OPERATING PRO FORMA

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15	YEAR 20	YEAR 25	YEAR 30	YEAR 35	YEAR 40
EFFECTIVE GROSS INCOME	\$2,725,006	\$2,779,506	\$2,835,096	\$2,891,798	\$2,949,634	\$3,256,634	\$3,595,587	\$3,969,819	\$4,383,001	\$4,839,187	\$5,342,853	\$5,898,942
LESS: TOTAL EXPENSES	1,346,570	1,386,014	1,426,621	1,468,427	1,511,468	1,746,508	\$2,018,390	2,332,922	2,696,827	3,117,895	3,605,146	4,169,031
NET OPERATING INCOME	\$1,378,436	\$1,393,492	\$1,408,475	\$1,423,370	\$1,438,166	\$1,510,126	\$1,577,197	\$1,636,897	\$1,686,174	\$1,721,292	\$1,737,707	\$1,729,910
LESS: DEBT SERVICE	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270	1,054,270
NET CASH FLOW	\$324,166	\$339,222	\$354,205	\$369,101	\$383,896	\$455,856	\$522,927	\$582,627	\$631,904	\$667,023	\$683,437	\$675,641
CUMULATIVE NET CASH FLOW	\$324,166	\$663,388	\$1,017,593	\$1,386,694	\$1,770,590	\$3,907,474	\$6,390,382	\$9,187,630	\$12,253,459	\$15,524,842	\$18,917,705	\$22,322,425
DEFERRED DEVELOPER FEE BALANCE	\$3,605,911	\$3,266,689	\$2,912,484	\$2,543,383	\$2,159,488	\$22,603	\$0	\$0	\$0	\$0	\$0	\$0
DCR ON UNDERWRITTEN DEBT (Must-Pay)	1.31	1.32	1.34	1.35	1.36	1.43	1.50	1.55	1.60	1.63	1.65	1.64
EXPENSE/EGI RATIO	49.42%	49.87%	50.32%	50.78%	51.24%	53.63%	56.14%	58.77%	61.53%	64.43%	67.48%	70.67%

1e

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

1f

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

1g

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

1h

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MAY 21, 2020

Presentation, discussion, and possible action on a waiver of certain amenity requirements in 10 TAC §11.101(b)(4) (NSP1 PI Contract #77090000603 Grim Hotel, Texarkana)

RECOMMENDED ACTION

WHEREAS, at the Board Meeting on May 23, 2019, Texarkana Grim Housing Partners, LP (Development Owner) received an allocation of \$1,006,241 in 4% Housing Tax Credits (HTC) and award of \$4,000,000 in Neighborhood Stabilization Program Round 1 Program Income (NSP1 PI) for the Adaptive Reuse of Grim Hotel in Texarkana;

WHEREAS, because of the historic nature of the building and the National Park Service (NPS) requirements in order to qualify for the historic tax credits that this development is receiving, the Development Owner has negotiated using an air brick ventilation with NPS approval in order to minimize visibility of the mechanical units while also complying with city code requirements;

WHEREAS, use of this air brick ventilation system prevents the Development Owner from providing laundry connections and exhaust/vent fans (vented to the outside) in the bathrooms in each unit, which has led the Development Owner to request a waiver of these requirements in 10 TAC §11.101(b)(4)(B) and (C), respectively;

WHEREAS, 10 TAC §11.101(b)(4) gives the Board the authority to waive certain Mandatory Development Amenities for Developments utilizing historic tax credits, with evidence that the amenity has not been approved by the Texas Historical Commission;

WHEREAS, staff finds that the need for the waiver was both not reasonably foreseeable and was not preventable by the Development Owner given the need to balance historic tax credit requirements and city code requirements; and

WHEREAS, staff believes that, by granting this waiver, the Department will better serve the policies and purposes articulated in Tex. Gov't Code §2306.001 with respect to contributing to the redevelopment of neighborhoods and communities;

NOW, therefore, it is hereby

RESOLVED, that the waiver of 10 TAC §11.101(b)(4)(B) and (C) is hereby granted subject to staff's reevaluation of the transaction with these revised plans and costs that results in a conclusion that the Development continues to be feasible.

BACKGROUND

The Grim Hotel is a historic eight-story building in downtown Texarkana that was constructed in the 1920s and operated as a hotel until the 1990s. The Development Owner received an allocation of 4% HTC and award of NSP1 PI in May 2019 for the Adaptive Reuse of the building into 93 income and rent-restricted units. At that time, the Development Owner had only received conditional approval from NPS regarding the rehabilitation.

Amendments to the conditional approval were approved by NPS throughout 2019, with the Development Owner closing on the property in July 2019, and closing on all financing except the NSP1 PI loan in October 2019. The Department was unable to close the NSP1 PI loan concurrently with the other financing as a result of NPS not having fully approved the scope of work. Now that the NPS has approved the amended scope of work, staff recommends approval of the waivers, requested by the Development Owner, in order to close the NSP1 PI loan subject to any underwriting conditions, and allow for disbursement of NSP1 PI funds over the construction period.

COATS | ROSE

A PROFESSIONAL CORPORATION

PAIGE MEBANE
ASSOCIATE

PMEBANE@COATSROSE.COM
DIRECT: (972) 419-4727
FAX: (713) 890-3977

April 08, 2020

Mr. Andrew Sinnott
Multi Family Loan Programs Administrator
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, Texas 78701

Re: The Grim Hotel (the “Project”) – Application #19409;
Texarkana Grim Housing Partners LP, Applicant

Dear Mr. Sinnott:

In connection with the above captioned matter, we would like to respectfully request a waiver of certain requirements in 10 TAC 11.101(b)(4) in connection with our application for NSP funding under the Multifamily Direct Loan Program.

10 TAC 11.101(b)(4) requires that all new construction, reconstruction, or adaptive reuse units must include Laundry Connections, laundry vents, and kitchen fans. As you know, our Project is an historic development involving the use of state and federal Historic Tax Credits (“HTC”) as well as Low Income Housing Tax Credits (“LIHTC”). Under the HTC requirements and due to the historic nature of the building, the Grim Hotel must undergo an involved approval process with the National Park Service.

While we initially sought to include the required in unit laundry facilities in compliance with 10 TAC 11.101(b)(4)(B) and exhaust and vent fans in requirement with 10 TAC 11.101(b)(4)(C), our Historic Preservation Certification Application, attached as Exhibit A, found that installation of mechanical vents necessary to this feature would negatively impact the visual character of the building and would damage the historic masonry. As such, the project is prohibited from meeting the required in unit laundry and kitchen vent amenity. We have worked diligently to mitigate this lack by providing on-site laundry elsewhere in the building in compliance with the development’s historic obligations. We have further worked with the City of Texarkana to gain approval for a ventless fan in the kitchen. The denial of our application to the National Park Service was both unforeseeable and unavoidable.

14755 PRESTON ROAD, SUITE 600, DALLAS, TEXAS 75254

PHONE: (972) 788-1600 FAX: (972) 702-0662

coatsrose.com


April 08, 2020

Page 2

By granting this waiver, it is our belief that TDHCA will better serve its purpose in both (a) providing for the housing needs of individuals and families of low, very low, and extremely low-income families and families of moderate income and (b) contributing to the preservation, development, and redevelopment of neighborhoods and communities. The Grim Hotel is a historic structure that is in dire need of rehabilitation and granting this waiver is necessary to the financial viability of the Project, allowing for the needed rehabilitation as well as providing much-needed housing for low- and moderate-income families. This waiver and these funds are critical to the completion of this Project.

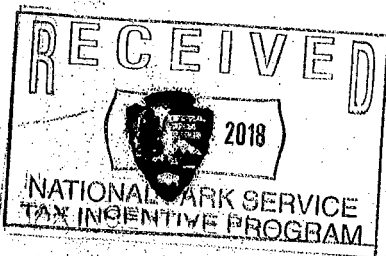
Please accept this letter as the waiver request. If another form of request is required, please advise. I may be reached at 972-419-4727 or at pmebane@coatsrose.com.

Very truly yours,


Paige Mebane

cc:

Jay Johnson
Jon Atlas
Tim Minton
Cliff Blount
Kelly Longwell
Mattye Jones



Received

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

OCT 11 2018

OMB Approved
No. 1024-0099
Form 10-108
Rev. 2014

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 2 - DESCRIPTION OF REHABILITATION

Division of Architecture

NPS Project Number 39540

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in the application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.

1. Property Name Hotel Grim
Street 301 North State Line Ave
City Texarkana County Bowie State TX Zip 75501-0000
Name of Historic District _____

- Listed individually in the National Register of Historic Places; date of listing 04/22/2016
- Located in a Registered Historic District; name of district _____
- Part 1 - Evaluation of Significance submitted? Date submitted _____ Date of certification _____

2. Project Data
Date of building 1924 Estimated rehabilitation costs (QRE) \$ 23,261,303
Number of buildings in project 1 Floor area before / after rehabilitation 110,655 / 110,655 sq ft
Start date (estimated) March, 2019 Use(s) before / after rehabilitation Hotel (Abandoned) / Multi-Family Housing
Completion date (estimated) May, 2020 Number of housing units before / after rehabilitation 0 / 93
Number of phases in project 1 Number of low/moderate income housing units before / after rehabilitation 0 / 93

3. Project Contact (if different from applicant)
Name Ellis Mumford-Russell Company EG&E
Street 2506 Little John Ln City Austin State TX
Zip 78704-5619 Telephone (832) 919-5433 Email Address ellis@egepreservation.com

4. Applicant
I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that (check one or both boxes, as applicable): (1) I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or (2) If I am not the fee simple owner of the above-described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (1) either is attached to this application form and incorporated herein, or has been previously submitted, and (2) meets the requirements of 36 CFR § 67.3(a)(1) (2011). For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Antonio Williams Signature [Signature] Date 9/25/2018

Applicant Entity Texarkana Grim Housing Partners LP SSN _____
Street 1611 N. Robison Road City Texarkana
Zip 75501 Telephone 903-838-8548 Email Address awilliams@texarkanaha.org

Applicant, SSN, or TIN has changed since previously submitted application.

NPS Official Use Only

The National Park Service has reviewed the Historic Preservation Certification Application - Part 2 for the above-named property and has determined that:

- the rehabilitation described herein is consistent with the historic character of the property and, where applicable, with the district in which it is located and that the project meets the Secretary of the Interior's Standards for Rehabilitation. This letter is a preliminary determination only, since a formal certification of rehabilitation can be issued only to the owner of a "certified historic structure" after rehabilitation work is complete.
- the rehabilitation or proposed rehabilitation will meet the Secretary of the Interior's Standards for Rehabilitation if the attached conditions are met.
- the rehabilitation described herein is not consistent with the historic character of the property or the district in which it is located and that the project does not meet the Secretary of the Interior's Standards for Rehabilitation.

Date 2/6/19 National Park Service Authorized Signature [Signature]

NPS conditions or comments attached.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

CONDITIONS SHEET

Historic Preservation Certification Application

Property name: Hotel Grim

Project Number: 39540

Property address: 301 North State Line Avenue, Texarkana, TX

Conditions Page 1 of 2

The rehabilitation of this property as described in the Historic Preservation Certification Application will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) is/are met:

1. The barrel-vaulted ceiling on the first floor, north of the check-in desk, must be retained and the space must remain largely open and visible to the lobby.
2. The paneled elevator doors and wood-like trim are a character-defining feature and should be retained and reused, if possible, in the public elevators. This includes retaining one set of doors and trim as a blind door while the shaft is used only for a single, larger elevator. If conditions of deterioration do not allow for reuse of historic fabric, new elevator doors and surround should be in-keeping with the character of the historic (i.e., modern, plain, clear-finish stainless steel doors and surround are not appropriate).
3. New residential spaces in the drug store must retain as much of the original ceiling as height as possible, with all historic crown molding retained. The octagonal column should remain free-standing and its capital should remain fully exposed. Additionally, new partition walls within all ground floor retail spaces must terminate at storefront mullions, not within the center of glazing. Partition connections must be narrower than the storefront mullions for a minimum distance of 18". We note drawing sheet A-201 does not accurately illustrate the proposed storefront configuration shown in elevation drawing A-501.
4. The wall along the stair side of the west corridor on the second floor appears to be historic and must not be demoed and rebuilt as indicated in the drawings. Historic openings, including extant doors, should be retained, even if they are not used.
5. Extant historic hotel room doors must be salvaged and retained to the greatest extent possible. Historic doors should be used in closed-off doorways, to retain the historic appearance of the corridors, where fire-ratings can be achieved through other means. Since there are not enough historic doors for every historic opening, doors should be grouped in openings adjacent to the elevator lobbies and through the south end of each floor.
6. Cased openings at the west end of elevator lobbies on upper floors must be retained.
7. Trim on newly constructed walls must not match historic trim, but must be in keeping with the historic character of the building.
8. This approval does not extend to first-floor rooftop alterations, pending additional information regarding the design of any railings or other new features. Although this is the rear of the building, it still faces the street and alterations must be minimal and in-keeping with the historic character of the building. Mechanical equipment must be visually minimized to the greatest extent possible, possibly requiring that all equipment be pushed towards the inside of the building. Detailed drawings showing this area, with all equipment, railings, etc in plan, elevation, and section must be submitted for review and approval.
9. The stair tower addition on the eastern leg of the building must be a simple rectangular shape (removing the triangles at each end) in order to reduce its overall footprint and visibility.
10. The cleaning and repair processes proposed for the exterior masonry and stucco must not damage or substantially alter the physical characteristics of the masonry surfaces. Good quality overall and close-up color photographs of the masonry before and after cleaning must be submitted with the Request for Certification of Completed Work.

Conditions continued on next page

11. This approval does not extend to any items for which information was not included in the Part 2 submittal, including, but not limited to: details of replacement windows, design details for the replacement awning over the main entrance, details for rooftop amenity areas, new interior finishes, etc. Information describing these details, and any others not described in the Part 2 application must be submitted for review and approval.

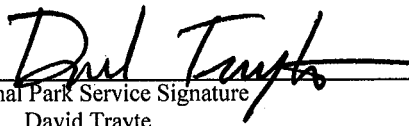
****Revised details and drawings in conformance with these conditions must be submitted via amendment through the State Historic Preservation Office (SHPO) to the National Park Service (NPS) for review and approval prior to starting work.**

Any substantive change in the work as described in the application must be brought to the attention of the State Historic Preservation Office (SHPO) and the National Park Service (NPS) in writing, submitted as an amendment, prior to execution to ensure that the proposed project continues to meet the Standards.

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed in the box above are met.

2/6/19

Date



National Park Service Signature
David Trayte

202-354-2016

Telephone Number



Received

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

OMB Approved
No. 1024-0009
Form 10-168
Rev. 2014

MAR 29 2019

HISTORIC PRESERVATION CERTIFICATION APPLICATION
AMENDMENT / ADVISORY DETERMINATION

Division of Architecture

NPS Project Number
39540

Instructions: This page must bear the applicant's original signature and must be dated.

1. Property name Hotel Grim
Property address 301 North State Line Ave

2. This form includes additional information requested by NPS for an application currently on hold.
 updates applicant or contact information.
 amends a previously submitted Part 1 Part 2 Part 3 application.
 requests an advisory determination that phase _____ of _____ phases of this rehabilitation project meets the Secretary of the Interior's Standards for Rehabilitation. Phase completion date _____
 Estimated rehabilitation costs of phase (QRE) _____

Summarize information here; continue on following page if necessary.

This amendment provides documentation related to proposed exterior vents as well as details related to partition-mullion transitions to address condition #3 of the Part 2 approval.

3. Project Contact (if different from applicant)
 Name Ellis Mumford-Russell Company Ogee
 Street 2506 Little John Ln City Austin State TX
 Zip 78704-5619 Telephone (832) 919-6433 Email Address ellis@ogee Preservation.com

4. Applicant
 I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable] (1) I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or (2) if I am not the fee simple owner of the above-described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011). For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Antonio Williams Signature [Signature] Date 3/19/2019
 Applicant Entity Texarkana Grim Housing Partners LP SSN _____ or TIN 35-2639675
 Street 1611 N Robison Road City Texarkana State TX
 Zip 75501-4113 Telephone (903) 838-8548 Email Address awilliams@texarkanaha.org
 Applicant, SSN, or TIN has changed since previously submitted application.

NPS Official Use Only

- The National Park Service has reviewed this amendment to the Historic Preservation Certification Application and has determined that the amendment:
- meets the Secretary of the Interior's Standards for Rehabilitation.
 will meet the Secretary of the Interior's Standard for Rehabilitation if the attached conditions are met.
 does not meet the Secretary of the Interior's Standards for Rehabilitation.
 updates the information on file and does not affect the certification.

Advisory Determinations:

- The National Park Service has determined that the work completed in this phase is consistent with the Secretary of the Interior's Standards for Rehabilitation. This determination is advisory only. A formal certification of rehabilitation can be issued only after all rehabilitation work and any associated site work or new construction have been completed. This approval could be superseded if it is found that the overall rehabilitation does not meet the Secretary's Standards. A copy of this form will be provided to the Internal Revenue Service.

Date 3/15/19 National Park Service Authorized Signature [Signature]

NPS conditions or comments attached

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

CONDITIONS SHEET
Historic Preservation Certification Application

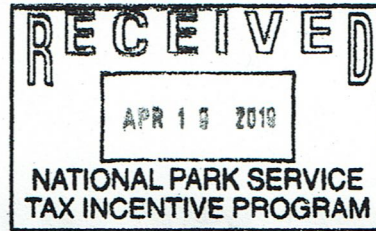
Property Hotel Grim

NPS# 39540

115 W. 3rd St.

The rehabilitation of this property as described in the Historic Certification Application will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) is/are met:

1. Installation of mechanical vents on the exterior of the building is not appropriate as this will negatively impact the visual character of the building and damage the historic masonry. The ventilation system must be redesigned to remove the significant number of proposed vents from the exterior elevations. Provided documentation only shows the three primary, street-facing elevations and provides no information on the interior elevations of the V-shaped tower. Given the visibility of these, vents are also inappropriate. Alternative methods of venting the residential units must be explored. Documentation for a new system must be submitted as an amendment for review and approval before work is undertaken.



4/11/19 Mark Wolfe _____
Date State Official Signature ~~SHPO~~ SHPO State Contact Telephone Number

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed in the box about are met.

5/15/19 Dan Tymb _____
Date National Park Service Signature Telephone Number

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
CONDITIONS**

Property Name Hotel Grim Project Number 39540

Property Address 301 North State Line Ave, Texarkana, Texas

The rehabilitation of this property as described in the Historic Preservation Certification Application will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) is/are met:

1. The historic pharmacy street entrance must have the feel of doors, even if it is not operable doors and is constructed as one piece. Since this is on the primary façade, at pedestrian level, windows may not be walled off on the interior. We encourage redesign of the floor plan to move the bathroom away from the exterior wall (in exchange for the kitchen). Otherwise, alternatives to walling off the windows must be explored, including window treatments and possible the use of obscure glass.
2. Mechanical units, especially on the first and second floor roofs, must be pushed as far towards the center of the building as possible to minimize visibility.
3. The underside of the northern egress stair must be fully enclosed in sheetrock or other finished materials as it passes through the café.
4. This approval does not extend to the proposed air brick ventilation systems. Appropriate documentation, including code citations and/or a detailed description of city requirements, has not been provided to substantiate this as the only available option. Further, the submitted documentation of the sample holes does not demonstrate that this proposal will have a minimal impact on the building.



Photographs documenting that the conditions have been met must be submitted with the Request for Certification of Completed Work.

Any substantive change in the work as described in the application should be brought to the attention of the State Historic Preservation Office and the National Park Service in writing, using the Amendment/Advisory Determination form, prior to execution to ensure that the proposed project continues to meet the Standards.

10/18/19
Date

[Handwritten Signature]
State Historic Preservation Office Signature

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed above are met.

11/20/19
Date

[Handwritten Signature]
National Park Service Signature

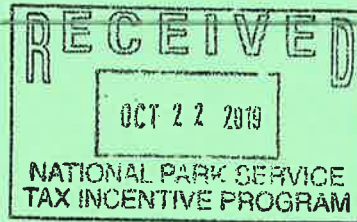
**HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
CONDITIONS**

Property Name Hotel Grim Project Number 39540

Property Address 301 North State Line Ave, Texarkana, Texas

The rehabilitation of this property as described in the Historic Preservation Certification Application will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) is/are met:

1. The proposed windows in the 23 September 2019 revisions are approved, only if they match the designs presented in the detail drawings for the head, check rail, sill, and jamb. We note that the detail drawings do not match the elevation drawings, which indicate too much difference in overall dimensions between the existing and proposed and do not accurately reflect the proportions of the detail drawings. Windows in line with the elevation drawings are inappropriate and unacceptable. Close-up photographs of the installed replacement windows must be submitted as part of the Part 3 documentation.



Photographs documenting that the conditions have been met must be submitted with the Request for Certification of Completed Work.

Any substantive change in the work as described in the application should be brought to the attention of the State Historic Preservation Office and the National Park Service in writing, using the Amendment/Advisory Determination form, prior to execution to ensure that the proposed project continues to meet the Standards.

10/18/19
Date

Mark Wolfe
State Historic Preservation Office Signature

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed above are met.

11/20/19
Date

Dan Taylor
National Park Service Signature

**HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
COMMENTS**

Property Name Hotel Grim Project Number 39540

Property Address 301 North State Line Avenue, Texarkana, TX

These comments respond to the Historic Preservation Certification Application –

Part 1 Part 2 Part 3 Amendment

Amendment #4

Based on the documentation provided we acknowledge that the building's complex structural system creates constraints in designing the necessary mechanical ventilation. Typical treatments to route the ventilation through the roof or secondary elevations would result in other problematic treatments or code compliance issues. We also acknowledge the efforts made to reduce the number of required vents per unit. Therefore the proposed air brick ventilation system, limited to the locations illustrated in elevation drawings dated 7/10/2019, will meet the Standards. Note that altering or damaging historic materials in order to vent through the primary elevations of a building is not a recommended treatment.

Please be advised that projects are judged case-by-case based on their own unique facts and circumstances. Although we are approving the amendment, this treatment could have resulted in denial of certification under other circumstances. While the work is accepted in this case, this should not be construed as approval of such treatment for other projects. As Section 67.6(a)(1) of program regulations states:

Because the circumstances of each rehabilitation project are unique to the particular certified historic structure involved, certification that may have been granted to other rehabilitations are not specially applicable and may not be relied on by owners as applicable to other projects.

The National Park Service has reviewed and approved the submitted application noted above.

3/11/2020
Date


National Park Service Signature



City of Texarkana

220 Texas Blvd Room 301
P.O. Box 1967
Texarkana, TX 75504
(903) 798-3912 Voice
(903) 794-1257 Fax

BUILDING REMODEL (C)

Issue Date: March 31, 2020

PROJECT DESCRIPTION: Grim Apartments

PROJECT # BLDRC-19-00531	(903) 798-3912 Inspections
---	---

LOCATION
301 State Line N
Texarkana, TX 75501

LEGAL
City/triggs Addn Lots 7-12 Grim Hotel
2972/009 12/14/98 BIK/tract 13 0.89 Acres

CONTRACTOR

TBD
220 Texas Blvd
Texarkana, TX 75501
(123) 456-7890 Phone

OWNER

Rivergate Prop Llc
803 Pine St
Texarkana, TX 75501-5111

AVAILABLE INSPECTIONS

- ▶ Building Footings / Piers (C) (required)
- ▶ Building Foundation (C) (required)
- ▶ Building Brick (C) (required)
- ▶ Building Firewall (C) (required)
- ▶ Building Framing (C) (required)
- ▶ Building Insulation (C) (required)
- ▶ Building Miscellaneous (required)
- ▶ Landscape Final (C) (required)
- ▶ Building Final (C) (required)
- ▶ Engineering Final (C) (required)
- ▶ Fire Final (C) (required)
- ▶ Health Final (C) (required)
- ▶ Water Final (C) (required)
- ▶ Certificate of Occupancy (C) (required)

INFORMATION

Commercial - Total Valuation	18000000
Is Lot in Planned Devp? If so, see P&Z for plan	No
Is NEW Use Allowed?	Yes
Zoning Classification	GB
Zoning District	GB

FEES **TOTAL = \$ 56,982.00**

<i>BLDG-C Plan Review >1,000,000</i>	\$ 500.00
<i>Commercial - Permit Fee</i>	\$ 56,032.00
<i>Commercial - Plan Re-Review Fee</i>	\$ 150.00
<i>User Specified</i>	\$ 300.00

PAYMENTS **TOTAL = \$ 56,982.00**

<i>TBD (TO BE DETERMINED)</i>	
<i>Check on 05/13/2019</i>	(\$650.00)
<i>Note: ck # 1886</i>	
<i>TBD (TO BE DETERMINED)</i>	
<i>Check on 03/31/2020</i>	(\$56,332.00)
<i>Note: Check #16372</i>	

NOTICES

- 1) All work must be done in compliance with the 2015 International Building Code. 2014 National Electrical Code.
- 2) A copy of the signed permit and approved plans must be on site at all times.
- 3) The project address must be clearly posted at the job site.
- 4) Zoning must be verified before permit is issued.

READ AND SIGN

I hereby certify by my signature below that the information provided is true and correct to the best of my knowledge and that the stated value of construction includes all materials, equipment, labor, overhead and profit. I further agree to adhere to all City, State and Federal laws regarding the work to be performed under this permit.

_____	_____
Signature	Date

1i

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MAY 21, 2020

Presentation, discussion, and possible action on a waiver of certain reserve requirements in 10 TAC §10.404(a)(3)(B)

RECOMMENDED ACTION

WHEREAS, two 9% Housing Tax Credit (HTC)/Multifamily Direct Loan (MFDL) Reconstruction Developments have previously been underwritten and approved with reserve requirements of \$250 per Unit per year;

WHEREAS, 10 TAC §10.404(a)(3)(B) requires Reconstruction Developments to utilize the greater of the amount per Unit per year either established by the information presented in a Scope and Cost Review or \$300 per Unit per year;

WHEREAS, 10 TAC §11.302(d)(2)(I) states that “the Underwriter will use a minimum reserve of \$250 per Unit for New Construction and Reconstruction Developments and \$300 per Unit for all other Developments;”

WHEREAS, through the drafting of a HOME Contract for a 9% HTC/MFDL Reconstruction Development recently, staff noticed this contradiction and that the Underwriting Report had used a \$250 per Unit Replacement Reserve; and

WHEREAS, staff recommends waiving 10 TAC §10.404(a)(3)(B) for Reconstruction Developments to the extent that all units will be completely demolished, so that the \$250 per Unit per year Replacement Reserve requirement in 10 TAC §11.302(d)(2)(I) may be utilized;

NOW, therefore, it is hereby

RESOLVED, that the waiver of 10 TAC §10.404(a)(3)(B) for Direct Loan-layered Reconstruction Developments is hereby granted.

BACKGROUND

Staff recently discovered a conflict between two multifamily rules - 10 TAC §10.404(a)(3)(B) and 10 TAC §11.302(d)(2)(I). This was identified as staff was drafting the HOME Contract for Avanti at South Bluff, a 9% HTC/MFDL Reconstruction Development in which 35 units were being demolished and 42 units were being constructed. When staff reviewed the Underwriting Report for this Application and for Casa de Manana, another HOME-layered 9% HTC Reconstruction Development awarded last year, staff

discovered that \$250 per Unit per year Replacement Reserve requirements were being utilized in accordance with the Underwriting report

Reconstruction Developments that completely demolish all units and construct a new Development on the site, are considered as new construction for purposes of future maintenance needs, and will require less Replacement Reserves. Reconstruction Developments that make use of existing buildings are likely to have higher maintenance costs in the future, making the higher Replacement Reserves appropriate. This conflict in rule language was not foreseen and had not been recognized, and resolution of the conflict in the above-described manner better serves the policies articulated in the rules. Therefore, staff believes a waiver of this requirement is necessary for Reconstruction Developments in which all units are being demolished, allowing for the \$250 reserve per unit figure in 10 TAC §11.302(d)(2)(I) to be used under these circumstances until the rule can be changed for applications awarded in 2021 and later.

AVANTI AT SOUTH BLUFF, LP

May 14, 2020

Marni Holloway
Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX, 78701-2401

Dear Ms. Holloway,

Please accept this letter on behalf of Avanti at South Bluff, LP as a formal request for Avanti Legacy at South Bluff (TDHCA #19332) to be considered under §10.404(a)(3)(A) rather than §10.404(a)(3)(B) of the Asset Management Rules, with regards to the Replacement Reserve Account requirements. Per section §11.302(d)(2)(I) of the 2019 QAP, both New Construction and Reconstruction Developments are to be underwritten with a Replacement Reserve requirement of \$250 per Unit per year. Avanti Legacy at South Bluff is more precisely described as a complete demolition and reconstruction of a new development on the site. Therefore, we believe it would be more accurately treated as a New Construction, permitting it to be fall under section §10.404(a)(3)(A), which has a Replacement Reserve requirement of \$250 per Unit per year. Should you have any questions or require additional information, please do not hesitate to contact us.

Respectfully,



Henry Flores
Authorized Representative of Avanti at South Bluff, LP
8500 Shoal Creek Blvd., Bldg. 4, Ste. 208
Austin, TX 78757
P – (512) 982-1343
F – (512) 900-2860
hflores@madhousedevlopment.net

Avanti at South Bluff, LP
8500 Shoal Creek Blvd, Bldg. 4, Ste. 208, Austin, TX 78757
Phone – (512) 914-0953 | Fax – (512) 900-2860
hflores@madhousedevlopment.net

1j

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

1k

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

11

BOARD ACTION REQUEST
HOUSING RESOURCE CENTER
MAY 21, 2020

Presentation, discussion, and possible action on the draft 2021 Regional Allocation Formula Methodology

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §§2306.1115 and 2306.111(d) require that the Texas Department of Housing and Community Affairs (TDHCA or the Department) use a Regional Allocation Formula (RAF) to allocate its HOME Investment Partnerships (HOME) Program, Housing Tax Credit (HTC) Program, and under certain circumstances, Housing Trust Fund (HTF) Program funding; and

WHEREAS, the proposed RAF Methodology utilizes appropriate statistical data to measure affordable housing needs, available housing resources, and other factors determined by the Department to be relevant to the equitable distribution of housing funds in the urban and rural areas of the 13 State Service Regions used for planning purposes;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director and his designees are authorized and empowered to publish the Draft 2021 Regional Allocation Formula Methodologies for the HOME, HTC, and, as applicable, HTF programs in the *Texas Register* for public comment and, in connection therewith, to make such non-substantive grammatical and technical changes as they deem necessary or advisable.

BACKGROUND

The Regional Allocation Formula (RAF) utilizes appropriate statistical data to measure the affordable housing need and available resources in the 13 State Service Regions that are used for planning purposes. It also allocates funding to rural and urban areas within each region. The Department has flexibility in determining variables to be used in the RAF, per Tex. Gov't Code §2306.1115(a)(3), "the department shall develop a formula that...includes other factors determined by the department to be relevant to the equitable distribution of housing funds."

The RAF is revised annually to reflect current data, respond to public comment, and better assess regional housing needs and available resources. The RAF Methodology was updated in the 2014 RAF cycle to refine the use of Metropolitan Statistical Areas (MSAs) by using "MSA counties with urban places" and "Non-MSA counties or counties with only rural places" instead of using just MSA and Non-MSA counties to allocate between urban and rural areas. This accounts for the fact that even though a county may be a part of an MSA, all the places within that county may meet the definition of rural per

Tex. Gov't Code §2306.004(28-a). Based on public comment received in the 2015 RAF cycle, factors for lack of kitchen and plumbing facilities were added to the RAF Methodology to measure housing need for Single Family activities. Similarly in the 2016 RAF cycle, a new factor called the Regional Coverage Factor was added to the RAF Methodology for Single Family activities. The Regional Coverage Factor takes into account the smaller populations of rural areas as well as scattered locations of single family projects, instead of relying solely on population as an absolute.

The draft 2021 RAF Methodology explains the use of factors, in keeping with the statutory requirements, which include the need for housing assistance, the availability of housing resources, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state. The draft 2021 RAF Methodology does not take into account any current gubernatorial suspensions of statute due to disaster.

The Single Family HOME, Multifamily HOME, HTC, and HTF program RAFs each use slightly different formulas because the programs have different eligible activities, households, and geographical service areas. For example, Tex. Gov't Code §2306.111(c) requires that 95% of HOME funding be set aside for non-participating jurisdictions (non-PJs). Therefore, the Single Family and Multifamily HOME RAFs only use need and available resource data for non-PJs.

The draft 2021 RAF Methodology will be made available for public comment from Friday, June 5, 2020, through Friday, June 25, 2020, at 5:00 p.m. Austin local time. The draft RAF Methodology to be approved by the Board for release for public comment can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>. Following release it will also be located on the TDHCA Public Comment Center at <https://www.tdhca.state.tx.us/public-comment.htm> A public hearing for the draft 2021 RAF Methodology will be held on Tuesday, June, 16, at 2:00 p.m. via webinar. Due to the ongoing public health concern related to COVID-19, the Department will host a virtual public hearing in order to receive public comment orally from interested stakeholders and the public. Detailed information on the hearing may be found off TDHCA's Housing Resource Center page: <https://www.tdhca.state.tx.us/housing-center/announcements.htm>. .

The following Attachments are provided:

- A. Draft 2021 RAF Methodology
- B. Draft Example 2021 HTC RAF
- C. Draft Example 2021 HOME MF RAF
- D. Draft Example 2021 HTF RAF
- E. Draft Example 2020 HOME SF RAF

Once approved, the final 2021 RAF Methodology will be published on the Department's website. **It should be noted with this action that the Board is approving the publication of the proposed methodology for public comment, not specific allocation amounts.**

To the extent funds received/proposed to be used fall below the statutory minimum for any program/activity, or if the proposed activities fall into a statutory exception, the RAF will not be used for the program/activity in question.

2021 Regional Allocation Formula Methodology

Contents

Introduction.....	1
Statutory Requirement.....	2
Urban and Rural Areas.....	2
Methodology.....	4
Affordable Housing Need.....	4
Income.....	4
Cost Burden and Overcrowding.....	4
Lack of Kitchen and Plumbing Facilities.....	5
Summary of Affordable Housing Need for Single Family and Multifamily Activities.....	5
Housing Availability.....	5
Regional Coverage Factor.....	6
Summary of Variables.....	6
Exceptions to the RAF.....	7
Set-Asides.....	7
Participating Jurisdictions (PJs).....	7
Allocation Adjustments.....	8
Single Family RAF Example.....	9
Compounded Need.....	11
Weights.....	11
HOME Subregional Allocation Adjustment.....	12
Multifamily RAF Example.....	13
Compounded Need.....	14
Weights.....	14
HTC Subregional Allocation Adjustment.....	15

Introduction

Since 2000, the Texas Department of Housing and Community Affairs (TDHCA or the Department) has used a Regional Allocation Formula (RAF) to allocate funding at the regional and subregional level for multifamily and single-family activities. The RAF is required by Tex. Gov't Code §§2306.111 and 2306.1115. It allocates funding for the following programs:

- Multifamily Programs:
 - Housing Tax Credit (HTC) Program
 - HOME Investment Partnerships Program (HOME) Multifamily (MF)
- Single Family Programs:
 - State Housing Trust Fund (HTF) Program*
 - HOME Single Family (SF)

* The RAF is not required to be utilized for HTF as authorized by Tex. Gov't Code §2306.111(d-1). HTF is funded through state general revenue and is not to be confused with the federally funded National Housing Trust Fund (NHTF).

The following methodology explains how the RAF accounts for housing need, housing resource availability, and other factors relevant to the equitable distribution of housing funds in urban and rural areas of the state, as required by statute.

The methodology also includes example allocation spreadsheets for each of the four programs subject to the RAF. These spreadsheets demonstrate how the methodology affects each program. The provided spreadsheets utilize the following total allocation amounts:

Program	Example Total Allocation
HTC	\$65,000,000
HOME Multifamily	\$12,500,000
HTF	\$3,000,000
HOME Single Family	\$15,000,000

These allocation amounts are only examples. Following approval of the RAF Methodology by the TDHCA Governing Board, Program area staff calculate the final allocation amounts according to the most recent information on funding availability. Even when final total allocation amounts are available, other planning considerations may alter the applicability of the RAF. For example, certain HOME SF activities may not release funds subregionally using the RAF. In addition, per Tex. Gov't Code §2306.111(d-1)(3), if HTF funds administered by the Department (and not otherwise set aside) do not exceed \$3 million, then HTF funds are not required to be allocated using the RAF.

The Draft 2021 RAF Methodology will be presented at the May 21, 2019 TDHCA Board meeting for approval to be released for public comment. A public comment period will open from Friday, June 5, 2020, through Thursday, June 25, 2020, with a public hearing on Tuesday, June 16, 2020. No public comment was received and no changes were made. The Final 2020 RAF Methodology will be presented for approval at the Board meeting of July 23, 2020.

Statutory Requirement

Tex. Gov't Code §§2306.111 and 2306.1115 require that TDHCA use a formula to allocate funding for the HOME, HTF, and HTC programs.

Tex. Gov't Code §2306.1115 states:

(a) To allocate housing funds under Section 2306.111(d), the department shall develop a formula that:

(1) includes as a factor the need for housing assistance and the availability of housing resources in an urban area or rural area;

(2) provides for allocations that are consistent with applicable federal and state requirements and limitations; and

(3) includes other factors determined by the department to be relevant to the equitable distribution of housing funds under Section 2306.111(d).

(b) The department shall use information contained in its annual state low income housing plan and other appropriate data to develop the formula under this section.

The methodology detailed in this document considers the need for housing assistance and the availability of housing in urban and rural areas to meet statutory requirements for the HOME SF, HOME MF, HTF, and HTC programs. The methodology also includes a regional coverage factor for single family programs. This coverage factor utilizes inverse population density to help distribute single family program funding to more rural areas of the state in accordance with the statutory requirements.

Urban and Rural Areas

Tex. Gov't Code §2306.004 states:

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area; or

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area.

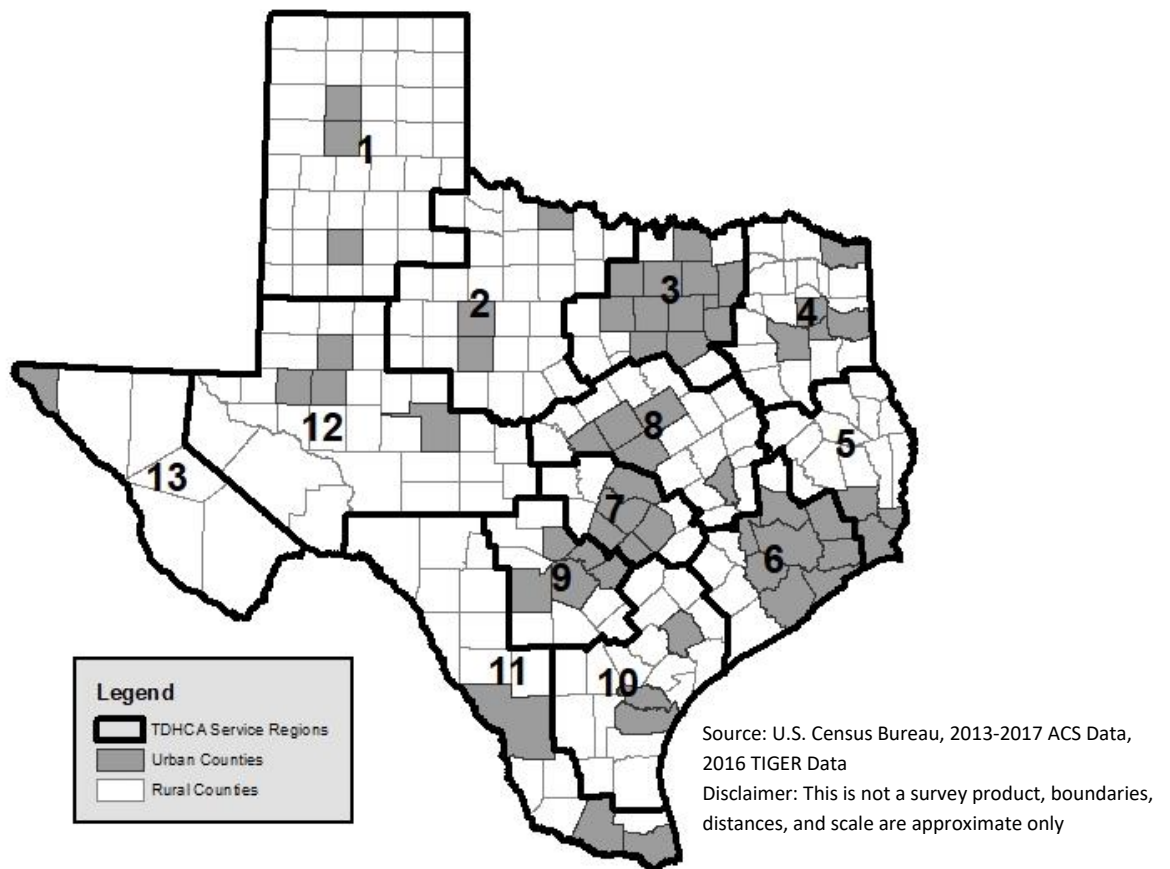
Tex. Gov't Code §2306.004(28-a) is applied to incorporated places and Census Designated Places, as defined by the U.S. Census Bureau, collectively referred to as places. Prior to the development of the RAF each year, the parameters outlined in Tex. Gov't Code are used to determine which places are urban and which are rural. The urban and rural designation for site-specific applications is made at the place level; organizations applying for certain TDHCA-administered funds use the urban and rural place designations to determine which subregional allocation they are eligible to apply for. If a place crosses county or regional boundaries,

the subregional allocation that the place in question is eligible to apply for is determined by the county that contains the majority area and population of the place.

Additionally, the RAF must account for the statewide need and availability of housing. If the RAF only combined data from places, many unincorporated parts of the state would not be included, which would significantly hinder the RAF’s utility as an equitable allocation tool. For this reason, the RAF uses county-level data to measure statewide housing need and to calculate subregional allocations. This allows for a more complete picture of the state’s demographics in determining allocations.

Even if a county contains a Metropolitan Statistical Area (MSA) per the U.S. Office of Management and Budget (OMB) definitions, it’s possible that all the places within that county meet the definition of a rural area per Tex. Gov’t Code §2306.004(28-a). Therefore, if an MSA county has no places designated as urban, the need and availability of the whole county will be counted toward the rural allocation (*i.e.*, the MSA county had no places with a population over 25,000 or places touching a boundary of a place with a population over 25,000). The allocation process outlined in this document refers to “MSA counties with urban places” as “urban counties” and “Non-MSA counties and counties with only rural places” as “rural counties.” The need and availability of “MSA counties with urban places” directs the allocation toward the urban places, and the need and availability of “Non-MSA counties and counties with only rural places” directs the allocation toward the rural places.

Map of Urban and Rural Counties in Texas by Region



Methodology

For many of the RAF's variables, the Department uses the most recent American Community Survey (ACS) 5-Year Estimate data available. Land area data are not available in the annually released ACS; therefore, decennial census data must be used for the Regional Coverage Factor.

Affordable Housing Need

For the purposes of developing an allocation formula, affordable housing need is measured through variables that apply directly to the assistance provided by TDHCA programs. Despite HTF not currently utilizing the RAF, HTF is included in the RAF methodology description if funding levels or programmatic changes require the RAF to be utilized for this program.

Income

Income is the primary measurement of eligibility for housing assistance through TDHCA. HOME, HTC, and HTF serve households that earn less than or equal to 80% Area Median Family Income (AMFI). While eligibility for housing assistance is measured by AMFI, the Comprehensive Housing Affordability Strategy (CHAS) datasets that estimate the number of households in each AMFI category lag behind the poverty data included in the ACS by one year. In order to use the most up-to-date data, the RAF will incorporate ACS data for number of individuals at or below 200% of the poverty level to help calculate affordable housing need. Individuals at or below 200% of the poverty level will qualify for a majority of the housing assistance options offered through TDHCA's HOME, HTC, and HTF programs. To ensure that *individuals* in poverty can be comparatively accurate when combined with cost burdened and overcrowded *households* to calculate affordable housing need, the number of individuals at or below 200% poverty in each subregion is divided by the average size of a household in Texas. The number of individuals at or below 200% poverty is included as a variable in all four program RAFs.

Cost Burden and Overcrowding

Renter and owner need for housing assistance is measured through cost burden and overcrowding conditions. The count of cost burdened renter and owner households used in the RAF measures the number of households in Texas that spend more than 30% of their income on rent or homeowner costs (for homeowners with a mortgage), which is a common measure of unaffordable housing. The count of overcrowded renters and owners measures the number of housing units with more than one person per room, including the kitchen and bathroom. Areas with high cost burden or overcrowding may signify a need for assistance.

Many of TDHCA's programs aim to assist households that are cost-burdened or overcrowded. HTC and HOME MF both offer assistance for reduced-rent apartments. HOME SF offers Tenant-Based Rental Assistance, which pays a portion of a recipient's rent to their landlord. HTF offers the Amy Young Barrier Removal Program, which can serve both renters and homeowners. Therefore, variables representing renters who need assistance are included in the analysis for all four program RAFs.

HOME SF offers homebuyer assistance, home repair assistance, and single family development programs. For home repair, HOME SF offers grants and no-interest loans to homeowners to rehabilitate or reconstruct their homes. For single family development, typically the homes are built by Community Housing Development Organizations (CHDOs) and the homes are purchased by low-income homeowners. HTF offers the Amy Young Barrier Removal Program, which can be used for homeowners and the Bootstrap Loan Program for potential homeowners who use “sweat equity” and low- to no-interest loans to build and secure ownership of their homes. Therefore, variables representing homeowners who need assistance are included in the HOME SF and HTF RAFs.

Lack of Kitchen and Plumbing Facilities

HOME SF offers homeowner rehabilitation or reconstruction assistance. HTF includes activities for rehabilitation, such as the Amy Young Barrier Removal Program. Since TDHCA programs fund rehabilitation, the RAF includes measures for substandard housing. Common definitions of substandard housing include lack of operable indoor plumbing, usable flush toilets, usable bathtub or shower, safe electricity, safe or adequate source of heat, or kitchen facilities. Data regarding total units lacking kitchen facilities or plumbing are the only data available on both an annual basis and at a county level. The count of occupied and unoccupied units lacking kitchen facilities and the count of occupied and unoccupied units lacking plumbing are utilized in the HOME SF and HTF RAFs.

Summary of Affordable Housing Need for Single Family and Multifamily Activities

The extent of Texans needing affordable housing is measured using five variables for single family activities:

1. Cost burdened renter and owner households;
2. Overcrowded renter and owner households;
3. Housing units lacking kitchen facilities;
4. Housing units lacking plumbing; and
5. Individuals at or below 200% of the poverty rate.

The extent of Texans needing affordable housing is measured using three variables for multifamily activities:

1. Cost burdened renter households;
2. Overcrowded renter households; and
3. Individuals at or below 200% of the poverty rate.

Housing Availability

Housing availability is included to measure where existing housing resources are located. Since this includes both market-rate and subsidized units, the RAF uses vacancies as a common measurement for housing availability. A high number of vacancies may indicate that a market has an adequate or potentially abundant supply of housing. Both vacant units for sale and vacant units for rent will be included in the HOME SF and HTF RAFs, while vacant units for rent alone are included in the HOME MF and HTC RAFs.

Regional Coverage Factor

The RAF uses inverse population density to generate a regional coverage factor. Population density measures the average number of people located in a defined area (i.e. persons per square mile). This is calculated by dividing the number of people in a geographic area by the area of the land in that area. In this way, population density can be used to compare the population size of geographic areas with different dimensions. A high population density means that a geographic area has higher population relative to its available land area. Contrarily, inverse population density measures the amount of land in a geographic area per person in that area (i.e. square miles per person). This is calculated by dividing the land area by the number of people that live in that area. A high inverse population density means that a geographic area has more land area relative to its population size. In this way, high population density generally corresponds to urban regions, while high inverse population generally corresponds to more rural regions.

Inverse population density is included in the HOME SF and HTF RAFs as a Regional Coverage Factor to consider the distance between scattered-site single family activities and the dispersed population within the predominantly rural areas where HOME SF and HTF administrators provide assistance. TDHCA's multifamily programs generally focus development to a single site, so the Regional Coverage Factor is not as pertinent to multifamily program allocation. The Regional Coverage Factor assists in redistributing single family program funding from urban areas to more rural parts of the state. This better aligns funding availability with the statutory requirement that 95% of HOME funds be allocated for the benefit of those areas of the state that do not receive HOME funds directly from the U.S. Department of Housing and Urban Development (HUD), primarily smaller cities and rural areas (per Tex. Gov't Code §2306.111).

Summary of Variables

The following chart shows which need, availability, and other variables are used in the RAF Methodology for each of the four applicable programs.

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Need Variables	<i>Cost Burdened Renter Households</i>	✓	✓	✓	✓
	<i>Cost Burdened Owner Households</i>			✓	✓
	<i>Overcrowded Renter Households</i>	✓	✓	✓	✓
	<i>Overcrowded Owner Households</i>			✓	✓
	<i>Units Lacking Kitchen Facilities</i>			✓	✓
	<i>Units Lacking Plumbing Facilities</i>			✓	✓
	<i>Individuals at or Below 200% of Poverty</i>	✓	✓	✓	✓
	<i>Vacant Units for Rent</i>	✓	✓	✓	✓

		Multifamily Programs		Single Family Programs	
		HTC	HOME MF	HTF	HOME SF
Availability Variables	<i>Vacant Units for Sale</i>			✓	✓
Other	<i>Regional Coverage Factor</i>			✓	✓

Exceptions to the RAF

Per Tex. Gov't Code §2306.111, there are certain instances in which the RAF requirement does not apply to HOME MF, HOME SF, HTC, or HTF funds.

Set-Asides

Specific set-asides will not be subject to the RAF per Tex. Gov't Code §2306.111(d-1), including set-asides for contract-for-deed activities and set-asides mandated by state or federal law, if these set-asides are less than 10% of the total allocation of funds or credits. Set-asides for funds allocated to serve persons with disabilities will not be subject to the RAF. The total amount available through the RAF will not include funds for at-risk developments for the HTC Program or other statutorily created set-asides. Also pursuant to Tex. Gov't Code §2306.111(d-1), programmed activities for HTF that do not exceed \$3 million are not subject to the RAF. It is due to these exceptions that the HTF funds, as currently programmed, do not utilize the RAF.

In addition, per Tex. Gov't Code §2306.111(c)(2), 5% of State HOME funds must be spent on activities that serve persons with disabilities in any area of the State. This portion of HOME is not subject to the RAF because it is set-aside for persons with disabilities.

In Tex. Gov't Code §2306.111(d-2), 5% of HTC funds must be allocated to developments that receive federal assistance through USDA. Any developments that receive federal assistance through USDA and HTC for rehabilitation may compete for funding separately under the "USDA Set-Aside." This funding is taken from the total tax credit ceiling prior to applying the RAF.

Participating Jurisdictions (PJs)

PJs refer to geographic areas that are under the jurisdiction of local government entities that receive HOME funding directly from HUD. In accordance with Tex. Gov't Code §§2306.111(c)(1), 95% of the funds for HOME must be spent outside PJs. Since 95% of funds cannot be spent within a PJ, the housing need factors, housing availability factors, and Regional Coverage Factor in the PJs are not counted in the HOME MF or HOME SF RAF.

PJ designations are subject to change annually depending on HUD funding. According to HUD's 2019 HOME allocation, 33 of the PJs are cities and eight of the PJs are counties. Five PJ cities fell completely within PJ counties, resulting in a total of 28 PJ cities and eight PJ counties that will be subtracted from the HOME SF and HOME MF RAFs.

Allocation Adjustments

The HOME SF and HTC RAFs have subregional allocation adjustments under certain conditions. Tex. Gov't Code §2306.111(d-3) requires that at least \$500,000 in housing tax credits be allocated to each urban and rural subregion. In the HTC Program's 2019 Qualified Allocation Plan (QAP), the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. In a further effort to meet Tex. Gov't Code §§2306.111(c)(1) and (2), the HOME SF RAF has a minimum subregional allocation of \$100,000. Additional detail regarding the processes used to adjust allocations for the HOME SF RAF and the HTC RAF can be found in the single family and multifamily RAF examples.

Single Family RAF Example

Tables 1, 2, and 3 show the need variables, availability variables, and regional coverage factor used in the HOME SF RAF. The HTF RAF is very similar to the HOME SF RAF with the exception that the HTF RAF includes PJs. Example numbers are used for clarity. The statewide average household size in the following example is 2.82.

Table 1: Example of Need Variables Used for HOME SF, by Subregion

MSA Counties with Urban Places	Region	Column A: Individuals at or below 200% Poverty without PJs	Column B: Households (HH) at or below 200% Poverty without PJs	Column C: Cost Burdened Owners without PJs	Column D: Cost Burdened Renters without PJs	Column E: Overcrowded Owners without PJs	Column F: Overcrowded Renters without PJs	Column G: Units Lacking Plumbing without PJs	Column H: Units Lacking Kitchen without PJs	Column I: Total Need Variables
	1	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691
2	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
3	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
4	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
5	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
6	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
7	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
8	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
9	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
10	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
11	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
12	100,000	35,461	2,500	16,000	3,500	2,500	3,000	5,000	67,961	
13	150,000	53,191	1,500	15,000	3,000	2,000	4,000	6,000	84,691	
Non-MSA counties and counties with only rural	Region	Column A: Individuals at or below 200% Poverty without PJs	Column B: HH at or below 200% Poverty without PJs	Column C: Cost Burdened Owners without PJs	Column D: Cost Burdened Renters without PJs	Column E: Overcrowded Owners without PJs	Column F: Overcrowded Renters without PJs	Column G: Units Lacking Plumbing without PJs	Column H: Units Lacking Kitchen without PJs	Column I: Total Need Variables
	1	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369
2	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
3	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
4	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
5	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
6	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
7	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
8	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
9	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
10	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
11	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
12	60,000	21,277	9,000	5,000	1,000	1,000	7,000	7,000	51,277	
13	80,000	28,369	6,000	8,000	2,000	2,000	5,000	5,000	56,369	
	Col A Total	Col B Total	Col C Total	Col D Total	Col E Total	Col F Total	Col G Total	Col H Total	Col I Total	
State Total	2,570,000	911,348	121,500	287,000	62,000	49,000	123,000	149,000	1,702,848	

Table 2: Example of Availability Variables Used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	1,000	3,000	4,000
	3	1,500	2,000	3,500
	4	1,000	3,000	4,000
	5	1,500	2,000	3,500
	6	1,000	3,000	4,000
	7	1,500	2,000	3,500
	8	1,000	3,000	4,000
	9	1,500	2,000	3,500
	10	1,000	3,000	4,000
	11	1,500	2,000	3,500
	12	1,000	3,000	4,000
13	1,500	2,000	3,500	

Non-MSA counties and counties with only rural places	Region	Column J: Vacant Units For Sale without PJs	Column K: Vacant Units For Rent without PJs	Column L: Total Availability Variables
	1	1,500	2,000	3,500
	2	2,000	2,500	4,500
	3	1,500	2,000	3,500
	4	2,000	2,500	4,500
	5	1,500	2,000	3,500
	6	2,000	2,500	4,500
	7	1,500	2,000	3,500
	8	2,000	2,500	4,500
	9	1,500	2,000	3,500
	10	2,000	2,500	4,500
	11	1,500	2,000	3,500
	12	2,000	2,500	4,500
13	1,500	2,000	3,500	

	Column J Total	Column K Total	Column L Total
State Total	39,000	61,000	100,000

Table 3: Example of Regional Coverage Factor used for HOME SF, by Subregion

MSA Counties with urban places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	3,000	350,000	0.009
	2	2,000	250,000	0.008
	3	3,000	350,000	0.009
	4	2,000	250,000	0.008
	5	3,000	350,000	0.009
	6	2,000	250,000	0.008
	7	3,000	350,000	0.009
	8	2,000	250,000	0.008
	9	3,000	350,000	0.009
	10	2,000	250,000	0.008
	11	3,000	350,000	0.009
	12	2,000	250,000	0.008
13	3,000	350,000	0.009	

Non-MSA counties and counties with only rural places	Region	Column M: Land area without PJs	Column N: Total Population without PJs	Column O: Regional Coverage Factor
	1	15,000	200,000	0.075
	2	13,000	300,000	0.043
	3	15,000	200,000	0.075
	4	13,000	300,000	0.043
	5	15,000	200,000	0.075
	6	13,000	300,000	0.043
	7	15,000	200,000	0.075
	8	13,000	300,000	0.043
	9	15,000	200,000	0.075
	10	13,000	300,000	0.043
	11	15,000	200,000	0.075
	12	13,000	300,000	0.043
13	15,000	200,000	0.075	

	Column M Total	Column N Total	Column O Total
State Total	216,000	7,150,000	0.893

Compounded Need

To allocate funds, the RAF uses each subregion's ratios of the State's total. All of the variables that measure need are added together before taking each subregion's need as a percentage of the amount of total need in the State. Table 1, Column I, illustrates how the Total Need Variables are derived: households at 200% of poverty, cost burdened owner and renter households, overcrowded owner and renter households, units lacking kitchen facilities, and units lacking plumbing facilities are added together, thereby compounding the need.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights operate in the RAF are in Tables 4 and 5. The column header letters (A, B, C, etc.) will build off the previous table. If column letters are not in alphabetical order, the column header letter refers to a previous table. To apply weights, first the subregional percentage (the subregional share of statewide need), housing availability, and inverse population density must be calculated. Table 4 demonstrates how the percentages are derived. Table 4 shows only Urban Region 1 and the statewide total in order to simplify the example.

Table 4: Percentages Taken

Area	Column I: Total Need Variables	Column P: Percent of State's Total Need	Column L: Total Availability Variables	Column Q: Percent of State's Total Availability	Column O: Regional Coverage Factor	Column R: Percent of State's Total Regional Coverage Factor
Urban Region 1	84,691	5.0%	3,500	3.5%	0.009	1.0%
State Total	1,702,848		100,000		0.893	

Note: Column I is from Table 1, Column L is from Table 2, and Column O is from Table 3.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. Housing availability variables have negative weight to reflect that an abundance of available units might reduce the need for assistance. The housing need variables and the regional coverage factor have positive weights to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category added together, as they represent one variable for the purposes of weighting the variables. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to the total example allocation. The formulas to determine variable weight for the Single Family RAF are as follows:

- Total Need Variables = HH at or below 200% poverty + Cost Burden + Overcrowding + Units Lacking Plumbing + Units Lacking Kitchen
- Total Availability Variables = Unoccupied Units for Sale or Rent
- Regional Coverage Factor = Inverse Population Density
- Total Need Variables – Total Availability Variables + Regional Coverage Factor = 100%

To put it simply (with x representing the weight of each variable): $5x-x+x=100\%$

As a result, each variable is weighted at 20% for Single Family programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 100% weight. Table 5 shows the application of the weights based on a hypothetical statewide availability of \$2,500,000.

Table 5: Weight Application

Area	Column P: Percent of State's Total Need	Column S: Weight of Need Variables	Column T: Need Variable Allocation*	Column Q: Percent of State's Total Availability	Column U: Weight of Availability Variable	Column V: Availability Variable Allocation~	Column R: Percent of State's Total Regional Coverage Factor	Column W: Weight of Regional Coverage Factor	Column X: Regional Coverage Factor Allocation^	Column Y: Total Allocation†
Urban Region 1	5.0%	100%	\$ 124,338	3.5%	-20%	\$ (17,500)	1.0%	20%	\$4,799	\$ 111,637

Note: Column P, Q and R taken from Table 4.

*Column T is calculated as follows: Column P x Column S x statewide availability of funds.

~Column V is calculated as follows: Column Q x Column U x statewide availability of funds.

^ Column X is calculated as follows: Column W x Column R x statewide availability of funds.

†Column Y is calculated as follows: Column T + Column V + Column X.

HOME Subregional Allocation Adjustment

The HOME SF RAF has a subregional floor. This floor ensures sufficient funding to award at least one contract in each subregion. If the RAF results in a subregional funding amount that is less than \$100,000, that subregion’s funding amount is adjusted to provide for at least a minimum of \$100,000. The process does not reallocate funds from subregions with initial funding amounts in excess of \$100,000 to those subregions with initial funding amounts that are less than \$100,000. Funds used to enable the floor are not subject to RAF requirements and are added as a final adjustment to the subregional allocation amounts available for award. The final adjustment adds a supplemental allocation to bring all subregions to a minimum of \$100,000. The process is complete when each subregion has at least \$100,000.

Table 6 shows the process of supplementing funds to subregions that have initial funding amounts that are less than \$100,000. This table builds from the previous tables included in this methodology and Urban Regions 1 and 2 are included. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

Table 6: Subregion amount under \$100,000

Area	Column Y: Initial Subregion amount	Column Z: Amount needed to reach \$100,000	Column AA: Final Subregion Allocation
Urban Region 1	\$111,637	\$-	\$111,637
Urban Region 2	\$84,255	\$15,745	\$100,000

Note: Column Y is from Table 5.

Since the Urban Region 1 initial Subregion amount exceeds \$100,000, no adjustment is made to this sub-allocation. However, because the Urban Region 2 initial Subregion amount is less than \$100,000, a supplemental allocation amount is added to bring the subregion allocation up to the final allocation amount of \$100,000.

Multifamily RAF Example

Table 7 shows the need and availability variables used in the HTC RAF. The HTC RAF is very similar to the HOME MF RAF with the exception that the HTC RAF includes PJs. Example numbers are used for clarity. The statewide average household size in the following example is 2.80.

Table 7: Example of Need and Availability Variables used for HTC, by Subregion

MSA Counties with urban places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	150,000	53,571	25,000	4,000	6,000
	2	100,000	35,714	20,000	2,000	4,000
	3	150,000	53,571	25,000	4,000	6,000
	4	100,000	35,714	20,000	2,000	4,000
	5	150,000	53,571	25,000	4,000	6,000
	6	100,000	35,714	20,000	2,000	4,000
	7	150,000	53,571	25,000	4,000	6,000
	8	100,000	35,714	20,000	2,000	4,000
	9	150,000	53,571	25,000	4,000	6,000
	10	100,000	35,714	20,000	2,000	4,000
	11	150,000	53,571	25,000	4,000	6,000
	12	100,000	35,714	20,000	2,000	4,000
	13	150,000	53,571	25,000	4,000	6,000

Non-MSA counties and counties with only rural places	Region	Column BB: Individuals at or below 200% Poverty	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column FF: Vacant Units for Rent
	1	40,000	14,286	7,000	700	700
	2	25,000	8,929	2,000	400	500
	3	40,000	14,286	7,000	700	700
	4	25,000	8,929	2,000	400	500
	5	40,000	14,286	7,000	700	700
	6	25,000	8,929	2,000	400	500
	7	40,000	14,286	7,000	700	700
	8	25,000	8,929	2,000	400	500
	9	40,000	14,286	7,000	700	700
	10	25,000	8,929	2,000	400	500
	11	40,000	14,286	7,000	700	700
	12	25,000	8,929	2,000	400	500
	13	40,000	14,286	7,000	700	700

	Column BB Total	Column CC Total	Column DD Total	Column EE Total	Column FF Total
State Total	2,080,000	742,857	356,000	47,300	73,900

Compounded Need

To allocate funds, the RAF uses each subregion's ratio of the State's total. All of the variables that measure need are added together before taking each subregion's need as a percentage of the amount of the total need in the State. Table 8 illustrates how the Total Need Variables are derived: households at or below 200% of poverty, cost burdened renter households, and overcrowded renter households are added together, thereby compounding the need. Table 8 shows only Urban Region 1 and the statewide total, in order to simplify the example.

Table 8: Total Need Variables

Area	Column CC: HH at or below 200% Poverty	Column DD: Cost Burdened Renters	Column EE: Overcrowded Renters	Column GG: Total Need Variables
Urban Region 1	53,571	25,000	4,000	82,571
State Total	742,857	356,000	47,300	1,146,157

Note: Columns CC, DD and EE are from Table 7.

This compounding balances the relative importance of the variables; variables with very high or very small numbers are combined with the overall total of need. This prevents variables from being disproportionately weighted.

Weights

Examples of how the weights work in the RAF are in Tables 9 and 10. If the letters are not in alphabetical order, the column header letter refers to a previous table.

In order to apply weights, first the subregional percentage availability, and inverse population density must be calculated. Table 9 demonstrates how the percentages are derived.

Table 9: Percentages Taken

Area	Column GG: Total Need Variables	Column HH: Percent of State's Total Need	Column II: Vacant Units for Rent	Column JJ: Percent of State's Total Availability
Urban Region 1	82,571	7.2%	6,000	8.1%
State Total	1,146,157		73,900	

Note: Column GG is from Table 8.

A successful allocation formula will provide more funding for areas with high housing need and reduce funding for areas with an abundance of housing resources. The housing availability variable has negative weight to reflect that an abundance of available units might reduce the need for assistance, while housing need variables have positive weight to reflect that these factors may increase the need for assistance. Renter and owner components of a single need or availability category are added together, as they represent one variable for the purposes of weighting the variables. The weight of each variable, whether need, availability, or regional coverage factor, must equal 100%; otherwise, the initial subregion allocation will not add up to

the total example allocation. The formulas to determine variable weight for the Multifamily RAF are as follows:

- Total Need Variables = HH at or below 200% poverty + Renter Cost Burden + Renter Overcrowding
- Availability Variable = Unoccupied Units for Rent
- Total Need Variables – Availability Variable = 100%

Simply stated (with x representing the weight of each variable): $3x-x=100\%$

As a result, each variable is weighted at 50% for multifamily programs, giving the appropriate relationship between funding and current availability of resources. The compounded need variables receive 150% weight. Table 10 shows the application of the weights based on a statewide availability of \$40,000,000.

Table 10: Weight Application

Area	Column HH: Percent of State's Total Need	Column KK: Weight of Need Variables	Column LL: Need Variable Allocation*	Column JJ: Percent of State's Total Availability	Column MM: Weight of Availability Variable	Column NN: Availability Variable Allocation~	Column OO: Total Allocation+
Urban Region 1	7.2%	150%	\$ 4,322,519	8.1%	-50%	\$ (1,623,816)	\$ 2,698,703

Note: Column HH and JJ taken from Table 9.

*Column LL is calculated as follows: Column HH x Column KK x statewide availability of funds.

~Column NN is calculated as follows: Column JJ x Column MM x statewide availability of funds.

+Column OO is calculated as follows: Column LL + Column NN.

HTC Subregional Allocation Adjustment

Tex. Gov't Code §2306.111(d-3) is a requirement regarding funding and the RAF that applies only to HTC. This provision requires that TDHCA allocate at least 20% of housing tax credits to rural areas and that \$500,000 or more be available for each of the 26 subregions. In the 2019 QAP the Department adopted an increase to the \$500,000 figure establishing a \$600,000 minimum for each region. The overall state rural allocation of funds is ensured to satisfy the minimum of 20% of the credit ceiling amount in rural areas by making any needed adjustments at the time of award, if needed. Usually, the 20% allocation to rural areas occurs through the competitive process, but, if not, one or more applications from rural areas will be awarded from the statewide collapse of the RAF to ensure the requirement is met.

For the HTC RAF, the subregional funding amount is adjusted to a minimum of \$600,000 if needed. This is a final adjustment to the subregional allocation amounts available for award. The process proportionately takes funds from subregions with initial funding amounts in excess of \$600,000 and reallocates those funds to those subregions with initial funding amounts that are less than \$600,000. The process is complete when each subregion has at least \$600,000.

Tables 11 and 12 show the process of determining the amount to adjust from subregions with more than \$600,000. These tables build from the previous tables included in this methodology and Urban Region 1 and 2 and Rural Region 1 and 2 are included. The column header letters build off previous tables, so if the letters are not in alphabetical order, the column letter refers to previous tables.

These four subregions are examined because the most common movement for funds during the \$600,000 adjustment is from Urban Counties to Rural Counties. The first step in the \$600,000 adjustment process is to determine the amount by which each subregion is over or under \$600,000 for each subregion. This is illustrated in Table 11.

Table 11: Subregional amount over/under \$600,000

Area	Column OO: Initial Subregion amount	Column PP: Amount needed to reach \$600,000	Column QQ: Amount over \$600,000 that can be reallocated
Urban Region 1	\$2,698,703	\$-	\$2,098,703
Urban Region 2	\$1,938,732	\$-	\$1,338,732
Rural Region 1	\$961,482	\$-	\$361,482
Rural Region 2	\$457,720	\$142,280	\$-
State Total	\$40,000,000	\$853,682.36	\$25,253,682.36

Note: Column OO is from Table 10.

Column QQ in Table 11 is the amount in Column OO minus \$600,000 if the amount in Column OO is over \$600,000. At least \$600,000 is maintained in each subregion before the adjustment process.

The next step in the adjustment process is to determine the percentage to be reallocated. The proportion of the total amount to be reallocated is in Column SS. Finally, Column OO is adjusted by Column SS to equal the final Sub-Amount in Column TT.

Table 12: Proportional adjustment

Area	Column RR: Percent of Total Amount that can be reallocated*	Column SS: Amount to be reallocated~	Column TT: Final Subregion Allocation+
Urban Region 1	8.31%	\$ (70,945)	\$2,627,758
Urban Region 2	5.30%	\$ (45,255)	\$1,893,477
Rural Region 1	1.43%	\$ (12,220)	\$949,262
Rural Region 2	0.00%	\$142,280	\$600,000
State Total	100.00%	\$0	\$40,000,000

*Column RR is calculated as follows: if Column OO is over \$600,000, then $((\text{Column OO} - \$600,000) / (\text{Statewide total for Column QQ}))$

~Column SS is calculated as followed: if Column RR is a percentage, then $(\text{Column RR} * \$853,682.36)$; if Column RR is "%", then Column SS equals Column PP.

+Column TT is calculated as follows: $\text{Column OO} + \text{Column SS}$.

1m

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

1n

BOARD ACTION REQUEST

HOME AND HOMELESSNESS PROGRAMS DIVISION

MAY 21, 2020

Presentation, discussion, and possible action on an order adopting the repeal and new 10 TAC Chapter 7, Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34, §7.36, §§7.41-44, Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, and directing their submission to the *Texas Register* for adoption

RECOMMENDED ACTION

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

WHEREAS, staff recommends adoption of new rules at Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program, to incorporate updates in the administration of the Homeless Housing and Services Program, Emergency Solutions Grants Program, and Ending Homelessness Fund Program;

WHEREAS, staff recommends adoption of new sections at 10 TAC §7.31, Purpose; 10 TAC §7.34, Local Competition for Funds; 10 TAC §7.36, General Threshold Criteria under a Department NOFA; 10 TAC §7.41, Contract Term, Expenditure Benchmark, Return of Funds, and Performance Targets; 10 TAC §7.42, General Administrative Requirements; 10 TAC §7.43, Program Income, and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files to clarify the data sources used in the allocation formula; clarify the ESG Application process and requirements; clarify the Contract amendment and redistribution of funds processes; and update administration and reporting requirements;

WHEREAS, staff recommends adoption of new sections at 10 TAC §7.62, EH Fund Subrecipient Application and Selection; and §7.65 Contract Term and Limitations, to update the Ending Homeless Fund rule to reflect new definitions, and to revise the Contract Term and clarify other limitations; and

WHEREAS, the above sections for repeal and replacement in this action were published in the *Texas Register* for comment from March 13, 2020, through April 13, 2020, and no comment was received;

NOW, therefore, it is hereby

RESOLVED, that the new Subchapter A, General Policies and Procedures; Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34,

§7.36, §§7.41-44 Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, with the preamble presented to this meeting, are hereby adopted and approved for publication in the *Texas Register*; and

FURTHER RESOLVED, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the actions to be published the adopted rule 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 rules and rule sections from Texas Administrative Code, Chapter 7, Homeless Programs, as outlined below were presented to the Board at the February 27, 2020, meeting. The Board approved the proposed rule and rule sections for publication to receive public comment.

- Subchapter A, General Policies and Procedures;
- Subchapter B, Homeless Housing and Services Program (HHSP)
- Sections of Subchapter C, Emergency Solutions Grants (ESG)
 - 10 TAC §7.31, Purpose
 - 10 TAC §7.34, Local Competition for Funds
 - 10 TAC §7.36, General Threshold Criteria under a Department NOFA
 - 10 TAC §7.41, Contract Term, Expenditure Benchmark, Return of Funds, and Performance Targets
 - 10 TAC §7.42, General Administrative Requirements
 - 10 TAC §7.43, Program Income, and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files
- Sections of Subchapter D, Ending Homelessness Fund
 - 10 TAC §7.62, EH Fund Subrecipient Application and Selection
 - 10 TAC §7.65, Contract Term and Limitations.

The proposed changes to these rules were announced via listserv and posted on the Department's website. Comment was accepted between March 13, 2020, and April 13, 2020. No comment was received. Staff recommends adoption of the repeal and replace of 10 TAC Chapter 7, as outlined in this action, and for publication in the *Texas Register*.

Attachment A: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 7, Subchapter A, General Policies and Procedures

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 7, Homelessness Programs, Subchapter A, General Policies and Procedures. The purpose of the 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.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed 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 changes to an existing activity, the overarching policies and procedures of the Emergency Solutions Grants, Homeless Housing and Services Program, and Ending Homelessness Fund programs (homeless programs).
2. The 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 workload 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 or 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, the administration of homeless programs.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or 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 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). Mr. Wilkinson 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 more clarity on the administration of homeless programs. 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. Wilkinson 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 March 13, 2020, and April 13, 2020. Comments regarding the proposed repeal were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the repeal on May 21, 2020.

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 7, Subchapter A, General Policies and Procedures

Attachment B: Preamble for new 10 TAC Chapter 7, Subchapter A, General Policies and Procedures

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 7, Homelessness Programs, Subchapter A, General Policies and Procedures. The purpose of the new section is to update the rule to remove outdated definitions, clarify existing definitions, and add new definitions; delineate the Contract amendment approval process; and clarify reporting requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, 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. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The 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 overarching policies and procedures of the Emergency Solutions Grants, Homeless Housing and Services Program, and Ending Homelessness Fund programs (homeless programs).
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 rule does not require additional future legislative appropriations.
4. The 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 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 rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The rule will not negatively or 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, Ch. 2306.

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 unlikely to be any small or micro-businesses subject to the proposed rules because these funds are limited to private nonprofit organizations and units of local governments per 24

CFR §576.202 for Emergency Solutions Grants funds; limited to counties and municipalities in Tex. Transp. Code §502.415 for the Ending Homeless Fund; and limited to municipalities or designated nonprofits per 10 TAC §7.22 for the Homeless Housing and Services Program.

3. The Department has determined that based on the considerations in item two above, 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 rule does not contemplate or 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 will channel funds, which may be limited, only to nonprofits, private nonprofits, local governments, and counties and municipalities; it is not anticipated that the amount of funds would be enough to support additional employment opportunities, but would add to the services provided. Alternatively, the rule would also not cause any negative impact on employment. 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 no impact is expected, 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. Wilkinson 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 a rule that has greater clarity into the processes and definitions of the administration of homeless programs. 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 the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson 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 costs for administering the program are included in eligible activities.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between March 13, 2020, and April 13, 2020. Comments regarding the proposed new rule were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the new rule on May 21, 2020.

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 §7.1.Purpose and Goals.

(a) The rules established herein for Chapter 7, concerning Homeless Programs, Subchapter A, concerning General Provisions applies to all of the Homeless Programs, unless otherwise noted. Additional program specific requirements are contained within each program subchapter.

(b) The Homeless Programs administered by the Texas Department of Housing and Community Affairs (the "Department") support the Department's statutorily assigned mission to address the problem of homelessness among Texans.

(c) The Department accomplishes this mission by acting as a conduit for state and federal funds for homelessness programs. Ensuring program compliance with the state and federal laws that govern these programs is another important part of the Department's mission. Oversight and program mandates ensure state and federal resources are expended in an efficient and effective manner.

(d) Unless otherwise noted herein or required by federal law or regulation, or state statute, all provisions of this chapter apply to any Application received for federal funds and any Contract of state funds on or after September 1, 2018.

10 TAC §7.2.Definitions.

(a) To ensure a clear understanding of the terminology used in the context of the Department's Homeless Programs, a list of terms and definitions has been compiled as a reference.

(b) The words and terms in this chapter shall have the meanings described in this subsection unless the context clearly indicates otherwise. Other definitions may be found in Chapters 1, concerning Administration, or Chapter 2, concerning Enforcement, of this title, or in federal or state law including, but not limited to, 24 CFR Parts 91, 200, 576, 582, and 583, and UGMS.

(1) Affiliate--An entity related to an Applicant that controls by contract or by operation of law the Applicant or has the power to control the Applicant or a third entity that controls, or has the power to control both the Applicant and the entity. Examples include but are not limited to entities submitting under a common application, or instrumentalities of a unit of government. This term also includes any entity that is required to be reported as a component entity under Generally Accepted Accounting Standards, is required to be part of the same Single Audit as the Applicant, is reported on the same IRS Form 990, or is using the same federally approved indirect cost rate.

(2) Allocation Formula--Mathematical relationship among factors, authorized by the Board, that determines how much funding is available in an area or region in Subchapters B, C, and D of this chapter, relating to Homelessness Programs.

(3) Applicant--A unit of local government, nonprofit corporation or other entity, as applicable, who has submitted to the Department or to an ESG Coordinator an Application for Department funds or other assistance.

(4) Application--A request for a Contract award submitted by an Applicant to the Department or to an ESG Coordinator, in a form prescribed by the Department, including any exhibits or other supporting material.

(5) At-risk of Homelessness--Defined by 24 CFR §576.2, except as otherwise defined by Contract, the income limits for Program Participants are determined by the Subrecipient but, at a minimum, do not exceed the moderate income level pursuant to Tex. Gov't Code §2306.152.

(6) Code of Federal Regulations (CFR)--The codification of the general and permanent rules and regulations of the federal government as adopted and published in the Federal Register.

(7) Continuum of Care (CoC)--The group composed of representatives of relevant organizations, which generally includes nonprofit homeless providers; victim service providers; faith-based organizations; governments; businesses; advocates; public housing agencies; school districts; social service providers; mental health agencies; hospitals; universities; affordable housing developers; law enforcement; organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons that are organized to plan for and provide, as necessary, a system of outreach, engagement, and assessment; emergency shelter; rapid re-housing; transitional housing; permanent housing; and prevention strategies to address the various needs of homeless persons and persons at risk of homelessness for a specific geographic area. HUD funds a CoC Program designed to assist sheltered and unsheltered homeless people by providing the housing and/or services needed to help individuals move into transitional and permanent housing, with the goal of long-term stability.

(8) CoC Lead Agency--CoC collaborative applicant in the HUD CoC Program per 24 CFR §578.3.

(9) Contract--The executed written agreement between the Department and a Subrecipient performing a program activity that describes performance requirements and responsibilities assigned by the document.

(10) Contract System--The Housing Contract System established by the Department, as required by the program.

(11) Contract Term--Period of time identified in the Contract during which program activities may be conducted.

(12) Cost Reimbursement--A Contract sanction whereby reimbursement of costs incurred by the Subrecipient occurs only after the Department has reviewed all relevant documentation provided by the Subrecipient to support Expenditures. Reimbursement will only be approved by the Department where the documentation clearly supports the eligible use of funds.

(13) Declaration of Income Statement (DIS)--A Department-approved form used only when it is not possible for a Subrecipient to obtain third-party or firsthand verification of income, per 24 CFR §576.500(e)(4).

(14) Dwelling Unit--A residence that meets Habitability Standards that is not an emergency shelter, hotel, jail, institution, or similar temporary lodging. Transitional Housing is included in this definition unless the context clearly states otherwise. Common areas supporting the Dwelling Unit are also included in this definition.

(15) Elderly Person--

(A) For state funds, a person who is 60 years of age or older; and

(B) For ESG, a person who is 62 years of age or older.

(16) Ending Homelessness ("EH") Fund--The voluntary-contribution state program established in Texas Transportation Code §502.415.

(17) Emergency Solutions Grants (ESG)--A HUD-funded program which provides funds for services necessary to help persons that are at risk of homelessness or homeless quickly regain stability in permanent housing.

(18) ESG Coordinator--An organization procured by the Department that administers a competition for funds in its CoC region and recommends ESG awards to the Department based on its competition.

(19) ESG Interim Rule--The regulations with amendments promulgated at 24 CFR Part 576 as published by HUD for the ESG Program.

(20) Expenditure--An amount of money accounted for by a Subrecipient as spent.

(21) Finding--A Subrecipient's material failure to comply with rules, regulations, the terms of the Contract or to provide services under each program to meet appropriate standards, goals, and other requirements established by the Department or funding source (including performance objectives). A Finding impacts the organization's ability to achieve the goals of the program and jeopardizes continued operations of the Subrecipient. Findings include the identification of an action or failure to act that results in disallowed costs.

(22) Head of Household--As defined in the most recent Homeless Management Information System (HMIS) Data Dictionary issued by HUD.

(23) HMIS-Comparable Database--Database established and operated by a victim service provider or legal service provider that is comparable to HMIS and collects Program Participant-level data over time.

(24) HMIS Data Dictionary--The Dictionary published by HUD which defines terms for the use of HMIS and comparable databases.

(25) HMIS Data Standards Manual--Manual published by HUD which documents the requirements for the programming and use of all HMIS and comparable databases.

(26) HMIS Lead Agency--The entity designated by the CoC to operate the CoC's HMIS on its behalf.

(27) Homeless or Homeless Individual--An individual as defined by 42 U.S.C. §§11371 - 11378 and 24 CFR §576.2. For state-funded programs, a homeless individual may have right of occupancy because of a signed lease, but still qualify as homeless if his or her primary nighttime residence is an emergency shelter or place not meant for human habitation.

(28) Homeless Housing and Services Program (HHSP)--The state-funded program established under Tex. Gov't Code §2306.2585.

(29) Homeless Management Information System (HMIS)--Information system designated by the CoC to comply with the HUD's data collection, management, and reporting standards and used to collect Program Participant-level data and data on the provision of housing and services to homeless individuals and families and persons at-risk of homelessness.

(30) Homeless Programs--Reference to programs that have the specific purpose of addressing homelessness administered by the Department, including ESG Program, HHSP, and EH Fund.

(31) Homeless Subpopulations--Persons experiencing Homelessness who are part of the following population categories, or as defined in the most recent Point In Time Data Collection guidance issued by HUD:

(A) Children of Parenting Youth;

(B) Parenting Youth;

(C) Persons Experiencing Chronic Homelessness;

(D) Persons Experiencing Severe Mental Illness;

(E) Persons with Chronic Substance Use Disorder;

(F) Persons with HIV/AIDS;

(G) Unaccompanied Youth;

(H) Veterans; and

(I) Victims of Domestic Violence.

(32) Household--A Household is a single individual or a group of persons who apply together for assistance and who live together in one (1) Dwelling Unit, or, for persons who are not housed or in a shelter, who would live together in one (1) Dwelling Unit if they were housed, or as defined in the most recent HMIS Data Dictionary issued by HUD.

(33) Households Served--A single individual or a group of persons who apply for Homeless Program assistance, meets a Homeless Program's eligibility requirements, receives a Homeless Program's services, and whose data is entered into an HMIS or comparable database.

(34) Land Use Restriction Agreement (LURA)--An agreement, regardless of its title, between the Department and a property owner, including an emergency shelter, which is a binding covenant upon the property owner and successors in interest, that, when recorded, encumbers the property with respect to the requirements of the programs for which it receives funds.

(35) Local Competition-- A competition for ESG funding administered by an ESG Coordinator on behalf of the Department for a CoC region.

(36) Match--A contribution to the ESG Program from a non-ESG source governed by 24 CFR §576.201.

(37) Monthly Expenditure Report--Information on Expenditures from Subrecipients to the Department.

(38) Monthly Performance Report--Information on Program Participants and program activities from Subrecipients to the Department.

(39) Notice of Funding Availability (NOFA)--Notice of Funding Availability or announcement of funding published by the Department notifying the public of available funds for a Program with certain requirements.

(40) Outcome--A benefit or change achieved by a Program Participant served by the Department's homeless programs.

(41) Performance Target--Number of persons/Households served, outcomes reached, or construction/rehabilitation/conversion that the Subrecipient commits to accomplish during the Contract Term.

(42) Private Nonprofit Organization--An organization described in §501(c) of the Internal Revenue Code (the "Code") of 1986 and which is exempt from taxation under subtitle A of the Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. This does not include a governmental organization such as a public housing authority or a housing finance agency.

(43) Project--A group of eligible activities identified in an Application or Contract to the Department, and designated in HMIS or HMIS-comparable database.

(44) Program Participant--An individual or Household that is assisted by a Homeless Program.

(45) Program Year--Contracts with funds from a specific federal allocation (ESG) or year of a state biennium (HHSP).

(46) Recertification--Required review of a Program Participant's eligibility determination for continuation of assistance.

(47) Service Area--The city(ies), county(ies) and/or place(s) identified in the Application (as applicable), and Contract that the Subrecipient will serve.

(48) State--The State of Texas or the Department, as indicated by context.

(49) Subcontract--A contract made between the Subrecipient and a purveyor of goods or services through a procurement relationship.

(50) Subcontractor--A person or an organization with whom the Subrecipient contracts to provide services.

(51) Subgrant--An award of financial assistance in the form of money made under a grant by a Subrecipient to an eligible Subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases.

(52) Subgrantee--The legal entity to which a Subgrant is awarded and which is accountable to the Subrecipient for the use of the funds provided.

(53) Subrecipient--An organization that receives federal or states funds passed through the Department to operate ESG and/or state funded homeless programs.

(54) Texas Administrative Code (TAC)--A compilation of all state agency rules in Texas.

(55) United States Department of Housing and Urban Development (HUD)--Federal department that provides funding for ESG.

(56) Unit of General Purpose Local Government--A unit of government which has, among other responsibilities, the authority to assess and collect local taxes and to provide general governmental services.

(57) United States Code (U.S.C.)--A consolidation and codification by subject matter of the general and permanent laws of the United States.

(58) Youth Headed Household--Household that includes unaccompanied youth 24 years of age and younger, parenting youth 24 years of age and younger and children of parenting youth 24 years of age and younger.

10 TAC §7.3.Construction Activities.

(a) A Subrecipient of Homeless Program funds that constructs or rehabilitates a building or Dwelling Unit, or converts a building(s) for use as a shelter may be required to enter into a LURA. No new construction of a shelter, or construction or rehabilitation of a Dwelling Unit is allowed with ESG funds.

(b) For construction under the ESG Program, the term of the LURA will be 10 years from the date of execution of the LURA when the cost of major rehabilitation or conversion exceeds seventy-five percent of the value of the building prior to rehabilitation or conversion, regardless of the amount of the ESG investment. The value of the building prior to conversion or rehabilitation must be evidenced by the submission of the most recent tax records showing the value of the property, an appraisal reflecting the value of the property prior to improvements, or other valuation method approved by the Department.

(c) The term of the LURA in other circumstances where construction was funded under the ESG Program shall be three years from the date of execution of the LURA.

(d) For state funds only, Tex. Gov't Code §2306.185 requires certain multifamily rental developments to have, among other provisions, a 30-year LURA.

(e) A Subrecipient that intends to expend funds for new construction, rehabilitation, or conversion must submit a copy of the activity budget inclusive of all sources and uses of funding, documents for a construction plan review, and identification of the entity and signature authorization of the individual (name and title) that will execute the LURA. These documents must be submitted no less than 90 calendar days prior to the end of the Contract Term under which funds for the activity are provided. The Department may elect to reconsider award amounts if financial resources other than those presented in the Application are subsequently committed to an activity.

(f) A Subrecipient must request a final construction inspection within 30 calendar days of construction completion. The inspection will cover the Shelter and Housing Standards, Uniform Physical Construction Standards, 2000 International Residential Code (or municipality adopted later version), Minimum Energy Efficiency Requirements for Single Family Construction Activities, and the Accessibility Standards in Chapter 1, Subchapter B, as applicable for the Homeless Program and activity.

10 TAC §7.4.Subrecipient Contract.

(a) Subject to prior Board approval, the Department and a Subrecipient shall enter into and execute a Contract for the disbursement of program funds. The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver authorized modifications and/or amendments to the Contract, as allowed by state and federal laws and rules.

(b) Subrecipients of state funds may subcontract for the delivery of Program Participant assistance without obtaining Department's prior approval, but must obtain the Department's written permission before entering into a Subgrant. Department ESG funds and ESG Match may not be Subgranted.

(c) The Subrecipient is responsible for ensuring that the performance rendered under all Subcontracts, Subgrants, and other agreements are rendered so as to comply with Homeless Program requirements, as if such performance rendered were rendered by the Subrecipient. Department maintains the right to monitor and require the Subrecipient's full compliance with the terms of the Subrecipient Contract.

(d) A performance statement and budget are attachments to the Contract between the Subrecipient and the Department. Execution of the Contract enables the Subrecipient to access funds through the Department's Contract System.

(e) Amendments and Extensions to Contracts.

(1) Except for amendments that only move funds within budget categories, program staff will recommend denial of amendment requests if any of the following conditions exist:

(A) if the award for the Contract was competitively awarded and the amendment would materially change the scope of the Contract performance or affected the score;

(B) if the Subrecipient is delinquent in the submission of their Single Audit or their Single Audit Certification form required by §1.403 of this title (relating to Single Audit Requirements);

(C) for an amendments adding funds to the Contract, if the Subrecipient owes the Department disallowed amounts in excess of \$1,000 and a Department-approved repayment plan is not in place or has been violated;

(D) for an amendment adding funds (not applicable to amendments for extending time), if the Department has cited the Subrecipient for violations within §7.11 of this subchapter (related to Compliance Monitoring) and the corrective action period has expired without correction of the issue or a satisfactory plan for correction of the issue;

(E) the Contract has expired; or

(F) a member of the Subrecipient's board has been debarred and has not been removed.

(2) Except for amendments that only move funds within budget categories, program staff may recommend denial of amendment requests if any of the following conditions exist:

(A) the request for an amendment was received in writing less than 30 calendar days from the end of the Contract Term; or

(B) if the funds associated with the Contract will reach their federal or state expiration date within 45 calendar days of the request.

(3) Denial of an amendment may be subject to §1.7 of this title (relating to Appeals Process).

(4) The Executive Director may on appeal approve an amendment where the Single Audit Certification Form has not been submitted as reflected in paragraph (1)(B) of this section. In addition, the Executive Director may on appeal approve an amendment where the conditions in paragraph (2)(A) and paragraph (2)(B) of this section exist. The Subrecipient must demonstrate good cause for the amendment, and such an amendment must not cause the Department to miss a federal obligation or expenditure deadline, or a state expenditure deadline.

(5) Additional program specific requirements for amendments and extensions to Contracts are found in the program rules of this chapter, relating to Homelessness Programs.

(f) The Department reserves the right to request supporting Expenditure documentation at any time in reviewing an Expenditure report for approval. The Department will use full Cost Reimbursement method of payment whenever any of the following conditions exists:

(1) The Department determines that the Subrecipient has maintained cash balances in excess of need;

(2) The Department identifies significant deficiency in the cash controls or financial management system used by the Subrecipient; or

(3) The Subrecipient fails to comply with the reporting requirements in §7.5 (relating to Subrecipient Reporting) and §7.6 (relating to Subrecipient Data Collection) of this subchapter.

(g) Voluntary deobligation. The Subrecipient may fully relinquish funds in the form of a written request signed by the signatory, or successor thereto, of the Contract. The Subrecipient may partially relinquish funds under a Contract in the form of a written request from the signatory if the partial relinquishment in performance measures and budget would not have impacted the award of the Contract. Voluntary relinquishment of a Contract does not limit a Subrecipient's ability to participate in future funding.

(h) Funds provided under a Contract may not be used for sectarian or explicitly religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation.

10 TAC §7.5.Subrecipient Reporting.

(a) Subrecipient will be reimbursed for the amount of actual cash disbursements as reflected in the approved Monthly Expenditure Reports.

(b) Subrecipient must submit a Monthly Performance Report and a Monthly Expenditure Report through the Contract System not later than the last day of each month which reflects performance and expenditures conducted in the prior month.

(c) For performance reports, Program Participants that are assisted continuously as a Contract ends and a new Contract begins in the same program will count as new Program Participants for the new Contract. However, the start of a new Contract does not require new eligibility determination or documentation for Program Participants, except as required for Recertification.

(d) Subrecipient shall reconcile their Expenditures with their performance at least monthly before seeking a request for funds for the following month. If the Subrecipient is unable to reconcile on a month-to-month basis, the Subrecipient must provide at the request of the Department, a written explanation for the variance and take appropriate measures to reconcile the subsequent month. It is the responsibility of a Subrecipient to ensure that it has

documented the compliant use of all funds provided prior to receipt of additional funds, or if this cannot be done to address the repayment of such funds.

(e) Failure of a Subrecipient to provide reports as required under Department rules or the Contract may be sufficient reason for the Department to deobligate funds for which a Monthly Expenditure Report has not been submitted.

(f) If the Subrecipient fails to submit within 45 calendar days of its due date, any report or response required by this section and responses to monitoring reports, Department may, in its sole discretion, suspend payments, place the Subrecipient on Cost Reimbursement method of payment, and initiate proceedings to terminate any active Contract.

(g) Subrecipient must report on all measures in the Monthly Performance Report for demographics and Program Participant Services for which they are awarded.

(h) Subrecipient must submit information requested by the Department for annual or biannual reporting. The annual reporting may extend over multiple Contracts.

(1) ESG Subrecipients will submit information yearly as required for the Consolidated Annual Performance and Evaluation Report, including, but not limited to:

(A) HMIS exports as required per HUD; and

(B) Section 3 provision of the HUD Act of 1968, as required per HUD.

(2) Subrecipients of state funds will submit information for biennial reporting to the Texas Legislature, including, but not limited to:

(A) The successes and challenges of the program, including using state funding in ways that cannot be used by other funding sources; and

(B) How funds were used to leverage other funding sources to persons experiencing homelessness.

10 TAC §7.6.Subrecipient Data Collection.

(a) Subrecipient must ensure that data on all persons served and all activities assisted under Homeless Programs is entered into the applicable HMIS or HMIS-comparable database for domestic violence or legal service providers in order to integrate data from all homeless assistance and homelessness prevention projects in a CoC.

(b) The Performance Targets shall be indicated in the Contract.

§7.7.Subrecipient Contact Information.

(a) In accordance with §1.22 of this title (relating to Providing Contact Information to the Department), Subrecipients will notify the Department and provide contact information for staff that approve the Contract or submit/approve reports in the Contract System. The

notification will be sent to the Department by updating its Contract System access request information.

(b) Subrecipients will notify the Department and provide contact information for Subcontractors and Subgrantees within 30 calendar days of the effective date of the Subcontract or Subgrant. Contact information for the entities with which the Subrecipients' Subcontract or Subgrant must be provided to the Department, including the organization name, name and title of authorized person who entered into the Subgrant or Subcontract, phone number, e-mail address, and type of services provided.

(c) At the start of the Contract and within 30 calendar days of contact information changes, including entering into Subcontracts or Subgrants, Subrecipient will notify the Department of contact information used for the public to receive assistance through Homeless Programs. The contact information for the public should include, but is not limited to, organization name, phone number to receive assistance, email to receive assistance, type of assistance offered, and Service Area in which the assistance is offered.

(d) The Department will rely solely on the contact information supplied by the Subrecipient as indicated in the Department's web-based Contract System. It is the Subrecipient's sole responsibility to ensure such information is current, accurate, and complete. Correspondence sent to the email or physical address shown in the Contract System will be deemed delivered to the Subrecipient. The Department is not required to send a paper copy and if it does so it does as a voluntary and non-precedential courtesy only.

10 TAC §7.8.Records Retention.

(a) Records must be kept in accordance with §1.409 of this Title (relating to Records Retention).

(b) Record retention for construction/rehabilitation/conversion of emergency shelters or Dwelling Units must be retained until the expiration of the LURA.

(c) For ESG, retention for records relevant to the ESG Contract (including but not limited to shelter and habitability inspections) shall be kept in accordance with 24 CFR §576.500 and UGMS, as defined at §1.401 of this title (relating to Definitions), as applicable except if any litigation, claim, negotiation, audit, monitoring, inspection or other action has started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later. The record retention period does not begin until one year after the expiration of the Contract.

(d) For state funds, retention for records relevant to the Contract (including but not limited to shelter and habitability inspections) shall be kept in accordance with UGMS, and retained by the Subrecipient for a period of three years from the expiration of the Contract except if any litigation, claim, negotiation, audit, monitoring, inspection or other action has started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

10 TAC §7.9.Contract Termination and Deobligation.

(a) When a Contract is terminated or voluntarily relinquished, the procedures described in this subsection will be implemented.

(b) The terminology of a "terminated" Subrecipient is intended to include the Subrecipient that is voluntarily or involuntarily terminating their Contract, but does not include Contracts that expire without being sent a termination letter.

(1) The Department will issue a termination letter to the Subrecipient no less than 30 calendar days prior to terminating the Contract. The Department may determine to take any of the following actions: suspend funds immediately or allow a temporary transfer to another Subrecipient; or provide instructions to the Subrecipient to prepare a proposed budget and written plan of action that supports the closeout of the Contract. The plan must identify the name and current titles of staff that will perform the closeout and an estimated dollar amount to be incurred. The plan must identify the CPA or firm which will perform the Single Audit. The Department will issue an official termination date to allow all parties to calculate deadlines which are based on such date.

(2) No later than 30 calendar days after the Contract is terminated, the Subrecipient will take a physical inventory of Program Participant files, including case management files.

(3) The terminated Subrecipient will have 30 calendar days from the date of the physical inventory to make available to the Department all Program Participant files. Current and active case management files also must be inventoried.

(4) The terminated Subrecipient will prepare and submit no later than 30 calendar days from the date the Department retrieves the files, a final report containing a full accounting of all funds expended under the Contract.

(5) A Monthly Expenditure Report and a Monthly Performance Report for all remaining expenditures incurred during the closeout period must be received by the Department no later than 45 calendar days from the date the Department determines that the closeout of the program and the period of transition are complete.

(6) The Subrecipient will submit to the Department no later than 45 calendar days after the termination of the Contract, an inventory of the non-expendable personal property acquired in whole or in part with funds received under the Contract.

(7) The Department may require transfer of Equipment title to the Department or to any other entity receiving funds under the program in question. The Department will make arrangements to remove Equipment covered by this paragraph within 90 calendar days following termination of the Contract.

(8) A current year Single Audit must be performed for all entities that have exceeded the federal expenditure threshold under 2 CFR Part 200, Subpart F or the State expenditure threshold under UGMS, as applicable. The Department will allow a proportionate share of program funds to pay for accrued audit costs, when an audit is required, for a Single Audit that

covers the date up to the closeout of the Contract. To be reimbursed for a Single Audit, the terminated Subrecipient must have a binding contract with a CPA firm on or before the termination date of the Contract. The actual costs of the Single Audit and accrued audit costs including support documentation must be submitted to the Department no later than 45 calendar days from the date the Department determines the closeout is complete. See §1.403 of this title (relating to Single Audit Requirements) for more information.

(9) Subrecipient shall submit within 45 calendar days after the date of the closeout process all financial, performance, and other applicable reports to the Department. The Department may approve extensions when requested by the Subrecipient. However, unless the Department authorizes an extension, the Subrecipient must abide by the 45 calendar day requirement of submitting all referenced reports and documentation to the Department.

10 TAC §7.10. Inclusive Marketing.

(a) The purpose of this section is to highlight certain policies and/or procedures that are required to have written documentation. Other items that are required for written standards are included in the federal or state rules.

(b) Participant selection criteria:

(1) Selection criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, program guidelines, and the Department's rules.

(2) If the local CoC has adopted priority for certain Homeless subpopulations or a specific funding source has a statutory or regulatory preference, then those subpopulations may be given priority by the Subrecipient. Such priority must be listed in the participant selection criteria.

(3) Notifications on denial, non-renewal, or termination of Assistance must:

(A) State that a Person with a Disability may request a reasonable accommodation in relation to such notice.

(B) Include any appeal rights the participant may have in regards to such notice.

(C) Inform Program Participants in any denial, non-renewal or termination notice, information on rights they may have under VAWA (for ESG only, in accordance with the Violence Against Women Reauthorization Act of 2013 (VAWA) protections). Subrecipient may not deny admission on the basis that the applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(c) Other policies and procedures:

(1) Affirmative Fair Housing Marketing Plan. Subrecipients providing project-based rental assistance must have an Affirmative Fair Housing Marketing Plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants who are considered "least likely" to know about or apply for housing based on an evaluation of market

area data. Subrecipient must comply with HUD's Affirmative Fair Housing Marketing and the Age Discrimination Act of 1975.

(2) Language Access Plan. A Subrecipient that interacts with Program Participants must create a Language Access Plan for Limited English Proficiency (LEP) Requirements. Consistent with Title VI and Executive Order 13166, Subrecipient is also required to take reasonable steps to ensure meaningful access to programs and activities for LEP persons.

(3) Affirmative Outreach. If it is unlikely that outreach will reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for those facilities and services, the Subrecipient must establish policies and procedures that target outreach to those persons. Subrecipient must take appropriate steps to ensure effective communication with persons with disabilities including, but not limited to, adopting procedures that will make available to interested persons information concerning the location of assistance, services, and facilities that are accessible to persons with disabilities. Subrecipient must make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis.

(4) Reasonable Accommodation. Subrecipient must comply with state and federal fair housing and antidiscrimination laws. Subrecipient's policies and procedures must address Reasonable Accommodation, including, but not limited to, consideration of Reasonable Accommodations requested to apply for assistance. See Chapter 1, Subchapter B of this title, relating to Accessibility and Reasonable Accommodations, for more information.

10 TAC §7.11.Compliance Monitoring.

(a) Purpose and Overview

(1) This section provides the procedures that will be followed for monitoring for compliance with the programs in this chapter.

(2) Any entity administering any or all of the programs detailed in this chapter is a Subrecipient. A Subrecipient may also administer other programs, including programs administered by other state or federal agencies and privately funded programs. If the Subrecipient has Contracts for other programs through the Department, including but not limited to the HOME Partnerships Program, the Neighborhood Stabilization Program, or the Texas Housing Trust Fund, the Department may, but is not required to and does not commit to, coordinate monitoring of those programs with monitoring of those programs under this Chapter.

(3) Any entity administering any or all of the programs provided for in subsection (a)(2) of this section as part of a Memorandum of Understanding (MOU), contract, or other legal agreement with a Subrecipient is a Subgrantee.

(b) Frequency of Reviews, Notification and Information Collection.

(1) In general, the Subrecipient or Subgrantee will be scheduled for monitoring based on state or federal monitoring requirements and/or a risk assessment. Factors to be included in the risk

assessment include but are not limited to: the number of Contracts administered by the Subrecipient or Subgrantee, the amount of funds awarded and expended, the length of time since the last monitoring, findings identified during previous monitoring, issues identified through the submission or lack of submission of a Single Audit, complaints received by the Department, and reports of fraud, waste and/or abuse. The risk assessment will also be used to determine which Subrecipients or Subgrantees will have an onsite review and which may have a desk review.

(2) The Department will provide the Subrecipient or Subgrantee with written notice of any upcoming onsite or desk monitoring review, and such notice will be given to the Subrecipient and Subgrantee by email to the Subrecipient's and Subgrantee's Contract contact at the email address most recently provided to the Department by the Subrecipient or Subgrantee. In general, a 30 calendar day notice will be provided. However, if a credible complaint of fraud or other egregious noncompliance is received the Department reserves the right to conduct unannounced monitoring visits. It is the responsibility of the Subrecipients to provide to the Department the current contact information for the organization and the Board in accordance with §7.7 of this subchapter (relating to Subrecipient Contact Information) and §1.22 of this title (relating to Providing Contact Information to the Department).

(3) Upon request, Subrecipient and Subgrantee (if applicable) must make available to the Department all books and records that the Department determines are reasonably relevant to the scope of the Department's review. Typically, these records may include (but are not limited to):

(A) Minutes of the governing board and any committees thereof, together with all supporting materials;

(B) Copies of all internal operating procedures or other documents governing the Subrecipient's operations;

(C) The Subrecipient's Board approved operating budget and reports on execution of that budget;

(D) The Subrecipient's strategic plan or comparable document if applicable and any reports on the achievement of that plan;

(E) Correspondence to or from any independent auditor;

(F) Contracts with any third parties for goods or services and files documenting compliance with any applicable procurement and property disposition requirements;

(G) All general ledgers and other records of financial operations (including copies of checks and other supporting documents);

(H) Applicable Program Participant files with all required documentation;

(I) Applicable human resources records;

(J) Monitoring reports from other funding entities;

(K) Program Participant files regarding complaints, appeals and termination of services; and

(L) Documentation to substantiate compliance with any other applicable state or federal requirements including, but not limited to, the Davis-Bacon Act, HUD requirements for environmental clearance, Lead Based Paint, the Personal Responsibility and Work Opportunity Act, HUD LEP requirements, and requirements imposed by Section 3 of the Housing and Urban Development Act of 1968.

(c) Post Monitoring Procedures.

(1) In general, within 30 calendar days of the last day of the monitoring visit, a written monitoring report will be prepared for the Subrecipient describing the monitoring assessment and any corrective actions, if applicable. The monitoring report will be emailed to the Subrecipient's Board Chair and Executive Director. All Department monitoring reports and Subrecipient responses to monitoring reports must be provided to the governing body of the Subrecipient within the next two regularly scheduled meetings. Issues of concern over which there is uncertainty or ambiguity may be discussed by the Department with the staff of cognizant agencies overseeing federal funding. Certain types of suspected or observed improper conduct may trigger requirements to make reports to other oversight authorities, state and federal, including but not limited to the State Auditor's Office and applicable Inspectors General.

(2) Subrecipient Response. If there are any Findings of noncompliance requiring corrective action, the Subrecipient will be provided 30 calendar days from the date of the email to respond, which may be extended for good cause. In order to receive an extension, the Subrecipient must submit a written request to the Director of Compliance within the corrective action period, stating the basis for good cause that justifies the extension. The Department will approve or deny the extension request within five calendar days.

(3) Monitoring Close Out. Within 45 calendar days after the end of the corrective action period, a close out letter will be issued to the Subrecipient. If the Subrecipient's response satisfies issues raised in the monitoring letter, the issue of noncompliance will be noted as resolved. If the Subrecipient's response does not correct all Findings, the follow-up letter will identify the documentation that must be submitted to correct the issue.

(4) Options for Review. If, following the submission of corrective action documentation, Compliance staff continues to find the Subrecipient or Subgrantee in noncompliance, and the Subrecipient disagrees, the Subrecipient may request or initiate review of the matter using the following options, where applicable:

(A) If the issue is related to a program requirement or prohibition of a federal program, the Subrecipient may contact the applicable federal program officer for guidance or request that the Department contact applicable federal program officer for guidance without identifying the Subrecipient.

(B) If the issue is related to application of a provision of the Contract or a requirement of the Texas Administrative Code, the Subrecipient may request to submit an appeal to the Executive Director consistent with §1.7 (regarding Appeals Process) of this title.

(C) The Subrecipient may request Alternative Dispute Resolution (ADR). Subrecipient may send a proposal to the Department's Dispute Resolution Coordinator to initiate ADR pursuant to Chapter 1, Subchapter A of this title, relating to General Policies and Procedures.

(5) If the Subrecipient does not respond to a monitoring letter or fail to provide acceptable evidence of compliance, the matter will be handled through the procedures described in Chapter 2 of this Title, relating to Enforcement.

10 TAC §7.12.Waiver of Rule.

(a) The Department's Governing Board (the "Board") may waive rules in this chapter for good cause to meet the purpose of the Homeless Programs described further in §7.1 (relating to Purpose and Goals) of this title. However, any waiver cannot conflict with the federal statutes or regulations or state statutes governing any of the Homeless Programs.

(b) A provision of a closed NOFA or a Local Competition may not be waived except in the case of a federal disaster as described in §1.5 (relating to Waiver Applicability in the Case of Federally Declared Disasters) of this title or a change in federal law that makes adherence to the requirements of the NOFA or Local Competition impossible or impracticable as determined by the Board.

Attachment C: Preamble, including required analysis, for repeal of 10 TAC Chapter 7, Subchapter B, Homeless Housing and Services Program (HHSP)

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 7, Homelessness Programs, Subchapter B, Homeless Housing and Services Program. The purpose of the 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.

Mr. Bobby Wilkinson, Executive Director, 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 changes to an existing activity, the administration of the Homeless Housing and Services Program.
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 or 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, the administration of homeless programs.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or 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 or 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 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). Mr. Wilkinson 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 more clarity on the administration of the Homeless Housing and Services Program. 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. Wilkinson 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 March 13, 2020 and April 13, 2020. Comments regarding the proposed repeal were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the repeal on May 21, 2020.

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 7, Subchapter B, Homeless Housing and Services Program

Attachment D: Preamble for new 10 TAC Chapter 7, Subchapter B, Homeless Housing and Services Program (HHSP)

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 7, Subchapter B, Homeless Housing and Services Program. The purpose of the new section is to update the rule to clarify eligible activities and funding allocation to be consistent with Rider 16, Funding to Address Youth Homelessness of the Appropriations Act (86th Legislative Session); create a mechanism to redistribute funding that is expected to be unspent by Homeless Housing and Services Program Subrecipients; clarify the program income process; and update the Program Participant eligibility and file requirements.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, 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. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The 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 Homeless Housing and Services 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 rule does not require additional future legislative appropriations.
4. The 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 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 rule will not increase or decrease the number of individuals subject to the rule's applicability.
8. The rule will not negatively or 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, Ch. 2306.

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 approximately no small or micro-businesses subject to the rule because these funds are limited to municipalities or designated nonprofits per 10 TAC §7.22 for the Homeless Housing and Services Program.

3. The Department has determined that based on the considerations in item two above, 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 rule does not contemplate or 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 will channel funds, which may be limited, only to municipalities and nonprofits; it is not anticipated that the amount of funds would be enough to support additional employment opportunities, but would add to the services provided. Alternatively, the rule would also not cause any negative impact on employment. 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 no impact is expected, 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. Wilkinson 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 a rule that has greater clarity into the processes and definitions of the administration of homeless programs. 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 the rule found at this section being repealed.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson 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 costs for administering the program are included in eligible activities.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between March 13, 2020 and April 13, 2020. Comments regarding the proposed new rule were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the new rule on May 21, 2020.

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 §7.21.Purpose and Use of Funds.

(a) In accordance with Tex. Gov't Code §2306.2585, HHSP provides funding to municipalities with populations of 285,500 or greater (which the Department will determine with the most recent available 1 Year American Community Survey (ACS) data) to develop programs to prevent and eliminate Homelessness.

(b) HHSP eligible activities are:

(1) administrative costs associated with HHSP, including Program Participant tracking using HMIS or a HMIS-comparable database;

(2) case management for households experiencing or At-risk of Homelessness to assess, arrange, coordinate and monitor the delivery of services;

(3) construction/rehabilitation/conversion of buildings or Dwelling Unit (including administrative facilities) to serve persons experiencing Homelessness or At-risk of Homelessness;

(4) essential services for Homeless Households or Households At-risk of Homelessness to find or maintain housing stability;

(5) homelessness prevention to provide financial assistance to Homeless Households or Households At-risk of Homelessness;

(6) homelessness assistance to provide financial assistance provided to Homeless Households or Households At-risk of Homelessness;

(7) operation of emergency shelters or administrative facilities to serve Homeless Households or Households At-risk of Homelessness;

(8) transitional living activities for Youth Headed Households designed to provide safe short-term housing (typically less than 24 months) in conjunction with appropriate supportive services designed to foster self-sufficiency; and

(9) other local programs to assist Homeless Households or Households At-risk of Homelessness, if approved by the Department in writing in advance of the Expenditure.

§7.22.HHSP Subrecipient Application and Selection.

(a) Any written information provided to the Department in order to execute a Contract is part of the Application, including but not limited to the information in this subsection.

(b) The municipality may apply to administer the funding directly or designate a Private Nonprofit Organization or other governmental entity to apply to administer the funds in the municipality in accordance with Tex. Gov't Code §2306.2585(a).

(1) Designation of administering entity. The municipality that is designating an entity to administer the funds within their jurisdiction shall provide notification to the Department within 60 calendar days of notification of the allocated amount. The notification must be in the form of a resolution or other city council action from the municipality's governing body, and should indicate whether that the municipality is designating another entity to administer the funds on behalf of the municipality.

(2) The municipality may designate the other entity for one or two years, as desired by the municipality. If designated for two years, the requirement that the resolution or council action be submitted within 60 calendar days of notification of allocated amount will be considered met for the second year since the council action was approved.

(c) Application for funds. Application for funds will be submitted within 60 calendar days of notification of the allocated amount. After 60 calendar days of notification, if no application for funding is received, the funding may be reallocated through the formula outlined in this section to the other areas receiving HHSP funding. The Application for funding will include, but not be limited to:

(1) information sufficient to conduct a Previous Participation review for the municipality or entity designated to administer HHSP funds;

(2) proposed budget;

(3) proposed performance targets; and

(4) activity descriptions.

(d) Prior to Contract execution, entities expected to administer an award of HHSP funds must submit a resolution, governing body action, or other approved documentation approved by entity's direct governing body which includes authorization to enter into a Contract for HHSP funds and title of the person authorized to represent the entity and who also has signature authority to execute a Contract. The documentation submitted must be dated no more than 12 months from the date of Contract execution.

(e) An entity recommended for HHSP funds is subject to the Department's Previous Participation Rule, found in §1.302 of this title. In addition to the considerations of the Previous Participation Rule, an entity receiving HHSP funds may not be in breach or violation, after notice and a reasonable opportunity to cure, of any contract with the Department or LURA.

(f) Subrecipient must enter into a Contract with the Department governing the use of such funds. If the source of funds for HHSP is funding under another specific Department program, such as the Housing Trust Fund, as authorized by Tex. Gov't Code, §2306.2585(c), the Contract will incorporate any requirements applicable to such funding source.

10 TAC §7.23.Allocation of Funds and Formula.

(a) Contract Award Funding Limits. The funding will be established by Allocation Formula as described in this section.

(b) HHSP funds will be awarded upon appropriation from the legislature, and will be made available to any of those municipalities subject to the requirements of this rule and be distributed in accordance with the formula set forth in subsection (c) of this section relating to Formula.

(c) General Population Formula. Funds made available under HHSP for the general population shall be distributed in accordance with an Allocation Formula that is calculated each year that takes into account the proportion of the following factors:

(1) population of the municipality, as determined by the most recent available 1 Year American Community Survey (ACS) data;

(2) poverty, defined as persons in the municipality's population with incomes at or below the poverty threshold, as determined by the most recent available 1 Year ACS data;

(3) population of Homeless persons, as determined by the most recent publicly available Point-In-Time Counts submitted to HUD by the CoCs in Texas or by the Texas Homeless Network;

(4) population of Homeless veterans, as determined by the most recent publicly available Point-In-Time Counts submitted to HUD by the CoCs in Texas or by the Texas Homeless Network;

(5) population of Homeless Unaccompanied Youth, Parenting Youth, and Children of Parenting Youth, as determined by the most recent publicly available Point-In-Time Counts submitted to HUD by the CoCs in Texas or by the Texas Homeless Network;

(6) population of persons with disabilities, defined as that percentage of the municipality's population composed of persons with disabilities, as determined by the most recent available 1 Year ACS data; and

(7) incidents of family violence, as determined by reports from local police departments.

(d) The factors enumerated shall be used to calculate distribution percentages for each municipal area based on the following formula:

(1) thirty percent weight for population;

(2) thirty percent weight for poverty populations;

(3) twenty percent weight for the Homeless population;

(4) five percent weight for population of Homeless Veterans;

(5) five percent weight for population of Homeless Unaccompanied Youth, Parenting Youth, and Children of Parenting Youth;

(6) five percent weight for population of persons with disabilities; and

(7) five percent weight for instances of family violence.

(e) Youth Population Formula. Funds made available to HHSP for youth shall be distributed in accordance with an Allocation Formula that is calculated each year that takes into account the proportion of the following factors:

(1) population of the municipality, as determined by the most recent available 1 Year American Community Survey (ACS) data;

(2) poverty, defined as persons in the municipality's population with incomes at or below the poverty threshold, as determined by the most recent available 1 Year ACS data;

(3) population of Homeless Unaccompanied Youth, Parenting Youth, and Children of Parenting Youth, as determined by the most recent publicly available Point-In-Time Counts submitted to HUD by the CoCs in Texas;

(4) population of persons with disabilities, defined as that percentage of the municipality's population composed of persons with disabilities, as determined by the most recent available 1 Year ACS data; and

(5) incidents of family violence, as determined by reports from local police departments.

(f) The factors enumerated shall be used to calculate distribution percentages for each municipal area based on the following formula:

(1) thirty percent weight for population;

(2) thirty percent weight for poverty populations;

(3) thirty percent weight for population of Homeless Unaccompanied Youth, Parenting Youth, and Children of Parenting Youth;

(4) five percent weight for population of persons with disabilities; and

(5) five percent weight for instances of family violence.

(g) Prior to month nine of the Contract, the HHSP Subrecipient may choose to voluntarily deobligate up to 15% of the total amount of funds in the Contract if the HHSP Subrecipient anticipates that it will not expend all the funds. The Department reserves the right to refuse any returned funds prior to the end of the Contract Term. The Department may reallocate the voluntary deobligated funds to existing HHSP Subrecipients with the highest expenditure rates based on percent of funds expended. The increase of reallocated funds may not exceed 25% of the initial Contract award, unless approved by the Board.

10 TAC §7.24.General HHSP Requirements.

(a) Subrecipient must have written policies and procedures to ensure that sufficient records are established and maintained to enable a determination that HHSP requirements are met.

(b) Subrecipient must have written standards for providing HHSP assistance to Program Participants. The written standards must be applied consistently for all Program Participants. The written standards must include, but not be limited to, Inclusive Marketing outlined in §7.10 of this chapter.

(c) Rent restriction. Rental assistance cannot be provided unless the gross rent complies with the standard of rent reasonableness established in the Subrecipient's written policies and procedures. Gross rent includes the contract rent and an estimate of utilities established by the Public Housing Authority for the area in which the Dwelling Unit is located.

(d) The occupancy standard set by the Subrecipient must not conflict with local regulations or Texas Property Code §92.010.

(e) Subrecipient must document compliance with the Shelter and Housing Standards in this Chapter, relating to Homelessness Programs, including but not limited to construction and shelter inspection reports, and the Accessibility Standards in Chapter 1, Subchapter B of this title.

(f) If the Subrecipient is providing funds for single family ownership, the requirements of Chapters 20, relating to Single Family Programs Umbrella Rule, and 21 Minimum Energy Efficiency Requirements for Single Family Construction Activities of this Part, will apply.

(g) If the Subrecipient is providing funds to an entity for rental ownership, operations, or providing project-based vouchers/rental assistance, the rental development must comply with the greater of regulatory regulations governing the development or program to which HHSP funds are comingled, or, if none, must comply with local health and safety codes.

10 TAC §7.25. Program Income.

(a) Program income is income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds, where authorized. Program income does not include interest on federal grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them. Interest earned in excess of \$250 on grants or loans from purely state sources is considered program income.

(b) Security and utility deposits must be reimbursed to the Program Participant and are not considered program income. The deposit must remain with the Program Participant and be returned only to the Program Participant.

(c) In accounting for program income, the Subrecipient must accurately reflect the receipt of such funds separate from the receipt of program funds and Subrecipient funds.

(d) Program income that is received during the Contract Term may be expended for HHSP eligible costs during the Contract Term, and reported in the Monthly Expenditure Report.

(e) Program income that is received after the end of the Contract Term, or not expended within the Contract Term, must be returned to the Department within 10 calendar days of receipt.

10 TAC §7.26.Conflict of Interest.

(a) Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of Contracts. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default and may result in termination of the Contract or deobligation of funds.

(b) No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the listed parties, has a financial or other interest in the firm selected for an award.

(c) The officers, employees, and agents, including consultants, officers, or elected or appointed officials of the Subrecipient or its Subgrantees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.

(d) The provision of any type or amount of direct HHSP assistance may not be conditioned on a Program Participant's acceptance or occupancy of emergency shelter or housing owned by the Subrecipient or Subgrantee, or a parent or subsidiary of the Subrecipient or Subgrantee.

(e) No Subrecipient may, with respect to Household occupying a Dwelling Unit owned by the Subrecipient or Subgrantee, or any parent or subsidiary of the Subrecipient or Subgrantee, carry out the initial intake required for Program Participant files.

(f) For transactions and activities other than the procurement of goods and services, no officers, employees, and agents, including consultants, officers, or elected or appointed officials of the Subrecipient, Subgrantee, or Subcontractor who exercises or has exercised any functions or responsibilities with respect to activities assisted under HHSP, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.

10 TAC §7.27. Eligible Costs.

(a) Administrative costs include employee compensation and related costs for staff performance of management, reporting, and accounting of HHSP activities, including office space. Costs associated with the purchase or licensing of HMIS or an HMIS-comparable databases are eligible administrative costs.

(b) Case management costs include staff salaries related to assessing, arranging, coordinating and monitoring the delivery of services related to finding or maintaining housing. Costs include, but are not limited to, Household eligibility determination, counseling, coordinating services and obtaining mainstream benefits for Program Participants, monitoring Program Participant progress, providing safety planning for persons under VAWA, developing a housing and service plan, and entry into HMIS or an HMIS-comparable database.

(c) Construction rehabilitation, and conversion costs include, but are not limited to, costs for:

(1) Pre-Development, such as environmental review, site-control, survey, appraisal, architectural fees, and legal fees.

(2) Development, such as:

(A) land acquisition;

(B) site work (including infrastructure for service utilities, walkways, curbs, gutters);

(C) lot clearance and site preparation;

(D) construction to meet uniform building codes, international energy conservation code, or local rehabilitation standards;

(E) accessibility features to site and building;

(F) essential improvements and energy-related improvements;

(G) abatement of lead-based paint hazards;

(H) barrier removal/construction for accessibility features for persons with disabilities; and

(I) non-luxury general property improvements.

(d) Essential services costs are associated with finding and maintaining stable housing, and include, but are not limited to, costs for:

(1) out-patient medical services;

(2) child care;

(3) education services;

- (4) legal services;
- (5) mental health services;
- (6) local transportation assistance;
- (7) drug and alcohol rehabilitation; and
- (8) job training.

(e) Homelessness prevention and homelessness assistance costs are associated with housing relocation, stabilization and assistance costs. Staff time entering information into HMIS or HMIS-comparable database related to homelessness prevention and homeless assistance is also an eligible cost. Homeless prevention and homelessness assistance costs include, but are not limited to, hotel or motel costs; transitional housing; rental and utility assistance; rental arrears; utility reconnection fees; reasonable and customary security and utility deposits; and moving costs.

(f) Operation costs include rent, utilities, supplies and equipment purchases, food pantry supplies, and other related costs necessary to operate an emergency shelter or Transitional Living Activities, serving individuals experiencing or at-risk of homelessness.

10 TAC §7.28. Program Participant Eligibility and Program Participant Files.

(a) A Program Participant must satisfy the eligibility requirements by meeting the appropriate definition of Homeless or At-risk of Homelessness in this Chapter, relating to Homelessness Programs, including but not limited to applicable income requirements.

(b) A Program Participant who is Homeless qualifies for emergency shelter, Transitional Living Activities, case management, essential services, and homeless assistance.

(c) A Program Participant who is At-risk of Homelessness qualifies for case management, essential services, and homeless prevention.

(d) The Subrecipient shall establish income limits that do not exceed the moderate income level pursuant to Tex. Gov't Code §2306.152 in its written policies and procedures, and may adopt the income limit calculation method and procedures in HUD Handbook 4350 to satisfy this requirement.

(e) Recertification. Recertification is required for Program Participants receiving homelessness prevention and homelessness assistance within 12 months of the assistance start date. Subrecipient's written policies may require more frequent recertification. At a minimum, recertification includes that Program Participants receiving homelessness prevention or homelessness assistance:

- (1) meet the income eligibility requirements as established by the Subrecipient, if such limits are implemented in the Subrecipient's policies and procedures and required to be reviewed at Recertification; and

(2) lack sufficient resources and support networks necessary to retain housing without assistance.

(f) Break in service. 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 HHSP, the Household is required to complete a new intake application and provide updated source documentation, if applicable. The Subrecipient would not need to document further eligibility for HHSP if the Program Participant is currently receiving assistance through ESG.

(g) Program participant files. Subrecipient or their Subgrantees shall maintain Program Participant files, for non-emergency activities providing direct subsidy to or on behalf of a Program Participant that contain the following:

(1) an Intake Application, including the signature or legally identifying mark of all adult Household members certifying the validity of information provided, an area to identify the staff person completing the intake application, and the language as required by Tex. Gov't Code §434.212;

(2) certification from the Applicant that they meet the definition of Homeless or At-risk of Homelessness. The certification must include the Program Participant's signature or legally identifying mark;

(3) documentation of income eligibility, if applicable, which may include a DIS if documentation is unobtainable;

(4) documentation of annual recertification, as applicable, including income eligibility determination and verification that the Program Participant lacks sufficient resources and supports networks necessary to retain housing without assistance;

(5) documentation of determination of ineligibility for assistance when assistance is denied. Documentation must include the reason for the determination of ineligibility;

(6) copies of all leases and rental assistance agreements for the provision of rental assistance, documentation of payments made to owners for the provision of rental assistance, and supporting documentation for these payments, including dates of occupancy by Program Participants;

(7) documentation of the monthly allowance for utilities used to determine compliance with the rent restriction; and

(8) documentation that the Dwelling Unit for Program Participants receiving rental assistance complies with the Housing Standards in this Chapter, relating to Homelessness Programs.

10 TAC §7.29.Shelter and Housing Standards.

(a) Minimum standards for emergency shelters. Any building for which HHSP funds are used for construction, rehabilitation, conversion, or other renovation, must meet state or local

government safety and sanitation standards, as applicable, and the following minimum safety and sanitation standards. Any emergency shelter that receives assistance for shelter operations must also meet the following minimum safety and sanitation standards.

(1) Structure and materials. The shelter building must be structurally sound to protect residents from the elements and not pose any threat to health and safety of the residents. Any renovation (including major rehabilitation and conversion) carried out with HHSP assistance must use Energy Star and WaterSense or equivalent products and appliances.

(2) Access. The shelter must be accessible in accordance with Section 504 of the Rehabilitation Act (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8; the Fair Housing Act (42 U.S.C. 3601 et seq.) as outlined in 10 TAC Chapter 1, Subchapter B, and implementing regulations at 24 CFR Part 100; and Title II of the Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and 28 CFR Part 35; where applicable.

(3) Space and security. Except where the shelter is intended for day use only, the shelter must provide each program participant in the shelter with an acceptable place to sleep and adequate space and security for themselves and their belongings.

(4) Interior air quality. Each room or space within the shelter must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

(5) Water supply. The shelter's water supply must be free of contamination.

(6) Sanitary facilities. Each program participant in the shelter must have access to sanitary facilities that are in proper operating condition and are adequate for personal cleanliness and the disposal of human waste.

(7) Thermal environment. The shelter must have any necessary heating/cooling facilities in proper operating condition.

(8) Illumination and electricity. The shelter must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the shelter.

(9) Food preparation. Food preparation areas, if any, must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

(10) Sanitary conditions. The shelter must be maintained in a sanitary condition.

(11) Fire safety. There must be at least one working smoke detector in each occupied unit of the shelter. Where possible, smoke detectors must be located near sleeping areas. The fire alarm system must be designed for hearing-impaired residents. All public areas of the shelter must have at least one working smoke detector. There must also be a second means of exiting the building in the event of fire or other emergency.

(b) Minimum standards for housing for occupancy. Housing assisted under HHSP must meet the minimum habitability standards within 30 calendar days after the term of assistance begins. HHSP funds may assist a Program Participant in returning the Dwelling Unit to the minimum habitability standard in cases where the Program Participant is the responsible party for ensuring such conditions.

(1) Structure and materials. The structures must be structurally sound to protect residents from the elements and not pose any threat to the health and safety of the residents.

(2) Space and security. Each resident must be provided adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.

(3) Interior air quality. Each room or space must have a natural or mechanical means of ventilation. The interior air must be free of pollutants at a level that might threaten or harm the health of residents.

(4) Water supply. The water supply must be free from contamination.

(5) Sanitary facilities. Residents must have access to sufficient sanitary facilities that are in proper operating condition, are private, and are adequate for personal cleanliness and the disposal of human waste.

(6) Thermal environment. The Dwelling Unit must have any necessary heating/cooling facilities in proper operating condition.

(7) Illumination and electricity. The structure must have adequate natural or artificial illumination to permit normal indoor activities and support health and safety. There must be sufficient electrical sources to permit the safe use of electrical appliances in the structure.

(8) Food preparation. All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a safe and sanitary manner.

(9) Sanitary conditions. The housing must be maintained in a sanitary condition.

(10) Fire safety.

(A) There must be a second means of exiting the building in the event of fire or other emergency.

(B) Each Dwelling Unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(C) The public areas of all Dwelling Units must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas

include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

(c) Lead-based paint remediation and disclosure. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, subparts A, B, H, J, K, M, and R apply to all shelters and all Dwelling Units occupied by Program Participants.

Attachment E: Preamble, including required analysis, for repeal of 10 TAC §7.31, Purpose; 10 TAC §7.34, Local Competition for Funds; 10 TAC §7.36, General Threshold Criteria under a Department NOFA; 10 TAC §7.41, Contract Term, Expenditure Benchmarks, and Return of Funds; 10 TAC §7.42, General Administrative Requirements; 10 TAC §7.43, Program Income; and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC §7.31 Purpose; 10 TAC §7.34, Local Competition for Funds; 10 TAC §7.36 General Threshold Criteria under a Department NOFA; 10 TAC §7.41, Contract Term, Expenditure Benchmarks, and Return of Funds; 10 TAC §7.42, General Administrative Requirements; 10 TAC §7.43, Program Income; and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files. The purpose of the repeals is to eliminate outdated rules while adopting new updated rules 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. Bobby Wilkinson, Executive Director, 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 changes to an existing activity, the administration of the Emergency Solutions Grant Program.
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, the administration of homeless programs.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or 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 or 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 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). Mr. Wilkinson 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 more clarity on the administration of the Homeless Housing and Services Program. 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. Wilkinson 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 March 13, 2020 and April 13, 2020. Comments regarding the proposed repeal were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the repeal on May 21, 2020.

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 §7.31, Purpose

10 TAC §7.34, Local Competition for Funds

10 TAC §7.36, General Threshold Criteria under a Department NOFA

10 TAC §7.41, Contract Term, Expenditure Benchmarks, and Return of Funds

10 TAC §7.42, General Administrative Requirements

10 TAC §7.43, Program Income

10 TAC §7.44, Program Participant Eligibility and Program Participant Files

Attachment F: Preamble for new 10 TAC §7.31, Purpose; 10 TAC §7.34, Local Competition for Funds; 10 TAC §7.36, General Threshold Criteria under a Department NOFA; 10 TAC §7.41, Contract Term, Expenditure Benchmark, Return of Funds, and Performance Targets; 10 TAC §7.42, General Administrative Requirements; 10 TAC §7.43, Program Income; and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC §7.31 Purpose; 10 TAC §7.34, Local Competition for Funds; 10 TAC §7.36, General Threshold Criteria under a Department NOFA; 10 TAC §7.41, Contract Term, Expenditure Benchmark, Return of Funds, and Performance Targets; 10 TAC §7.42, General Administrative Requirements; 10 TAC §7.43, Program Income; and 10 TAC §7.44, Program Participant Eligibility and Program Participant Files. The purpose of the new sections is to update the rules to use the most updated sources of data when calculating the Allocation Formula; ensuring an appeal process is available for Applicants in a Local Competition; update threshold requirements for Applications; clarify the Contract extension process; clarify the voluntary return of funds; clarify the redistribution of returned funds; clarify that deposits should be returned to the Program Participant; rearrange and update reporting and administration requirements; and provide more detail for Program Participant eligibility and files.

Tex. Gov't Code §2001.0045(b) does not apply to the rule for action because it was determined that no costs are associated with this action, 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. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The rules do not create or eliminate a government program, but relates to the readoption of these rules which make changes to an existing activity, administration of the Emergency Solutions Grants Program.
2. The new rules do 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 rules do not require additional future legislative appropriations.
4. The rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The rules are not creating a new regulation, except that they are replacing a rule being repealed simultaneously to provide for revisions.
6. The rules will not expand, limit, or repeal an existing regulation.
7. The rules will not increase or decrease the number of individuals subject to the rule's applicability.
8. The rules will not negatively or 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, Ch. 2306.

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 approximately no small or micro-businesses subject to the rule because these funds are limited to private nonprofits and local governments 24 CFR §576.202.

3. The Department has determined that based on the considerations in item two above, 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 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 rules as to their possible effects on local economies and has determined that for the first five years the rules will be in effect the new rules have no economic effect on local employment because this rule will channel funds, which may be limited, only to municipalities and nonprofits; it is not anticipated that the amount of funds would be enough to support additional employment opportunities, but would add to the services provided. Alternatively, the rules would also not cause any negative impact on employment. 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 no impact is expected, 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. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new sections will be rules that have greater clarity into the processes and definitions of the administration of homeless programs. There will not be any economic cost to any individuals required to comply with the new sections because the processes described by the rules 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. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because the costs for administering the program in included in eligible activities.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between March 13, 2020 and April 13, 2020. Comments regarding the proposed

new rule were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the new rule on May 21, 2020.

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 §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, relating to Emergency Solutions Grants, 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 Parts 5, 91, and 576 (the Federal Regulations). An ESG Subrecipient must also follow all other applicable federal and state statutes and the regulations established in this chapter, relating to Homelessness Programs, 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.

10 TAC §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, relating to Apportionment of ESG Funds. 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, relating to General Threshold Criteria under a Department NOFA, and establish performance targets as required by §7.40 of this subchapter, relating to Program Participant Services Selection Criteria.

(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.

(e) The ESG Coordinator must establish an appeals process wherein Applicants may appeal scoring procedures, and such appeals must be reviewed by the governing body of the ESG Coordinator. Results of the Local Competition submitted to the Department are final, and Applicants in a Local Competition may not appeal the final determination of the ESG Coordinator to the Executive Director or to the Board.

10 TAC §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% 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 \$57,500 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 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 an Applicant that will be providing shelter activities with ESG or as ESG Match, as applicable. This documentation must be submitted not later than 30 calendar days after the Application submission deadline as specified in the NOFA. Receipt of the local government approval is a condition prior to the Department obligating ESG funding.

(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 not older than 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.

10 TAC §7.41.Contract Term, Expenditure Benchmark, Return of Funds, and Performance Targets.

(a) The Contract Term for allocated funds may not exceed 12 months under a one-year funding cycle. All funds awarded under the Contract must be expended by the Subrecipient on or before the expiration of the Contract, unless an extension has been granted in accordance with this section. A request to extend the Contract Term must show evidence that the extension is necessary to provide services required under the Contract, and provide good cause for failure to timely expend the funds. Extensions of Contract Terms are considered on a case-by-case basis, but are subject to Section 7.4(e) of this Title, concerning Amendments and Extensions of Contracts.

(1) The Executive Director or his or her designee may approve an extension to the Contract Term of up to six months from the original Contract Term.

(2) Board approval is required if the Subrecipient requests to extend the Contract Term for more than six months from the original Contract Term.

(3) Amendments of Expenditure requirements will not be granted by the Executive Director or the Board when such action would cause the Department to miss a federal expenditure deadline.

(b) Subrecipient is required to have reported Expenditures in its Monthly Expenditure Reports reflecting at least 50% of the Contracted funds by month nine of the original Contract Term. A Subrecipient that has not met this Expenditure benchmark must submit a plan to the Department evidencing the ability of the Subrecipient to expend the remaining funds by month 12 of the original Contract Term. This Expenditure benchmark may not be extended through amendment.

(c) Not later than 60 days prior to the end of the Contract Term, a Subrecipient may submit a written request to voluntarily return some or all of its funds to the Department. Voluntary return of funds prior to the Expenditure benchmark constitutes a reduction in the awarded amount, and returned funds at or prior to the Expenditure benchmark will not be considered deobligated funds for the purpose of future funding recommendations.

(d) Funds remaining at the end of Contract which are not reflected in the last Monthly Expenditure Report will be automatically deobligated. Deobligation of funds may affect future funding recommendations.

(e) The Department may request information regarding the performance or status of a Contract prior to the Expenditure benchmark, at various times during the Contract, or during the record retention period. Subrecipient must respond within the time limit stated in the request. Prolonged or repeated failure to respond may result in suspension of funds, termination of the Contract by the Department, and could impact future funding recommendations.

(f) If additional funds become available through returned or deobligated amounts from an award made under the allocation formula or program income generated from an award made

under the allocation formula, the funds may be offered to ESG Subrecipients with active Contracts that have not been amended to extend the Contract Term. Funds that become available subsequent to an allocation under a NOFA will be offered with priority given to ESG Subrecipients with the highest Expenditure rate as of the most recent Monthly Expenditure Report. Funds will be offered first to eligible ESG Subrecipients within the CoC region from which the additional funds became available, and then available statewide; however, funds may not be offered to any Subrecipient that returned funds, or from whom funds were deobligated. The Executive Director or designee may increase the Contract of an ESG Subrecipient or authorize a new Contract with a Subrecipient by up to 25% of the original Contract amount from funds that become available after the initial allocation under a NOFA.

(g) Funds that have been returned more than once or returned less than three months before the federal expenditure deadline may be retained by the Department.

(h) The Contract will reflect the Performance Targets that were utilized as selection criteria for the award of funds. Requests to amend Performance Targets may not be submitted less than 60 days prior to the end of the Contract Term. Requests to amend Performance Targets will not be granted if such an amendment would have precluded the award to the Subrecipient.

10 TAC §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 activities 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 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.

(i) 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.

(j) 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, Subrecipient will inform Program Participants of their eligibility under their Emergency Transfer Plan and keep records of all outcomes.

10 TAC §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 landlord or the utility service provider requires that the deposit be returned to the Subrecipient, Affiliate, Subcontractor, or Subgrantee, the deposit 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.

10 TAC §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. The Applicant must retain income documentation for Program Participants receiving homelessness prevention and Program Participants receiving rapid re-housing that require annual Recertification. Program Participant income eligibility must be calculated and documented in accordance with the Requirements of HUD Handbook 4350, except that the Department's DIS form may be utilized if income cannot be documented in accordance with 24 CFR §576.500(e)(4). A DIS must be completed and signed by Program Participants whom are subject to income eligibility determination.

(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).

Attachment G: Preamble, including required analysis, for repeal of 10 TAC Chapter 7 Homelessness Programs, Subchapter D, Ending Homelessness Fund, 10 TAC §7.62, EH Fund Subrecipient Application and Selection, and §7.65, Contract Term and Limitations

The Texas Department of Housing and Community Affairs (the Department) adopts the repeal of 10 TAC Chapter 7 Homelessness Programs, Subchapter D, Ending Homelessness Fund, 10 TAC §7.62 EH Fund Subrecipient Application and Selection, and §7.65, Contract Term of Limitations. The purpose of the 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.

Mr. Bobby Wilkinson, Executive Director, 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 changes to an existing activity, the administration of the Ending Homelessness Fund.
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, the administration of homeless programs.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or 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 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). Mr. Wilkinson 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 more clarity on the administration of the Ending Homelessness Fund. 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. Wilkinson 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 March 13, 2020 and April 13, 2020. Comments regarding the proposed repeal were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the repeal on May 21, 2020.

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 §7.62, EH Fund Subrecipient Application and Selection

10 TAC §7.65, Contract Term and Limitations

Attachment H: Preamble for new 10 TAC Chapter 7 Homelessness Programs, Subchapter D, Ending Homelessness Fund, 10 TAC §7.62, EH Fund Subrecipient Application and Selection, and §7.65, Contract Term and Limitations

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Chapter 7 Homelessness Programs, Subchapter D, Ending Homelessness Fund, 10 TAC §7.62 EH Fund Subrecipient Application and Selection, and §7.65, Contract Term and Limitations. The purpose of the new sections is to update the rule to reflect new definitions, and to clarify the Contract Term and limitations.

Tex. Gov't Code §2001.0045(b) does not apply to the rules for action because it was determined that no costs are associated with this action, 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. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule would be in effect:

1. The rules do not create or eliminate a government program, but relates to the readoption of these rules which makes changes to an existing activity, administration of the Ending Homelessness Fund.
2. The new rules do 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 rules do not require additional future legislative appropriations.
4. The rules will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The rules are not creating a new regulation, except that they are replacing a rule being repealed simultaneously to provide for revisions.
6. The rules will not expand, limit, or repeal an existing regulation.
7. The rules will not increase or decrease the number of individuals subject to the rule's applicability.
8. The rules will not negatively or 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 rules, 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, Ch. 2306.

1. The Department has evaluated these rules and determined that none of the adverse affect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. There are approximately no small or micro-businesses subject to the rule because these funds

are limited to counties and municipalities in Tex. Transportation Code §502.415 for the Ending Homeless Fund.

3. The Department has determined that based on the considerations in item two above, 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 rules do 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 rules as to their possible effects on local economies and has determined that for the first five years the rules will be in effect the new rules have no economic effect on local employment because these rules will channel funds, which may be limited, only to municipalities and nonprofits; it is not anticipated that the amount of funds would be enough to support additional employment opportunities, but would add to the services provided. Alternatively, the rules would also not cause any negative impact on employment. Therefore no local employment impact statement is required to be prepared for the rules.

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 no impact is expected, 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. Wilkinson has determined that, for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be a rule that has greater clarity into the processes and definitions of the administration of homeless programs. There will not be any economic cost to any individuals required to comply with the new sections 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. Wilkinson also has determined that for each year of the first five years the new sections are in effect, enforcing or administering the new sections does not have any foreseeable implications related to costs or revenues of the state or local governments because the costs for administering the program are included in eligible activities.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between March 13, 2020 and April 13, 2020. Comments regarding the proposed new rule sections were accepted in writing and by e-mail. No comments were received.

The Board adopted the final order adopting the new rule sections on May 21, 2020.

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 §7.62.EH Fund Subrecipient Application and Selection.

(a) The Department will produce an Application which, if properly completed by an eligible Applicant and approved by the Department, may satisfy the Department's requirements to receive an award of funds under the EH Fund. Applicants that have an existing ESG or HHSP Contract or who have been awarded ESG or HHSP funds may be eligible to submit an abbreviated EH Fund Application if such Application is made available by the Department.

(b) Funds will be available to Applicants determined to be eligible for the EH Fund under §7.63(b)(1) of this subchapter, or as specified in a NOFA as defined in and under §7.63(b)(2) of this subchapter (relating to Availability of Funds), as applicable.

(c) Application for funds. Applicants for an award from the EH Fund must submit the following items:

(1) A complete Application including an Applicant certification of compliance with state rules, federal laws, rules and guidance governing the EH Fund as provided in the Application;

(2) All information required under Subchapter C of this chapter (related to Emergency Solutions Grants (ESG)) to conduct a Previous Participation and Executive Award Review and Advisory Committee review;

(3) A proposed budget in the format required by the Department;

(4) Proposed performance targets in the format required by the Department; and

(5) Activity descriptions, including selection of administration under Subchapter B of this chapter (related to Homeless Housing and Services Program (HHSP)) or Subchapter C of this chapter.

(d) Applications submitted by existing ESG or HHSP Subrecipients or awarded Applicants for ESG or HHSP, eligible activities are limited to those activities in ESG or HHSP, except that the EH Fund is not subject to limitations on the amount of funds that may be spent for any given activity type.

(e) The Department must receive all Applications within 30 calendar days of notification of eligibility to Applicants per §7.63(b)(1) of this subchapter, or as specified in the NOFA, as applicable.

10 TAC §7.65.Contract Term and Limitations.

(a) For EH Fund Applicants that do not have a current ESG or HHSP Contract, and have not been awarded ESG or HHSP funds, the Department requires evidence in the form of a certification or resolution adopted by the governing body of the Applicant specifying who is authorized to enter into a Contract on behalf of the Applicant. This certification or resolution is due to the Department no later than 90 calendar days after the award has been approved by the Board, must be received prior to execution of any Contract for EH funds, and must include:

(1) Authorization to enter into a Contract for EH Fund;

(2) Title of the person authorized to represent the organization and who also has signature authority to execute a Contract; and

(3) Date that the certification or resolution was adopted by the governing body, which must be within 12 months of Application submission.

(b) EH Fund Contracts will generally have an initial period of 12 months for fund Expenditure. A request to extend the Contract Term must evidence that the extension is necessary to provide activities required under the Contract, and provide good cause for failure to timely expend the funds. Extensions of a Contract Term are considered on a case-by-case basis and are subject to §7.4(e) of this title (relating to Amendments and Extensions of Contracts).

(1) The Executive Director or his or her designee may approve an extension to the Contract Term that for up to six months from the original Contract Term.

(2) Board approval is required if the Subrecipient requests to extend the Contract Term for more than six months from the original Contract Term. Extensions for greater than 12 months may not be granted.

10

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

2a

TDHCA Outreach Activities, April-May

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
Telephonic Public Hearing	Public hearing for The Walzem Apartments	April 28	N/A	Multifamily Finance
Telephonic Public Hearing	Public hearing for The Pines Apartments	April 30	N/A	Multifamily Finance
Telephonic Public Hearing	Public hearing for 333 Holly Apartments	April 30	N/A	Multifamily Finance

Internet Postings of Note

The list of new or noteworthy postings to the Department's website.

Asset Management

- Posted Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application (#16170, Whitehouse Senior Village; #17004, Old Dowlen Cottages; #19235, The Reserves at Saddleback Ranch)
- Posted Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement (#99011, Plum Creek Townhomes; #02151, Windsor Gardens Apartments; #04420, Tranquility Bay Apartments; #060035, Quail Ridge Apartments)
- Posted Annual Owner's Financial Certification submission deadline extension

Bond Finance

- Posted TDHCA Investor Relations and Municipal Advisor IRMA Notice
- Posted TDHCA Interim Financial Statements (as of February 29)
- Posted 2020 Investment Policy and Interest Rate Swap Policy

Communications:

- Updated COVID-19 information, links and resources on webpage
- Posted new Press page article, TDHCA celebrates Community Action Agencies in Texas
- Updated Governing Board bio information

Community Affairs

- Posted updated FAQs for COVID-19 (as of April 29)
- Posted revised Income Guidelines FAQs for WAP, CEAP and CSBG
- Posted updated Federal Poverty Guidelines (income) for COVID-19 assistance
- Posted CSBG and COVID-19 slides and Q&A video
- Added video/webinar for COVID-19 WAP Network Webinar Q&A
- Replaced WAP Degradation Calculator
- Added Organizational Standards Guide for Public and Private Eligible Entities, Board Vacancy Tool, and New Hire Orientation Tool for CSBG
- Posted Amended 2020 LIHEAP State Plan
- Added link to Saturn Resource Management video library

Compliance

- Posted updated Utility Allowance Questionnaire (as of May 4)
- Posted 2020 Income Certification Form, 2020 Income Certification Instructions, 2020 Annual Eligibility Certification Form, and 2020 Annual Eligibility Certification Instructions
- Posted updated FAQ for Demystifying Effective Dates
- Posted updated Notice to Residents of Annual Review of Utility Allowances and Notice to Residents of Intention to Revise Utility Allowances templates
- Posted updated Compliance Guidance Related to COVID
- Posted Suggested File Checklist for Monitoring Forms

Executive

- Posted updated Information Security and Privacy Agreement instructions and form

Fair Housing

- Posted 2020 Fair Housing Proclamation, Resolution, Fair Housing Infographics, and Previous Fair Housing Month webinars
- Added 2020 Fair Housing Assistance Animals Webinar video with slides and handouts
- Added 2020 Fair Housing Overview Webinar Video transcript
- Added 2020 Fair Housing Reasonable Accommodations Webinar Video with slides, handouts and transcript

HOME and Homeless:

- Posted new category for HOME TBRA COVID-19 Funds with related eligibility information
- Posted waivers on technical assistance for HOME COVID-19 TBRA Resources
- Posted TBRA COVID-19 Set-Aside Application and Application Submission Procedures Manual
- Posted information related to ESG CARES Act allocation
- Posted updated ESG Indirect Cost Rate Worksheet
- Posted webinar series for ESG CARES Act Outreach with handouts
- Replaced HOME Single Family Program Reservation System Participation application
- Posted 2020 30% of the Area Median Family Income guidance tool

Homeownership

- Posted updated Texas Homeownership Lender Guide

Housing Resource Center

- Updated Housing and Health Services Coordination Council members list
- Added How TDHCA Provides Assistance instructions to the Help for Texans webpage
- Posted 2020 TDHCA Customer Service Survey

Multifamily:

- Posted list of virtual public hearings for 2020 Competitive HTC cycle
- Posted updated 2020 4% HTC Bond Status Log (as of May 1)
- Posted updated 2020-1 Multifamily Direct Loan NOFA Application Log (as of May 1)
- Posted updated 2020 9% HTC Full Application Log (as of April 30)
- Posted updated Local Housing Finance Corporation Contact List
- Posted 2020 4% Individually Imaged Bond Applications
- Added Market Studies to 2020 9% Housing Tax Credit information

Migrant Labor Housing Facilities

- Posted updated list of active licensed migrant labor facilities (as of April 14)

Notice of Funding Availability

- Amended 2020-1 Multifamily Direct Loan Annual Notice of Funding Availability

Program Services

- Added HUD Section 3: COVID-19 FAQ, Fair Housing and Equal Opportunity, HUD COVID-19 Resources link

Public Comment

- Public comment period open for Draft 2021 LIHEAP State Plan
- Public comment period open for Draft 2020 NHTF Minimum Rehabilitation Standards for the 2020-2024 State of Texas Consolidated Plan

Purchasing

- Posted Request for Proposal for Property Management
- Updated list of No-Bid contracts as required by state

Section 811 PRA Program

- Posted updated Income Limit chart
- Posted Harris County 811 Waitlist is closed

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
EHF	Ending Homelessness Fund	QCP	Quantifiable Community Participation
FAQ	Frequently Asked Questions	REA	Real Estate Analysis
HBA	Homebuyer Assistance Program	RFA	Request for Applications
HHSCC	Housing and Health Services Coordination Council	RFO	Request for Offer
HHSP	Homeless Housing and Services Program	RFP	Request for Proposals
HRA	Homeowner Rehabilitation Assistance Program	RFQ	Request for Qualifications
HRC	Housing Resource Center	ROFR	Right of First Refusal
HTC	Housing Tax Credit	SLIHP	State of Texas Low Income Housing Plan
HTF	Housing Trust Fund	TA	Technical Assistance
		TBRA	Tenant Based Rental Assistance Program
		TICH	Texas Interagency Council for the Homeless
		TSHEP	Texas Statewide Homebuyer Education Program
		TXMCC	Texas Mortgage Credit Certificate

HUD U.S. Department of Housing and
Urban Development
IFB Invitation for Bid

VAWA Violence Against Women Act
WAP Weatherization Assistance Program

2b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MAY 21, 2020

Report on Extension Authority Granted by the Board to the Executive Director in Response to COVID-19

BACKGROUND

On March 13, 2020, Governor Abbott issued a statewide disaster declaration due to COVID-19, authorizing the use of all available resources to address the spread of the virus. The nature of this disaster is such that many persons will be impacted, including both those served by Department programs, as well as those who apply for funds from the Department (Applicants or Developers).

Due to the unpredictable and fast-moving nature of the COVID-19 pandemic, staff believed that there would likely be circumstances where extension of a deadline is appropriate but there would not be sufficient time to present the extension request to the Board. In such cases, staff requested at the Board meeting of March 26, 2020, that the Board grant the Executive Director the authority to extend such deadline without Board action.

This extension authority applied only to those deadlines that are not set by state statute, or federal law or regulation, and are contained in 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule, and related Notices of Funding Availability (NOFA). The following are extensions granted under the authority delegated to the Executive Director by the Board.

EXTENSIONS GRANTED

Rule Provision: 10 TAC §11.901(7) of the Qualified Allocation Plan which states “No later than the expiration date in the Determination Notice, a fee equal to 4% of the annual Housing Credit Allocation amount, unless otherwise modified by a specific program NOFA, must be submitted; however, this amount is reduced to 2% in 2020 only.”

On April 28, 2020, the applicant for the Reserves at San Marcos (#20605) submitted a request for a 45-day extension to provide certain documentation required under the Determination Notice, specifically, the Determination Notice fee. All other documents required to be submitted under the Determination Notice by this deadline were submitted. According to the applicant, the circumstances were unforeseen and out of the developer’s control, with the COVID-19 impact having created closing delays. Specifically, as a result of COVID-19, the applicant indicated that the lender had to obtain additional approvals on any balance sheet notes and two additional approvals were required on both the credit and relationship side which added approximately three weeks to the anticipated closing schedule. Moreover, required approvals from the Texas Department of Transportation and the City of San Marcos were delayed due to staff working remotely. Specifically, approvals for a driveway expansion required by the City of San

Marcos have been delayed given the increased turnaround time for comments from the city. All approvals, including building permits, are required to be in place prior to closing. Working through these issues with the city, within the constraints of COVID-19, has added approximately four to six weeks to the anticipated closing timeline.

The 4% HTC and Bond application was approved by the TDHCA Governing Board on March 26, 2020. Based on updates on the regular working group conference calls leading up to this date, the bond closing was scheduled to occur on April 22, 2020. On transactions where TDHCA is the Issuer, staff typically affords the applicant with the option of paying the Determination Notice fees at closing with bond and/or equity proceeds and will coordinate issuance of the Determination Notice accordingly. For this transaction, based on the targeted closing date, the Determination Notice was issued on March 31, 2020, such that the closing date would fall within the 30-day timeframe by which the documentation, including the fees, must be submitted to the Department.

Board action relating to this authority stated “any action taken to extend a deadline will be applied equitably to all Applicants, unless the circumstances are unique to a single proposed Development.” Staff notes that the aforementioned circumstances are unique to this particular application and extensions to the Determination Notice deadline should not be applied to all 4% HTC applicants, but rather evaluated on a case-by-case basis.

The Executive Director granted an extension of the deadline under the Determination Notice to pay the Determination Notice fee to June 15, 2020, recognizing that the extension is based on a requirement in the Texas Administrative Code and is not a requirement of state or federal law.

2c

BOARD REPORT ITEM
TEXAS HOMEOWNERSHIP DIVISION
MAY 21, 2020

Housing Finance Activity Report

BACKGROUND

The Texas Homeownership Division is primarily responsible for the creation, oversight, and administration of the Department's homeownership programs, which are designed to provide affordable financing options for low-to-moderate income homebuyers. This is accomplished through the issuance of tax-exempt and taxable single family mortgage revenue bonds, and through the Department's Taxable Mortgage Program (TMP).

Currently, the Department offers the following statewide options to homebuyers. Please note that conventional loans have been temporarily suspended due to potential fees imposed by Fannie Mae with respect to loans that enter forbearance as a result of COVID-19

- My First Texas Home Program. Offers expanded mortgage loan opportunities to qualifying first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. All loans originated through the program are tax-exempt eligible, meeting Internal Revenue Service (IRS) requirements for inclusion in a tax-exempt bond issue or for receipt of a Mortgage Credit Certificate (MCC). As such, borrowers using this option must be first-time homebuyers (cannot have had an ownership interest in a primary residence within the last three years or must qualify for a veteran or targeted area exception), and borrower income and the purchase price of the home must be within IRS designated limits. Continuous funding for this program is provided through the issuance of tax-exempt single family mortgage revenue bonds (SFMRBs) and through TMP. The Department's SFMRBs typically offer two options, a low rate mortgage loan with no down payment or closing cost assistance provided by the Department, and a mortgage loan with four points of down payment and closing cost assistance. Down payment and closing cost assistance is secured by a 30-year, non-amortizing, 0% interest second loan that is due upon sale of the property or refinance of the first loan. Loans funded with TMP include loans accompanied by an MCC (the IRS does not permit these loans to be included in SFMRBs) and tax-exempt eligible loans that are not used as collateral for SFMRBs.
- My Choice Texas Home Program. Offers mortgage loan opportunities to qualifying first-time and non-first-time homebuyers, including government and conventional 30-year fixed rate mortgage loan options. Down payment and closing cost assistance is provided with each loan. While the same income and purchase price limits applicable to the My First Texas Home Program apply, income eligibility is based on the standard credit

qualifying (1003) income instead of IRS methodology. Because all loans are funded through TMP, no IRS recapture provisions apply.

- Texas Mortgage Credit Certificate (MCC) Program.** Makes homeownership more affordable by providing first-time homebuyers a federal income tax credit, reducing the homebuyer’s potential federal income tax liability. By having an MCC, the homebuyer has the ability to convert a portion of their annual mortgage interest into a direct income tax credit on their U.S. individual income tax return. The credit may be applied for the life of the loan, as long as the home remains the borrower’s primary residence. The Texas MCC option is offered in combination with a My First Texas Home mortgage loan (TBA funding only), referred to as Combo loans for discussion and reporting purposes; or as a stand-alone option combined with any FHA, VA, USDA, or conventional fixed rate mortgage loan. The Department’s MCC Program offers MCC Credit Rates of 25% (for loan amounts up to \$175,000 and subject to the \$2,000 annual maximum credit) and 20% (for loan amounts greater than \$175,000, which has no annual maximum).

Income and Purchase Price Limits for All Loan Options. The Maximum income for all loan options is 100% of Area Median Family Income (AMFI) for households of one or two persons, and 115% of AMFI for households of three persons or more. The maximum purchase price is 90% of the average area purchase price. The complete Income and Purchase Price Limits Table is available on the Department’s website at <https://www.tdhca.state.tx.us/homeownership/ftbh/docs/limits.pdf>, and an example, reflecting the limits with respect to loans originated in the San-Antonio-New Braunfels MSA is provided below.


Example	Income Limits		Maximum Purchase Price
	Households of 1-2 persons (100% AMFI)	Households of 3 persons or more (115% AMFI)	90% of Average Area Purchase Price
Location			
San Antonio-New Braunfels MSA	\$ 76,957	\$ 88,500	\$ 323,960

Higher income and purchase price limits apply with respect to homes purchased in targeted areas, which are areas of severe economic distress.

IRS Recapture. Loans that are financed through SFMRBs and loans that receive an MCC are subject to IRS recapture provisions. Under certain circumstances, a borrower may owe recapture to the IRS. To owe any recapture tax at all, the borrower must (1) sell the MCC- or MRB-financed home **at a gain** within nine years of purchase, **AND** (2) earn significantly more income than when the home was purchased (generally more than 5% increase in income per year). Both of these criteria must be met before a borrower has a recapture liability. In addition, the recapture liability cannot exceed the amount of the borrower’s gain on the sale of the home.

Current Mortgage Rates and Terms. The following table details the Department’s loan options and mortgage rates as of May 11, 2020. Down payment and closing cost assistance (DPA) is provided as a 30-year, non-amortizing, 0% interest second mortgage loan that is due on sale or refinance.

Texas Department of Housing and Community Affairs
Texas Homeownership Programs

 Rate Notice and Available Options 05/11/2020	Loans with Down Payment Assistance						Unassisted Loans								
	Government Loans (FHA, USDA, VA)				Fannie Mae Preferred Available only with My Choice Texas Home Taxable Loans <i>Below 80% AMFI</i>		Government Loans (FHA, USDA, VA)								
Amount of DPA Provided	2 Points DPA	3 Points DPA	4 Points DPA	5 Points DPA	3 Points DPA	5 Points DPA	No DPA								
My First Texas Home Program	First-Time Homebuyer requirement; considers the income of all person(s) who will sign the Deed of Trust (including Non-Purchasing Spouse).														
My FIRST Texas Home Bond Eligible Loans, No MCC	3.125%	3.500%	3.750%	4.125%	Temporarily Suspended		Unassisted Funds available with Bond Program only								
My FIRST Texas Home Combo Loans with MCC	3.250%	3.625%	3.875%	4.375%	Temporarily Suspended										
Bond Eligible Loans (no MCC) <i>Targeted Area Loans ONLY, No First-Time Homebuyer requirement</i>	N/A	N/A	3.750%	N/A	Temporarily Suspended		N/A								
My Choice Texas Home Program	No First-Time Homebuyer requirement; considers the standard lender income calculation (1003/credit qualifying income).														
My CHOICE Texas Home Taxable Loans, No MCC	3.250%	3.625%	3.875%	4.375%	Temporarily Suspended		N/A								
Mortgage Credit Certificate (MCC) Program															
My FIRST Texas Home Combo Loans <i>and Stand-Alone MCCs</i>	MCC Credit Rate is Based on Loan Amount Loans at or below \$175,000 - 25% MCC Credit Rate with a \$2,000 annual maximum tax credit Loans above \$175,000 - 20% MCC Credit Rate with no annual maximum tax credit														
APPLICABLE TO ALL LOANS ORIGINATED THROUGH THE ABOVE TBA AND BOND OPTIONS															
Minimum FICO Score	620			Loans must be purchased within 60 days of the date reserved. Extensions are available at the following cost: <table border="1" style="margin-left: 20px;"> <tr> <td>7-Day</td> <td>0.0625%</td> </tr> <tr> <td>15-Day</td> <td>0.1250%</td> </tr> <tr> <td>22-Day</td> <td>0.1875%</td> </tr> <tr> <td>30-Day</td> <td>0.2500%</td> </tr> </table>				7-Day	0.0625%	15-Day	0.1250%	22-Day	0.1875%	30-Day	0.2500%
7-Day	0.0625%														
15-Day	0.1250%														
22-Day	0.1875%														
30-Day	0.2500%														
Origination Points	0%														
SRP to Lender	2.75%														
Program Compliance Fee	\$275														
Program Compliance Fee - MCC	\$275														
MCC Issuance Fee	\$400														
Loan Review and Acquisition Fee	\$150														
Tax Service Fee	\$85														
	All MCCs, Combo and Stand-Alone														
APPLICABLE TO FNMA LOANS															
Fannie Mae Preferred program has been temporarily suspended.															

The attached Housing Finance Activity Report reflects activity for each available homeownership option for calendar year 2020 – Quarter 1 (January 1, 2020 – March 31, 2020), aggregate loan activity over a 12-month period, and a map that reflects Texas counties served.

TDHCA Housing Finance Activity Quarter 1-2020



Borrowers Served

3,133

(Financed and/or MCC Issued)
Increase of 25% from
Quarter 1-2019

Homes Financed

2,692

Increase of 21% from
Quarter 1-2019

First Mortgages

**\$494.8
Million**

Increase of 33% from
Quarter 1-2019

MCCs Issued

915

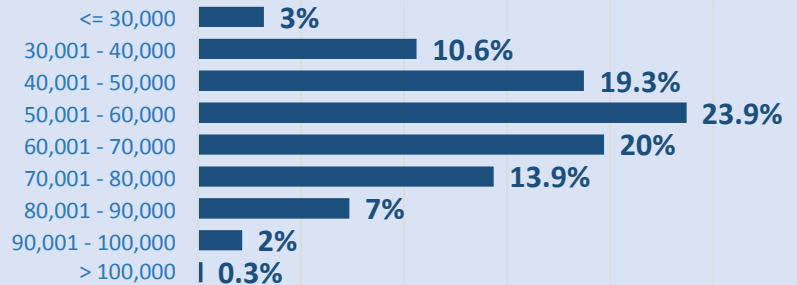
Increase of 8% from
Quarter 1-2019

474 MCC and First Mortgage
441 Stand-alone MCC

* To preserve volume cap, the Stand Alone MCC was suspended from February 1, 2019 until August 15, 2019.

Income Distribution

April 1, 2019 to March 31, 2020

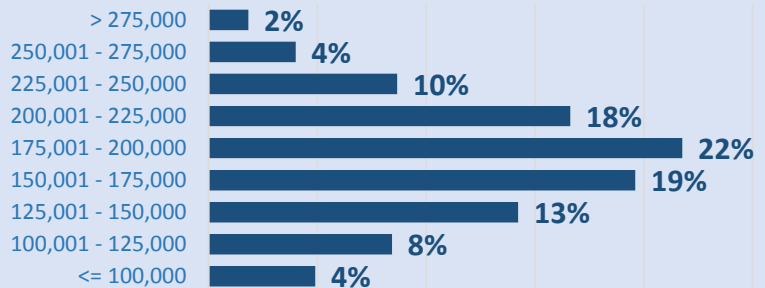


Average Income \$57,860

72% of Borrowers at or Below 80% AMFI

Loan Amount Distribution

April 1, 2019 to March 31, 2020



Average Loan Amount \$180,460

2019 Statewide Economic Impact

Based on 38% New Construction Loans

\$1 Billion Wages Generated

\$144.5 Million Tax Revenue

12,422 Jobs Created

Estimates based on formulas published by the National Home Builders Association - [The Economic Impact of Home Building in a Typical Local Area](#), provided by National Council of State Housing Agencies (NCSHA).

TDHCA Aggregate Loan Originations

April 1, 2019 to March 31, 2020

Loan Volume by COUNTY (Top 20)			
Top Originating Counties	Total Originated	# of Loans	% of Loans
Harris	\$ 280,149,768	1576	14.4%
Bexar	\$ 259,802,535	1473	13.4%
Tarrant	\$ 215,987,845	1097	11.1%
Dallas	\$ 161,468,992	860	8.3%
El Paso	\$ 109,954,071	827	5.7%
Travis	\$ 104,735,078	468	5.4%
Williamson	\$ 96,688,213	456	5.0%
Collin	\$ 62,258,606	270	3.2%
Denton	\$ 48,929,750	206	2.5%
Hays	\$ 43,581,383	198	2.2%
Fort Bend	\$ 39,810,160	205	2.1%
Montgomery	\$ 35,756,043	192	1.8%
Brazoria	\$ 35,724,466	183	1.8%
Kaufman	\$ 31,978,860	154	1.6%
Ellis	\$ 25,632,101	123	1.3%
Webb	\$ 23,301,802	151	1.2%
Johnson	\$ 22,604,008	126	1.2%
Comal	\$ 20,212,251	90	1.0%
Bell	\$ 19,987,321	147	1.0%
Galveston	\$ 19,862,528	107	1.0%

New Construction vs Existing Dwelling			
New Construction / Existing	Orig Loan Amount	# of Loans	% of Loans
New	\$ 761,842,044	3690	34.3%
Existing	\$ 1,177,749,945	7058	65.7%

Property Type			
Property Type	Orig Loan Amount	# of Loans	% of Loans
1 Unit Single Family Detached	\$ 1,862,201,029	10272	95.6%
Condominium	\$ 36,531,555	199	1.9%
Manufactured	\$ 27,159,068	194	1.8%
Townhouse	\$ 7,419,655	51	0.5%
Fourplex	\$ 83,361	1	0.0%
Rowhouse	\$ 3,102,334	16	0.1%
Duplex	\$ 3,094,987	15	0.1%

Borrower Gender			
Gender	Orig Loan Amount	# of Loans	% of Loans
Male	\$ 1,136,735,595	6256	58.6%
Female	\$ 802,458,221	4490	41.4%
Declined to Answer	\$ 398,173	2	0.0%

First Time Home Buyer			
FTHB Status	Orig Loan Amount	# of Loans	% of Loans
Yes	\$ 1,916,096,439	10620	98.8%
No	\$ 23,495,550	128	1.2%

Household Size			
Household Size	Orig Loan Amount	# of Loans	% of Loans
1	\$ 531,216,552	3042	28.3%
2	\$ 475,414,875	2652	24.7%
3	\$ 401,553,136	2197	20.4%
4	\$ 307,953,646	1670	15.5%
5	\$ 150,684,080	810	7.5%
6	\$ 54,639,052	283	2.6%
7	\$ 13,505,342	70	0.7%
8+	\$ 4,625,306	24	0.2%

Max: 8 \ Min: 1 \ WAvg: 2.6

FICO Score Distribution			
FICO Score	Orig Loan Amount	# of Loans	% of Loans
<= 640	\$ 552,285,901	3026	28.2%
641 to 660	\$ 411,090,767	2313	21.5%
661 to 680	\$ 288,176,244	1610	15.0%
681 to 700	\$ 203,047,579	1127	10.5%
701 to 720	\$ 143,157,424	791	7.4%
721 to 740	\$ 137,384,581	770	7.2%
741 to 760	\$ 92,958,385	513	4.8%
761 to 780	\$ 56,577,390	309	2.9%
780 to 800	\$ 40,748,145	212	2.0%
> 800	\$ 14,165,573	77	0.7%

Max: 824 \ Min: 555 \ WAvg: 672

Household Income Distribution			
Household Income (\$)	Orig Loan Amount	# of Loans	% of Loans
<= 20,000	\$ 6,276,504	42	0.4%
20,001 - 30,000	\$ 33,776,711	284	2.6%
30,001 - 40,000	\$ 157,489,585	1136	10.6%
40,001 - 50,000	\$ 334,534,685	2078	19.3%
50,001 - 60,000	\$ 466,811,834	2566	23.9%
60,001 - 70,000	\$ 412,973,128	2148	20.0%
70,001 - 80,000	\$ 302,577,493	1493	13.9%
80,001 - 90,000	\$ 166,708,724	751	7.0%
90,001 - 100,000	\$ 50,979,243	218	2.0%
> 100,000	\$ 7,464,082	32	0.3%

Max: \$152,604 \ Min: \$15,080 \ WAvg: \$57,860

AMFI Distribution			
AMFI	Orig Loan Amount	# of Loans	% of Loans
<= 30%	\$ 16,995,641	128	1.2%
30.1% to 60%	\$ 559,382,120	3527	32.8%
60.1% to 80%	\$ 759,019,355	4089	38.0%
80.1% to 100%	\$ 602,935,254	2997	27.9%
100.1% to 115%	\$ 930,929	5	0.0%
> 115.1%	\$ 328,690	2	0.0%

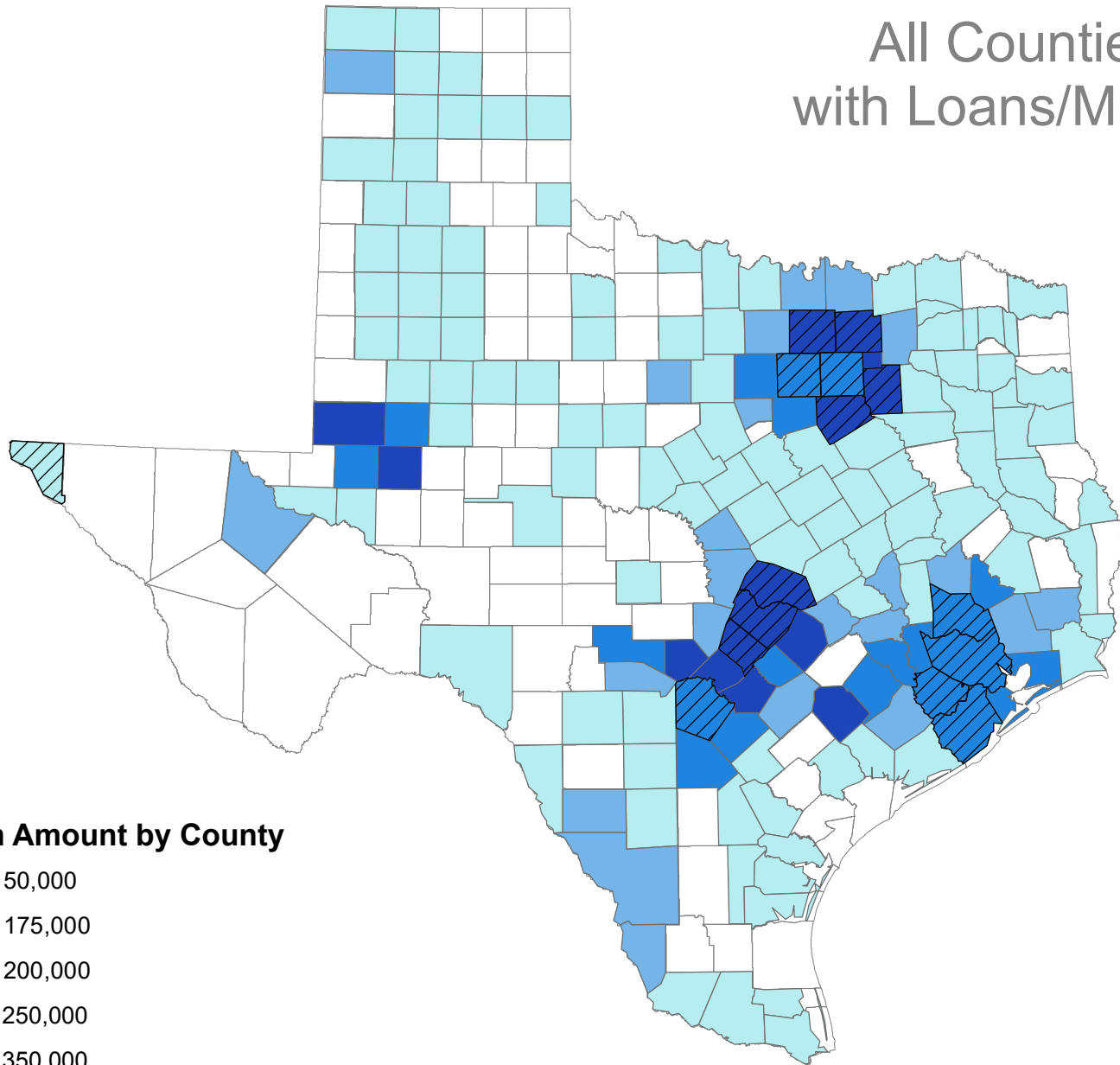
Max: 103% \ Min: 14% \ WAvg: 68%

Age Distribution			
Age	Orig Loan Amount	# of Loans	% of Loans
<= 20	\$ 83,896,822	510	4.7%
21 to 25	\$ 196,955,768	1124	10.5%
26 to 30	\$ 439,110,074	2456	22.9%
31 to 35	\$ 362,436,972	1978	18.4%
36 to 40	\$ 269,277,001	1458	13.6%
41 to 45	\$ 199,030,388	1064	9.9%
46 to 50	\$ 153,455,004	834	7.8%
51 to 55	\$ 108,334,731	599	5.6%
56 to 60	\$ 65,959,203	374	3.5%
>61	\$ 61,136,026	351	3.3%

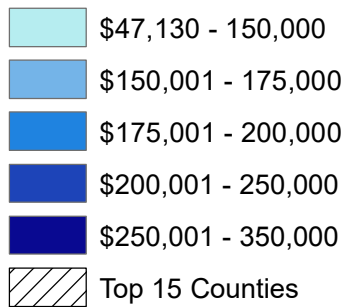
Max: 96 \ Min: 19 \ WAvg: 36

Loan Type			
Loan Type	Orig Loan Amount	# of Loans	% of Loans
FHA	\$ 1,630,120,942	9038	84.1%
HFA Preferred	\$ 261,689,003	1471	13.7%
USDA-RHS	\$ 25,210,601	123	1.1%
VA	\$ 22,571,443	116	1.1%

All Counties with Loans/MCCs



Average Loan Amount by County



Date: 4/29/2020

Document Path: Q:\Maps\Homeownership\homeownership.mxd

Disclaimer: This map is not a survey product; boundaries, distances and scale are approximate only.

2d

BOARD ACTION REQUEST

EXECUTIVE DIVISION

MAY 21, 2020

Report on Activities Related to the Department's Response to COVID-19 Pandemic

REPORT

This report will be provided periodically to the Board to relay the Department's progress on the activities related to its COVID-19 pandemic response. Feedback is requested from the Board on any other information they would like to see reflected in a periodic report.

Information/Outreach: Starting in mid-April, in response to news of the Department's Tenant Based Rental Assistance (TBRA) funds being made available for those affected by COVID-19, the Department's volume of incoming calls and emails typically handled through the Housing Resource Center (HRC) and Division of Policy and Public Affairs (DPPA) quadrupled. In a typical month the Department receives approximately 500 incoming calls and emails. However, for several weeks this volume increased to 500 per week. HRC and DPPA, in spite of their efficient and dedicated responsiveness, were unable to absorb this vast increase. In response more than 20 staff across the Department, with a large component coming from the Compliance Division, stepped up and helped in returning this large volume of emails and voicemails ensuring an ongoing commitment to customer service. Additionally, changes have been made to our incoming call messaging and web-page messaging to be clearer with customers about our role in the assistance process.

Program Activities: Attached is a report of the status of program funds related to COVID-19 responsiveness. Staff anticipates bringing this report to the Board periodically. A brief summary follows:

Non-CARES Reprogrammed Funds:

- Of the reprogrammed Community Services Block Grant (CSBG) funds totaling approximately \$1.4 million and approved by the Board on March 26, 2020, recipient contracts have all been executed and were effective on March 26, 2020. Subrecipient assistance to clients is underway.
- Of the HOME TBRA funds reprogrammed for COVID, all Board, gubernatorial, and federal waivers needed are now approved. Ten existing subrecipients have indicated their desire to administer these funds and are in the process of amending contracts. Outreach to find additional subrecipients for these funds has been made including sharing information with public housing authorities, councils of government, and community action agencies, as well as publication of an abbreviated application.
- Of the recycled Homeless Housing and Services Program (HHSP) funds approved by the Board on March 26, 2020 totaling \$239,884 contracts are in the process of execution. Subrecipient assistance to clients is underway.

CARES Act Program Funds

- For the Emergency Solutions Grant Program (ESG-CV), a separate item on today's agenda requests several Board waivers needed. A waiver request to HUD was submitted May 7, 2020, requesting remaining needed federal authority. Before the U.S. Department of Housing and Urban Development (HUD) will issue a grant agreement for these funds, they require a One Year Action Plan amendment; this amendment was submitted to HUD on May 8, 2020. We are now waiting on HUD to release the grant agreement. At the Board meeting of April 23, 2020, the Board authorized several actions with these funds:
 - Of the existing ESG awardees, which are able to access ESG-CV funds in an amount between 100% to 200% of the current ESG contract, those contract amounts are being evaluated and contracts will be ready to be finalized upon receipt of HUD's grant agreement.
 - Of the funds to be channeled through a local award process hosted by Continuum of Care (CoC) lead agencies (called ESG Coordinators for this purpose) all but three of the CoC leads have committed to perform such a local process. They will identify which entities within their CoC will receive funds and in what amounts. In the three CoC areas without an ESG Coordinator (TX-604 Waco/McLennan County; TX-624 Wichita Falls/Wise, Pecos, Archer Counties; and TX-701 Bryan, College Station/Brazos Valley) the Department is identifying those organizations that previously received HUD CoC funds to determine their interest in received ESG-CV.
- For the Community Development Block Grant (CDBG-CV) funds, the Department is continuing to work with the Office of the Governor in identifying uses for the funds.
- CSBG-CV, subrecipients are ready to proceed, however the Department is currently working on submitting a substantial amendment for its CSBG Plan, and then will wait for the award letter from U.S. Health and Human Services (USHHS).
- For the Comprehensive Energy Assistance Program (CEAP) the award letter from USHHS was received on May 8, 2020. The Department's Legal division is working on finalizing contracts and providing them to subrecipients. The Department will be submitting one waiver request to USHHS relating to performance reporting on CEAP.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Update on TDHCA Programs in Response to COVID-19 and CARES Act
As of May 14, 2020

This report provides an update on the programs TDHCA has targeted to assist with Texas' response to COVID-19 through reprogramming of existing funds and through the administration of CARES Act funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
HOME Program Tenant Based Rental Assistance (TBRA) for COVID-19 DR	NA: Reservation Agreements	3-6 months of rental assistance made available through existing or new HOME subrecipients. Geography: Available where subrecipients apply. Income Eligibility: Households at or below 80% AMFI based on current circumstances.	All necessary waivers for this activity were authorized by the OOG and HUD via HUD's mega-waiver of April 10, 2020.	Outreach to existing subs initiated 4/2020, 10 affirmative responses. Outreach to new subs commenced 5/2020, 4 new applications received to date.	No added TDHCA staffing. No added admin funds.	0	Up to \$11,290,076 \$0 0% \$0 0%	Contracts went to the existing subs on 5/13/20. Reservation system up and running.
Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds	<ul style="list-style-type: none"> Board approval March 2020. Recipients contracts effective: 3/26/20 Expenditure Deadline: 8/31/20 	Uses the existing network of Community Action Agencies to provide direct client assistance to low income households economically impacted by COVID-19. Geography: Available statewide (excluding CWCCP and CSI ¹) Income Eligibility: 200% poverty (normally is 125%)	None	Contracts have been executed by subs. All funds obligated.	No added TDHCA staffing. No added admin funds.	0	\$1,477,993 1,477.993 100% \$0 0%	38 CAA subs

¹ CWCCP and CSI were omitted from this specific type of award because they have outstanding balances owed to the Department. The counties these two entities cover include: Anderson, Cameron, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall, Van Zandt, and Willacy. It should be noted those counties will receive CSBG services under the CSBG CARES funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Recaptured 2018/2019 HHSP	<ul style="list-style-type: none"> Board approval March 2020. Spend by 8/31/20 	<p>To allow subrecipients to perform HHSP eligible activities in addressing homelessness and those at risk of homelessness.</p> <p>Geography: Available 9 largest metro areas. Income Eligibility: Generally 30% AMFI if applicable</p>	Approval from Comptroller granted.	Contracts are in the process of execution by subs.	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	0	<p>\$239,884</p> <p>\$0 0%</p> <p>\$0 0%</p>	9 subs
CSBG CARES	<ul style="list-style-type: none"> Board approved April 2020. By 8/31/20 need to decide on the 7% reserve Expend by 8/31/22 45 day closeout 	<p>90% to CAAs using regular formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network²; 7% to be held in reserve for future emergency use or incentive awards; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 200% of poverty (normally is 125%)</p>	The flexibilities allowed by USHHS have been accepted.	Working on CSBG Plan Amendment. Awaiting HHS grant agreements / funding letters to finalize boilerplates. Board approval has been provided; PPR completed.	<p>1 Art. IX FTE for CSBG reporting</p> <p>1% admin (\$474,560)</p>	00	<p>\$48,102,282</p> <p>\$0 0%</p> <p>\$0 0%</p>	40 CAA subs
LIHEAP CARES	<ul style="list-style-type: none"> Board approved April 2020 By 8/31/20 need to decide on the 9% reserve Expend by 8/30/21 45 day closeout 	<p>90% to CEAP subs using regular formula for households affected by COVID-19; 9% to be held in reserve for future emergency use or for subs; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 150% of poverty</p>	<p>The flexibilities allowed by USHHS have been accepted. Told HHS no WAP w/ CARES.</p> <p>Sent waiver request 5/13/20 to HHS about performance measures for billing history.</p> <p>No 10% Carry Forward applies</p>	Awaiting HHS grant agreements / funding letters to finalize boilerplates. Board approval has been provided; PPR completed.	<p>1 Art. IX FTE for CEAP TA/capacity</p> <p>1% admin (\$892,670)</p>	0	<p>\$94,023,896</p> <p>\$0 0%</p> <p>\$0 0%</p>	37 CAA subs (pending any declines). Allowing temp self-cert for citizen status

² The award to THN is to: 1) address homelessness and at-risk of homelessness in the Balance of State Continuum of Care and to provide capacity building assistance to subrecipients of Emergency Solutions Grant CARES Act and 2020 Emergency Solutions Grant funds as a result of COVID-19.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
CDBG CARES – Phase I	Board approved April 2020 All phases of CDBG to be expended by 9/30/22 90 day closeout	TBD by TDHCA Geography: TBD Income Eligibility: TBD	Will need waivers depending on what activity is decided	Once decided, will do a 5 day posted comment period for a Con Plan amendment	TBD	0	\$40,000,886 \$0 0% \$0 0%	Phase II of CDBG amount for TX is \$63,392,290 (only to state, not locals). No designee agency yet. No federal deadline for release of last \$2B.
ESG CARES – Phase I	<ul style="list-style-type: none"> Board approved April 2020 Expend by 9/30/22 90 day closeout 	<p>Four streams:</p> <ul style="list-style-type: none"> Existing subs access 100% to 200% of current contract amount (\$13.3 estimated) ESG Coordinators decide via local process for their CoC, For the 3 areas with no ESG Coordinator, we will ID from past CoC awards in the area (\$16.3 est.) Legal/HMIS (\$1.8M) <p>Geography: Locations of all funded grantees Income Eligibility: 50% AMI for homeless prevention</p>	HUD mega-waivers accepted. Additional waiver request to HUD were submitted on May 7 (also included some related to multifamily HOME and NHTF issues).	<ul style="list-style-type: none"> One-Year Plan/ Con Plan amendment to HUD on May 8. Awaiting HUD grant agreement. 	3 Art. IX FTE (assuming for next phases as well) 5% admin (\$1,662,734)	0	\$33,254,679 \$0 0% \$0 0%	This is the first \$1B of national ESG. Have firmed up amounts for the 51; they were sent offer letters; some are unlikely to accept b/c of capacity.
ESG CARES – Phase II	Estimated federal release of formula to occur by June 25, 2020	TBD	TBD	Awaiting HUD announcement	TBD	0	TBD	HUD is developing a new formula for the second allocation of \$2.96 billion

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Expended (%)	Other Notes
Section 811	Spend by 9/30/23	TBD	TBD	Awaiting HUD release of funds	TBD	0	TBD	\$15M nationally
Housing Choice Voucher Program Admin	Expend by 7/31/20, with possibility to extend to 12/31/20	<ul style="list-style-type: none"> • Software upgrades to allow more efficient remote interface. • Landlord incentive payments. 	None needed.	Received award from HUD.	TBD	0	\$117,268	\$380M nationally
Housing Choice Voucher Program – Other/HAP	TBD	TBD	TBD	Awaiting HUD announcement or release of funds	TBD	0	TBD	\$870M nationally remaining

2e

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

3a

BOARD ACTION REQUEST
POLICY AND PUBLIC AFFAIRS DIVISION
MAY 21, 2020

Presentation, discussion, and possible action on the Agency Strategic Plan for Fiscal Years 2021-25

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §2056.002 requires all state agencies to conduct a comprehensive strategic planning process which produces a formal document that communicates its goals, directions, and outcomes to the Governor and the Legislature, client and constituency groups, and the public;

WHEREAS, the Instructions for Preparing and Submitting Agency Strategic Plans for Fiscal Years 2021 to 2025, issued jointly by the Office of the Governor (OOG) and the Legislative Budget Board (LBB) were released on February 4, 2020; and

WHEREAS, the Department has prepared the Agency Strategic Plan for Fiscal Years 2021-2025 in accordance with the instructions and utilizing the required format;

NOW, therefore, it is hereby

RESOLVED, that the Agency Strategic Plan for Fiscal Years 2021-25, in the form presented to this meeting, is hereby approved; and

FURTHER RESOLVED, that the Executive Director and his designees and each of them be and they hereby are authorized, empowered, and directed, for and on behalf of the Department to file and distribute such plan, together with such grammatical and non-substantive technical corrections as they may deem necessary or advisable, to the appropriate legislative and oversight offices.

BACKGROUND

Strategic planning is a statutorily directed process to ensure effective long-range planning and to maximize the efficient use of state resources in service to the agency's core mission. The instructions issued to state agencies on February 4, 2020, seek to enable agency leadership to be concise in developing a strategic vision, agency goals, and action items to achieve those goals. Within the plan, an agency outlines efforts to ensure that program and services are accountable to the taxpayer and run in an efficient, effective, customer-friendly, and transparent manner.

The plan includes a section in which state agencies identify impediment and redundancies found in state programs, statute, and regulations that result in inefficient or ineffective agency operations. State

agencies are also to identify those impediments and redundancies that specifically affect an agency's ability to respond to natural disasters. Supplemental schedules found in previous strategic plans that are included in the new strategic plan are the agency's goals and strategies, performance measure definitions, a report on TDHCA's utilization of historically underutilized business, a customer satisfaction report, and a workforce plan.

Please note that not all supplementary schedules are currently available for this Board item: while TDHCA did not request changes to its 2022-23 budget structure, the Department did submit requested changes to its 2022-23 performance measures to the OOG and LBB on March 27, 2020, and is awaiting approval from these offices. Additionally, the Customer Service Plan is not yet complete as the survey upon which it is based was only completed on May 1, 2020.

By June 1, 2020, the Department must submit its Agency Strategic Plan to the Governor and the Governor's Budget and Policy Division; the Lieutenant Governor; the Speaker of the Texas House of Representatives; the State Auditor; the Legislative Budget Board; the Texas State Library; and the Legislative Reference Library.

4a

BOARD ACTION REQUEST

COMPLIANCE DIVISION

MAY 21, 2020

Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding The Walzem (20604)

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

WHEREAS, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

WHEREAS, 10 TAC §1.301(e)(3)(A) classifies a portfolio as a Category 3 if the number of Events of Noncompliance that were not corrected during the Corrective Action Period equals or exceeds 50% of the number of properties in the Combined Portfolio, with a minimum of three events of noncompliance;

WHEREAS, in the case of application The Walzem (20604), the sponsors of the application (Bexar Management Development Corporation and Cohen-Esry) have seven properties in their portfolio, meaning that if they have four Events of Noncompliance not corrected during the Corrective Action Period, they would be classified as a Category 3;

WHEREAS, Bexar Management Development Corporation had two events of noncompliance that were not corrected within the 90-day corrective action period, and Cohen-Esry had two events of noncompliance that were not corrected within the 90-day corrective action period, exceeding 50% of the number of properties in the Combined Portfolio;

WHEREAS, 10 TAC §1.301(e)(2)(C) classifies as a portfolio as a Category 3 if within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period for three or fewer Monitoring Events and one event of noncompliance was not responded to during the Corrective Action Period;

WHEREAS, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3;

WHEREAS, on April 27, 2020, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g);

WHEREAS, a new Previous Participation Rule was approved at the Board meeting of April 23, 2020, reflecting the current policy of the Board and under the new rule this application would not be considered a Category 3;

WHEREAS, the new rule will appear in the May 8, 2020, *Texas Register* and be effective on May 17, 2020, for applications received after that date,

WHEREAS, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

WHEREAS, Staff requests the Board determine that EARAC may provide a positive award recommendation to the Board without conditions because this portfolio would not be considered a Category 3 under the new rule;

NOW, therefore, it is hereby

RESOLVED, that the Board has considered the compliance history of the Applicant, and determines, for application The Walzem (20604), that the Applicant's compliance history as documented and disclosed herein should not preclude a positive recommendation from EARAC; and

FURTHER RESOLVED, that the Application is authorized to proceed through its remaining evaluation and scoring, and be considered by EARAC for recommendation and possible conditions without being precluded from a positive recommendation by EARAC because of its compliance history.

BACKGROUND

At the Board meeting of April 23, 2020, the Board approved final adoption of a new Previous Participation Rule. The new rule states "Combined Portfolios will not be designated as a Category 3 if both Applicants are considered a Category 2 when evaluated separately. For example, if each Applicant is a Category 2 and their Combined Portfolio is a Category 3, the Application will be considered a Category 2."

Further, the new rule states "Within the three years immediately preceding the date of Application, any Person subject to previous participation review failed to respond during the Corrective Action Period to

a Monitoring Event; however, the number of times is less than 25% of the number of Actively Monitoring Developments in the Combined Portfolio.”

Although the new rule would not be effective for this application as the Application Acceptance Date was before the adoption of the new rule, staff recommends the Board use their discretion to approve this applicant’s compliance history, which would be considered a Category 2 under the newly-adopted rule.



8500 Shawnee Mission Pkwy, Suite 150
Merriam, KS 66202
Phone (817) 902-7430
Fax 913-671-3301
CohenEsrey.com

May 5, 2020

Texas Department of Housing and Community Affairs
ATTN: Brooke Boston, Chair of EARAC
brooke.boston@tdhca.state.tx.us
SENT VIA EMAIL

RE: Response to TDHCA Compliance recommendation for EARAC denial on April 27, 2020;
TDHCA Application: 20604 (The Walzem)

Dear Ms. Boston,

Thank you for the opportunity to respond to the TDHCA Compliance division's recommendation for EARAC denial on April 27, 2020, relating to the portfolios of the Bexar Management and Development Corporation (BMDC) and Cohen-Esrey Development Group, LLC ("Cohen-Esrey"). We would like to make sure that the Department understands how seriously BCMDC and Cohen-Esrey take issues related to Compliance. As such, BMDC and Cohen-Esrey are proposing that the TDHCA Award the The Walzem be subject to the following conditions:

- **Failure to submit all/part of Annual Owners Report** – Cohen-Esrey will ensure that agreed upon persons will attend and/or review the following training: TDHCA Compliance Training Webinar "2013 Annual Owner's Compliance Report (AOCR) Webinar Video." This will support ongoing compliance efforts to avoid any additional events of noncompliance.
- **NC related to Affirmative Marketing** – To further the objectives of Title VIII of the Civil Rights Act of 1968 and ensure compliance with Affirmative Marketing standards, BMDC and Cohen-Esrey will review and comply with Affirmative Marketing Requirements in §10.617. Please note that Rosemont of Palo Alto has been sold; BMDC will ensure the property's new operator is compliant with Affirmative Marketing requirements.
- **NEW Failure to resolve final construction deficiencies** – While sufficient documentation was submitted to close the issues identified at inspection, the information was received 8 days after the corrective action deadline. To avoid noncompliance with construction and accessibility standards, BMDC and Cohen-Esrey will review and design in accordance with:

- Program accessibility provisions of Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act
- 2010 ADA Standards for Accessible Design
- The Department compliance rules on Accessibility (10 TAC §§1.201-1.212)

On April 23, the TDHCA Board of Directors, revised the rules regarding Previous Participation categorization. Though our application is being reviewed and considered under the previous rules, neither the Cohen Esrey, nor BMDC portfolios would be deemed Category 3, under the Departments new rules.

Please also note that the Cohen-Esrey deficiency items from 2017 were resolved within the Corrective Action Period. The BMCD, deficiency items were not related to the Management, Compliance, or Construction entities of Cohen-Esrey, that will oversee operations at The Walzem. Working with Munoz architects, Cohen-Esrey Construction Technologies will continue to design to construction and accessibility standards, and ensure timely deficiency responses. Please feel free to contact me directly with any questions or concerns related to this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Johnson".

Jay Johnson
Cohen-Esrey Development Group
Development Director – Texas

Cc: Tammye Trevino, Bexar Management and Development Corporation (Tammye.Trevino@habctx.org)
Tim Minson, Cohen-Esrey Construction Technologies (TMinson@CohenEsrey.com)

BOARD ACTION REQUEST

COMPLIANCE DIVISION

MAY 21, 2020

Presentation, discussion, and possible action on Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding 333 Holly (20611), and The Pines (20612)

RECOMMENDED ACTION

WHEREAS, Tex. Gov't Code §2306.057 requires a compliance assessment to be completed and reported to the Board prior to approving a project for funding;

WHEREAS, 10 TAC, Chapter 1, Subchapter C, related to Previous Participation and Executive Award Review Advisory Committee (EARAC) is the Department's rule and process for making the required assessment and report;

WHEREAS, 10 TAC §1.301(e)(3)(K) classifies a portfolio as a Category 3 if any Person subject to previous participation review has or had Control of a TDHCA funded Development that has gone through a foreclosure;

WHEREAS, Rainbow Housing Texas Inc. (RHT) is proposed to control the general partners of 333 Holly, LP and The Pines Preservation LP;

WHEREAS, RHT previously controlled a property known as Bristol at Buckingham which executed a deed in lieu of foreclosure in 2016 resulting in a termination of the affordability period;

WHEREAS, 10 TAC §1.301(f)(3)(B) requires the Compliance Division to recommend denial of the award for any applicant with a portfolio classified as a Category 3; and

WHEREAS, as provided in 10 TAC §1.303(c)(4) related to EARAC recommendations, EARAC is not able to make a positive recommendation when the Compliance Division has recommended denial, the Department notified the Applicant of the determination of their Category 3 status, and the Applicant then timely filed a dispute to EARAC as permitted under 10 TAC §1.303(g), and EARAC as permitted by rule, elected to not hear the dispute prior to presenting this matter to the Board;

WHEREAS, Tex. Gov't Code §2306.057(c) provides the Board discretion to approve a project application despite noncompliance; however, the Board must fully document and disclose any instances in which the Board approves a project application despite any noncompliance; and

WHEREAS, staff recommends that the Board find this applicant's compliance history unsatisfactory;

NOW, therefore, it is hereby

RESOLVED, the Board affirms the Category 3 compliance assessment and that Compliance recommend denial of the award to EARAC, for 333 Holly (20611) and The Pines (20612).

BACKGROUND

RHT is the proposed general partner for two 4% housing tax credit applications. In 2000 RHT, previously known as Placet used 501(c)(3) bonds issued through the Department to construct a 242 unit affordable housing property, Bristol at Buckingham. The current officers and directors have been in place since 2008. They were unable to operate the property in compliance and in a manner to fully pay its debt service. The property executed a deed in lieu of foreclosure in 2016, the affordability period was lost and the bonds were retired. The applicant has asserted that the Department's rule refer to a foreclosure and this was a deed in lieu of foreclosure suggesting that this was a meaningful distinction. Staff sees it as a distinction without a difference as the result is the same, the termination of the affordability period.

The applicant also argued that the current officers were not on the board when the Bristol property was originally financed in 2000. Staff does not find any relevance in this observation as they were in control of the Bristol property for eight years before the deed in lieu of foreclosure.

As noted in the applicant's dispute, TDHCA staff have suggested that the compliance history of two properties previously controlled by RHT was not "particularly stellar". The applicant believes those issues reflect the transition period from the prior non-performing board of directors to the new Principals and that there was some improvement once the new board members took control. The improvement was insufficient to avoid the deed in lieu of foreclosure, and this deed in lieu of foreclosure was not disclosed by the Applicant in accordance with 10 TAC §11.202(1)(M). By rule, this lack of disclosure may cause the Applicant to be considered ineligible.

Lastly, it was noted that there is one member of the RHT Board that has experience that was not taken into consideration for the previous participation review for these two applications. Normally, the experience of individual board members is not taken into consideration so as not to penalize the organization. For example, if a city has a council member that is a category 3, that is not taken into consideration when the city applies for funding. It is noted that for federal funding, the Department does take individual board members into account for 2 CFR Part 180 (debarment) purposes. However, the applicant and staff explored this possibility by examining this Board member's experience in order to provide the Board an avenue to justify and fully document approval of this application despite this noncompliance. The evaluation of the individual Board member would also be classified as a category 3 because of several events of non-responsiveness in 2019.

Staff is not able to justify recommending that the Board use their discretion for these two applications, and recommends denial of the applicant's dispute.



600 Congress, Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

May 8, 2020

Via Electronic Transmission

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: 333 Holly (TDHCA No. 20611)
The Pines (TDHCA No. 20612)
Previous Participation Review – Dispute of Findings

Ladies and Gentlemen:

We represent Rainbow Housing Texas, Inc., a Texas non-profit corporation that is recognized by TDHCA as a community housing development organization (“**RHT**”). RHT proposes to Control¹ the general partners of each of 333 Holly Preservation, LP (the “**Holly Partnership**”) and The Pines Preservation, LP (the “**Pines Partnership**”). Each of the Holly Partnership and the Pines Partnership (collectively, the “**Partnerships**”) has applied for Housing Tax Credits to be issued in connection with Tax-Exempt Bonds for the acquisition, rehabilitation, and preservation of 333 Holly and The Pines, the properties noted above (the “**Properties**”).

In conjunction with RHT’s participation with the Properties, TDHCA issued a previous participation review (the “**Report**”), finding the Combined Portfolio to have Category 3 status. We responded on behalf of RHT, with the letter attached as Exhibit A (our “**Prior Letter**”), the substance of which is incorporated herein. Since that correspondence, we have garnered additional information, which we believe is material to the determination by the Compliance Division and EARAC, and cause for reconsideration of the recommendation.

The Rainbow Organization

As discussed in our Prior Letter, RHT is recognized by TDHCA as a CHDO. It has a board of five (5) members, two (2) of whom have Control as officers – Flynn Janisse and Gary Silversmith. Ms. Janisse and Mr. Silversmith (the “**RHT Principals**”) are the only officers of

¹ Capitalized terms used but not defined in this letter will have the meanings assigned to them in 10 TAC §1.301, TDHCA’s Previous Participation Rule.

RHT. RHT is one of several organizations under the umbrella of Rainbow Housing Assistance Corporation (“RHAC”). RHAC is a non-profit organization with operations in fourteen (14) states. Last year, it provided supportive services to more than 40,000 residents of affordable housing properties, primarily properties financed with Housing Tax Credits. RHAC has an ownership position in some of the properties it serves, including the Amarillo Gardens property in Texas. RHAC has a board of ten (10) members, with three (3) officers who Control its operations. The RHT Principals are two (2) of those three (3) officers in RHAC. Because RHT does not have any employees, RHAC provides support to RHT, as described in a Resource Sharing Agreement, attached as Exhibit B. RHAC will make all of its resources available for RHT’s participation in the two (2) new Partnerships.

Texas Council of Foundation for Social Resources, Inc. (“Texas Council”) is another non-profit organization under the Rainbow umbrella. Texas Council has a Controlling ownership position in fourteen (14) Housing Tax Credit properties in Texas. It shares two (2) of its three (3) board members in common with RHAC. The two (2) common board members are officers of both RHAC and Texas Council. One of those officers is Mr. Silversmith. Because Texas Council does not have any employees, RHAC provides support to Texas Council, as described in a Resource Sharing Agreement, attached as Exhibit C.

These three (3) organizations work in concert to provide ownership and supportive services for affordable housing. It is important to understand these inter-relationships to analyze the previous participation review.

Previous Participation Findings

A copy of the Report with regard to the Holly Partnership is attached as Exhibit D.² The Report reflects a Combined Portfolio, including properties Controlled by RHT and Related Affordable LLC (“**Related**”). Of the thirty (30) properties identified on the Report, only three (3) are associated with the Rainbow group; they are highlighted in red. Specifically, Amarillo Gardens is a Housing Tax Credit property currently Controlled by RHAC. Bristol at Buckingham and Tenison at White Rock were both previously Controlled by RHT and did not include Housing Tax Credits. Notably, the Report does not include the fourteen (14) properties Controlled by Texas Council, of which Mr. Silversmith is a common Principal. See Mr. Silversmith’s previous participation form, attached as Exhibit E, with the Texas Council properties highlighted in red. Our client believes that if these properties were taken into consideration, the overall track record of the Rainbow family of companies would be seen in a more favorable light.

The previous participation review included the following findings:

§1.301(e)(2)(A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three but is less than 50% of the number of properties in the Combined Portfolio [Category 2]

² Because the documentation for the Holly Partnership and the Pines Partnership is virtually identical, only the documentation for the Holly Partnership will be used for example in this letter.

Consideration: The Report shows three (3) Events of Noncompliance. Two (2) are attributable to properties Controlled by Related. One (1) is associated with RHT. It relates to the failure to submit an Annual Owners Compliance Report (“**AOCR**”) for the year 2015 for the Tenison at White Rock property. We have provided the Compliance Division with notice that RHT did not have ownership of this property at the time the AOCR was due. See the documentation at Exhibit F. Specifically, the AOCR for 2015 was due in April 2016. As shown on the Report, RHT’s participation with this property ended in October 2015. RHT did not have Control of the property at the time the AOCR was due. Therefore, pursuant to 10 TAC §1.301(c)(9), this Event of Noncompliance should be removed from the Report and should not be attributed to RHT.³ If this Event of Noncompliance is removed from the Report, the Combined Portfolio will not meet the criteria of §1.301(e)(2)(A).

§1.301(e)(2)(B) There are uncorrected Events of Noncompliance but the number of Events of Noncompliance is 10% or less than the number of properties in the Combined Portfolio [Category 2]

Consideration: As noted above, the Event of Noncompliance for Tenison at White Rock should be removed, in which event there would be no uncorrected Events of Noncompliance in the Combined Portfolio. If this Event of Noncompliance is removed from the Report, the Combined Portfolio will not meet the criteria of §1.301(e)(2)(B).

§1.301(e)(3)(K) Any Person subject to previous participation review has or had Control of a TDHCA funded Development that has gone through a foreclosure [Category 3]

Consideration: It is important to note that the Bristol at Buckingham property did not go through a foreclosure; rather, it negotiated a deed in lieu of foreclosure. This distinction is meaningful. A foreclosure is a forcible action by a lender, typically taken as a last resort. A deed in lieu of foreclosure is a negotiated arrangement between the borrower and the lender that a lender utilizes in its discretion.⁴

As discussed in our Prior Letter, the Reliant Group, as bondholder, directed the bond trustee to take action to cancel the outstanding bonds issued by TDHCA, and deem them satisfied in full. The bondholder did not retain any deficiency; the bondholders were fully repaid. See documentation at Exhibit G. The language of TDHCA’s rule referenced above specifically refers to a property that has gone through foreclosure. This deed in lieu of foreclosure presents a different scenario and allows the Compliance Division and EARAC to distinguish in such a manner as to remove the Category 3 classification because Bristol at Buckingham did not go through foreclosure.

³ Staff has informally advised that RHT should have submitted the AOCR for 2015 for the months during which it had ownership. We have not been able to find a directive in the rules to such effect. In addition, access to CMTS changes immediately upon transfer of the property, so it is unclear how RHT would have had access to file a partial-year AOCR. In a typical purchase and sale transaction, due diligence information is transferred to the new owner so that the new owner has the information to file an AOCR for the partial year that the prior owner was in possession.

⁴ “A deed-in-lieu of foreclosure is not a specific type of deed, such as a special warranty deed or a quitclaim deed; there is no such deed as a deed-in-lieu of foreclosure. But ‘[a] deed given in satisfaction of a debt may serve as a convenient, efficient transfer of title upon default of a debt.’ No specific statutory scheme governs the format of this type of transaction” *Morrison v. Christie*, 266 SW3d 89 (Tex. Civ. App. – 2008).

Additional Considerations

RHT's compliance record is being evaluated on the basis of two (2) properties, both of which were troubled when the RHT Principals became involved. TDHCA staff has suggested that the compliance history of Tenison at White Rock and Bristol at Buckingham from 2008 until 2015-16 (the "**RHT Control Period**"), respectively, was not particularly stellar. Upon examination of those records, we believe they tell a different story. There were more Events of Noncompliance in the early years of the RHT Control Period. We believe those issues reflected the transition from the prior non-performing board of directors to the new Principals, and the issues the new Principals were left to clean up. In later years of the RHT Control Period, the records show fewer Events of Noncompliance and quicker Corrective Action. This is consistent with reporting in the corporate minutes of RHT, which recount that occupancy and performance for these two (2) properties improved during the RHT Control Period.

Since disposition of Tenison at White Rock and Bristol at Buckingham, RHT has purposely positioned itself to participate in new affordable housing ownership opportunities. It obtained CHDO recognition from TDHCA. The Holly Partnership and the Pines Partnership are its first step down this new path. It is taking that step responsibly – partnering with a nationally reputable developer in Related to provide expertise and financial wherewithal, and acquiring two properties with a stable operating record. It would be truly unfortunate to prohibit RHT from embarking on this new path when it has so much to offer. RHT should not be viewed as a stand-alone entity. It is an instrumentality of the overall Rainbow organization, with strong support from RHAC. The Rainbow family of non-profits Controls fifteen (15) Housing Tax Credit properties in Texas that are all operating in compliance with TDHCA's rules. The RHAC board⁵, comprised of premier affordable housing developers, owners, and investors, provides support and direction for the officers and employees of RHAC, along with the officers of RHT and Texas Council.

There is no legitimate cause for concern that 333 Holly or The Pines will be jeopardized as a result of RHT's participation. The Rainbow organization has a strong track record of working with affordable housing properties to provide residents with the best possible opportunities for themselves. The stories of Rainbow residents who have achieved beyond their expectations are well-documented. Together with Related, RHT is well-positioned with the resources and capacity to deliver quality ownership for these two (2) Properties throughout the Extended Use Period.

We respectfully request that you declare RHT eligible to control the general partners of the Partnerships.

Sincerely,



Cynthia L. Bast

⁵ For the sake of full disclosure, the undersigned is a member of RHAC's advisory board, which is a non-voting advisory position only, and is distinct from the operating board discussed in this letter.

cc: Flynnan Janisse
 Justin Walker
 Rainbow Housing Texas

 Wes Larmore
 Related Affordable

- Exhibit A -- Prior Letter Regarding Previous Participation
- Exhibit B -- Resource Sharing Agreement for RHT
- Exhibit C -- Resource Sharing Agreement for Texas Council
- Exhibit D -- Previous Participation Review Report
- Exhibit E -- Previous Participation for Gary Silversmith
- Exhibit F -- Documentation Regarding Change of Ownership of Tenison at White Rock
- Exhibit G -- Documentation for Deed in Lieu of Foreclosure for Bristol at Buckingham

Exhibit A



600 Congress, Suite 2200
Austin, TX 78701
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

May 1, 2020

Via Electronic Transmission

Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701

Re: 333 Holly (TDHCA No. 20611)
The Pines (TDHCA No. 20612)
Previous Participation Review

Ladies and Gentlemen:

We represent Rainbow Housing Texas, Inc., a Texas non-profit corporation that is recognized by TDHCA as a community housing development organization (“**RHT**”). RHT proposes to control the general partners of each of 333 Holly Preservation, LP (the “**Holly Partnership**”) and The Pines Preservation, LP (the “**Pines Partnership**”). Each of the Holly Partnership and the Pines Partnership (collectively, the “**Partnerships**”) has applied for low-income housing tax credits to be issued in connection with tax-exempt bonds for the acquisition, rehabilitation, and preservation of 333 Holly and The Pines, the properties noted above (the “**Properties**”). In conjunction with the applications, TDHCA has performed a previous participation review and discovered that RHT previously controlled a property known as Bristol at Buckingham (the “**Buckingham Property**”), which executed a deed in lieu of foreclosure in 2016. This event places RHT in Category 3 under TDHCA’s previous participation rules. **We respectfully ask that you consider the circumstances and conditions described below and approve RHT to proceed with its involvement in the Partnerships.**

Background Information

RHT was formerly known as Placet Development Corporation (“**Placet**”). In 2000, a single-asset entity owned by Placet acquired the land for the Buckingham Property and financed the construction of the Buckingham Property with Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Greenbridge at Buckingham Apartment Project) Series 2000A and 2000B (the “**Bonds**”). The Bonds utilized for financing are commonly referred to as “501c3 bonds” and do not qualify for low-income housing tax credits. At the time the Bonds were issued and the Buckingham Property was constructed, none of the current officers or directors of RHT were involved with Placet or the single-asset entity that owned the Buckingham Property.

Operation of the Buckingham Property struggled to meet financial feasibility. The property was over-leveraged. In 2008, The Reliant Group (“**Reliant**”) identified the Buckingham Property as needing a rescue. An affiliate of Reliant acquired all of the Bonds in an attempt to help reform the operations of the property and preserve the affordability. Reliant could not acquire the Buckingham Property itself because the 501c3 bonds required non-profit ownership. Because Placet had managed this property so poorly, Reliant insisted that the officers and directors of Placet be replaced. New officers and directors were appointed and some of those individuals remain on the board of RHT today.

Together with a third party property management company, Reliant and Placet worked for eight years to maintain affordability restrictions while getting the Buckingham Property to financial feasibility. Despite their best efforts, the property was never able to fully pay its debt service. In 2016, Reliant arranged for a deed in lieu of foreclosure; the loans was extinguished and the Bonds were retired, which gave Reliant the opportunity to restructure the Buckingham Property’s financial operations. Reliant’s affiliate continues to own and operate the Buckingham Property today.

Discussion of Conditions

It is obvious that the conditions surrounding RHT’s participation with the Partnerships are very different than its participation with the Buckingham Property. Critical differences include:

The Buckingham Property	The Properties
The Buckingham Property was financed with 501c3 bonds, which left the property over-leveraged and without equity capital.	The Properties will be financed with tax-exempt bonds and low-income housing tax credits, giving them less debt and a more feasible financing structure.
The principals of RHT were not involved with the initial financing and development of the Buckingham Property.	RHT will be involved from the beginning. RHT’s current officers and directors have many years of affordable housing experience, including the ownership of low-income housing tax credit properties in multiple states.
Placet was in sole control of the single-asset entity that owned the Buckingham Property.	RHT has a nationally recognized development partner, in Related Affordable, and a nationally recognized investment partner to work with on the acquisition, financing, and preservation of these Properties.
	TDHCA is underwriting the Properties under its current rules, which impose conservative assumptions for the long-term operation of the Properties.
	RHT has proven to TDHCA that it has the infrastructure in place to be qualified as a community housing development organization.

Because the circumstances are so vastly different, RHT believes it is reasonable and appropriate for TDHCA to approve its participation with the Partnerships, without conditions. The conditions identified in 10 TAC §1.303(e) relate to ensuring compliance with the myriad regulations associated with a low-income housing tax credit property. They do not really address financial feasibility or provide RHT with a means to ensure that the Properties will be able to avoid a foreclosure event in the future. Nonetheless, if TDHCA believes that conditions must be imposed to approve RHT's participation, the following would be acceptable to RHT:

- Providing TDHCA with the governing documents for the Partnerships, to review the restrictions and conditions imposed on RHT's participation, which address long-term compliance
- Providing TDHCA with RHT's written policies for participation in ownership of an affordable housing property, which will be modified as directed by TDHCA
- Requiring certain personnel associated with RHT to attend appropriate training

If you have any further questions about RHT, the Buckingham Property, or RHT's participation with 333 Holly and The Pines, please let us know. We look forward to your response.

Sincerely,



Cynthia L. Bast

cc: Flynnann Janise
Rainbow Housing Texas

Wes Larmore
Related Affordable

Exhibit B

RESOURCE SHARING AGREEMENT

This Agreement is made as of October 17, 2017. by and between Rainbow Housing Assistance Corporation ("Rainbow"), a California nonprofit corporation, and Rainbow Housing Texas, Inc. ("RHTI"), a Texas nonprofit corporation.

RECITALS

A. Both Rainbow and RHTI are exempt from federal income tax under Internal Revenue Code Section 501(c)(3) and both are a public charity because they meet a public support test described in Section 509(a)(2) of the Internal Revenue Code (the "Code"). Both entities have the purpose of facilitating the provision of safe, decent, and sanitary affordable housing to lower income individuals and families.

B. The parties intend to affiliate, and Rainbow intends to provide certain resources to be shared with RHTI, such as personnel, in order for each to conduct its activities in the most economical fashion. The parties desire to enter into a contractual relationship for the reasonable allocation or the expenses of those resources between the parties, based on each party's actual use of the resources.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Specific Goods and Services. Each party will purchase its own goods and services for its programs separately when practical. This includes housing service providers, postage for mass mailings, printing, messenger and delivery services, and travel and transportation. In the event that such an item is incorrectly charged to either of the parties, the party incurring the charge shall correct the billing with the vendor, pay directly, or reimburse the other party, as soon as practical after the error is discovered.

2. Employees, Salaries, and Benefits.

A. Employees of Rainbow may perform services for RHTI, with RHTI paying Rainbow for the use of Rainbow employees' time on the basis of the full cost of each such employee. In each month that such an employee works for both Rainbow and RHTI, he or she shall maintain time records showing the time worked for each organization. The method of proportionately dividing salary costs (including federal income and other payroll taxes, F.I.C.A., and other taxes) according to hours worked each month for each organization shall also be used to allocate the value of other employee benefits, such as vacation and sick pay, sabbaticals, health, and pension plans; provided however, that Rainbow shall be solely responsible for making such payment of salary and other benefits to its employees. Pursuant to the foregoing arrangement, Rainbow is acting as a consultant to RHTI for the purpose of, among other things, improving and strengthening RHTI's capacity for acquiring, developing, owning, and operating affordable housing.

B. In furtherance of the terms set forth in subsection A above, Rainbow and RHTI acknowledge that Flynn Janisse ("F. Janisse"), an employee of Rainbow, has served as President/Chairman of the Board of RHTI since August 7, 2008 and as a Director of the Board since November 8, 2010. The parties further acknowledge and agree that F. Janisse is an employee that has housing development experience, as set forth in 24 CFR 92.2 and other rules, regulations, and HUD interpretive guidance governing Community Housing Development Organizations "CHDOs"), has

provided services to RHTI in her capacity as an employee of Rainbow, and shall continue to provide such services to RHTI through Rainbow pursuant to the terms of this Agreement; provided that, nothing herein shall be deemed to create a contract of employment between F. Janisse and RHTI or Rainbow, employment is intended to remain "at will."

3. Office Space. Rainbow currently uses a home office at 3309 W Galvin, Phoenix, AZ 85086 with a mailing address of 3120 W Carefree Hwy Ste 1-246, Phoenix, AZ 85086. Although this facility will be used primarily by Rainbow, some of RHTI's records, materials, and staff activities may be located there also. To the extent that occurs, RHTI may be charged its fair share of the rent for this facility on the basis of the proportionate time spent by staff working for RHTI as part of the overhead charge discussed in paragraph 4 below. In the event that Rainbow leases office space at other locations and the parties determine that it is advantageous to share office space and resources at such other locations, the same method of expense allocation shall apply.

4. Overhead Expenses. RHTI's share of certain Rainbow cost items shall be determined using a labor-based allocation of overhead. Each month, Rainbow staff will calculate the proportionate staff time worked on RHTI matters using a time accounting system that contemporaneously documents how each affected Rainbow employee spent his/her time. This proportion will be applied to the standard overhead expense allocation of Rainbow, which currently includes the following line items:

- Payroll Expense (including salary, income and payroll taxes, F.I.C.A., and other benefits as set forth in Section 2A above)
- Rent
- Telephone (except as provided in paragraph 5 below) Postage and Delivery – administrative
- Accounting services (payroll) Computer consulting
- Office supplies General insurance
- Equipment repair and maintenance Copying - general
- Miscellaneous

The following expenses currently included in Rainbow's overhead allocation will not be included in the overhead allocated to RHTI, since they do not relate to RHTI's business:

- Professional development
- Professional insurance
- Board expenses
- Professional association dues
- Accounting services (audit)

5. Telephone Expenses. Every reasonable effort shall be made to separately identify each long-distance call so that each party shall be liable for the cost of its own long-distance telephone calls. Billing codes or telephone logs kept by staff members may be used for this purpose. Local telephone costs shall be charged to RHTI using the overhead allocation rate.

6. Metered Equipment. Rainbow may purchase or lease certain items of office equipment, such as a photocopier, facsimile transmission machine, or postage meter, which are capable of metered usage, so that each instance of use may be separately measured, and the cost

of each use may be charged to the user. If RHTI makes a substantial use of such equipment, it shall be charged and shall pay for each instance of use on a metered basis (e.g., per page), in light of RHTI's actual use of the equipment. If RHTI's use is not substantial, these equipment costs may be charged to RHTI through the overhead allocation rate.

7. Tracking and Billing. Rainbow shall perform the functions of tracking, computing, allocating, and billing all amounts charged to RHTI under this Agreement.

8. Payment of RHTI Expenses by Rainbow. At least quarterly, but no more frequently than monthly, during the term of this Agreement. Rainbow will calculate the amount of overhead and other indirectly attributable expenditures incurred by Rainbow that are allocable to RHTI under this Agreement. Rainbow will provide RHTI with an itemized list of both directly and indirectly attributable allocated expenses and invoice RHTI for said expense. Within a reasonably practical time. RHTI will reimburse Rainbow for the allocated expenses.

9. Neither Party Agent for the Other. Nothing in this Agreement shall constitute the naming of one party as an agent or legal representative of the other for any purpose whatsoever. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the parties hereto. This Agreement is not a management contract, and RHTI is not hereby delegating management of its own affairs to Rainbow.

10. Duration. The term of this Agreement shall begin as of the effective date set forth above and continue until terminated by the parties pursuant to Section 11.

11. Termination. Either party shall have the right to terminate this Agreement for any reason on 30 days' written notice to the other party. On the termination of this Agreement, all resource items shared by or in the possession of RHTI shall immediately be returned to Rainbow, and RHTI shall pay Rainbow for any outstanding expenses incurred under this Agreement.

12. Further Assurances. Each party hereto shall cooperate and shall take such further actions and shall execute and deliver such further documents as may be reasonably required by the other party in order to carry out the provisions of this Agreement.

13. Benefit. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and, subject to paragraph 14 hereof, their successors and assigns.

14. Assignment. The rights and duties contained in this Agreement are personal in nature, and neither party shall sell, transfer, lease, or assign this Agreement or its rights, obligations, and interests hereunder, or any part hereof, by operation of law or otherwise, without the prior written consent of the other party.

15. Notices. All approvals and notices required or permitted to be given under this Agreement shall be deemed to have been given when personally delivered; or, if delivered by express delivery service, providing a delivery receipt, or mailed (by registered or certified mail,

return receipt requested, if such service is available), postage prepaid, to the party concerned at its address as set forth at the end of this Agreement (or at such other address or addresses as either party may from time to time respectively designate by notice in writing to the other party), then on date shown on the receipt upon which delivery was accepted or refused.

16. Applicable Law. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of California and the State of Texas applicable to agreements made and to be performed in said state.

17. Entire Agreement. This Agreement constitutes the sole, full, and complete Agreement between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous promise, representation, agreement, or understanding between the parties with respect to such subject matter, whether written or oral, all of which shall be deemed to have been merged herein.

18. Severability. Each provision of this Agreement shall be separately enforceable and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

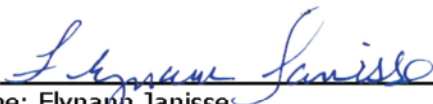
19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Amendment. This Agreement may not be amended or modified, except in a writing signed by both parties hereto.

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

RAINBOW HOUSING ASSISTANCE CORPORATION
a California nonprofit corporation

RAINBOW HOUSING TEXAS, INC.
a Texas nonprofit corporation

BY: 
Name: Flynath Janisse
Title: Executive Director
Address: 3120 W Carefree Hwy Ste 1-246
Phoenix, AZ 85086

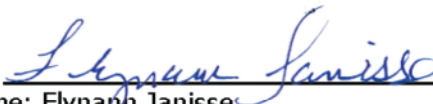
BY: 
Name: Flynath Janisse
Title: President/Chairman of the Board
Address: 3120 W Carefree Hwy Ste 1-246
Phoenix, AZ 85086

Exhibit C

RESOURCE SHARING AGREEMENT

This Agreement is made as of January 1, 2006, by and between Rainbow Housing Assistance Corporation ("Rainbow"), a California nonprofit corporation, and Texas Council of Foundation for Social Resources ("Texas Council"), a Texas nonprofit corporation.

RECITALS

A. Both Rainbow and Texas Council are exempt from federal income tax under Internal Revenue Code Section 501(c)(3) and both are a public charity because they meet a public support test described in Section 509(a)(2) of the Internal Revenue Code (the "Code"). Both entities have the purpose of facilitating the provision of safe, decent, and sanitary affordable housing to lower income individuals and families.

B. The parties intend to affiliate and to share certain resources, such as personnel, in order for each to conduct its activities in the most economical fashion. The parties desire to enter into a contractual relationship for the reasonable allocation of the expenses of those resources between the parties, based on each party's actual use of the resources.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Specific Goods and Services. Each party will purchase its own goods and services for its programs separately when practical. This includes housing service providers, postage for mass mailings, printing, messenger and delivery services, and travel and transportation. In the event that such an item is incorrectly charged to either of the parties, the party incurring the charge shall correct the billing with the vendor, pay directly, or reimburse the other party, as soon as practical after the error is discovered.

2. Employees, Salaries, and Benefits. Employees of Rainbow may perform services for Texas Council, with Texas Council paying Rainbow for the use of Rainbow employees' time on the basis of the full cost of each such employee. In each month that such an employee works for both Rainbow and Texas Council, he or she shall maintain time records showing the time worked for each organization. The method of proportionately dividing salary costs according to hours worked each month for each organization shall also be used to allocate the value of other employee benefits, such as vacation and sick pay, sabbaticals, health and pension plans.

3. Office Space. Rainbow currently uses a home office located at 13706 Blue Lagoon Way, Orlando, FL 32828. Although this facility will be used primarily by Rainbow, some of Texas Council's records, materials, and staff activities may be located there also in the future. To the extent that occurs, Texas Council may be charged its fair share of the rent for this facility on the basis of the proportionate time spent by staff working for Texas Council as part of the overhead charge discussed in paragraph 4 below. In the event that

Rainbow leases office space at other locations and the parties determine that it is advantageous to share office space and resources at such other locations, the same method of expense allocation shall apply.

4. Overhead Expenses. Texas Council's share of certain Rainbow cost items shall be determined using a labor-based allocation of overhead. Each month, Rainbow staff will calculate the proportionate staff time worked on Texas Council matters using a time accounting system that contemporaneously documents how each affected Rainbow employee spent his or her time. This proportion will be applied to the standard overhead expense allocation of Rainbow, which currently includes the following line items:

- Payroll Expense
- Rent
- Telephone (except as provided in paragraph 5 below)
- Postage and Delivery- administrative
- Accounting services (payroll)
- Computer consulting
- Office supplies
- General insurance
- Equipment repair & maintenance
- Copying - general
- Miscellaneous

The following expenses currently included in Rainbow's overhead allocation will *not* be included in the overhead allocated to Texas Council, since they do not relate to Texas Council's business:

- Professional development
- Professional insurance
- Board expenses
- Professional Association Dues
- Accounting services (audit)

5. Telephone Expenses. Every reasonable effort shall be made to separately identify each long distance call so that each party shall be liable for the cost of its own long distance telephone calls. Billing codes or telephone logs kept by staff members may be used for this purpose. Local telephone costs shall be charged to Texas Council using the overhead allocation rate.

6. Metered Equipment. Rainbow may purchase or lease certain items of office equipment, such as a photocopier, facsimile transmission machine, or postage meter, which are capable of metered usage, so that each instance of use may be separately measured and the cost of each use may be charged to the user. If Texas Council makes a substantial use of such equipment, it shall be charged and shall pay for each instance of use on a metered basis (e.g., per page), in light of Texas Council's actual use of the equipment. If Texas Council's use is not

substantial, these equipment costs may be charged to Texas Council's through the overhead allocation rate.

7. Tracking and Billing. Rainbow shall perform the functions of tracking, computing, allocating, and billing all amounts charged to Texas Council under this Agreement.

8. Payment of Texas Council's Expenses by Rainbow. At least quarterly but no more frequently than monthly during the term of this Agreement, Rainbow will calculate the amount of overhead and other indirectly attributable expenditures incurred by Rainbow that are allocable to Texas Council under this Agreement. Rainbow will provide Texas Council with an itemized list of both directly and indirectly attributable allocated expenses and invoice Equality for said expenses. Within a reasonably practical time, Texas Council will reimburse Rainbow for the allocated expenses. If the cash position of Texas Council makes it imprudent to immediately reimburse Rainbow, Texas Council shall prepare and deliver a note to Rainbow evidencing the amount of services owed by Texas Council to Rainbow.

9. Neither Party Agent for the Other. Nothing in this Agreement shall constitute the naming of one party as an agent or legal representative of the other for any purpose whatsoever. This Agreement shall not be deemed to create any relationship of agency, partnership, or joint venture between the parties hereto. This Agreement is not a management contract, and Texas Council is not hereby delegating management of its own affairs to Rainbow. Rainbow employees carrying out activities for Texas Council under this Agreement shall conduct those activities under the direction and control of Texas Council and its Board of Directors.

10. Duration. The term of this Agreement shall begin as of the effective date set forth above and continue until terminated by the parties pursuant to Section 11.

11. Termination. Either party shall have the right to terminate this Agreement for any reason on 30 days written notice to the other party. On the termination of this Agreement, all resource items shared by or in the possession of Texas Council shall immediately be returned to Rainbow, and Texas Council shall pay Rainbow for any outstanding expenses incurred under this Agreement either in cash or in the note discussed at item 9. above.

12. Further Assurances. Each party hereto shall cooperate and shall take such further actions and shall execute and deliver such further documents as may be reasonably required by the other party in order to carry out the provisions of this Agreement.

13. Benefit. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and, subject to paragraph 14 hereof, their successors and assigns.

14. Assignment. The rights and duties contained in this Agreement are personal in nature, and neither party shall sell, transfer, lease, or assign this Agreement or its rights, obligations, and interests hereunder, or any part hereof, by operation of law or otherwise, without the prior written consent of the other party.

15. Notices. All approvals and notices required or permitted to be given under this Agreement shall be deemed to have been given when personally delivered; or if delivered by express delivery service providing a delivery receipt, or mailed (by registered or certified mail, return receipt requested, if such service is available), postage prepaid, to the party concerned at its address as set forth at the end of this Agreement (or at such other address or addresses as either party may from time to time respectively designate by notice in writing to the other party), then on date shown on the receipt upon which delivery was accepted or refused.

16. Applicable Law. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of California applicable to agreements made and to be performed in said state.

17. Entire Agreement. This Agreement constitutes the sole, full, and complete Agreement between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous promise, representation, agreement, or understanding between the parties with respect to such subject matter, whether written or oral, all of which shall be deemed to have been merged herein.

18. Severability. Each provision of this Agreement shall be separately enforceable and the invalidity of one provision shall not affect the validity or enforceability of any other provision.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Amendment. This Agreement may not be amended or modified, except in a writing signed by both parties hereto.

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

RAINBOW HOUSING ASSISTANCE CORPORATION,
a California nonprofit corporation

Dated: _____

By: _____

Name: _____

Title: _____

Address: _____

TEXAS COUNCIL OF FOUNDATION FOR
SOCIAL RESOURCES,
a California nonprofit corporation

Dated: _____

By: _____

Name: _____

Title: _____

Address: _____

M:\CLIENTS\R\RAINBOWRAIN-EQU-AFFIL-AGMT VER 3.DOC

Exhibit D

PPR Results Summary

PPR Name: 333 Holly

PPR No. 20611 (fka 20402)

Category: 3

If Category 2 or 3 - Reason(s)

1 §1.301(e) Determination of Compliance Status. Through a review of the form, Department records, and the compliance history of the Affiliated multifamily Developments, staff will determine the applicable category for the Application or ownership transfer request using the criteria in Paragraphs (1) through (3) of this subsection. The Application will be classified in the highest applicable category, based upon all Persons for whom previous participation review is conducted.

2 §1.301(e)(2)(A) The number of uncorrected Events of Noncompliance plus the number of corrected Events of Noncompliance that were not corrected during the Corrective Action Period total at least three but is less than 50% of the number of properties in the Combined Portfolio

3 §1.301(e)(2)(B) There are uncorrected Events of Noncompliance but the number of Events of Noncompliance is 10% or less than the number of properties in the Combined Portfolio. If corrective action has been uploaded to the Department's Compliance Monitoring and Tracking System (CMTS) or if the noncompliance is corrected and evidence of corrective action is submitted during the seven day period referenced in Subsection (f) of this section it will be reviewed and the Category determination may change as appropriate

4 §1.301(e)(3)(K) Any Person subject to previous participation review has or had Control of a TDHCA funded Development that has gone through a foreclosure;

Applicant Contact Info #1: warmore@related.com

Wes Larmore

Applicant Contact Info #2:

Date Contacted: 4/24/2020

Date Response Due: 5/1/2020

Associated Developments				Compliance								FALS			FAFS	
Program	TDHCA ID	Property #	Property Name	# of Events	Event 1			Event 2			Subject to final order	Terms Violated	Past Due Loan	NO Issues		NO Issues
					Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?	Event Description	Corrected? (Y or N)	Was any type of response submitted within CAP?				<input checked="" type="checkbox"/>	No evidence of Insurance	No evidence of current taxes
HTC/BND	5284	17604/17604B	Stephenville Crossing	0							N	n/a				
HTC/BND	5285	17605/17605B	The Magnolia	0							N	n/a				
HTC/BND	5286	17606/17606B	Linwood Square	1	Failure to resolve Final Construction Deficiencies	Y	Y				N	n/a				
HTC/BND	33	18601/18601B/00011T	(Start 8/18) Riverside Townhomes	0							N	n/a				
HTC/BND	61	18602/18602B/00025T	(Start 8/18) Oaks on Lamar	0							N	n/a				
HTC	1721	17151/97069	(Start 11/18) Albany Village	0							N	n/a				
HTC/BND	1110	18607/18607B/93020	(Start 11/18) Burk Village Apts	0							N	n/a				
HTC/BND	5451	18605/18605B	Bastrop Oak Village	0							N	n/a				
HTC/BND	1108	18606/18606B/93018	(Start 11/18) Baycity Village Apts	1	Violations of the Uniform Physical Condition Standards	Y	Y				N	n/a				
HTC	1068	17157/91090/92114	(Start 11/18) Castroville Village	0							N	n/a				
HTC	969	17158/91066	(Start 11/18) Electra Village	0							N	n/a				
HTC/BND	1127	18608/18608B/93044	(Start 11/18) Meadowpark Apts	0							N	n/a				
HTC/BND	1245	18609/18609B/94092	(Start 11/18) Evant Tom Sawyer	0							N	n/a				
HTC/BND	1247	18610/18610B/94095	(Start 11/18) Brian Place Apts	0							N	n/a				
HTC/BND	978	18611/18611B/91089	(Start 11/18) Hondo Gardens Apts	0							N	n/a				
HTC/BND	5455	18612/18612B	Lampasas Gardens	0							N	n/a				
HTC/BND	5456	18613/18613B	Lantana Apartments	0							N	n/a				
HTC	765	17159	Pflugerville Meadows	0							N	n/a				
HTC	766	17161	Round Rock Oak Grove	0							N	n/a				
HTC	4130	04147	Shiloh Village Apartments	0							N	n/a				
HTC	4122	04101	(Start 7/18) Pleasant Hill Apts	0							N	n/a				
HTC	4124	04107	(Start 7/18) Whitefield Place	0							N	n/a				
HTC	4125	04108	(Start 7/18) Tamarac Pines Apts	0							N	n/a				
HTC	4247	05044	(Start 7/18) Copperwood Apartments	0							N	n/a				
HTC	4581	08200	(Start 7/18) Ingram Square	0							N	n/a				
HTC	4367	060040	(Start 7/18) San Jose Apartments	0							N	n/a				
HTC/BND	5476	19603/19603B	Northgate Village	0							N	n/a				
HTC	759	060074	(Started 6/15) Amarillo Gardens	0							N	n/a				
BOND	2552	MF036	(Ended 7/16) Bristol at Buckingham	0	FORECLOSURE (2016)						N	n/a				
BOND	2540	MF035	(Ended 10/15) Tenison at White Rock	1	Failure to submit Annual Owners Compliance Rpt ('15)	N	n/a Pre-19				N	n/a				
30 Total # of Projects				3 Total Events	1 Total Uncorrected	0 Total with no response provided to Dept during CAP										

Exhibit E

Exhibit F

AFTER RECORDING
PLEASE RETURN TO:

Elizabeth Bowes, Esq.
Bracewell & Giuliani LLP
111 Congress Avenue, Suite 2300
Austin, Texas 78701-4061
NCS-747230-SF

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

**ASSIGNMENT, ASSUMPTION AND CONSENT AND
AGREEMENT WITH RESPECT TO DEFEASANCE AND REDEMPTION OF BONDS**

(Tenison at White Rock f/k/a Williams Run Apartments)

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this "Agreement") is dated as of October 21, 2015 (the "Effective Date"), by and between GREENBRIDGE AT WILLIAMS RUN, L.L.C., a Texas limited liability company (the "Seller"), IP TENISON LP, a Texas limited partnership (the "Purchaser"), WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association and successor to Wells Fargo Bank, Texas, N.A., as trustee (the "Trustee"), the TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (the "Issuer"), and CAP V GREENBRIDGE, LLC, a Delaware limited liability company (the "Bondowner").

WITNESSETH:

WHEREAS, the Issuer issued its \$12,650,000 Multifamily Housing Revenue Bonds (Williams Run Apartments) Series 2002A (the "Tax-Exempt Bonds") and its \$200,000 Taxable Multifamily Housing Revenue Bonds (Williams Run Apartments) Series 2002B (the "Taxable Bonds" and together with the Tax-Exempt Bonds, the "Bonds") pursuant to the terms of that certain Trust Indenture dated as of December 1, 2000 (the "Indenture"), by and between the Issuer and the Trustee; and

WHEREAS, the proceeds of the Bonds were loaned to the Seller to finance the acquisition, rehabilitation and equipping a multifamily residential rental development, located in Dallas County, Texas, originally referred to as "Williams Run Apartments" and now known as "Tenison at White Rock" (the "Development") and located on the real property described in Exhibit A attached hereto, pursuant to that certain Loan Agreement dated as of December 1, 2000 (the "Loan Agreement"), among the Issuer, the Trustee and the Seller; and

WHEREAS, the Taxable Bonds are no longer outstanding; and

WHEREAS, the Seller now desires to convey the Development to the Purchaser (the "Conveyance") and in connection therewith the Purchaser desires to assume and perform the obligations of the Seller that accrue on and after the date hereof under the Regulatory and Land Use Restriction Agreement dated as of December 1, 2000 (the "Regulatory Agreement"), by and among the Issuer, the Trustee and the Seller; and

WHEREAS, the Issuer's consent to the Conveyance is required as a condition to such Conveyance in accordance with Section 10 of the Regulatory Agreement; and

WHEREAS, the purchase price from the Conveyance will be deposited with the Trustee in accordance with Section 10.03 of the Indenture (the "Defeasance") and used to redeem the Outstanding Tax-Exempt Bonds in full on November 1, 2015 (the "Redemption"); and

WHEREAS, the Bondowner is the registered owner of 100% of the Outstanding Bonds and as the single Owner of all Bonds Outstanding is the Majority Owner, as such term is defined in the Indenture;

NOW, THEREFORE, in consideration of the foregoing and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, as applicable, hereby agree as follows:

1. All capitalized terms used in this Agreement shall have the respective meanings set forth in the preamble hereof or, if not defined in the preamble hereof, shall have the respective meanings set forth in the Indenture.

2. The Purchaser hereby covenants and agrees to, and does by these premises, assume all of the obligations of the Seller under the terms of the Regulatory Agreement that accrue on and after the Effective Date. The Purchaser hereby further covenants and agrees to operate the Development in such a manner so as to comply with the provisions of the Regulatory Agreement, including, but not limited to, to operate the Development as a "qualified residential rental project" within the meaning of section 142(d) of the Internal Revenue Code of 1986, as amended. The Purchaser acknowledges that execution of this Agreement is a condition to obtaining the consent of the Issuer to the Conveyance.

3. By its execution of this Agreement, the Issuer hereby consents to (i) the Conveyance, as such consent is required by the Regulatory Agreement, and (ii) to the performance of all obligations under the Regulatory Agreement by the Purchaser.

4. The Seller represents, warrants and certifies to the Issuer and the Trustee, that, as of the Effective Date:

(a) the Seller has full power and authority to execute and deliver this Agreement and to enter into the transactions contemplated herein;

(b) the Seller is not in breach of or in default under any of its covenants or agreements contained in the Regulatory Agreement and no event has occurred or is continuing which with or without the passage of time, the giving of notice, or both, would constitute a default or an event of default under the Regulatory Agreement;

(c) neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will conflict with or result in the breach of any of the terms, conditions or provisions of any existing legal restrictions or any existing agreement or instrument to which the Seller is a party or by which it is bound, nor constitute a default under any of the foregoing.

5. The Purchaser represents, warrants and certifies to the Issuer and the Trustee, that, as of the Effective Date:

(a) it is a limited partnership duly organized and validly existing under the laws of the State of Texas, and is and shall remain duly qualified to transact business under the laws of the State of Texas as long as the Purchaser remains obligated to comply with the duties and

obligations of the Seller under the Regulatory Agreement that are assumed by the Purchaser, as contemplated herein;

(b) the Purchaser has full power and authority to execute and deliver this Agreement, to enter into and perform the transactions contemplated herein, and has duly authorized the execution, delivery and performance hereof;

(c) the Purchaser has the financial capability to carry out the obligations assumed hereby and is capable, willing and intends to carry out and comply with the obligations in accordance with their terms and the terms hereof; and

(d) neither the execution and delivery of this Agreement, the assumption hereby of the obligations of the Seller as set forth in the Regulatory Agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of the Regulatory Agreement will conflict with or result in the breach of any of the terms, conditions or provisions of any existing legal restriction or any existing agreement or instrument to which the Purchaser is a party or by which it is bound, nor constitute a default under any of the foregoing.

6. THE PURCHASER HEREBY COVENANTS AND AGREES THAT IT SHALL PROTECT, INDEMNIFY AND SAVE THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE INCORPORATORS, MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL LIABILITY, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), TAXES, CAUSES OF ACTION, SUITS, CLAIMS, DEMANDS AND JUDGMENTS OF ANY NATURE OR FORM, BY OR ON BEHALF OF ANY PERSON ARISING IN ANY MANNER FROM THE PURCHASER'S FAILURE TO PERFORM THE OBLIGATIONS IN THE REGULATORY AGREEMENT ASSUMED BY THE PURCHASER UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ARISING FROM (I) ANY WORK DONE ON THE DEVELOPMENT OR THE OPERATION OF THE DEVELOPMENT DURING THE TERM OF THIS AGREEMENT BY PURCHASER OR ANYONE LAWFULLY ACTING ON PURCHASER'S BEHALF, OR (II) THE DEVELOPMENT OR ANY PART THEREOF, OR (III) ANY VIOLATION OF CONTRACT, AGREEMENT OR RESTRICTION RELATING TO THE DEVELOPMENT BY PURCHASER OR ANYONE LAWFULLY ACTING ON PURCHASER'S BEHALF, OR (IV) ANY LIABILITY ARISING FROM ANY VIOLATION BY PURCHASER OR ANYONE LAWFULLY ACTING ON PURCHASER'S BEHALF OF ANY LAW, ORDINANCE OR REGULATION AFFECTING THE DEVELOPMENT OR ANY PART THEREOF OR THE OWNERSHIP OR OCCUPANCY OR USE THEREOF. UPON NOTICE FROM THE ISSUER, THE TRUSTEE OR ANY OF THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, THE PURCHASER SHALL DEFEND THE ISSUER, THE TRUSTEE OR ANY OF THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH ANY OF THE ABOVE, AND PROVIDE COMPETENT COUNSEL REASONABLY SATISFACTORY TO THE TRUSTEE AND/OR THE ISSUER; PROVIDED, HOWEVER, THAT (A) THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE PURCHASER AND (B) THE TRUSTEE SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL, SUBJECT TO PURCHASER'S APPROVAL OF COUNSEL, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD, IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE PURCHASER IF THE TRUSTEE SHALL BE ADVISED BY COUNSEL THAT THERE ARE SEPARATE DEFENSES

AVAILABLE TO IT OR THAT THERE MIGHT BE A POTENTIAL CONFLICT IN COUNSEL TO THE PURCHASER REPRESENTING THE TRUSTEE;

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHALL NOT INCUR PECUNIARY LIABILITY BY REASON OF THE TERMS OF THIS AGREEMENT OR BY REASON OF THE UNDERTAKINGS REQUIRED OF THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HEREUNDER IN CONNECTION WITH THE REGULATORY AGREEMENT; THE PERFORMANCE OF ANY ACT REQUIRED OF THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THIS AGREEMENT; OR THE PERFORMANCE OF ANY ACT REQUESTED OF THE ISSUER, THE TRUSTEE, AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES BY THE PURCHASER OR IN ANY WAY ARISING FROM THE TRANSACTION OF WHICH THIS AGREEMENT IS A PART OR ARISING IN ANY MANNER IN CONNECTION WITH THE DEVELOPMENT, INCLUDING BUT NOT LIMITED TO THE EXECUTION AND DELIVERY OF THIS AGREEMENT; NEVERTHELESS, IF THE ISSUER, THE TRUSTEE OR THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES SHOULD INCUR ANY SUCH PECUNIARY LIABILITY WITH RESPECT TO EVENTS OCCURRING AFTER THE DATE HEREOF, THEN IN SUCH EVENT THE PURCHASER SHALL INDEMNIFY AND HOLD THE ISSUER, THE TRUSTEE AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL CLAIMS BY OR ON BEHALF OF ANY PERSON, ARISING OUT OF THE SAME, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH ANY SUCH CLAIM OR IN CONNECTION WITH ANY ACTION OR PROCEEDING BROUGHT THEREON, AND UPON NOTICE FROM THE ISSUER, THE TRUSTEE OR ANY OF THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES, THE PURCHASER SHALL DEFEND THE TRUSTEE AND THE ISSUER AND THEIR RESPECTIVE MEMBERS, TRUSTEES, BOARD MEMBERS, DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES IN ANY SUCH ACTION OR PROCEEDING, AND PROVIDE COUNSEL SATISFACTORY TO THE TRUSTEE AND/OR THE ISSUER AND THE PURCHASER SHALL PAY THE ISSUER EXPENSES INCLUDING PAYMENT OF THE COUNSEL USED BY THE ISSUER; PROVIDED, HOWEVER, THAT (A) THE ISSUER SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE PURCHASER AND (B) THE TRUSTEE SHALL HAVE THE RIGHT TO EMPLOY SEPARATE COUNSEL, SUBJECT TO PURCHASER'S APPROVAL OF COUNSEL, WHICH CONSENT WILL NOT BE UNREASONABLY WITHHELD, IN ANY ACTION DESCRIBED IN THE PRECEDING SENTENCE AT THE EXPENSE OF THE PURCHASER IF THE TRUSTEE SHALL BE ADVISED BY COUNSEL THAT THERE ARE SEPARATE DEFENSES AVAILABLE TO IT OR THAT THERE MIGHT BE A POTENTIAL CONFLICT IN COUNSEL TO THE PURCHASER REPRESENTING THE TRUSTEE;

NOTWITHSTANDING ANY PROVISION OF THIS SECTION 6 TO THE CONTRARY, THE PURCHASER SHALL HAVE NO INDEMNIFICATION OBLIGATIONS WITH RESPECT TO ANY COST, LOSS, CLAIM, DAMAGE OR OTHER LIABILITY FINALLY DETERMINED TO HAVE BEEN DIRECTLY CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE TRUSTEE OR THE SELLER.

NOTWITHSTANDING ANY PROVISION OF THIS SECTION 6 TO THE CONTRARY, THE ISSUER SHALL BE INDEMNIFIED BY THE PURCHASER WITH RESPECT TO LIABILITIES ARISING FROM THE ISSUER'S OWN GROSS NEGLIGENCE, NEGLIGENCE OR BREACH OF CONTRACTUAL DUTY, BUT NOT FOR ANY LIABILITIES ARISING FROM THE ISSUER'S OWN WILLFUL MISCONDUCT, BAD FAITH OR FRAUD.

THE OBLIGATIONS OF THE PURCHASER UNDER THIS SECTION SHALL SURVIVE TO TERMINATION OF THIS AGREEMENT AND/OR THE RESIGNATION OR REMOVAL OF THE TRUSTEE.

7. The Conveyance shall not be construed so as to relieve the Seller of any liability under the Regulatory Agreement for any acts or events occurring or obligations arising prior to the Effective Date, whether or not discovered prior or subsequent to the Effective Date. Seller is hereby released from and relieved of any and all liability under the Regulatory Agreement for any acts or events or obligations arising after the Effective Date, except to the extent that such obligations relate to noncompliance with the Regulatory Agreement that occurred prior to Conveyance.

8. By their execution hereof, the Department, the Trustee, the Seller, the Purchaser and the Bondowner agree to the following matters in connection with the Conveyance, the Defeasance and the Redemption:

(a) With respect to the Conveyance, the opinion of legal counsel to the Purchaser required by Section 10(1) of the Regulatory Agreement is waived.

(b) The Department has agreed to waive the assumption fee under Section 10(3) of the Regulatory Agreement.

(c) All notices and certifications that are required by the Indenture or the Loan Agreement with respect to the Conveyance, the Defeasance and the Redemption of the Bonds are hereby waived.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successor and assigns, and the provisions hereof may not be modified without the written approval and consent of all parties hereto.

10. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

11. From and after the Effective Date, all notices required or permitted to be sent to the "Owner" under the Regulatory Agreement shall be sent to the Purchaser at the following address, in the manner required under the Regulatory Agreement:

IP TENISON LP
4655 Insurance Lane
Dallas, Texas 75202

12. This Agreement shall be governed in all respects by the laws of the State of Texas.

[EXECUTION PAGES FOLLOW]

Dated this 17 day of oct, 2015 at
Phoenix, AZ

By: Lynn Janisse
Flynnann Janisse
Executive Director

ACKNOWLEDGEMENT

STATE OF ARIZONA)
COUNTY OF MARICOPA)

On Oct. 17, 2015, before me, Lynn Walsh, personally appeared Flynnann Janisse, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Lynn M Walsh (Seal)
Signature



PURCHASER:

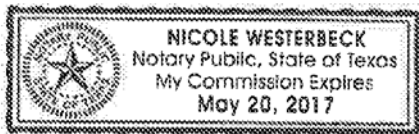
IP TENISON LP, a Texas limited partnership

By: IP Tenison GP, LLC, a Texas limited liability company, its general partner

By: 
Name: Seth Bame
Title: Member

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on October 19, 2015 by Seth Bame, Member of IP Tenison GP, LLC, a Texas limited liability company, general partner of IP Tenison, LP, a Texas limited partnership, on behalf of said limited partnership.




Notary Public Signature

(PERSONALIZED SEAL)

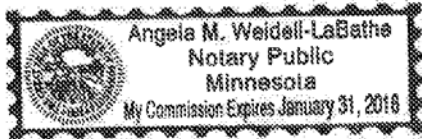
TRUSTEE:

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Trustee

By: M Kirchberg
Name: Mirinda Kirchberg
Title: Assistant Vice President

STATE OF MINNESOTA §
 §
COUNTY OF HENNEPIN §

This instrument was acknowledged before me on October 20, 2015, by Mirinda Kirchberg, Asst Vice President of Wells Fargo Bank, National Association, a national banking association, on behalf of said association.

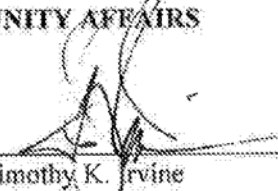


(PERSONALIZED SEAL)

Angela M Weidell LaBethe
Notary Public Signature

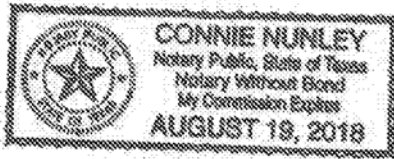
ISSUER:

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

By: 
Name: Timothy K. Irvine
Title: Executive Director

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on October 14, 2015, by Timothy K. Irvine, Executive Director of Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas, on behalf of said agency.




Notary Public Signature

(PERSONALIZED SEAL)

BONDOWNER:

CAP V Greenbridge, LLC

A Delaware limited liability company

By: Fidelity CAP V, LLC
A California limited liability company

Its: Sole Member

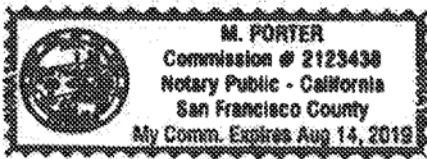
By: The Reliant Group, Inc.
A California corporation

Its: Managing Member

By: 
J. Caskie Collet
Chief Operating Officer

STATE OF CALIFORNIA §
COUNTY OF San Francisco §

This instrument was acknowledged before me on October 16, 2015, by J. Caskie Collet, Chief Operating Officer of The Reliant Group, Inc., a California corporation, managing member of Fidelity CAP V, LLC, a California limited liability company, sole member of CAP V Greenbridge, LLC, a Delaware limited liability company, on behalf of said limited liability company.




Notary Public Signature

(PERSONALIZED SEAL)

EXHIBIT A

Legal Description of Land

Tract 1: (Fee Tract)

BEING a tract of land situated in the William Jones Survey, Abstract No. 686, Dallas County, Texas and being all of Lot 1, Block A/2697 of William's Run, an addition to the City of Dallas, Texas as recorded in Volume 86175, Page 4532, Deed Records of Dallas County, Texas and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod found at the most northerly corner of said Lot 1, said iron rod also being in the southwest line of La Vista Drive (a 55 foot right-of-way) and also being the most easterly corner of Lot 2 of said Williams Run;

THENCE South 47 degrees, 03 minutes 00 seconds East along the southwest line of said La Vista Drive a distance of 497.20 feet to an "X" cut in concrete for corner;

THENCE North 40 degrees 34 minutes 18 seconds East along the projected southeast line of a 15 foot alley a distance of 55.08 feet to a 5/8-inch iron rod found for corner at the southwest corner of a tract conveyed to Walter Helm - No. 2 by Deed recorded in Volume 88160, Page 662, Deed Records of Dallas County, Texas;

THENCE South 47 degrees 03 minutes 00 seconds East along the south line of said Helm tract a distance of 232.50 feet to a 1/2-inch iron rod found for corner in the westerly line of the Southern Pacific Railroad (a 235 foot right-of-way);

THENCE South 12 degrees 47 minutes 46 seconds West along said Southern Pacific right-of-way a distance of 213.05 feet to a 1/2-inch iron rod found for corner in the northerly line of the Topeka and Santa Fe Railroad (a 150 foot right-of-way at this point);

THENCE along the northerly line of said Topeka and Santa Fe Railroad and a curve to the right that has a central angle of 11 degrees 38 minutes 49 seconds, a radius of 1835.08 feet, and a chord that bears North 76 degrees 30 minutes 04 seconds West, an arc length of 373.03 feet to a 1/2 -inch iron for corner;

THENCE South 40 degrees 34 minutes 18 seconds West a distance of 27.50 feet to a 1/2 -inch iron found for corner;

THENCE continuing along the northerly line of said Topeka and Santa Fe Railroad (a 100 foot right-of-way at this point) and a curve to the right that has a central angle of 16 degrees 21 minutes 42 seconds, a radius of 1860.08 feet and a chord that bears North 62 degrees

03 minutes 36 seconds West, an arc length of 531.18 feet to a ½-inch iron rod found for corner at the most westerly corner of said Lot 1 and the most southerly corner of said Lot 2;

THENCE North 42 degrees 57 minutes 00 seconds East along the westerly line of said Lot 1 a distance of 476.86 feet to the POINT OF BEGINNING and containing 297,783 square feet or 6.8362 acres of land.

Being the same land shown on a plat of survey by Robert L. Wright, RPLS No. 3917, dated 9-1-00, last revised 09-01-00, as job no. 93-433, being known locally as 7440 La Vista Drive, Dallas, Texas, and being assessed as parcel no. 00-26970-A00-001-0000, which number covers no other land.

Tract 2: (Easement Tract)

BEING a tract of land situated in the William Jones Survey, Abstract No. G86, Dallas County, Texas, and being part of Lot 2 City Block A/2697 of William's Run, an addition to the City of Dallas recorded in Volume 86175, Page 4532, Deed Records, Dallas County, Texas, and being part of that tract of land conveyed to Big D Cold Storage, Inc., by Correction Warranty Deed recorded in Volume 91064, Page 1731, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a ½-inch iron rod at the most northerly corner of said William's Run and being in the southwest line of La Vista Drive (a 55 foot wide right-of-way) and the east corner of that tract of land conveyed to Gay D. Sanders McAlexander by Deed recorded in Volume 80040, Page 1418, Deed Records, Dallas County, Texas, said point being South 47 degrees 03 minutes 00 seconds East along the southwest line of said La Vista Drive, a distance of 43.95 feet from the intersection of the southwest line of said La Vista Drive with the southeast line of East Grand Avenue (a variable width right-of-way);

THENCE South 47 degrees 03 minutes 00 seconds East along the southwest line of said La Vista Drive and the northeast line of said Lot 2, a distance of 25.00 feet to a point for corner;

THENCE South 39 degrees 45 minutes 00 seconds West a distance of 25.00 feet to a point for corner;

THENCE North 47 degrees 03 minutes 00 seconds West a distance of 25.00 feet to a point for corner in the southeast line of said McAlexander tract and the northwest line of said Lot 2;

THENCE North 39 degrees 45 minutes 00 seconds East along the northwest line of said Lot 2 and the southeast line of said McAlexander tract a distance of 25.00 feet to the POINT OF BEGINNING and containing 625 square feet or 0.0143 acres of land.

Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
10/22/2015 12:25:07 PM
\$74.00
201500283656



Exhibit G

AGREEMENT FOR DEED IN LIEU OF FORECLOSURE

THIS AGREEMENT FOR DEED IN LIEU OF FORECLOSURE (this "Agreement") is made as of June ~~21~~²⁹, 2016 by and between Greenbridge at Buckingham, L.L.C., a Texas limited liability company ("Borrower"), and CAP V Greenbridge, LLC, a Delaware limited liability company ("Sole Bondholder"), with reference to the following facts:

A. Borrower is the owner of certain real property located at 535 E. Buckingham Road, Richardson, Texas (the "Land"), as more particularly described on Exhibit A attached hereto, which Land is improved with a 242 unit apartment complex commonly known as Bristol at Buckingham Apartments (the "Improvements").

B. Sole Bondholder is the holder of 100% of the Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Greenbridge at Buckingham Apartments Project), consisting of a Series 2000A Bond and a Series 2000B Bond (collectively, the "Bonds") in the aggregate original principal amount of \$20,085,000 issued by the Texas Department of Housing and Community Affairs (the "Issuer") pursuant to that certain Trust Indenture (the "Indenture") dated as of November 1, 2000 between the Issuer and Wells Fargo Bank Texas, N.A. as trustee (Wells Fargo together with its successors and assigns and any successor trustee hereunder, the "Trustee"). The Series 2000B bonds have been retired and the approximate principal balance of the Series 2000A Bond was \$19,131,735 as of December 31, 2015. Terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture.

C. Borrower has certain obligations under a loan made in connection with the Bonds (the "Bond Loan") evidenced by that certain Loan Agreement between the Issuer, Trustee and Borrower, dated as of November 1, 2000 (the "Bond Loan Agreement"), secured by a Deed of Trust and Security Agreement (with Power of Sale) dated as of November 1, 2000 (the "Deed of Trust") and certain other documents related thereto (collectively with the Deed of Trust, the "Bond Documents").

D. The Borrower is in default in its obligations under Section 6.1(a) of the Bond Loan Agreement and such default also constitutes an event of default under Sections 7.01(a) and 7.01(b) of the Indenture ("Event of Default").

E. Borrower has acknowledged and failed to cure such Events of Default.

F. Sole Bondholder has the right to direct the actions taken in respect of an Event of Default and the remedies available to Sole Bondholder under the Bond Documents include foreclosure of the lien of the Deed of Trust on the Property.

G. In lieu of foreclosing or exercising other remedies available under the Deed of Trust and the Bond Documents, the Sole Bondholder has requested and Borrower has agreed that Borrower will enter into this Agreement to transfer the Property to Sole Bondholder (or to a party designated by Sole Bondholder), pursuant to a deed in lieu of foreclosure on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals (which are hereby incorporated into and deemed part of this Agreement), the covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by the parties hereto as follows:

1. Deed in Lieu of Foreclosure and Retirement of the Bonds.

(a) In lieu of foreclosing or exercising other remedies available under the Deed of Trust and the Bond Documents, the Sole Bondholder has agreed to accept a special warranty deed from Borrower transferring to the Sole Bondholder or its designee the property encumbered by the Deed of Trust, further defined below as the "Property". In consideration of the transfer of the Property by deed in lieu of foreclosure, the Sole Bondholder agrees to accept the Property in full satisfaction of all amounts owed under the Bond Loan or in connection with the Bonds and that upon receipt of such deed in lieu the Bonds shall be satisfied, paid and retired in full.

(b) Sole Bondholder also agrees to accept the transfer of the Property by deed in lieu of foreclosure in full satisfaction of all amounts owing by Borrower's sole member, Placet Development Corporation, a Texas nonprofit corporation ("Borrower's Sole Member"), under that Promissory Note (Unsecured) in the amount of \$7,000,000 executed by Borrower's Sole Member in favor of Sole Bondholder dated August 8, 2008.

(c) Any reserves or other funds held by the Trustee shall be applied toward the satisfaction of amounts owing under the Bond Documents and disbursed to Sole Bondholder as provided in the Indenture.

(d) The Sole Bondholder and Borrower acknowledge that (i) Borrower has accumulated cash balances from the operations of the Property, (ii) certain property operating expenses have accrued against Borrower and the Improvements which will be paid by Borrower from cash balances, (iii) and certain expenses have been prepaid which will be refunded to the Borrower following the closing, resulting in net assets of the Borrower related to the Property ("Net Assets"). Borrower agrees to transfer the Net Assets to the Sole Bondholder at closing or thereafter as such assets are received by the Borrower, after payment of operating expenses incurred in the normal course of operations of the Property.

2. Conveyance of the Property to Sole Bondholder in Lieu of Foreclosure.

Borrower hereby agrees to convey, assign and transfer to Sole Bondholder or its designee on or before the Transfer Date (as defined below) all of Borrower's right, title and interest in and to the following property absolutely and free of any right of redemption or the right of interest of the Borrower or anyone claiming by or through Borrower (the "Property"):

(a) the real property described on Schedule A attached hereto and incorporated herein, together with any and all right and title and interest of Borrower in and to any land lying in the bed of any street, road, alley or avenue, open or proposed, in front of or adjoining the Property, any riparian or water rights, any mineral rights, air rights, all rights of way or use, servitudes, licenses, easements, tenements, hereditaments and appurtenances now or hereafter belonging to or benefiting the Property ("Land");

(b) all buildings, structures and improvements located on the Land (“Improvements”);

(c) all furniture, fixtures, equipment, machinery, and other personal property owned by Borrower, situated on or in, or attached to and used in connection with the operation of the Property (“FF & E”);

(d) all tenant leases and residency agreements relating to the Property (“Tenant Leases”), all prepaid rents relating to the period after the Transfer Date (“Prepaid Rents”), and tenant security and other tenant deposits held by Borrower (“Resident Deposits”) all as shown on the Rent Roll (as defined below) ;

(e) to the extent assignable, all rights of Borrower under maintenance agreements, service contracts, equipment leases, and similar contracts affecting the operation or maintenance of the Property (“Contracts”);

(f) to the extent assignable, all licenses, permits, certificates of occupancy, and approvals issued by governmental or quasi-governmental bodies, benefiting the Property (“Permits”);

(g) to the extent assignable, unexpired warranties, guaranties or other agreements benefiting the Property (“Warranties”);

(h) all books and records, rent rolls, resident lists, and resident applications which are in Borrower’s possession and control and which pertain to the Borrower’s operation and use of the Property (“Operating Records”);

(i) all architectural and engineering plats, plans and specifications, and surveys of the Property, if any, as are in Borrower’s possession and control (“Plans”); and

(j) all trade names, trademarks, logos, telephone numbers, and other personal property, tangible or intangible, owned by Borrower and situated on or in, or used in connection with the Borrower’s ownership and operation of the Property (“Other Personal Property”).

3. Closing; Escrow; Delivery of Possession. Subject to satisfaction of the conditions precedent contained in this Agreement, the closing of the transaction contemplated by this Agreement (the “Closing”) shall occur when the Deed (as defined in Section 9 below) is recorded in accordance with this Agreement, which recordation shall take place on or before June 30, 2016 (the “Transfer Date”) through an escrow (the “Escrow”) established with First American Title Insurance Company (the “Title Insurer”). Possession of the Property shall be delivered to Sole Bondholder or its designee, if applicable upon Closing.

4. Sole Bondholder’s and Borrower’s Right to Inspection; Preservation of Books.

(a) At any time and from time to time prior to Closing, Sole Bondholder and its agents, employees, and representatives shall have the right during regular business hours, on reasonable prior notice:

(i) to inspect, audit, transcribe and have copied the documents, books and records of Borrower pertaining to the Property; and

(ii) to enter upon and inspect the Property and conduct any and all studies it deems desirable, including without limitation, market, engineering/structural, appraisals, and hazardous waste studies.

(b) Sole Bondholder agrees that during and in connection with its inspection and review of the Property it (and its agents, employees and representatives) shall not unreasonably interfere with Borrower's or its agents' operation of the Property.

5. Closing Costs, Escrow Charges, Fees and Prorations. Borrower shall pay from the sales proceeds all legal fees in connection with the Closing, including reasonable legal fees of Sole Bondholder and Trustee. Borrower shall pay from the sales proceeds the costs incurred by the Sole Bondholder or Borrower in connection with the sale of the property, including but not limited to brokerage commissions, the cost of any title insurance binder or policy, and transfer taxes, if any, and all other expenses in connection with the Escrow.

6. Operation of Property Prior to Closing. From and after the date of execution of this Agreement until and including the Transfer Date, Borrower shall (i) continue to operate and maintain the Property in substantially the same manner and condition as the Property has been operated and maintained prior to the date of execution of this Agreement, including, but not limited to, entering leases with respect to the Property on terms consistent with prior practice, (ii) not enter into or modify any agreements relating to the Property which cannot be terminated without penalty upon less than 30 days' notice, except as specifically contemplated pursuant to this Agreement, and (iii) not sell, lease, mortgage, encumber, pledge, release or otherwise alienate any collateral given or pledged to Sole Bondholder in connection with the Bond Loan or any of the rights and interests to be conveyed to Sole Bondholder pursuant to this Agreement.

7. Representations of Borrower. Borrower hereby represents to Sole Bondholder, and its respective successors and assigns, as follows:

(a) The person or persons executing this Agreement and all documents required to consummate the transaction contemplated hereby have been duly authorized to execute the same and to bind Borrower with respect thereto. All consents required in connection with the consummation of the transaction contemplated by this Agreement have been obtained. This Agreement has been, and all other documents to be delivered by Borrower hereunder at Closing have been or will be, duly authorized, executed and delivered by Borrower;

(b) Borrower does not have any present intention of filing any petition or instituting or initiating any proceeding under the federal bankruptcy laws or any similar state legislation.

(c) There are no Contracts relating to the ownership, maintenance, operation or management of the Property which will survive Closing and be binding upon Sole Bondholder other than such Contracts as are described in Exhibit B attached hereto; and

(d) There are no parties in possession of the Property other than Borrower and the tenants under the Tenant Leases and there are no written or oral leases or written agreements or leases with respect to the Property other than the Tenant Leases and the Contracts. No leasing or sales commissions are or will be owed in connection with any of the Tenant Leases or any portion of the Property.

The representations and warranties contained in this Agreement shall survive the Closing.

8. Conditions to Closing.

(a) Borrower and Sole Bondholder shall not be required to close the transactions provided for in this Agreement unless and until each and every one of the following conditions has been fulfilled:

(i) Sole Bondholder and Borrower are each in a position to perform all of their respective obligations under this Agreement, including, without limitation, those described in Section 2 above.

(ii) All of the representations of Borrower contained or referred to in this Agreement are true and correct in all material respects.

(iii) Sole Bondholder or its designee has received such commitments of the Title Insurer as Sole Bondholder or its designee shall require in connection with the transfer of the Property.

(iv) Sole Bondholder shall have received satisfactory evidence that the execution and delivery of this Agreement and the Deed (as hereinafter defined), and any other documents required by this Agreement to be executed on behalf of Borrower in connection with the transaction contemplated hereby, have been duly authorized by Borrower and that the individuals executing the same on behalf of Borrower have the authority to do so.

(b) If any of the conditions set forth in Section 8(a) hereof are not met prior to Closing, Sole Bondholder may terminate this Agreement, and in such event this Agreement shall be void and of no further force and effect, and thereafter Sole Bondholder may proceed to exercise its rights and remedies available under the Bond Loan and/or the Indenture and other Bond Documents, at law, and in equity, including, without limitation, the right to foreclose upon and/or exercise the power of sale with respect to the Property.

9. Deliveries at Closing.

(a) On or before the Transfer Date, Borrower shall deposit or cause to be deposited into Escrow the following, all in form and substance satisfactory to Sole Bondholder and duly executed by the appropriate parties:

(i) A recordable special warranty deed, in the form attached hereto as Exhibit C (the "Deed"), duly executed and acknowledged by Borrower, conveying the Property to Sole Bondholder or its designee;

(ii) A Bill of Sale and Assignment in the form attached hereto as Exhibit D, duly executed and acknowledged by Borrower, conveying the FF & E, Prepaid Rents, Tenant Leases, Resident Deposits, Contracts, Permits, Warranties, Operating Records, Plans, and Other Personal Property to Sole Bondholder or its designee;

(iii) A FIRPTA affidavit in a form approved by Sole Bondholder;

(iv) A certified Rent Roll;

(v) Originals or copies of all documents, agreements and records pertaining to the Property, including without limitation, Tenant Leases, Contracts and records pertaining to the security deposits, in Borrower's possession or control, keys, security codes, phone numbers, and other information necessary to operate the Property shall be transferred to Sole Bondholder or its designee at the Property;

(vi) A reasonable affidavit as to the mechanics' liens and possession and a reasonable affidavit regarding a deed in lieu as may be required by the Title Insurer and evidence of authority to consummate this transaction ;

(vii) One counterpart of the Notice of Sale (a form letter to all tenants, advising them of the sale of the Property to Sole Bondholder or its designee, and that (a) future rent payments shall be paid as Sole Bondholder or its designee directs, (b) management responsibilities for the Property will be held by the designated party, and (c) such other matters as Sole Bondholder or its designee may reasonably require); and

(viii) All other deposits required to be made by Borrower pursuant to the terms of this Agreement or any settlement statements and escrow instructions executed in connection with this Agreement and such other documents and instruments as may be reasonably necessary in order to consummate the transactions contemplated by this Agreement and in order to enable the Title Insurer to issue the title commitment required by Sole Bondholder or its designee.

(b) On or before the Transfer Date, Sole Bondholder shall:

(i) Deliver to the Trustee instruction to the Trustee redeem and retire the Bonds and take any other actions contemplated by this Agreement; and

(ii) Deposit or cause to be deposited into Escrow all deposits required to be made by Sole Bondholder pursuant to the terms of this Agreement or any escrow instructions executed in connection herewith.

10. As-Is Transfer. Except as otherwise specifically stated in this Agreement, Borrower hereby specifically disclaims and Borrower will have no liability for any warranty, guaranty, or representation, oral or written, past, present, or future, of, as to, or concerning (a) the nature and condition of the Property, including, but not by way of limitation, the water, soil, geology, environmental conditions (including the presence or absence of any environmental contamination, or toxic pollution as a result of the presence, use, discharge, or release of hazardous substances or materials on, about, or in the Property), and the suitability thereof for

any and all activities and uses which Sole Bondholder may elect to conduct thereon; (b) the nature and extent of any right-of-way, lease, possessory interest, lien, encumbrance, license, reservation, condition, or otherwise; and (c) the compliance of the Property or its operation with any laws, ordinances, or regulations of any government or other body. The sale of the Property as provided for herein is made on an AS-IS basis, and Sole Bondholder expressly acknowledges that, in consideration of the agreements of Borrower herein and the conveyance of the Property by Borrower, and except as otherwise expressly specified herein, BORROWER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE, OF THE PROPERTY. Sole Bondholder represents and warrants to Borrower that Sole Bondholder has conducted or will conduct prior to the close of Escrow, such investigations of the Property, including, but not limited to, the physical and environmental condition thereof as Sole Bondholder deems necessary to satisfy itself as to the condition of the Property and the existence or non-existence or curative action to be taken with respect to any hazardous substances on or discharged from the Property, and will rely solely upon the same and not upon any information provided by or on behalf of Borrower or its agents or employees with respect thereto, other than such representations, warranties, and covenants of Borrower that are expressly set forth in this Agreement.

11. Rent Roll. On or before the Transfer Date, Borrower shall furnish Sole Bondholder (or its designee) a rent roll (the "Rent Roll") certified, to the best of Borrower's knowledge, to be a current, complete and correct list of all Tenant Leases for all or any portion of the Property in effect as of the Transfer Date, setting forth, with respect to each, (i) a description of the leased space; (ii) the name of the tenant; (iii) the execution, commencement and expiration dates of the original term and any renewals thereof; (iv) the basic rents payable thereunder for the original term and any renewal terms; (v) any rents or other charges which have been prepaid; (vi) any concessions, allowances, rebates or refunds giving rise to any liquidated dollar credit stated under any of the Tenant Leases or anywhere written to which any tenant is entitled; (vii) the amount of security deposit thereunder received from such tenant less amounts previously applied or returned to such tenant (all security deposits held by Borrower in respect of any of the Tenant Leases are to be delivered or credited to Sole Bondholder or its designee at close of escrow); and (viii) any suit, action or other claim that has been made or is pending or threatened against in respect of any security deposit or by any person claiming rights of occupancy under any Tenant Lease.

12. Absolute Conveyance. Borrower acknowledges and agrees that the conveyance of the Property pursuant to the conveyance provided for in this Agreement shall, upon Closing, be an absolute transfer, assignment and conveyance of all of Borrowers' right, title and interest in and to the Property in fact as well as in form and was not and is not now intended as a mortgage, trust conveyance, deed of trust or security instrument of any kind; that the consideration for such conveyance is exactly as recited herein and that, from and after the Transfer Date, Borrower shall have no further interest, including rights of redemption or claims, in and to the Property or to the proceeds and profits which may be derived therefrom of any kind whatsoever.

13. Waivers; Modifications; Entire Agreement. This Agreement and the provisions hereof shall not be amended or modified, and no waiver of performance or breach hereof shall be effective, unless the same shall be in writing and signed by the party to be charged. Any waiver of any provision or breach hereof shall be strictly limited to the specific circumstances for which given and such waiver shall not operate or be construed as a waiver of any prior or subsequent breach of the same or other provisions hereof. This Agreement (including all instruments executed pursuant hereto) contains the entire agreement among the parties relating to the transactions and all contemporaneous agreements, understandings, representations and statements, oral or written, are merged herein and superseded hereby.

14. Damage. If, prior to the Closing, there shall occur any damage to or destruction of the Improvements, Sole Bondholder may, at its option, either (i) terminate this Agreement, in which event this Agreement shall be void and of no further force and effect, or (ii) consummate the transactions contemplated herein, in which event all insurance proceeds shall be assigned to Sole Bondholder.

15. Further Assurance. Each party hereto agrees at the time and from time to time to execute any and all documents reasonably requested by the other to carry out the intent of this Agreement.

16. Notices. Any notice, demand, request or other communication required or permitted to be given under this Agreement shall be deemed given (a) when personally delivered, (b) one (1) business day after deposit with Federal Express or other courier for overnight delivery, charges prepaid, or (c) upon delivery (or refusal of delivery) when sent by certified or registered mail, postage prepaid, return receipt requested, in each case addressed as follows:

(a) If intended for Borrower:

Greenbridge at Buckingham, LLC
c/o Placet Development Corporation
3120 W. Carefree Highway, Suite 1-246
Phoenix, AZ 85086
Attention: President

(b) If intended for Sole Bondholder:

CAP V Greenbridge, LLC
c/o The Reliant Group, Inc.
275 Battery Street, Suite 500
San Francisco, CA 94111
Attention: J. Caskie Collet
Tel: (415) 501-9602
Fax: (415) 788-0435

with a copy to:

Arent Fox LLP
55 Second Street, 21st Floor
San Francisco, CA 94105
Attention: M.J. Pritchett, Esq.
Tel: (415) 757-5894

or at such other address as the party to be served notice may have furnished in writing to the party seeking or desiring to serve notice as a place for service of notice. Notices given in any other fashion shall be deemed effective only upon receipt.

17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns; provided, however, that Borrower may not assign this Agreement or any of their rights hereunder without the prior written consent of Sole Bondholder. Nothing contained herein shall limit or prevent Sole Bondholder from assigning any rights it may acquire hereunder to a substitute or replacement grantee designated by Sole Bondholder.

20. No Obligations of Sole Bondholder or Its Designee to Third Parties. Borrower acknowledges and agrees that the consummation of the Closing, including, without limitation, the acceptance by Sole Bondholder or its designee of title to the Property pursuant to the terms of this Agreement, shall neither create nor be deemed or construed as an assumption by either Sole Bondholder or its designee of any obligations of Borrower to third parties which have claims of any kind whatsoever against Borrower with respect to the Property, or other assets, rights and claims to be assigned to Sole Bondholder at Closing; and that neither Sole Bondholder nor its designee assumes or agrees to discharge any liabilities pertaining to the Property which accrue or are incurred prior to the Transfer Date, except to the extent expressly and specifically provided in this Agreement. This Agreement is made and entered into for the sole protection and benefit of the parties hereto and no other person, persons, entity or entities shall have any right of action hereon, right to claim any right or benefit from the terms contained herein, or be deemed a third party beneficiary hereunder.

21. Time is of Essence. Time is of the essence of this Agreement.

22. Partial Invalidity. If any term, provision, covenant or condition hereof or any application thereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, all terms, provisions, covenants and conditions hereof and all

applications thereof not held invalid, void or unenforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

23. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

[Signature page follows]


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

SOLE BONDHOLDER:

CAP V Greenbridge, LLC,
a Delaware limited liability company

By: Fidelity Cap V LLC,
a California limited liability company,
its sole member

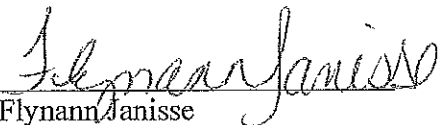
By: The Reliant Group, Inc.,
a California corporation,
Its: Managing Member

By: 
J. Caskie Collet
Chief Operating Officer

BORROWER:

Greenbridge at Buckingham, L.L.C.
a Texas limited liability company

By: Placet Development Corporation
a Texas nonprofit corporation

By: 
Flynnan Janisse
President

List of Exhibits

EXHIBIT A	Legal Description
EXHIBIT B	List of Contracts
EXHIBIT C	Special Warranty Deed
EXHIBIT D	Bill of Sale and Assignment

EXHIBIT A

Property Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF DALLAS, STATE OF TEXAS, AND IS DESCRIBED AS FOLLOWS:

TRACT 1 (Fee Simple):

Being all of GREENBRIDGE OF BUCKINGHAM, an Addition to the City of Richardson, Dallas County, Texas, according to the Map thereof recorded in Volume 2000217, Page 24, of the Map Records of Dallas County, Texas.

TRACT 2 (Non-Exclusive Easement Estate):

Those easement rights created in Easement and Maintenance Agreement executed by and between Whitehall Development Company and Greenbridge at Buckingham, L.L.C., dated 04/17/2002, filed 04/25/2002 and recorded in Volume 2002082, Page 1835, Real Property Records Dallas County, Texas, as amended by Quitclaim Deed with Easement reservation recorded under cc# 200600464312, Real Property Records Dallas County, Texas.

EXHIBIT B

List of Contracts

(See Attached)

Bristol at Buckingham – Service Contract Log 2016

Vendor Name	Name of Service	Dates of Service	Rate	Comments
ADP	Alarm System	12/21/2012 to present	364	Ongoing
Apartment Life	Cares Team	08/01/2014 to 7/31/2016	620	Ongoing
Blue Moon Software	Lease contracts	07/01/2015 to 6/30/2016	832.98	Per year
For Rent Solutions	Advertising	05/02/2016	941	Per month
Orkin Commercial Services	Pest Control	03/07/2016	1833	Per month
Otis United Technologies	Elevator Contractor	12/22/2012 to 12/21/2017	2583	Quarterly
Southwest Alarm Systems	Fire Sprinkler Systems	05/06/2003 to present	72	Quarterly
Time Warner Business Class	Bundle Service	11/07/2013	668	Phone/Cable/Internet
Zillow Rental Network	Advertising	06/26/2015	10 per lead	
Ivey Landscape	Landscape/Irrigation	03/01/2016	1410	Per Month
Salon Stylist Lease	Hair Stylist	01/01/2016	200	Rental / Residents pay the stylist directly
Coinmach	Laundry	2012-2022	0	10 year contract

EXHIBIT C

Form of Special Warranty Deed

**AFTER RECORDING
PLEASE RETURN TO:**

Arent Fox LLP
55 Second Street, 21st Floor
San Francisco, CA 94105
Attention: M.J. Pritchett, Esq.

SPECIAL WARRANTY DEED
(Deed in Lieu of Foreclosure)

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from this instrument before it is filed for record in the public records: your Social Security number or your driver's license number.

Date: _____, 2016

Grantor: Greenbridge at Buckingham, L.L.C., a Texas limited liability company

Grantor's Mailing Address: c/o Placet Development Corporation, 3120 W. Carefree Highway, Suite 1-246, Phoenix, Maricopa County, Arizona 85086 Attn: President

Grantee: CAP V Greenbridge, LLC, a Delaware limited liability company

Grantee's Mailing Address: c/o The Reliant Group, Inc., 275 Battery Street, Suite 500
San Francisco, San Francisco County, California 94111 Attn: J. Caskie Collet

Loan Agreement: Loan Agreement dated as of November 1, 2000 among Texas Department of Housing and Community Affairs ("TDHCA"), Wells Fargo Bank Texas, N.A., and Grantor

Promissory Note: Promissory Note dated as of November 1, 2000 in the original principal amount of \$19,735,000 and \$350,000 executed by Grantor in favor of TDHCA

Deed of Trust: Deed of Trust and Security Agreement (with Power of Sale) dated as of December 1, 2000, filed November 7, 2000, recorded in Volume 2000217, Page 6535, Real Property Records, Dallas County, Texas

Consideration: TEN DOLLARS (\$10.00), the receipt and sufficiency of which are hereby acknowledged, and further the release of Grantor from all liability for the indebtedness and obligations under the Loan Agreement, Promissory Note, and Deed of Trust.

Property (including any improvements): land in Dallas County, Texas, described in **Exhibit A**

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

Conveyance in Lieu of Foreclosure. This deed and the conveyances being made are executed, delivered, and accepted in lieu of foreclosure and will be interpreted and construed the same as a foreclosure of the liens and as an absolute conveyance to Grantee of all right, title, and interest in and to the Property, including specifically but without limitation any equity or rights of redemption of Grantor in or to the Property.

[Signature page follows]

EXECUTED AND DELIVERED as of JUNE 29, 2016.

GRANTOR:

Greenbridge at Buckingham, L.L.C.
a Texas limited liability company

By: Placet Development Corporation
a Texas nonprofit corporation

By: Stephanie Janisse
Flynnann Janisse
President

STATE OF ARIZONA

COUNTY OF MARICOPA

On JUNE 29, 2016, before me, STEPHANIE J FOSTER, a Notary Public, personally appeared Flynnann Janisse, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of ARIZONA that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Stephanie J Foster
Signature of the Notary Public

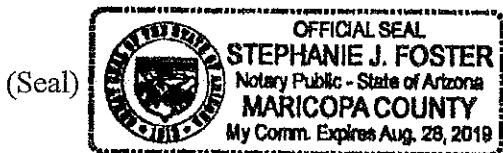


EXHIBIT A TO SPECIAL WARRANTY DEED

PROPERTY DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF DALLAS, STATE OF TEXAS, AND IS DESCRIBED AS FOLLOWS:

TRACT 1 (Fee Simple):

Being all of GREENBRIDGE OF BUCKINGHAM, an Addition to the City of Richardson, Dallas County, Texas, according to the Map thereof recorded in Volume 2000217, Page 24, of the Map Records of Dallas County, Texas.

TRACT 2 (Non-Exclusive Easement Estate):

Those easement rights created in Easement and Maintenance Agreement executed by and between Whitehall Development Company and Greenbridge at Buckingham, L.L.C., dated 04/17/2002, filed 04/25/2002 and recorded in Volume 2002082, Page 1835, Real Property Records Dallas County, Texas, as amended by Quitclaim Deed with Easement reservation recorded under cc# 200600464312, Real Property Records Dallas County, Texas.

EXHIBIT D

Form of Bill of Sale and Assignment

BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE AND ASSIGNMENT is executed as of _____, 2016, by GREENBRIDGE AT BUCKINGHAM, L.L.C., a Texas limited liability company ("Grantor"), in favor of CAP V Greenbridge, LLC, a Delaware limited liability company ("Grantee").

FOR VALUE RECEIVED, receipt of which is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey, assign, transfer, and set over unto Grantee, absolutely and not as security, the following, whether now existing or hereafter arising, acquired, or created:

(a) all furniture, fixtures, equipment, machinery, and other personal property owned by Borrower, situated on or in, or attached to and used in connection with the operation of the Property described on Exhibit A ("FF & E");

(b) all tenant leases and residency agreements relating to the Property ("Tenant Leases"), all prepaid rents relating to the period after the Transfer Date ("Prepaid Rents"), and tenant security and other tenant deposits held by Grantor ("Resident Deposits"), all as shown on the rent roll attached as Exhibit B ("Rent Roll");

(c) to the extent assignable, all rights of Grantor under maintenance agreements, service contracts, equipment leases, and similar contracts affecting the operation or maintenance of the Property ("Contracts") listed on Exhibit C;

(d) to the extent assignable, all licenses, permits, certificates of occupancy, and approvals issued by governmental or quasi-governmental bodies, benefiting the Property ("Permits");

(e) to the extent assignable, unexpired warranties, guaranties, or other agreements benefiting the Property ("Warranties");

(f) all books and records, rent rolls, resident lists, and resident applications that are in Grantor's possession and control and that pertain to the Grantor's operation and use of the Property ("Operating Records");

(g) all architectural and engineering plats, plans and specifications, and surveys of the Property, if any, as are in Grantor's possession and control ("Plans");

(h) all trade names, trademarks, logos, telephone numbers, and other personal property, tangible or intangible, owned by Grantor and situated on or in, or used in connection with the Grantor's ownership and operation of the Property ("Other Personal Property");

provided, however, that, except for Prepaid Rents and Resident Deposits, in no event shall all or any part of the Property include or refer to: (i) any of Grantor's cash in any bank account or held in hand, (ii) any cash held by the Trustee or in any third-party bank or other account for the benefit of Grantor, (iii) cash or securities in any of Grantor's escrow or impound accounts for or relating to the Property, including by way of illustrating but not limited to, any reserve for replacements for the Property, and any escrows or impound accounts for taxes, insurance, residual receipts, and/or Property maintenance, (iv) petty cash held at the Property, (v) accounts receivable, and (vi) partnership records of the Grantor.

Grantee hereby assumes all of the obligations arising under the Tenant Leases and the Contract, from and after the date of this Bill of Sale and Assignment.

GRANTEE ACKNOWLEDGES AND AGREES THAT THE ASSIGNED ITEMS ARE CONVEYED "AS IS, WHERE IS" AND IN THEIR PRESENT CONDITION WITH ALL FAULTS, AND THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE NATURE, QUALITY, OR CONDITION OF THE ASSIGNED ITEMS, THE INCOME TO BE DERIVED THEREFROM, OR THE ENFORCEABILITY, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF THE ASSIGNED ITEMS.

[Signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Bill of Sale and Assignment as of the day and year first above written.

GRANTOR:

Greenbridge at Buckingham, L.L.C.
a Texas limited liability company

By: Placet Development Corporation
a Texas nonprofit corporation

By: _____
Flynn Janisse
President

GRANTEE:

CAP V Greenbridge, LLC,
a Delaware limited liability company

By: Fidelity Cap V LLC,
a California limited liability company,
its sole member

By: The Reliant Group, Inc.,
a California corporation,
Its: Managing Member

By: 
J Caskie Collet
Chief Operating Officer

EXHIBIT A TO BILL OF SALE AND ASSIGNMENT

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF DALLAS, STATE OF TEXAS, AND IS DESCRIBED AS FOLLOWS:

TRACT 1 (Fee Simple):

Being all of GREENBRIDGE OF BUCKINGHAM, an Addition to the City of Richardson, Dallas County, Texas, according to the Map thereof recorded in Volume 2000217, Page 24, of the Map Records of Dallas County, Texas.

TRACT 2 (Non-Exclusive Easement Estate):

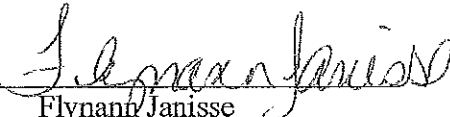
Those easement rights created in Easement and Maintenance Agreement executed by and between Whitehall Development Company and Greenbridge at Buckingham, L.L.C., dated 04/17/2002, filed 04/25/2002 and recorded in Volume 2002082, Page 1835, Real Property Records Dallas County, Texas, as amended by Quitclaim Deed with Easement reservation recorded under cc# 200600464312, Real Property Records Dallas County, Texas.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Bill of Sale and Assignment as of the day and year first above written.

GRANTOR:

Greenbridge at Buckingham, L.L.C.
a Texas limited liability company

By: Placet Development Corporation
a Texas nonprofit corporation

By: 
Flynn Janisse
President

GRANTEE:

CAP V Greenbridge, LLC,
a Delaware limited liability company

By: Fidelity Cap V LLC,
a California limited liability company,
its sole member

By: The Reliant Group, Inc.,
a California corporation,

Its: Managing Member

By: _____
J. Caskie Collet
Chief Operating Officer

BONDHOLDER DIRECTION

THIS BONDHOLDER DIRECTION (this "Direction") is provided as of this 30th day of June, 2016, by CAP V GREENBRIDGE, LLC, a Delaware limited liability company ("Bond Owner"), to WELLS FARGO BANK, N.A. (successor by consolidation to Wells Fargo Bank Texas, N.A.), a national banking association, as trustee ("Trustee").

WHEREAS, pursuant to that certain Trust Indenture dated as of November 1, 2000 (the "Indenture"), by and between Trustee and the Texas Department of Housing and Community Affairs ("Issuer"), Issuer issued its Multifamily Housing Revenue Bonds (Greenbridge at Buckingham Apartments Project), consisting of a Series 2000A Bond and a Series 2000B Bond (collectively, the "Bonds") in the aggregate original principal amount of \$20,085,000;

WHEREAS, the Series B Bonds have been retired and the current aggregate outstanding principal amount of the Series A Bonds is \$19,302,786.28 and Bond Owner is the beneficial owner of all outstanding Bonds;

WHEREAS, the proceeds of the Bonds were loaned (the "Loan") to Greenbridge at Buckingham, L.L.C., a Texas limited liability company ("Borrower"), pursuant to the provisions of that certain Loan Agreement dated as of November 1, 2000 by and between Issuer, Trustee, and Borrower (the "Loan Agreement");

WHEREAS, the Loan is secured by a First Deed of Trust and Security Agreement (with Power of Sale) dated as of November 1, 2000 executed by Borrower in favor of Trustee as beneficiary (the "First Deed of Trust") and other Loan-related obligations were secured by a Second Deed of Trust and Security Agreement (with Power of Sale) dated as of November 1, 2000 executed by Borrower in favor of Trustee as beneficiary (the "Second Deed of Trust"), which First Deed of Trust and Second Deed of Trust encumber the 242 unit apartment complex located at 535 E. Buckingham Road, Richardson, Texas and currently known as Bristol at Buckingham Apartments (the "Property");

WHEREAS, Borrower is the current owner of the Property, and is in default of its obligations under the Loan Agreement and an Event of Default therefore exists under the Indenture; and

WHEREAS, Bond Owner and Borrower have entered into that certain Agreement for Deed in Lieu of Foreclosure dated as of June 29, 2016, pursuant to which Borrower will transfer the Property (in lieu of foreclosure) to Bond Owner (the "Deed in Lieu"), as directed by Bond Owner.

NOW, THEREFORE, in accordance with its rights under Section 8.02(d) of the Indenture, Bond Owner authorizes and directs the Trustee to act, and Trustee agrees to perform, as follows:

1. **Definitions.** Terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Indenture.

2. **Bondholder Direction to Trustee.** In connection with the Deed in Lieu from Borrower to Bond Owner through escrow with First American Title Insurance Company ("Escrow Agent"), Bond Owner, as beneficial owner of all the Bonds, hereby authorizes and directs Trustee to take the following actions:

a. Trustee shall execute and deliver to the Escrow Agent Releases of Deed of Trust Lien in the form attached as Exhibit A ("Releases of Lien") releasing the Property from the lien of the First Deed of Trust and the Second Deed of Trust with instructions authorizing the Escrow Holder to record the Releases of Lien concurrently with the closing of the Deed in Lieu (the "Closing") in accordance with the Bond Owner's escrow instructions, and terminate any UCC-1 financing statements filed against the Property in connection with the Loan concurrently with the Closing of the Deed in Lieu.

b. Concurrently with the Closing the Trustee shall cancel the Bonds, which upon the Closing shall be deemed satisfied, paid in full, and retired in full.

c. Concurrently with the Closing the Trustee shall distribute to Bond Owner by wire transfer all amounts held by Trustee in the Revenue Fund or otherwise with respect to the Bonds after payment to Trustee of the Trustee's fees in the amount shown in subsection 3(ii) below.

3. **Certification and Acknowledgment of Trustee.** Trustee acknowledges and affirms that Borrower is in default of its obligations under the Loan Agreement and that an Event of Default has occurred and is continuing under the Indenture. The Trustee agrees to comply with this Direction. The Trustee further certifies and affirms that, (i) as of the date hereof, the amounts on deposit with the Trustee under the Indenture and available for distribution to the Bond Owner described in Section 2(c) hereof equal \$72,317.10, and, (ii) payment to the Trustee of the sum of \$2,000.00 will constitute payment in full of all amounts owing the Trustee under the Indenture. The Trustee acknowledges and affirms that, concurrently with the Closing of the Deed in Lieu there will remain no additional collateral under the Indenture. The Trustee further acknowledges and confirms that upon delivery of all outstanding Bonds to the Trustee by Bond Owner, the Trustee will cancel and retire the Bonds in full and no Bonds shall thereafter remain outstanding.

4. **Indemnification.** In order to induce the Trustee to follow the instructions provided in this Direction, and in accordance with subsection 8.02(d) of the Indenture, Bond Owner hereby indemnifies and holds harmless the Trustee from and against any liability, including costs incurred in defending itself against any and all charges, claims, complaints, allegations, assertions, or demands of any nature whatsoever arising out of or in connection with the acceptance and implementation of this Direction, except liability which is adjudicated to be a result of the Trustee's negligence or willful misconduct in connection with any such action.

5. **Term.** This Direction shall be effective from the date of its execution and delivery, and shall remain effective until modified, supplemented, or cancelled by Bond Owner in writing in its sole and absolute discretion, and such modification, supplement, or cancellation is acknowledged and accepted by the Trustee.

6. **Counterparts.** This Direction and the acknowledgments hereto may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument.

[signature pages follow]


Executed and delivered as of the date first above written.

BENEFICIAL OWNER OF THE BONDS:

CAP V GREENBRIDGE, LLC,
a Delaware limited liability company

By: Fidelity CAP V, LLC,
a California limited liability company,
its Sole Member

By: The Reliant Group, Inc.,
a California corporation,
its Managing Member

By: 
J. Caskie Collet
Chief Operating Officer

Accepted, acknowledged, and affirmed:

TRUSTEE:

WELLS FARGO BANK, N.A. (successor
by consolidation to Wells Fargo Bank
Texas, N.A.), a national banking association


By: 
Name: Andrea R. Scott
Title: Assistant Vice President

Exhibit A

Form of Release of Deed of Trust Lien

RECORDING REQUESTED BY:

First American Title Insurance Company
National Commercial Services

AND WHEN RECORDED MAIL

CAP V Greenbridge, LLC.
c/o THE RELIANT GROUP INC.
275 Battery Street, Suite 500
San Francisco, CA 94111
Attn: Caskie Collet

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

Release of Deed of Trust Lien

WHEREAS, on December 1, 2000, but effective December 6, 2000, Greenbridge at Buckingham, L.L.C., a Texas Limited liability company, as Grantor, executed and delivered a First Deed of Trust and Security Agreement (with Power of Sale) ("Deed of Trust"), conveying to Gerald W. Mitchell, as Trustee for the benefit of Wells Fargo Bank Texas, N.A., as beneficiary ("Lienholder"), certain real property ("Property") situated in Dallas County, Texas, as particularly described therein, which Deed of Trust is recorded in Volume 2000217, Page 6535 of the Deed of Trust Records of Dallas County, Texas; and

WHEREAS, Lienholder has agreed to release the Property from the lien of the Deed of Trust.

NOW THEREFORE, for and in consideration of ten dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lienholder, as the current legal owner and holder of the Deed of Trust does hereby release, quitclaim, and forever discharge all the right, title, and interest of Lienholder in and to the Property described in the Deed of Trust.

[signature page follows]

IN WITNESS WHEREOF, this Release of Lien has been executed as of the ____ day of _____, 2016

LIENHOLDER:

Wells Fargo Bank, N.A. (successor by consolidation to Wells Fargo Bank Texas, N.A.), as Bond Trustee

By: _____
Authorized Signer

STATE OF _____

COUNTY OF _____

On _____, 2016, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of the Notary Public

(Seal)

5a

BOARD ACTION REQUEST

BOND FINANCE DIVISION

MAY 21, 2020

Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Notes (Scott Street Lofts Apartments) Resolution No. 20-019 and a Determination Notice of Housing Tax Credits

RECOMMENDED ACTION

WHEREAS, the Board adopted an inducement resolution for Scott Street Lofts at the Board meeting of September 5, 2019;

WHEREAS, a 4% Housing Tax Credit application for the Scott Street Lofts, sponsored by Scott Street Lofts Advisors, LLC, which includes Mark-Dana Corporation, Cavender Development, LLC, and Urban Partnerships CDC comprising the general partner, was submitted to the Department on December 13, 2019;

WHEREAS, a Certification of Reservation (Reservation) was issued in the amount of \$18,000,000 on May 7, 2020, with a bond delivery deadline of November 3, 2020;

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated as a Category 2 and deemed acceptable by the Executive Award and Review Advisory Committee (EARAC); and

WHEREAS, EARAC recommends the issuance of Multifamily Housing Revenue Notes for Scott Street Lofts and the issuance of a Determination Notice;

NOW, therefore, it is hereby

RESOLVED, that the issuance of Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 in an amount not to exceed \$18,000,000, Resolution No. 20-019 is hereby approved in the form presented to this meeting;

FURTHER RESOLVED, the issuance of a Determination Notice of \$711,964 in 4% Housing Tax Credits for Scott Street Lofts, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website, is hereby approved in the form presented to this meeting; and

FURTHER RESOLVED, that if approved, staff is 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

General Information: The Notes will be issued in accordance with Tex. Gov't Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds, including notes, for its public purposes, as defined therein. Tex. Gov't Code §2306.472 provides that the Department's revenue bonds are solely obligations of the Department, and do not create an obligation, debt or liability of the State of Texas or a pledge or loan of faith, credit or taxing power of the State of Texas.

Development Information: Scott Street Lofts is the proposed new construction of 123 units to serve the elderly population (elderly limitation) at 1320 Scott Street in Houston, Harris County. The Reservation was issued under the Priority 3 designation, which does not have a prescribed restriction on the percentage of Area Median Family Income (AMFI) that must be served. This application proposes to implement the Income Averaging set-aside where 10 of the units will be rent and income restricted at 30% of AMFI, 20 of the units will be rent and income restricted at 50% of AMFI, 45 of the units will be rent and income restricted at 60% of AMFI, 23 of the units will be rent and income restricted at 80% of AMFI, and the remaining 25 units will be market rate with no rent or income restrictions.

At the time of pre-application, the applicant disclosed that there is a neighborhood risk factor associated with Scott Street Lofts. Specifically, the development site is located within 1,000 feet 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. Evidence was submitted with the pre-application that complied with the mitigation required under the rule. Specifically, staff believed the low poverty rate, first quartile median income and new construction in the area provided sufficient evidence that the neighborhood risk factor was not of a nature or severity that should render the proposed development site ineligible. The Board affirmed staff's recommendation at the time the inducement resolution was approved.

Organizational Structure and Previous Participation: The Borrower is Scott Street Lofts, LP and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and the previous participation was deemed acceptable by EARAC.

Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing/Public Comment: A public hearing for the proposed development was conducted by staff on February 20, 2020, and there were no attendees. A copy of the hearing transcript is included herein. The Department received a letter of support from Robert Gallegos, Houston Council Member for District I.

Summary of Financial Structure

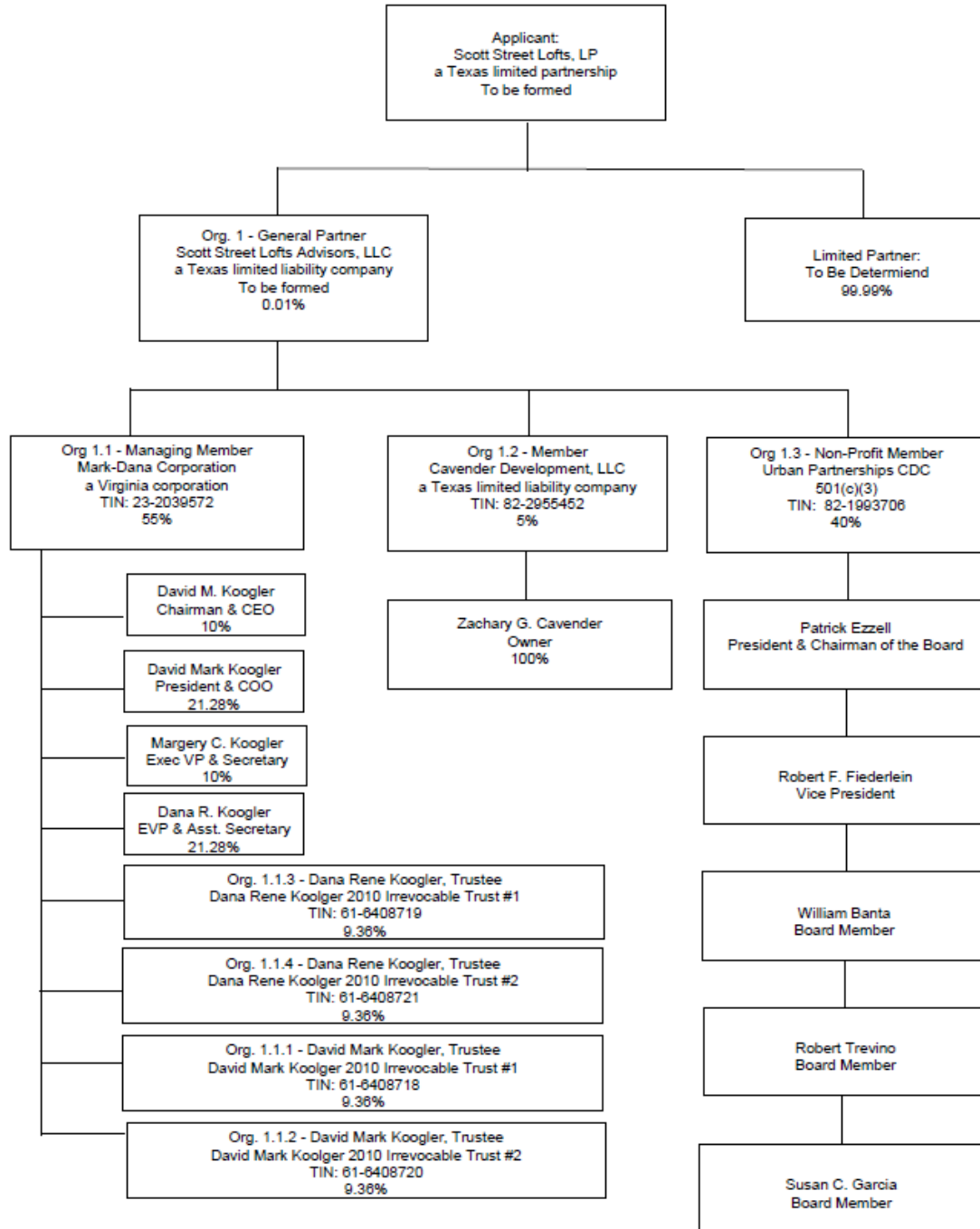
The Department will issue tax-exempt fixed rate multifamily notes in an amount not to exceed \$18,000,000 that will be initially publicly offered. Amegy Bank will provide a taxable loan to fund the construction phase of the project. The construction loan will carry an interest rate equal to the 30-day LIBOR plus 2.25%. As bond proceeds are drawn and spent on project costs, equal deposits from the construction loan will be made to the collateral fund to keep the account balanced such that the notes are cash collateralized during construction.

Freddie Mac, through JLL Capital Markets (JLL), will purchase the Notes upon conversion to the permanent phase; the proceeds from this purchase will be used to pay the purchase price of the notes tendered on the conversion date. JLL will continue to act as the servicer of the loan for Freddie Mac, who will serve as the permanent lender and bondholder. The purchase of the Notes by Freddie Mac will be exercised through a mandatory tender provision contemplated in the bond documents, and will effectively convert to a Tax-Exempt Loan under the Freddie Mac platform. This will most likely result in a reissuance under state law. As such, the substantially final Note documents being approved today include the form of documents required at the time of conversion, and those associated with a reissuance which, if it occurs, will require Board approval.

The interest rate on the Notes will be variable during the construction phase and fixed prior to closing for the permanent phase, at a rate of approximately 2.50%. The Notes will have a maximum final maturity date of July 1, 2041. The City of Houston Housing and Community Development Department is expected to award the project a construction and permanent loan in the form of CDBG Disaster Recovery Funds in the amount of \$15,730,788.

A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 20-019 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

Exhibit A



RESOLUTION NO. 20-019

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE NOTES (SCOTT STREET LOFTS) SERIES 2020; APPROVING THE FORM AND SUBSTANCE AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS PERTAINING THERETO; AUTHORIZING AND RATIFYING OTHER ACTIONS AND DOCUMENTS; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Board has determined to authorize the issuance of its Multifamily Housing Revenue Notes (Scott Street Lofts) Series 2020 (the "Notes") pursuant to and in accordance with the terms of a Trust Indenture (the "Indenture") between the Department and Wilmington Trust, National Association, as trustee (the "Trustee"), for the purpose of providing funds in connection with the financing of the "affordable units" portion of the Development (defined below), all under and in accordance with the Constitution and laws of the State; and

WHEREAS, the Department desires to use the proceeds of the Notes to fund a mortgage loan to Scott Street Lofts, LP, a Texas limited partnership (the "Borrower"), in connection with the acquisition, construction and equipping of a qualified residential rental development for seniors described in Exhibit A attached hereto (the "Development") located within the State

and required by the Act to be occupied by individuals and families of low and very low income and families of moderate income, as determined by the Department; and

WHEREAS, the Board, by resolution adopted on September 5, 2019, declared its intent to issue its revenue bonds or notes to provide financing for the Development; and

WHEREAS, the Borrower has requested and received a reservation of private activity bond allocation from the State of Texas; and;

WHEREAS, it is anticipated that the Department and the Borrower will execute and deliver a Loan Agreement (the "Loan Agreement") pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Notes (the "Loan") to the Borrower to enable the Borrower to finance the acquisition, construction and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a multifamily note (the "Borrower Note") in an original principal amount equal to the original aggregate principal amount of the Notes, and providing for payment of interest on such principal amount equal to the interest on the Notes and to pay other costs described in the Loan Agreement; and

WHEREAS, it is anticipated that the obligations of the Borrower under the Loan Agreement will be secured by a Subordinate Multifamily Deed of Trust, Security Agreement and Fixture Filing (the "Subordinate Mortgage") from the Borrower for the benefit of the Department and the Trustee; and

WHEREAS, the Department's rights (except for certain unassigned rights) under the Indenture, the Borrower Note and the Subordinate Mortgage will be assigned to the Trustee pursuant to an Assignment of Security Instrument (the "Assignment") from the Department to the Trustee; and

WHEREAS, with respect to the Notes, the Board has determined that the Department, the Trustee, and the Borrower will execute a Regulatory and Land Use Restriction Agreement (the "Regulatory Agreement") with respect to the Development, which will be filed of record in the real property records of Harris County, Texas; and

WHEREAS, in order to assure compliance with Section 103 and 141 through 150 of the Code, the Board has determined that the Department, the Trustee and the Borrower will execute a Tax Exemption Certificate and Agreement (the "Tax Exemption Agreement"), in connection with the Notes, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Notes as exempt from gross income for federal income tax purposes; and

WHEREAS, the Borrower will obtain a loan (the "Lender Loan") from Zions Bancorporation, N.A. doing business as Amegy Bank, as lender (the "Lender"), and the Lender will deposit the proceeds of such loan with the Trustee, to be held by the Trustee as security for the Notes in accordance with the Indenture; and

WHEREAS, the Board has determined that the Department and the Lender will enter into a Subordination Agreement (the "Subordination Agreement"), joined by the Trustee, to subordinate the Loan to the Lender Loan; and

WHEREAS, the Board has determined that the Department, the Trustee, the Lender, the City of Houston, Texas (the "City") and the Borrower will enter into a Declaration of Subordination of Senior Lender (the "Declaration"), setting forth, among other things, the priority of the Regulatory Agreement; and

WHEREAS, the Board has been presented with a draft of, has considered and desires to ratify, approve, confirm and authorize the use and distribution in the public offering of the Notes of an official statement (the "Official Statement") and to authorize the Authorized Representatives (as defined herein) to deem the Official Statement "final" for purposes of Rule 15c2-12 of the Securities and Exchange Commission and to approve the making of such changes in the Official Statement as may be required to provide a final official statement for use in the public offering and sale of the Notes; and

WHEREAS, the Board has further determined that the Department will enter into a Note Purchase Agreement (the "Purchase Agreement") with RBC Capital Markets, LLC (the "Underwriter") and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase the Notes from the Department and the Department will sell the Notes to the Underwriter; and

WHEREAS, if the Conditions to Conversion are satisfied on or before the Outside Forward Commitment Maturity Date, Conversion will occur on the Conversion Date and, on such Conversion Date, (i) the Notes shall be removed from the Book-Entry System and converted to a physical Governmental Note (in the form attached to the Funding Loan Agreement), (ii) the Funding Loan Agreement and the Project Loan Agreement attached to the Indenture as exhibits shall be delivered by the respective parties and become effective and shall amend and restate the Indenture and the Loan Agreement, respectively, in their entirety, and (iii) the Borrower will execute and deliver an Amended and Restated Project Note (the "Amended Project Note"); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Indenture; and

WHEREAS, the Board has examined proposed forms of (a) the Indenture (including the forms of Funding Loan Agreement and Project Loan Agreement attached as exhibits thereto), the Loan Agreement, the Assignment, the Regulatory Agreement, the Tax Exemption Agreement, the Subordination Agreement, the Official Statement and the Purchase Agreement (collectively, the "Issuer Documents"), all of which are attached to and comprise a part of this Resolution and (b) the Subordinate Mortgage, the Borrower Note and the Amended Project Note; has found the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined, subject to the conditions set forth in Article 1, to authorize the issuance of the Notes, the execution and

delivery of the Issuer Documents, the acceptance of the Subordinate Mortgage and the Borrower Note and the taking of such other actions as may be necessary or convenient in connection therewith;

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

ARTICLE 1

ISSUANCE OF NOTES; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Notes. That the issuance of the Notes is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, and Chapter 1371, Texas Government Code, all under and in accordance with the conditions set forth herein and in the Indenture, and that, upon execution and delivery of the Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to execute, attest and affix the Department's seal to the Notes and to deliver the Notes to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to deliver the Notes to or upon the order of the Underwriter.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That the Chair or Vice Chair of the Board or the Executive Director of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, to fix and determine the interest rate, principal amount and maturity of, the redemption and tender provisions related to, and the price at which the Department will sell to the Underwriter or another party to the Purchase Agreement, the Notes, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative (as defined below) of the Department of the Indenture and the Purchase Agreement; provided, however, that (i) the Notes shall bear interest at the initial interest rate set forth in the Purchase Agreement in accordance with the provisions of the Indenture; provided that in no event shall the interest rate on the Notes (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Notes shall not exceed 2.5%; (ii) the aggregate principal amount of the Notes shall not exceed \$18,000,000; (iii) the final maturity of the Notes shall occur not later than July 1, 2041; and (iv) the price at which the Notes are sold to the initial purchaser thereof under the Purchase Agreement shall not exceed 100% of the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Indenture. That the form and substance of the Indenture are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Indenture, and to deliver the Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Loan Agreement. That the form and substance of the Loan Agreement are hereby approved, and that the Authorized

Representatives each are hereby authorized to execute the Loan Agreement, and to deliver the Loan Agreement to the Borrower.

Section 1.5 Approval, Execution and Delivery of the Regulatory Agreement. That the form and substance of the Regulatory Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute, attest and affix the Department's seal to the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower and the Trustee and to cause the Regulatory Agreement to be filed of record in the real property records of Harris County, Texas.

Section 1.6 Approval, Execution and Delivery of the Tax Exemption Agreement. That the form and substance of the Tax Exemption Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Tax Exemption Agreement, and to deliver the Tax Exemption Agreement to the Borrower and the Trustee.

Section 1.7 Approval, Execution and Delivery of the Purchase Agreement. That the sale of the Notes to the Underwriter and/or any other parties pursuant to the Purchase Agreement is hereby approved, that the form and substance of the Purchase Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Purchase Agreement and to deliver the Purchase Agreement to the Borrower, the Underwriter, and/or any other parties to the Purchase Agreement, as appropriate.

Section 1.8 Approval, Execution and Delivery of the Subordination Agreement. That the form and substance of the Subordination Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Subordination Agreement, and to deliver the Subordination Agreement to the Lender and the Trustee

Section 1.9 Approval, Execution and Delivery of the Declaration. That the form and substance of the Declaration are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Declaration and to deliver the Declaration to the Lender, the Trustee, the City and the Borrower.

Section 1.10 Acceptance of the Borrower Note, the Amended Project Note and the Subordinate Mortgage. That the form and substance of the Borrower Note, the Amended Project Note and the Subordinate Mortgage are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Borrower Note without recourse.

Section 1.11 Approval, Execution and Delivery of the Assignment. That the form and substance of the Assignment are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assignment, and to deliver the Assignment to the Trustee.

Section 1.12 Approval, Execution, Use and Distribution of the Official Statement. That the form and substance of the Official Statement and its use and distribution by the

Underwriter in accordance with the terms, conditions and limitations contained therein are hereby approved, ratified, confirmed and authorized; that the Authorized Representatives are hereby severally authorized to deem the Official Statement “final” for purposes of Rule 15c2-12 under the Securities and Exchange Act of 1934; that the Authorized Representatives named in this Resolution each are authorized hereby to make or approve such changes in the Official Statement as may be required to provide a final Official Statement for the Notes; that the Authorized Representatives named in this Resolution each are authorized hereby to accept the Official Statement, as required; and that the use and distribution of the Official Statement by the Underwriter hereby is authorized and approved, subject to the terms, conditions and limitations contained therein, and further subject to such amendments or additions thereto as may be required by the Purchase Agreement and as may be approved by the Executive Director of the Department and the Department’s counsel.

Section 1.13 Conversion, Execution and Delivery of Governmental Note. The conversion of the Notes to the Governmental Note is hereby authorized, according to the conditions set forth in the Indenture and in the Funding Loan Agreement, and upon execution and delivery of the Funding Loan Agreement, the Authorized Representatives each are hereby authorized to execute, attest and affix the Department’s seal to the Governmental Note and to deliver the Governmental Note as provided in the Funding Loan Agreement.

Section 1.14 Approval, Execution and Delivery of the Funding Loan Agreement. The form and substance of the Funding Loan Agreement, as attached to the Indenture as an exhibit, are hereby approved, and if the Conditions to Conversion are satisfied, the Authorized Representatives each are hereby authorized to execute the Funding Loan Agreement and to deliver the Funding Loan Agreement to the Initial Funding Lender and Fiscal Agent (each as defined in the Funding Loan Agreement).

Section 1.15 Approval, Execution and Delivery of the Project Loan Agreement. The form and substance of the Project Loan Agreement, as attached to the Indenture as an exhibit, are hereby approved, and if the Conditions to Conversion are satisfied, the Authorized Representatives each are hereby authorized to execute the Project Loan Agreement and to deliver the Project Loan Agreement to the Fiscal Agent (as defined in the Funding Loan Agreement) and the Borrower.

Section 1.16 Taking of Any Action; Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to take any actions and to execute, attest and affix the Department’s seal to, and to deliver to the appropriate parties, all such other agreements, commitments, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, written requests and other papers, whether or not mentioned herein, as they or any of them consider to be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.17 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to

make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, and in the opinion of Bracewell LLP, Bond Counsel to the Department (“Bond Counsel”), may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.18 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

- Exhibit B - Indenture
- Exhibit C - Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Borrower Note
- Exhibit F - Amended Project Note
- Exhibit G - Subordinate Mortgage
- Exhibit H - Assignment
- Exhibit I - Purchase Agreement
- Exhibit J - Official Statement
- Exhibit K - Subordination Agreement
- Exhibit L - Tax Exemption Agreement
- Exhibit M - Declaration

Section 1.19 Authorized Representatives. That the following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department’s seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Financial Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds 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

APPROVAL AND RATIFICATION OF CERTAIN ACTIONS

Section 2.1 Approval and Ratification of Application to Texas Bond Review Board. That the Board hereby ratifies and approves the submission of the application for approval of state bonds to the Texas Bond Review Board on behalf of the Department in connection with the issuance of the Notes in accordance with Chapter 1231, Texas Government Code.

Section 2.2 Approval of Submission to the Attorney General. That the Board hereby authorizes, and approves the submission by Bond Counsel to the Attorney General, for his approval, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Notes.

Section 2.3 Certification of the Minutes and Records. That the Secretary or Assistant Secretary to the Board hereby is authorized to certify and authenticate minutes and other records on behalf of the Department for the Notes and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agency. That the action of the Executive Director of the Department or any successor and the Department's consultants in seeking a rating from Moody's Investors Services, Inc., and its successors and assigns, is approved, ratified and confirmed hereby.

Section 2.5 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Notes and the fees and revenues to be received in connection with the financing of the Development in accordance with the Indenture and the Tax Exemption Agreement and to enter into any agreements relating thereto only to the extent permitted by the Indenture and the Tax Exemption Agreement.

Section 2.6 Underwriter. That the underwriter with respect to the issuance of the Notes will be RBC Capital Markets, LLC, or any other party identified in the Purchase Agreement.

Section 2.7 Engagement of Other Professionals. That the Executive Director of the Department or any successor is authorized to engage auditors to perform such functions, audits, yield calculations and subsequent investigations as necessary or appropriate to comply with the Purchase Agreement and the requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.8 Ratifying Other Actions. That all other actions taken by the Executive Director of the Department and the Department staff in connection with the issuance of the Notes and the financing of the Development are hereby ratified and confirmed.

ARTICLE 3

CERTAIN FINDINGS AND DETERMINATIONS

Section 3.1 Findings of the Board. That in accordance with Section 2306.223 of the Act and after the Department's consideration of the information with respect to the Development and the information with respect to the proposed financing of the Development, including but not limited to the information submitted by the Borrower, independent studies commissioned by the Department, recommendations of the Department staff and such other information as it deems relevant, the Board hereby finds:

(a) Need for Housing Development.

(i) that the Development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford,

(ii) that the financing of the Development is a public purpose and will provide a public benefit, and

(iii) that the Development will be undertaken within the authority granted by the Act to the housing finance division and the Borrower.

(b) Findings with Respect to the Borrower.

(i) that the Borrower, by operating the Development in accordance with the requirements of the Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income,

(ii) that the Borrower is financially responsible, and

(iii) that the Borrower is not, and will not enter into a contract for the Development with, a housing developer that (A) is on the Department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development; (B) breached a contract with a public agency; or (C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the Department.

(c) Public Purpose and Benefits.

(i) that the Borrower has agreed to operate the Development in accordance with the Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, which require, among other things, that the "affordable unit" portion of the Development be occupied by individuals and families of low and very low income and families of moderate income, and

(ii) that the issuance of the Notes in connection with the financing of the Development is undertaken within the authority conferred by the Act and will accomplish a valid public purpose and will provide a public benefit by assisting individuals and families of low and very low income and families of moderate income in the State to obtain decent, safe, and sanitary housing by financing costs of the Development, thereby helping to maintain a fully adequate supply of sanitary and safe dwelling accommodations at rents that such individuals and families can afford.

Section 3.2 Determination of Eligible Tenants. That the Board has determined, to the extent permitted by law and after consideration of such evidence and factors as it deems relevant, the findings of the staff of the Department, the laws applicable to the Department and the provisions of the Act, that eligible tenants for the Development shall be (1) individuals and families of low and very low income, (2) persons with special needs, and (3) families of moderate income, with the income limits as set forth in the Tax Exemption Agreement and the Regulatory Agreement.

Section 3.3 Sufficiency of Loan Interest Rate. That, in accordance with Section 2306.226 of the Act, the Board hereby finds and determines that the interest rate on the Loan established pursuant to the Loan Agreement will produce the amounts required, together with other available funds, to pay for the Department's costs of operation with respect to the Notes and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Notes.

Section 3.4 No Gain Allowed. That, in accordance with Section 2306.498 of the Act, no member of the Board or employee of the Department may purchase the Notes in the secondary open market for municipal securities.

ARTICLE 4

GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Notes and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Indenture, including the revenues and funds of the Department pledged under the Indenture to secure payment of the Notes, and under no circumstances shall the Notes be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Notes shall not be and does not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State. Each Note shall contain on its face a statement to the effect that the State is not obligated to pay the principal thereof or interest thereon and that neither the faith or credit nor the taxing power of the State is pledged, given or loaned to such payment.

Section 4.3 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

Section 4.4 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with Section 2306.032 of the Texas Government Code, and the March 16, 2020 action by the Governor of the State of Texas under Section 418.016, Texas Government Code, suspending certain provisions of the Texas Open Meetings Act regarding meetings of the Governing Board.

PASSED AND APPROVED this 21st day of May, 2020.

EXHIBIT A

Description of Development

Borrower: Scott Street Lofts, LP, a Texas limited partnership

Development: The Development is an approximately 123-unit multifamily community for seniors (consisting of 98 affordable units and 25 market rate units as noted below) to be known as Scott Street Lofts and to be located at 1320 Scott Street, Houston, Texas 77003. It consists of three (3) residential apartment buildings with approximately 106,848 net rentable square feet. The unit mix will consist of:

63	one-bedroom/one-bath units
60	two-bedroom/two-bath units
123	Total Units

NOTE – The 123 total units are comprised of:

- 98 affordable units (48 1B/1BA and 50 2B/2BA); and
- 25 market rate units (15 1B/1BA and 10 2B/2BA).

Unit sizes will range from approximately 716 square feet to approximately 1,029 square feet.

20603 Scott Street Lofts - Application Summary

REAL ESTATE ANALYSIS DIVISION
May 14, 2020

PROPERTY IDENTIFICATION	
Application #	20603
Development	Scott Street Lofts
City / County	Houston / Harris
Region/Area	6 / Urban
Population	Elderly Limitation
Set-Aside	General
Activity	New Construction

RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (4% Credit)	\$741,693	\$711,964	\$5,788/Unit	\$0.95		
Private Activity Bonds	\$18,000,000	3.29%	40	17	1	

KEY PRINCIPAL / SPONSOR		
Mark-Dana Corporation David Koogler (President) Cavender Development Zach Cavender (Owner)		
Related Parties	Contractor - No	Seller - No

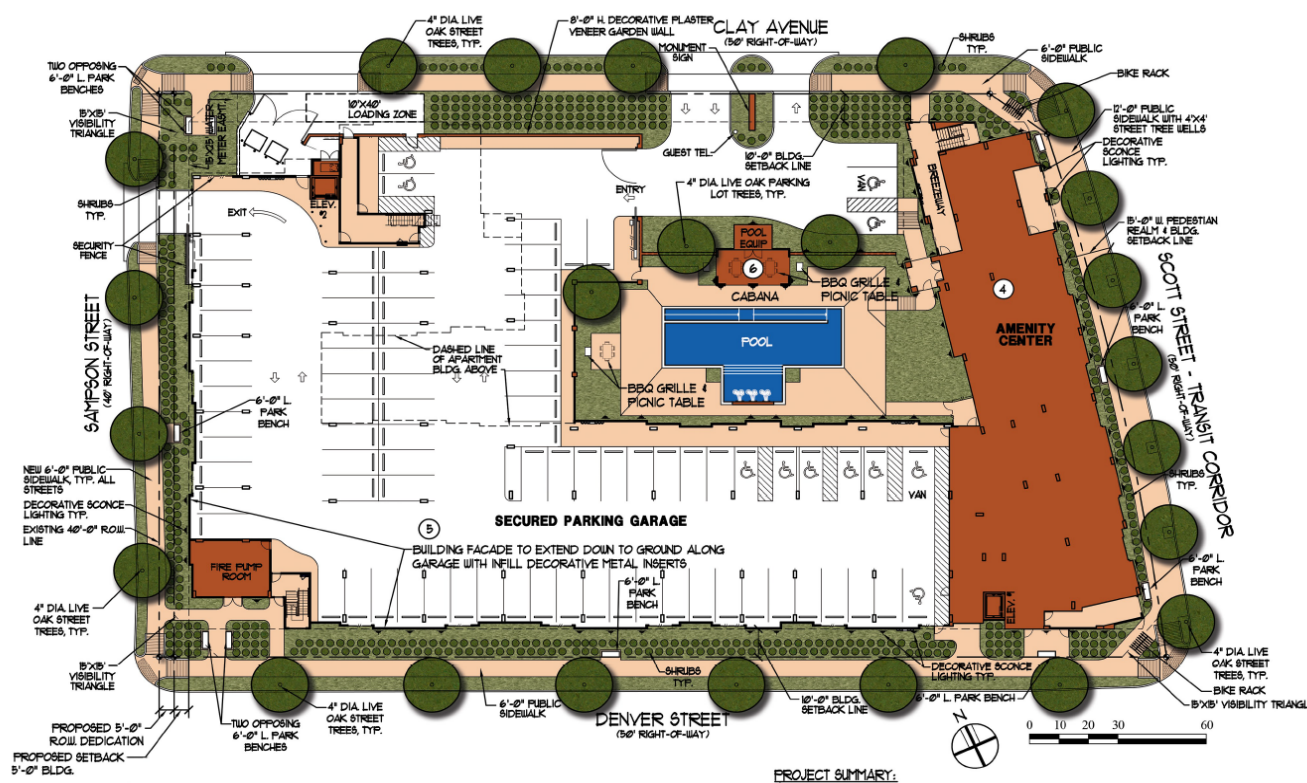
TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME Averaging		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	10	8%
1	63	51%	40%	-	0%
2	60	49%	50%	20	16%
3	-	0%	60%	45	37%
4	-	0%	80%	23	19%
5	-	0%	MR	25	20%
TOTAL	123	100%	TOTAL	98	100%

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.21	Expense Ratio	49.1%
Breakeven Occ.	84.2%	Breakeven Rent	\$824
Average Rent	\$907	B/E Rent Margin	\$83
Property Taxes	\$1,260/unit	Exemption/PILOT	0%
Total Expense	\$5,047/unit	Controllable	\$2,342/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)		2.4%	
Highest Unit Capture Rate	11%	1 BR/60%	22
Dominant Unit Cap. Rate	9%	2 BR/60%	23
Premiums (↑60% Rents)	Yes	\$543/Avg.	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	869 SF	Density	83.1/acre
Acquisition	\$29K/unit	\$3,626K	
Building Cost	\$155.65/SF	\$135K/unit	\$16,631K
Hard Cost	\$157K/unit		\$19,275K
Total Cost	\$277K/unit		\$34,038K
Developer Fee	\$3,790K	(0% Deferred)	Paid Year: 1
Contractor Fee	\$2,688K	30% Boost	No

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
Freddie Mac / JLL	17/40	3.29%	\$11,507,869	1.21						RBC Capital Markets	\$6,798,577	
										Mark-Dana Corporation	\$940	
										TOTAL EQUITY SOURCES	\$6,799,517	
										TOTAL DEBT SOURCES	\$27,238,657	
TOTAL DEBT (Must Pay)			\$11,507,869		CASH FLOW DEBT / GRANTS			\$15,730,788		TOTAL CAPITALIZATION		\$34,038,174

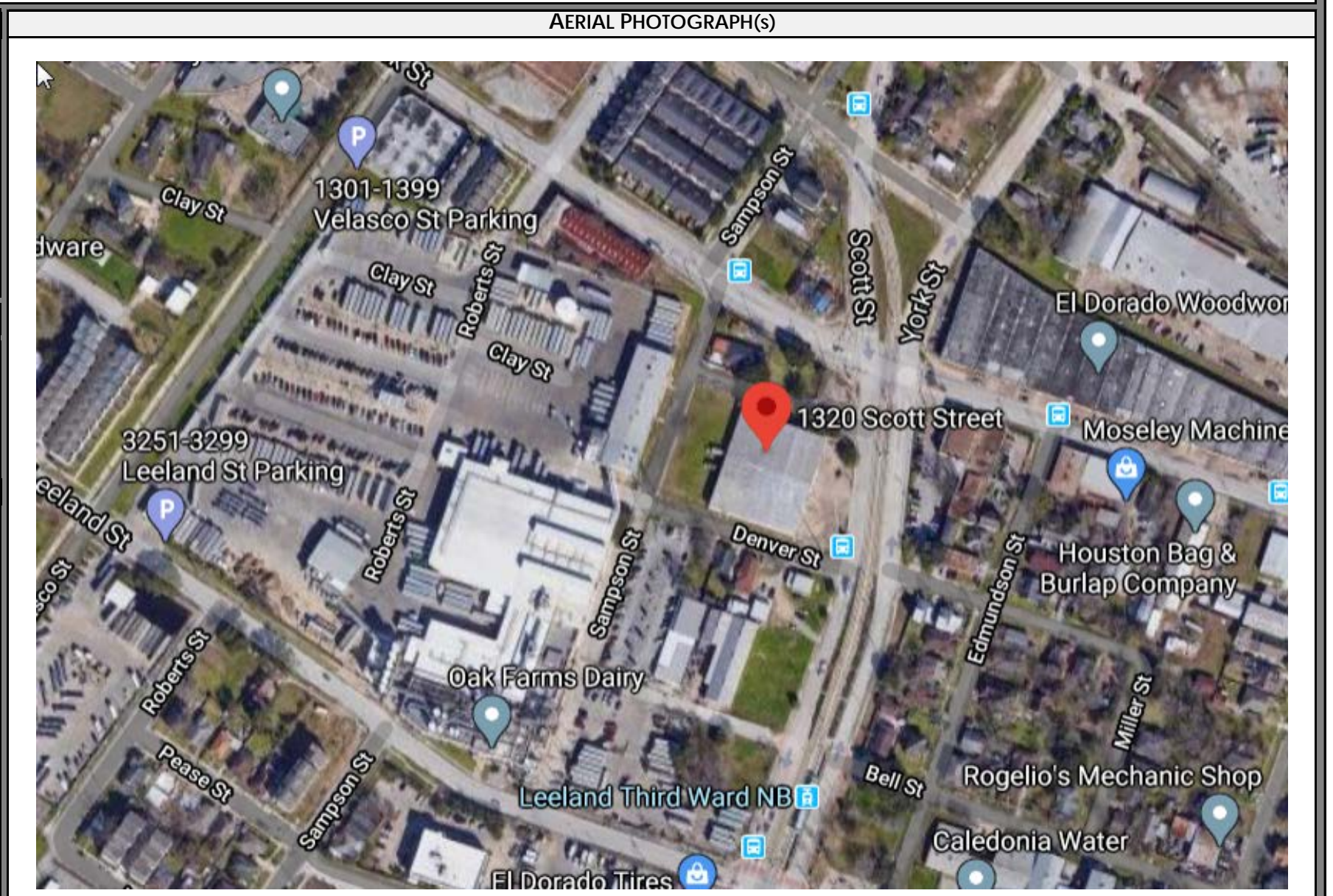
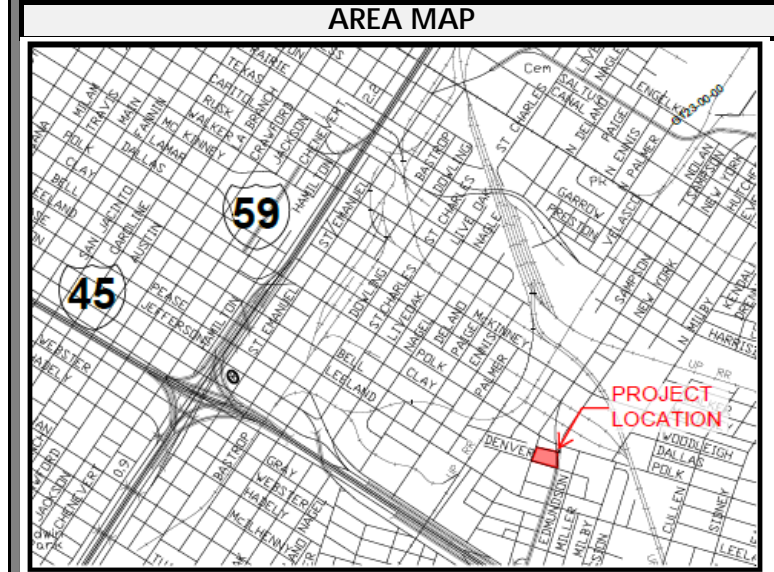
CONDITIONS

- 1 Receipt and acceptance before Determination Notice:
 - a: Formal approval of the \$15,730,788 CDBG award by the City of Houston.
 - b: Term sheet stating all terms and conditions reflecting the award of the CDBG funds from the City of Houston to a conduit entity that will in turn loan the funds to the Applicant.
 - c: Term sheet stating all terms and conditions reflecting a non-forgivable loan of the CDBG funds from the conduit entity to the Applicant.
- 2 Receipt and acceptance by Cost Certification:
 - a: Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, certification that any appropriate abatement
 - b: 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.

BOND RESERVATION / ISSUER	
Issuer	TDHCA
Expiration Date	11/3/2020
Bond Amount	\$18,000,000
BRB Priority	Priority 3
Bond Structure	Freddie Mac Forward Commitment Tax Exempt Loan
% Financed with Tax-Exempt Bonds	62.4%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Transit Oriented Development
▫	Experienced Developer
WEAKNESSES/RISKS	
▫	Less than one parking space per unit





DEVELOPMENT IDENTIFICATION

TDHCA Application #: 20603 Program(s): TDHCA Bonds/4% HTC

Scott Street Lofts

Address/Location: 1320 Scott Street

City: Houston County: Harris Zip: 77003

Population: Elderly Limitation Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Elevator Served Region: 6

Analysis Purpose: New Application - Initial Underwriting

ALLOCATION

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
Private Activity Bonds	\$18,000,000	4.50%	35	35	\$18,000,000	3.29%	40	17	1
LIHTC (4% Credit)	\$711,964				\$711,964				

CONDITIONS

- 1 Receipt and acceptance before Determination Notice:
 - a: Formal approval of the \$15,730,788 CDBG award by the City of Houston.
 - b: Term sheet stating all terms and conditions reflecting the award of the CDBG funds from the City of Houston to a conduit entity that will in turn loan the funds to the Applicant.
 - c: Term sheet stating all terms and conditions reflecting a non-forgivable loan of the CDBG funds from the conduit entity to the Applicant.
- 2 Receipt and acceptance by Cost Certification:
 - a: Certification that testing for asbestos and lead-based paint was performed on the existing structures prior to demolition, and if necessary, certification that any appropriate abatement procedures were implemented.
 - b: 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
30% of AMI	30% of AMI	10
50% of AMI	50% of AMI	20
60% of AMI	60% of AMI	45
80% of AMI	80% of AMI	23

DEVELOPMENT SUMMARY

Scott Street Lofts is a proposed new construction affordable housing development containing 123 total units for seniors in Houston, Texas. This community will be comprised of a five story, elevator served, wheelchair accessible building containing a clubhouse, and amenities tailored to the needs of the residents.

The sources of funding include \$15.7M of CDBG-DR funding from the City of Houston.

RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Transit Oriented Development
▫	Experienced Developer

WEAKNESSES/RISKS	
▫	Less than one parking space per unit
▫	

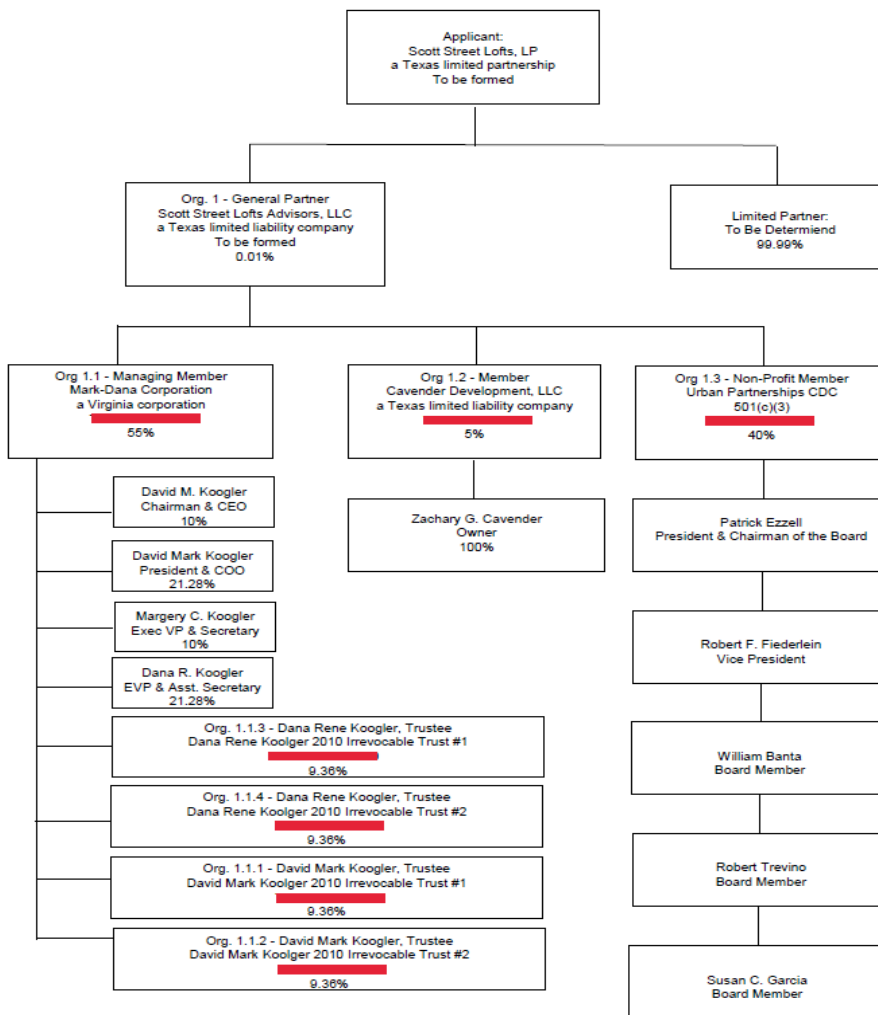
DEVELOPMENT TEAM

PRIMARY CONTACTS

Name: David Mark Koogler
 Phone: (281) 292-1958
 Relationship: Developer

Name: Zach Cavender
 Phone: (281) 292-1968
 Relationship: Developer

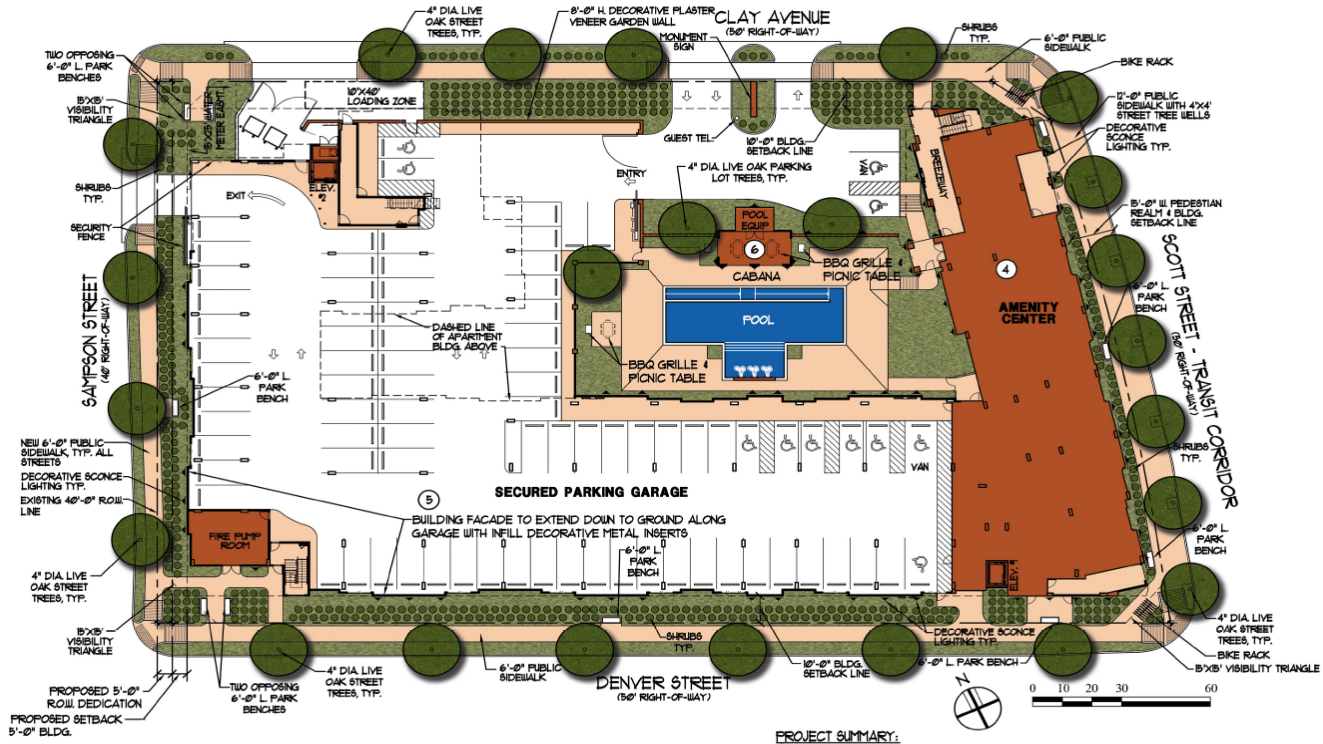
OWNERSHIP STRUCTURE



- Mark-Dana Corporation - Website: <http://www.mark-dana.info> - A full service real estate company that develops, builds and manages multi-family housing in Texas and Virginia. Mark-Dana Corp has 8 previous TDHCA rental developments in its portfolio, the most recent being Fulton Lofts (TDHCA# 18333).

DEVELOPMENT SUMMARY

SITE PLAN



PROJECT SUMMARY:

The ground floor will house the leasing/amenity center, as well as a parking garage, with four stories of apartments above. Scott Street Lofts is within walking distance of a light rail station and is a transit oriented development. The site is subject to Houston's Market-Based Parking Ordinance which imposes no minimum parking requirement. Total parking provided equals 0.8 spaces per unit.

Parking	No Fee		Tenant-Paid		Total	
Open Surface	31	0.3/unit	0	--	31	0.3/unit
Carport	0	--	0	--	0	--
Garage	65	0.5/unit	0	--	65	0.5/unit
Total Parking	96	0.8/unit	0	--	96	0.8/unit

BUILDING ELEVATION



Comments:

Four stories of multifamily residential supported by a first level podium parking garage. Elevator-served. 9-ft ceilings. Attractive flat-roof design with significant exterior articulation. Plaster veneer and fiber cement siding.

MARKET ANALYSIS

Provider: Apartment MarketData, LLC

Date: 4/9/2019

Contact: Darrell G. Jack

Phone: 210-530-0040

Primary Market Area (PMA): 23 sq. miles 3 mile equivalent radius

PMA consists of 22 census tracts in central Houston. Primary roads include Hwy 45 (Gulf Coast Frwy), Hwy 69, Harrisburg Blvd., Navigation Blvd. and Clinton Dr.

ELIGIBLE HOUSEHOLDS BY INCOME								
Harris County Income Limits								
HH Size		1	2	3	4	5	6	7+
30% AMGI	Min	\$10,632	\$10,632	\$12,768	\$12,768	---	---	---
	Max	\$16,560	\$18,930	\$21,300	\$23,640	---	---	---
50% AMGI	Min	\$17,736	\$17,736	\$21,288	\$21,288	---	---	---
	Max	\$27,600	\$31,550	\$35,500	\$39,400	---	---	---
60% AMGI	Min	\$21,288	\$21,288	\$25,560	\$25,560	---	---	---
	Max	\$33,120	\$37,860	\$42,600	\$47,280	---	---	---
80% AMGI	Min	\$28,392	\$28,392	\$34,080	\$34,080	---	---	---
	Max	\$44,160	\$50,480	\$56,800	\$63,040	---	---	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
18306	Campanille on Commerce	Yes	New	Elderly	105	120
Other Affordable Developments in PMA since 2015						
17417	Fenix Estates		New	Supportive	n/a	200
17188	EaDo Lofts		New	General	n/a	80
16405	New Hope Housing at Harrisburg		New	Supportive	n/a	175
Stabilized Affordable Developments in PMA (pre-2015)					Total Units	1,120
					Total Developments	8

Proposed, Under Construction, and Unstabilized Competitive Supply:

Campanille on Commerce (#18306) is an elderly project currently under construction and has 105 competitive units.

2222 Cleburne (#18243) is an elderly project in lease up just south of the PMA. If we include its 112 competitive units, the GCR is 3.7%.

OVERALL DEMAND ANALYSIS				
	Market Analyst		Underwriter	
	HTC	Assisted	HTC	Assisted
Total Households in the Primary Market Area	32,607		32,667	
Senior Households in the Primary Market Area	12,702		12,761	
Potential Demand from the Primary Market Area	7,854		7,734	
10% External Demand	785		773	
Potential Demand from Other Sources	0		0	
GROSS DEMAND	8,639		8,507	
Subject Affordable Units	98		98	
Unstabilized Competitive Units	105		105	
RELEVANT SUPPLY	203		203	
Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE	2.3%		2.4%	

Population:	Limitation	Market Area:	Urban	Maximum Gross Capture Rate:	10%
-------------	------------	--------------	-------	-----------------------------	-----

UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND										
AMGI Band	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate
30% AMGI	1,773	177	10	11	1.1%	1,953	195	10	11	1.0%
50% AMGI	1,830	183	20	42	3.1%	1,355	135	20	42	4.2%
60% AMGI	2,732	273	45	52	3.2%	2,063	206	45	52	4.3%
80% AMGI	1,519	152	23	0	1.4%	2,362	236	23	0	0.9%

Demand Analysis:

Minimum eligible income is calculated at 50% rent to income for Elderly developments. Gross demand includes all household sizes and both renter and owner households. Elderly is assumed age 55 and up. The capture rates only reflect the demand for the 98 affordable units at the Subject property and do not include any of the 25 market units in the analysis. All Capture rates are under the maximum thresholds.

UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE										
Unit Type	Market Analyst					Underwriter				
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate
1 BR/30%	948	95	5	7	1.2%	944	94	5	7	1.2%
1 BR/50%	467	47	10	26	7.0%	679	68	10	26	4.8%
1 BR/60%	970	97	22	30	4.9%	438	44	22	30	10.8%
1 BR/80%	628	63	11	0	1.6%	891	89	11	0	1.1%
2 BR/30%	784	78	5	4	1.0%	742	74	5	4	1.1%
2 BR/50%	248	25	10	16	9.5%	583	58	10	16	4.1%
2 BR/60%	1,117	112	23	22	3.7%	476	48	23	22	8.6%
2 BR/80%	808	81	12	0	1.4%	1,133	113	12	0	1.0%

Market Analyst Comments:

The level of "affordable" rent being charged is 25% to 80% lower than the adjusted rents charged at market rate comparables within the PMA. (p 16)

The overall occupancy reported in the market is 98.6%. (p. 11)

Underwriter Comments:

Affordable properties still monitored in the PMA average 99% occupancy.

Revisions to Market Study:	0
----------------------------	---

OPERATING PRO FORMA

SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)					
NOI:	\$642,416	Avg. Rent:	\$907	Expense Ratio:	49.1%
Debt Service:	\$529,221	B/E Rent:	\$824	Controllable Expenses:	\$2,342
Net Cash Flow:	\$113,195	UW Occupancy:	92.5%	Property Taxes/Unit:	\$1,260
Aggregate DCR:	1.21	B/E Occupancy:	84.2%	Program Rent Year:	2020

Applicant will select the Income Averaging Set-Aside. Ninety-eight units (of 123 total) are underwritten at maximum 2020 HTC Program Rents at 30%, 50%, 60%, and 80% of AMI.

The remaining 25 units are unrestricted, and projected to receive rent premiums of \$167 (one-bedroom) and \$271 (two-bedroom) over the 80% AMI units. If the market units only receive the 80% rent, debt coverage drops to 1.11, but the development could remain feasible with a reduction in permamnet debt and an increase in deferred developer fee.

Applicant's total annual operating expenses are \$5.47 per unit. Applicant's expenses and NOI are within 5% of the Underwriter's estimates, so feasibility is determined by the Applicant's pro forma.

Feasibility indicators are strong with 49% expense-to-income ratio and 1.21 times debt coverage. Average rent is \$83 above break-even. Underwritten at 9 units vacant; break-even occurs with 19 vacant.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule:	2	Revisions to Annual Operating Expenses:	2
-----------------------------	---	---	---

DEVELOPMENT COST EVALUATION

SUMMARY- AS UNDERWRITTEN (Applicant's Costs)					
Acquisition	\$2,431,611/ac	\$29,476/unit	\$3,625,500	Contractor Fee	\$2,687,799
Off-site + Site Work		\$13,443/unit	\$1,653,449	Soft Cost + Financing	\$4,320,687
Building Cost	\$155.65/sf	\$135,211/unit	\$16,630,897	Developer Fee	\$3,790,000
Contingency	5.42%	\$8,055/unit	\$990,704	Reserves	\$339,138
Total Development Cost	\$276,733/unit	\$34,038,174	Rehabilitation Cost	N/A	
Qualified for 30% Basis Boost?	Not Qualified				

Acquisition:

Acquisition cost is \$29,268 per unit. This is relatively high compared to overall tax credit developments, but it is consistent with similar central business district sites.

Site Work:

Site Work includes connection to existing water, sewer, and utility lines, and an underground detention system that will outfall to an existing storm sewer system. Site Work cost is \$10K per unit. \$3K per unit Site Amenities include landscaping and pool and decking.

Building Cost:

The Developer has completed two similar projects in the area, 17188 EaDo Lofts and 18333 Fulton lofts. Both previous developments consisted of three levels of multifamily residential above a first level podium parking garage. The proposed development will have four levels of residential above a first floor podium.

The construction contract for Fulton Lofts, the most recent development, indicates the vertical cost for the podium structure and the residential units was \$110K per unit. The Applicant's proposed \$135K per unit vertical cost for the subject represents a 22% increase from the previous project.

The Applicant's proposed cost was updated at the end of April based on real estimates for all major trades from subcontractors. The Applicant indicates confidence in the proposed costs and cites a number of factors contributing to the higher cost estimate for Scott Street Lofts.

Scott Street will be a five-story structure (podium plus four levels residential). The need to support an additional residential level significantly increases the structural requirements for the podium as well as the lightweight concrete for the upper floors. Air Conditioning units will be placed on the roof, which is more expensive than the ground placement for the previous development.

Scott Street Lofts is also subject to a number of additional labor costs associated with the CDBG funding received from the City of Houston. The five-story structure is subject to Davis Bacon commercial labor requirements which are significantly higher than for residential construction.

The City also requires solar-ready and green building design which increases cost.

Considering the increased structural and labor requirements, and the passage of more than a year, the proposed cost relative to the reported construct cost for Fulton Lofts seems reasonable.

The Underwriter's estimate for analysis purposes assumes a minimum 14% increase to the reported building cost for Fulton lofts.

Contingency:

The Applicant's budget includes 5.4% contingency as compared to the 7% allowed by rule. An additional \$3.8M of developer fee is available to be deferred to address any increase in cost.

Reserves:

Capitalized reserves are approximately 3.5 months of operating expenses and debt service.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$34,038,174	\$29,014,313	\$772,111

Related-Party Contractor: Yes

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule:	2
---	---

UNDERWRITTEN CAPITALIZATION

BOND RESERVATION

Issuer	Amount	Reservation Date	Priority
TDHCA	\$18,000,000	5/7/2020	Priority 3
Closing Deadline		Bond Structure	
11/3/2020		Freddie Mac Forward Commitment Tax Exempt Loan	

Percent of Cost Financed by Tax-Exempt Bonds	62.4%
---	--------------

Comments:

The project will be financed with \$18,000,000 in tax-exempt bonds issued by TDHCA. The bonds will convert to a permanent Freddie Mac Tax Exempt Loan.

INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
Amegy Bank	Construction Loan	\$17,840,000	3.25%	54%
RBC Capital Markets	HTC	\$1,019,786	\$0.95	3%
City of Houston	CDBG	\$14,157,709	0.00%	43%

\$33,017,495	Total Sources
---------------------	----------------------

PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Freddie Mac / JLL	\$11,507,869	3.29%	40	17	\$11,507,869	3.29%	40	17	34%
City of Houston	\$15,730,788	1.00%	35	40	\$15,730,788	1.00%	35	40	46%
Total	\$27,238,657				\$27,238,657				

Comments:

The capital structure includes \$15,800,000 of federally sourced CDBG funds from the City of Houston. The loan will have a 42-year maturity and 1.00% interest-only payments subject to cash flow, with the principal forgiven at maturity. At the time of application the CDBG funding was recommended for approval.

If the funding is received as a federal grant the amount would need to be excluded from tax credit eligible basis. To avoid treatment as a federal grant, there must be a conduit entity that receives the funds from Houston. That funding can be a forgivable loan/grant. But that conduit entity must then provide the funding to the HTC partnership in the form of a non-forgivable loan. There must be the intent of the partnership to repay the loan to the intermediary lender, and sufficient cash flow to repay it.

The Applicant's cost schedule includes \$29M of tax-credit eligible out of \$34M of total cost. \$5M of the CDBG funds can be applied to the cost not being paid for with housing tax credits. That leaves approximately \$10.7M of CDBG funds that must be determined to be valid debt to avoid impact to the credit basis.

The long-term pro forma based on 2% income growth and 3% expense growth indicates \$10M of cumulative cash flow through year 42, \$700K short of the amount needed to repay the CDBG. But the standard underwriting pro forma is essentially a stress test intended to determine short-term feasibility in worst-case conditions. It is unlikely that expenses would outpace income by a 3/2 margin for 30 or 40 years. Significant research on multi-family developments indicates that over the long term growth in NOI averages about 1.5%. At a 1.5% steady growth rate, the subject would generate sufficient cash flow to repay the \$10.7M in 35 years.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
RBC Capital Markets	\$6,798,573	\$0.95		\$6,798,577	\$0.95	20%	
Mark-Dana Corporation	\$944		0%	\$940		0%	0%
Total	\$6,799,517			\$6,799,517			
				\$34,038,174	Total Sources		

Credit Price Sensitivity based on current capital structure	
\$0.955	Maximum Credit Price before the Development is oversourced and allocation is limited
\$0.609	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule: 3

CONCLUSIONS

Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	\$34,038,174
Permanent Sources (debt + non-HTC equity)	\$27,238,657
Gap in Permanent Financing	\$6,799,517

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$7,372,923	\$772,111
Needed to Balance Sources & Uses	\$6,799,517	\$712,062
Requested by Applicant	\$6,798,577	\$711,964

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$6,798,577	\$711,964

	Amount	Interest Rate	Amort	Term	Lien
TDHCA-Issued Bonds	\$18,000,000	3.29%	40	17	1

Deferred Developer Fee	\$940	(% deferred)
Repayable in	1 years	

Comments:

The recommended allocation is \$711,964 in annual tax credits as requested by the Applicant.

Manager of Real Estate Analysis: Thomas Cavanagh

Director of Real Estate Analysis: Brent Stewart

UNIT MIX/RENT SCHEDULE

Scott Street Lofts, Houston, TDHCA Bonds/4% HTC #20603

LOCATION DATA	
CITY:	Houston
COUNTY:	Harris
Area Median Income	\$76,300
PROGRAM REGION:	6

UNIT DISTRIBUTION					60% Average Income		
# Beds	# Units	% Total	Assisted	MDL	Income	# Units	% Total
Eff	-	0.0%	0	0	20%	-	0.0%
1	63	51.2%	0	0	30%	10	8.1%
2	60	48.8%	0	0	40%	-	0.0%
3	-	0.0%	0	0	50%	20	16.3%
4	-	0.0%	0	0	60%	45	36.6%
5	-	0.0%	0	0	70%	-	0.0%
					80%	23	18.7%
					MR	25	20.3%
TOTAL	123	100.0%	-	-	TOTAL	123	100.0%

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	100%
Applicable Fraction	79.67%
APP % Acquisition	3.34%
APP % Construction	3.34%
Average Unit Size	869 sf

UNIT MIX / MONTHLY RENT SCHEDULE																			
HTC		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
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 30%	\$443	5	1	1	716	\$443	\$147	\$296	\$0	\$0.41	\$296	\$1,480	\$1,480	\$296	\$0.41	\$0	\$1,200	\$1.68	\$1,331
TC 50%	\$739	10	1	1	716	\$739	\$147	\$592	\$0	\$0.83	\$592	\$5,920	\$5,920	\$592	\$0.83	\$0	\$1,200	\$1.68	\$1,331
TC 60%	\$887	22	1	1	716	\$887	\$147	\$740	\$0	\$1.03	\$740	\$16,280	\$16,280	\$740	\$1.03	\$0	\$1,200	\$1.68	\$1,331
TC 80%	\$1,183	11	1	1	716	\$1,183	\$147	\$1,036	\$0	\$1.45	\$1,036	\$11,396	\$11,396	\$1,036	\$1.45	\$0	\$1,200	\$1.68	\$1,331
MR		15	1	1	716	\$0	\$147		NA	\$1.68	\$1,200	\$18,000	\$18,000	\$1,200	\$1.68	NA	\$1,200	\$1.68	\$1,331
TC 30%	\$532	5	2	2	1,029	\$532	\$191	\$341	\$0	\$0.33	\$341	\$1,705	\$1,705	\$341	\$0.33	\$0	\$1,500	\$1.46	\$1,654
TC 50%	\$887	10	2	2	1,029	\$887	\$191	\$696	\$0	\$0.68	\$696	\$6,960	\$6,960	\$696	\$0.68	\$0	\$1,500	\$1.46	\$1,654
TC 60%	\$1,065	23	2	2	1,029	\$1,065	\$191	\$874	\$0	\$0.85	\$874	\$20,102	\$20,102	\$874	\$0.85	\$0	\$1,500	\$1.46	\$1,654
TC 80%	\$1,420	12	2	2	1,029	\$1,420	\$191	\$1,229	\$0	\$1.19	\$1,229	\$14,748	\$14,748	\$1,229	\$1.19	\$0	\$1,500	\$1.46	\$1,654
MR		10	2	2	1,029	\$0	\$191		NA	\$1.46	\$1,500	\$15,000	\$15,000	\$1,500	\$1.46	NA	\$1,500	\$1.46	\$1,654
TOTALS/AVERAGES:		123			106,848				\$0	\$1.04	\$907	\$111,591	\$111,591	\$907	\$1.04	\$0	\$1,346	\$1.55	\$1,489

ANNUAL POTENTIAL GROSS RENT:		\$1,339,092	\$1,339,092
-------------------------------------	--	--------------------	--------------------

STABILIZED PRO FORMA

Scott Street Lofts, Houston, TDHCA Bonds/4% HTC #20603

STABILIZED FIRST YEAR PRO FORMA												
COMPARABLES			APPLICANT				TDHCA				VARIANCE	
Database	Developer Comps		% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
POTENTIAL GROSS RENT				\$1.04	\$907	\$1,339,092	\$1,339,092	\$907	\$1.04		0.0%	\$0
App fees, laundry, late fees					\$18.00	\$26,568						
0					\$0.00	\$0						
0					\$0.00	\$0						
Total Secondary Income					\$18.00	\$26,568		\$18.00			0.0%	\$0
POTENTIAL GROSS INCOME						\$1,365,660	\$1,365,660				0.0%	\$0
Vacancy & Collection Loss					7.5% PGI	(102,425)	(102,425)	7.5% PGI			0.0%	-
Rental Concessions						-	-				0.0%	-
EFFECTIVE GROSS INCOME						\$1,263,236	\$1,263,236				0.0%	\$0

General & Administrative	\$47,332	\$385/Unit	\$ 49,727	\$404	2.86%	\$0.34	\$294	\$36,132	\$49,727	\$404	\$0.47	3.94%	-27.3%	(13,595)
Management	\$50,069	4.4% EGI	\$55,447	\$451	4.99%	\$0.59	\$512	\$63,035	\$63,162	\$514	\$0.59	5.00%	-0.2%	(127)
Payroll & Payroll Tax	\$158,982	\$1,293/Unit	\$146,283	\$1,189	11.21%	\$1.33	\$1,152	\$141,642	\$141,642	\$1,152	\$1.33	11.21%	0.0%	-
Repairs & Maintenance	\$90,709	\$737/Unit	\$88,476	\$719	4.59%	\$0.54	\$472	\$58,018	\$73,800	\$600	\$0.69	5.84%	-21.4%	(15,782)
Electric/Gas	\$23,358	\$190/Unit	\$21,049	\$171	1.70%	\$0.20	\$175	\$21,525	\$21,049	\$171	\$0.20	1.67%	2.3%	476
Water, Sewer, & Trash	\$79,706	\$648/Unit	\$36,025	\$293	2.43%	\$0.29	\$250	\$30,749	\$36,025	\$293	\$0.34	2.85%	-14.6%	(5,276)
Property Insurance	\$46,139	\$0.43 /sf	\$37,062	\$301	5.19%	\$0.61	\$533	\$65,559	\$65,559	\$533	\$0.61	5.19%	0.0%	-
Property Tax (@ 100%) 2.4216	\$92,475	\$752/Unit	\$108,997	\$886	12.27%	\$1.45	\$1,260	\$155,000	\$148,768	\$1,209	\$1.39	11.78%	4.2%	6,232
Reserve for Replacements				\$0	2.92%	\$0.35	\$300	\$36,900	\$36,900	\$300	\$0.35	2.92%	0.0%	-
Cable TV				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Supportive Services				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.31%	\$0.04	\$32	\$3,920	\$3,920	\$32	\$0.04	0.31%	0.0%	-
TDHCA Direct Loan Compliance Fees				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Bond Compliance Fee				\$0	0.19%	\$0.02	\$20	\$2,450	\$2,450	\$20	\$0.02	0.19%	0.0%	-
Bond Trustee Fees				\$0	0.32%	\$0.04	\$33	\$4,000	\$4,000	\$33	\$0.04	0.32%	0.0%	-
Security				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
HCDD Compliance Fees				\$0	0.15%	\$0.02	\$15	\$1,890	\$1,890	\$15	\$0.02	0.15%	0.0%	-
describe				\$0	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TOTAL EXPENSES					49.15%	\$5.81	\$5,047	\$ 620,820	\$648,892	\$5,276	\$6.07	51.37%	-4.3%	\$ (28,072)
NET OPERATING INCOME ("NOI")					50.85%	\$6.01	\$5,223	\$642,416	\$614,344	\$4,995	\$5.75	48.63%	4.6%	\$ 28,072

CONTROLLABLE EXPENSES		\$2,342/Unit		\$2,620/Unit
-----------------------	--	--------------	--	--------------

CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS

Scott Street Lofts, Houston, TDHCA Bonds/4% HTC #20603

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	Principal	Term	Amort	Rate	Pmt	Cumulative	
		UW	App											DCR	LTC
Freddie Mac / JLL	0.10%	1.19	1.24	517,730	3.29%	40	17	\$11,507,869	\$11,507,869	17	40	3.29%	\$529,221	1.21	33.8%
CASH FLOW DEBT / GRANTS															
City of Houston		1.19	1.24		1.00%	35	40	\$15,730,788	\$15,730,788	40	35	1.00%		1.21	46.2%
				\$517,730	TOTAL DEBT / GRANT SOURCES			\$27,238,657	\$27,238,657	TOTAL DEBT SERVICE			\$529,221	1.21	80.0%
NET CASH FLOW		\$96,614	\$124,686					APPLICANT	NET OPERATING INCOME		\$642,416	\$113,195	NET CASH FLOW		

EQUITY SOURCES													
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
												RBC Capital Markets	LIHTC Equity
Mark-Dana Corporation	Deferred Developer Fees	0.0%	(0% Deferred)		\$944	\$940	(0% Deferred)		0.0%	Total Developer Fee: \$3,790,000			
Additional (Excess) Funds Req'd		0.0%			\$0				0.0%				
TOTAL EQUITY SOURCES		20.0%			\$6,799,517	\$6,799,517			20.0%				
TOTAL CAPITALIZATION						\$34,038,174	\$34,038,174					15-Yr Cash Flow after Deferred Fee:	\$2,459,328

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		Total Costs	Total Costs	%	\$			
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition							
Land Acquisition			\$29,268 / Unit	\$3,600,000	\$3,600,000	\$29,268 / Unit			0.0%	\$0			
Building Acquisition	\$0		\$ / Unit	\$0	\$0	\$ / Unit		\$0	0.0%	\$0			
			\$25,500	\$25,500						\$0			
Off-Sites			\$ / Unit	\$0	\$0	\$ / Unit			0.0%	\$0			
Site Work	\$1,240,921		\$10,479 / Unit	\$1,288,921	\$1,288,921	\$10,479 / Unit	\$1,240,921		0.0%	\$0			
Site Amenities	\$364,528		\$2,964 / Unit	\$364,528	\$364,528	\$2,964 / Unit	\$364,528		0.0%	\$0			
Building Cost	\$16,630,897	\$155.65 /sf	\$135,211/Unit	\$16,630,897	\$15,513,114	\$126,123/Unit	\$145.19 /sf	\$15,513,114	7.2%	\$1,117,783			
Contingency	\$990,704	5.43%	5.42%	\$990,704	\$990,704	5.77%	5.79%	\$990,704	0.0%	\$0			
Contractor Fees	\$2,681,079	13.94%	13.94%	\$2,687,799	\$2,542,017	14.00%	14.00%	\$2,535,297	5.7%	\$145,782			
Soft Costs	0	\$1,484,743	\$12,071 / Unit	\$1,484,743	\$1,484,743	\$12,071 / Unit		\$1,484,743	0.0%	\$0			
Financing	0	\$1,841,441	\$23,056 / Unit	\$2,835,944	\$2,835,944	\$23,056 / Unit		\$1,841,441	0.0%	\$0			
Developer Fee	\$0	\$3,780,000	14.98%	\$3,790,000	\$3,602,812	15.00%	15.00%	\$3,595,612	5.2%	\$187,188			
Reserves			4 Months	\$339,138	\$339,138	3 Months			0.0%	\$0			
TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)		\$0	\$29,014,313	\$276,733 / Unit	\$34,038,174	\$32,587,421	\$264,938 / Unit	\$27,566,360	\$0	4.5%	\$1,450,753		
Acquisition Cost	\$0			\$0									
Contingency		\$0		\$0									
Contractor's Fee		\$0		\$0									
Financing Cost		\$0		\$0									
Developer Fee	\$0	\$0		\$0				\$0					
Reserves				\$0				\$0					
ADJUSTED BASIS / COST		\$0	\$29,014,313	\$276,733/unit	\$34,038,174	\$32,587,421	\$264,938/unit	\$27,566,360	\$0	4.5%	\$1,450,753		
TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):						\$34,038,174							

CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS
Scott Street Lofts, Houston, TDHCA Bonds/4% HTC #20603

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
ADJUSTED BASIS	\$0	\$29,014,313	\$0	\$27,566,360
Deduction of Federal Grants	\$0	\$0	\$0	\$0
TOTAL ELIGIBLE BASIS	\$0	\$29,014,313	\$0	\$27,566,360
High Cost Area Adjustment		100%		100%
TOTAL ADJUSTED BASIS	\$0	\$29,014,313	\$0	\$27,566,360
Applicable Fraction	79.67%	79.67%	79.67%	79.67%
TOTAL QUALIFIED BASIS	\$0	\$23,117,095	\$0	\$21,963,441
Applicable Percentage	3.34%	3.34%	3.34%	3.34%
ANNUAL CREDIT ON BASIS	\$0	\$772,111	\$0	\$733,579
CREDITS ON QUALIFIED BASIS	\$772,111		\$733,579	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.9549	Variance to Request	
			Credit Allocation	Credits	Proceeds
Eligible Basis	\$772,111	\$7,372,923	----	----	----
Needed to Fill Gap	\$712,062	\$6,799,517	----	----	----
Applicant Request	\$711,964	\$6,798,577	\$711,964	\$0	\$0

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$18,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
Aggregate Basis Limit for 50% Test	\$36,000,000				
	Applicant	TDHCA			
Land Cost	\$3,600,000	\$3,600,000	amount aggregate basis can increase before 50% test fails	\$7,158,967	\$8,422,532
Depreciable Bldg Cost	\$25,241,033	\$23,977,468		24.8%	30.5%
Aggregate Basis for 50% Test	\$28,841,033	\$27,577,468			

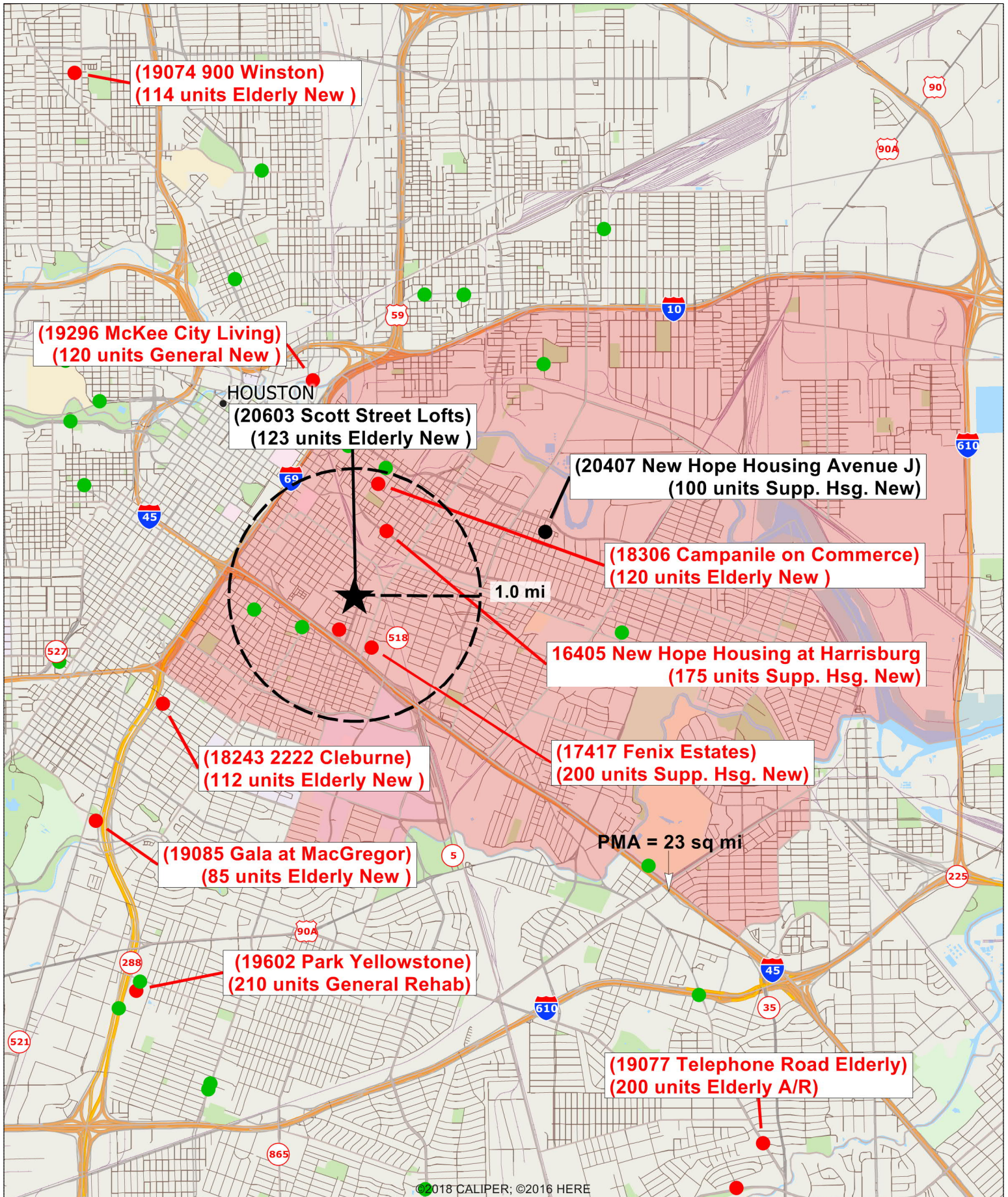
BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Elevator Served	106,848 SF	\$92.69	9,903,664
Adjustments				
Exterior Wall Finish	3.60%		3.34	\$356,532
Elderly	3.00%		2.78	297,110
9-Ft. Ceilings	3.45%		3.20	341,676
Roof Adjustment(s)			0.00	0
Subfloor			0.20	21,370
Floor Cover			2.56	273,531
Breezeways	\$29.74	24,977	6.95	742,816
Balconies	\$29.21	9,204	2.52	268,841
Plumbing Fixtures	\$1,070	180	1.80	192,600
Rough-ins	\$525	246	1.21	129,150
Built-In Appliances	\$1,780	123	2.05	218,940
Exterior Stairs	\$2,280	12	0.26	27,360
Heating/Cooling			2.21	236,134
Storage Space	\$29.74	0	0.00	0
Carports		0	0.00	0
Garages		0	0.00	0
Common/Support Area	\$82.35	7,561	5.83	622,620
Elevators	\$119,700	2	2.24	239,400
Other:			0.00	0
Fire Sprinklers	\$2.59	139,386	3.38	361,010
SUBTOTAL			133.21	14,232,754
Current Cost Multiplier	0.99		(1.33)	(142,328)
Local Multiplier	0.87		(17.32)	(1,850,258)
Reserved				0
TOTAL BUILDING COSTS			114.56	\$12,240,169
Plans, specs, survey, bldg permits	3.30%		(3.78)	(\$403,926)
Contractor's OH & Profit	11.50%		(13.17)	(1,407,619)
NET BUILDING COSTS		\$84,786/unit	\$97.60/sf	\$10,428,624

Long-Term Pro Forma

Scott Street Lofts, Houston, TDHCA Bonds/4% HTC #20603

	Growth Rate	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30	Year 35	Year 40
EFFECTIVE GROSS INCOME	2.00%	\$1,263,236	\$1,288,500	\$1,314,270	\$1,340,556	\$1,367,367	\$1,509,683	\$1,666,812	\$1,840,296	\$2,031,835	\$2,243,310	\$2,476,796	\$2,734,582
TOTAL EXPENSES	3.00%	\$620,820	\$638,814	\$657,336	\$676,400	\$696,023	\$803,116	\$926,873	\$1,069,909	\$1,235,250	\$1,426,397	\$1,647,407	\$1,902,975
NET OPERATING INCOME ("NOI")		\$642,416	\$649,686	\$656,934	\$664,156	\$671,344	\$706,568	\$739,939	\$770,386	\$796,585	\$816,913	\$829,389	\$831,608
EXPENSE/INCOME RATIO		49.1%	49.6%	50.0%	50.5%	50.9%	53.2%	55.6%	58.1%	60.8%	63.6%	66.5%	69.6%
MUST -PAY DEBT SERVICE													
TOTAL DEBT SERVICE		\$529,221	\$529,079	\$528,934	\$528,783	\$528,627	\$527,766	\$526,751	\$525,556	\$524,146	\$522,486	\$520,528	\$518,221
DEBT COVERAGE RATIO		1.21	1.23	1.24	1.26	1.27	1.34	1.40	1.47	1.52	1.56	1.59	1.60
ANNUAL CASH FLOW													
		\$113,195	\$120,606	\$128,001	\$135,373	\$142,717	\$178,802	\$213,188	\$244,830	\$272,439	\$294,427	\$308,860	\$313,386
Deferred Developer Fee Balance		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CUMULATIVE NET CASH FLOW		\$112,254	\$232,861	\$360,862	\$496,235	\$638,952	\$1,461,289	\$2,459,328	\$3,621,531	\$4,930,415	\$6,361,181	\$7,880,075	\$9,442,447

20603 Scott Street Lofts PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

TEFRA HEARING

SCOTT STREET LOFTS

Smith Neighborhood Library
3624 Scott Street
Houston, Texas

Thursday,
February 20, 2020
6:05 p.m.

BEFORE:

TERESA MORALES, Hearing Officer

ON THE RECORD REPORTING
(512) 450-0342

P R O C E E D I N G S

1
2 MS. MORALES: My name is Teresa Morales. I
3 would like to proceed with the public hearing. Let the
4 record show that it is 6:05 p.m., Thursday, February 20,
5 2020, and we are at the Smith Neighborhood Library,
6 located at 3524 Scott Street, Houston, Texas 77004.

7 I'm here to conduct a public hearing on behalf
8 of the Texas Department of Housing and Community Affairs
9 with respect to an issue of tax-exempt multifamily revenue
10 bonds for a residential community.

11 This hearing is required by the Internal
12 Revenue Code. The sole purpose of this hearing is to
13 provide a reasonable opportunity for interested
14 individuals to express their views regarding the
15 development and the proposed bond issue.

16 No decisions regarding the development will be
17 made at this hearing. The Department's board is scheduled
18 to meet to consider the transaction on April 23, 2020.

19 In addition to providing your comments at this
20 hearing, the public is also invited to provide comment
21 directly to the board at any of their meetings. The
22 Department's staff will also accept written comments from
23 the public up to 5:00 p.m. on April 14, 2020.

24 The bonds will be issued as tax-exempt
25 multifamily revenue bonds in the aggregate principal

1 amount not to exceed \$18 million and taxable bonds, if
2 necessary, in an amount to be determined and issued in one
3 or more series by the Texas Department of Housing and
4 Community Affairs, the Issuer.

5 The proceeds of the bonds will be loaned to
6 Scott Street Lofts, LP, or a related person or affiliate
7 entity thereof, to finance a portion of the costs of
8 acquiring, constructing, and equipping a multifamily
9 rental housing community described as follows: a 123-unit
10 multifamily residential rental development to be
11 constructed on approximately 1.4805 acres of land located
12 at 1320 Scott Street, Houston, Harris County, Texas 77003.

13 The proposed multifamily rental housing community will be
14 initially owned and operated by the borrower, or a related
15 person or affiliate thereof.

16 I would now like to open the floor for public
17 comment.

18 Let the record show that there are no
19 attendees; therefore, the meeting is now adjourned, and
20 the time is now 6:08 p.m.

21 (Whereupon, at 6:08 p.m., the hearing was
22 adjourned.)

C E R T I F I C A T E

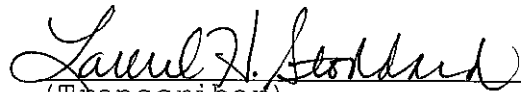
1
2
3 IN RE: Scott Street Lofts

4 LOCATION: Houston, Texas

5 DATE: February 20, 2020

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 4, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Evelyn Carter before the
10 Texas Department of Housing and Community Affairs.

11 DATE: February 26, 2020

12
13
14
15
16
17
18 
19 (Transcriber)

20 On the Record Reporting &
21 Transcription, Inc.
22 7703 N. Lamar Blvd., Ste 515
23 Austin, Texas 78752
24
25



ROBERT GALLEGOS
HOUSTON COUNCIL MEMBER
DISTRICT I

March 25, 2019

Housing and Community Development Department
2100 Travis Street, 9th Floor
Houston, TX 77002

Re: Support for Scott Street Lofts, Harvey Recovery NOFA

Dear Director McCasland,

I am writing in support of an application submitted by Scott Street Lofts, LP, for a proposed Senior affordable housing community to be located near Scott Street and Clay Street in the East Downtown community.

My district encompasses the area where the proposed development site is located, and I believe the surrounding community will benefit from the availability of affordable housing options for senior residents. In addition, I am confident this project will help continue an exciting redevelopment of this area and bring new amenities and options for residents.

I am happy to support Scott Street Lofts and their Harvey Recovery NOFA Application. If you have any questions, please call my office at 832-393-3011.

Respectfully,

Robert Gallegos
Houston Council Member
District I



5b

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

5c

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

5d

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

6a

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

6b

BOARD ACTION REQUEST

MULTIFAMILY FINANCE AND BOND FINANCE DIVISIONS

MAY 21, 2020

Presentation, discussion and possible action authorizing the Executive Director to waive or extend certain construction inspection requirements under 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule,

RECOMMENDED ACTION

WHEREAS, on March 13, 2020, the Governor of the State of Texas issued a disaster declaration and certified that the novel coronavirus (COVID-19) poses an imminent threat of disaster;

WHEREAS, responding to the needs of Texans impacted by COVID-19 will demand that the Department take extraordinary measures necessary to ensure that its resources are deployed as effectively and fully as possible;

WHEREAS, the Department is committed to using its resources to aid Texans economically affected by COVID-19, while continuing to operate its ongoing programs within the federal and state parameters of the funds;

WHEREAS, the challenges presented may require prompt action without the ability to employ typical processes;

WHEREAS, the Department manages its multifamily programs through multiple rules; 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), and 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule, all of which include certain construction inspection requirements that are not statutory;

WHEREAS, there may be occasions in the coming months that waiver or extension to certain construction inspection requirements is necessary due to the COVID-19 response, without time to bring a decision regarding those actions to the Board; and

WHEREAS, staff recommends that the Executive Director be granted authority to waive or extend certain construction inspection requirements in 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), and 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule, that are not required by state

statute, or federal law or regulation, unless also waived by the Governor of the state of Texas or federal authority, as applicable;

NOW, therefore, it is hereby

RESOLVED, that the Executive Director is hereby granted authority to that waive or extend certain construction inspection requirements in 10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), and 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule that are not required by state statute, or federal law or regulation, unless also waived by the Governor of the state of Texas or applicable federal authority.

BACKGROUND

On March 13, 2020, Governor Abbott issued a statewide disaster declaration due to COVID-19, authorizing the use of all available resources to cope with the spread of the virus. The nature of this disaster is such that many persons will be impacted, including both those served by Department programs, as well as those who apply for funds from the Department (Applicants or Developers).

10 TAC Chapter 10, the Uniform Multifamily Rules, 10 TAC Chapter 11, the Qualified Allocation Plan (QAP), 10 TAC Chapter 12, the Multifamily Housing Revenue Bond Rules (Bond Rule), 10 TAC Chapter 13, and the Multifamily Direct Loan (MFDL) Rule all include construction inspection requirements, either directly or because of the inter-related nature of the rules, that are not required by state statute, or federal law or regulation. These are the types of requirements that staff would typically ask the Board to make a decision regarding waiver or extension.

Due to the unpredictable and fast-moving nature of the COVID-19 pandemic, staff believes there may be circumstances in the future where waiver or extension of construction inspection requirements is appropriate but there is not sufficient time to present the decision to the Board. In these cases, authority is requested such that the Executive Director may decide to waive or extend construction inspection requirements without Board action. Any action taken under this authority will be applied equitably to all Applicants, unless the circumstances are unique to a single proposed Development. All changes will be supported by evidence of the impact of COVID-19 on the specific construction inspection requirement.

State statutory construction inspection requirements that are also reflected in the rules will only be modified by the Executive Director to the extent that such requirements or the actions necessary to complete the inspections have been waived by the Governor of the State of Texas. Modifications for federal requirements that are also reflected in the rules will only be made by the Executive Director to the extent that such requirements have been modified or waived by the applicable federal agency.

Nothing in this action allows the extension of a deadline that has already passed.

All actions taken under this authority will be reported to the Board at the next available meeting, and none will be considered an amendment to the rule, or as establishing precedent.

6c

BOARD ACTION REQUEST
COMMUNITY AFFAIRS DIVISION
MAY 21, 2020

Presentation, discussion and possible action on the programming of Housing Choice Voucher Program Administrative funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to proceed with said programmed activities

RECOMMENDED ACTION

WHEREAS, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act into law which provides relief for individuals and businesses negatively impacted by COVID-19;

WHEREAS, on May 8, 2020, the Department was notified by the US Department of Housing and Urban Development (HUD) that in its role as a Public Housing Authority (PHA) it would receive \$117,268 in Housing Choice Voucher Program (HCVP) Administrative Fee Funding under the CARES Act for uses eligible as outlined in PIH Notice 2020-08; and

WHEREAS, staff will plan to program the funds as provided in this action item and will seek any HUD waivers if needed;

NOW, therefore, it is hereby

RESOLVED that the Executive Director and his designees and each of them be and they hereby are authorized, empowered and directed, for and on behalf of this Board to execute, deliver, and cause to be performed such amendments, documents, and other writings such as anticipated guidance and implementation of the HCVP Administrative funds received from HUD and to make decisions as they or any of them may deem necessary or advisable to effectuate the foregoing.

BACKGROUND

In response to COVID-19, on March 27, 2020, President Trump signed the CARES Act into law which included \$1.25 billion in HCVP supplemental funding to states for relief of low-income individuals economically impacted by COVID-19. HUD released the first \$380 million by formula for the administrative fee portion of the allocation. These funds are specifically not intended for issuing more vouchers, but for other allowable specified purposes. Because the primary two activities suggested are not already included in the Department's PHA Administrative Plan, staff is obtaining Board approval of these activities.

Staff recommends using these funds primarily for two activities. The two activities include:

- Additional upgrades to the Department's HCVP software that better enable the program to perform remotely more efficiently, if determined allowable by HUD. The software program used by the Department is Housing Pro and several modules exist that the Department has not purchased. Those modules, allow for more streamlined operating remotely such as an Attachments feature, and an on-line Waiting List feature. The guidance from HUD does not specifically state this is an allowable activity (although the Department believes it to be so, as staff needs to be more efficient when working remotely in response to the COVID-19 pandemic), nor does it state it as an unallowable activity. Staff will request that HUD determine that this is an allowable activity.
- Landlord incentive payments. The HUD guidance specifically states as an allowable activity: "Costs to retain or increase owner participation in the HCV Program, such as incentive costs (e.g., the PHA offers owner an incentive payment to participate in recognition of added difficulties of making units available for HCV families to rent while stay-at-home orders or social distancing practices are in effect.)" Such a landlord incentive will be offered in association with those existing Department PHA clients who have been issued a voucher and not been able yet to find a unit, who are offered a voucher before the funds expire, and those clients who were in the process of trying to relocate but have been unable to find a new unit in the area they are seeking. The landlord incentive payment will be a one-time lump sum bonus issued to the landlord upon move-in of our client, up to the amount of one month's contract rent.

7a

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MAY 21, 2020

Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits and an Award of Direct Loan Funds (#20416, Heritage Estates at Owen Tech, Austin extraterritorial jurisdiction)

RECOMMENDED ACTION

WHEREAS, an application for Heritage Estates at Owen Tech (Applicant), sponsored by the Austin Affordable Housing Corporation and TX Owen Tech GP, LLC, requesting 4% Housing Tax Credits (HTC) and \$3,000,000 in National Housing Trust Fund (NHTF) under the 4% HTC and Bond Layered set-aside of the 2020-2B Multifamily Direct Loan Notice of Funding Availability (2020-2B NOFA), was submitted to the Department on December 13, 2019;

WHEREAS, the current Certification of Reservation (Reservation) from the Texas Bond Review Board (BRB) was issued on January 3, 2020, and will expire on July 1, 2020;

WHEREAS, the proposed issuer of the bonds is the Austin Affordable PFC, Inc.;

WHEREAS, in accordance with 10 TAC §1.301(d)(1), the compliance history is designated a Category 2 and deemed acceptable by Executive Award and Review Advisory Committee (EARAC); and

WHEREAS, EARAC recommends \$3,000,000 in NHTF for Heritage Estates at Owen Tech and the issuance of a Determination Notice.

NOW, therefore, it is hereby

RESOLVED, that the issuance of a Determination Notice of \$1,213,610 in 4% HTC, and \$3,000,000 in NHTF, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Heritage Estates at Owen Tech and the condition that no construction occurs in a floodway or floodplain, is hereby approved as presented to this meeting; and

FURTHER RESOLVED, that if the Applicant and the Department have not executed a contract for the NHTF funding by October 2, 2020, the Department may reduce the funding in whole or in part, notwithstanding any other deadline that may appear in the Texas Administrative Code.

BACKGROUND

General Information: Heritage Estates at Owen Tech is a new construction development of 174 units to serve the elderly population proposed to be located at 14101 and 14011 Owen Tech Boulevard in the extraterritorial jurisdiction of Austin, Travis County. The development received its Reservation as part of the BRB Private Activity Bond 2020 Lottery under Priority 3 designation, which does not have a prescribed restriction on the percentage of Area Median Family Income (AMFI) that must be served. The applicant has elected to use the income averaging set-aside for HTC purposes and the development will include 17 units rent and income restricted at 40% of AMFI, 148 units rent and income restricted at 60% of AMFI, and 9 units rent and income restricted at 70% of AMFI.

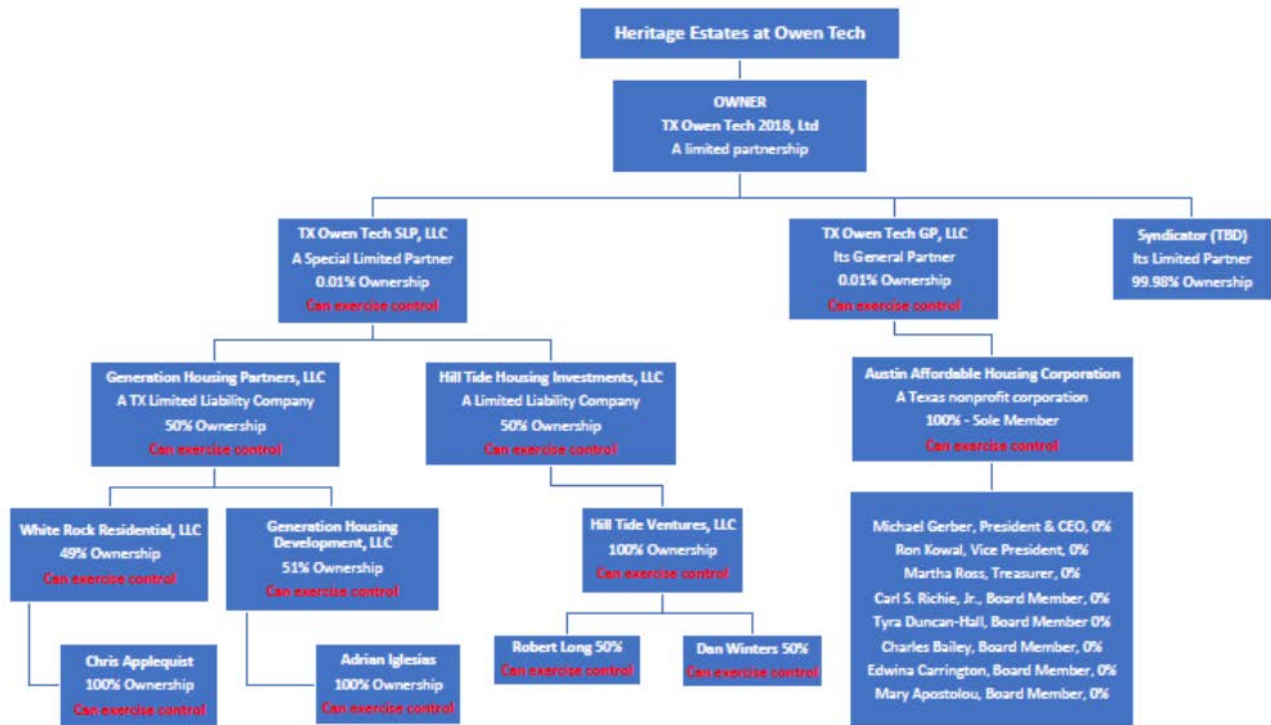
Moreover, 17 units will be further restricted to households earning the greater of the federal poverty limit or 30% AMFI or less and have rents no higher than the rents for extremely low income households in accordance with 24 CFR §93.302(b) as a result of the NHTF investment. These 17 NHTF units will float throughout the property by Unit Type, but are anticipated to be layered among the 17 40% HTC units for underwriting purposes. This \$3,000,000 NHTF award is anticipated to help the Department meet its federal commitment deadline of October 2, 2020, for Program Year 2018 NHTF. If the Applicant and the Department have not executed a contract for the NHTF funds, the Department may reduce the NHTF funds in whole or in part, notwithstanding any other deadline in the Texas Administrative Code. The NHTF loan will be structured as a 0% surplus cash flow loan in accordance with 10 TAC §13.2(14), amortized over a 30 year period with a 15 year term.

Site Analysis: The applicant disclosed, out of an abundance of caution, that the development site is located within 300 feet of a retail venue that might be considered a sexually oriented business under 10 TAC §11.101(a)(2)(C). The QAP states that a sexually oriented business shall be defined in Local Government Code §243.002. A letter from the City of Austin Development Services Department was provided to clarify that Cindie's is not classified as an Adult-Oriented business in the City of Austin. According to Christopher Johnson with the City of Austin, the subject shops are considered General Retail Sales because the adult novelties sales comprise less than 10% of the gross floor area, which is permitted under accessory use guidelines. The applicant noted that Cindie's is also located within 1,000 feet of Northwest Elementary School, which would be prohibited by Austin's city ordinance §25-2-801 if it met the definition of a sexually oriented business. Staff believes the site to be eligible because the undesirable site feature under the rule is not triggered.

Organizational and Site Control Structure: The Borrower/applicant is TX Owen Tech 2018, Ltd, and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and the previous participation was deemed acceptable by EARAC. TX Owen Tech 2018, Ltd will enter into a long-term ground lease with the Housing Authority of the City of Austin, a related entity of the sole member (Austin Affordable Housing Corporation) of the general partner, upon closing on the financing.

Public Comment: There were no letters of support or opposition received by the Department.

EXHIBIT A



20416 Heritage Estates at Owen-Tech - Application Summary

REAL ESTATE ANALYSIS DIVISION
May 14, 2020

PROPERTY IDENTIFICATION		RECOMMENDATION					KEY PRINCIPAL / SPONSOR			
Application #	20416	TDHCA Program	Request	Recommended			GHT Development - Adrian Igelsias Austin Affordable Housing Corporation - Michael Gerber Audrey Martin - Consultant			
Development	Heritage Estates at Owen-Tech	LIHTC (4% Credit)	\$1,213,610	\$1,213,610	\$6,975/Unit	\$0.92				
City / County	Austin / Travis		Amount	Rate	Amort	Term	Lien	Related Parties Contractor - TBD Seller - No		
Region/Area	7 / Urban	MF Direct Loan Const. to Perm. (Repayable Surplus Cash)	\$3,000,000	0.00%	30	15	2			
Population	Elderly Limitation									
Set-Aside	General									
Activity	New Construction									

TYPICAL BUILDING ELEVATION/PHOTO

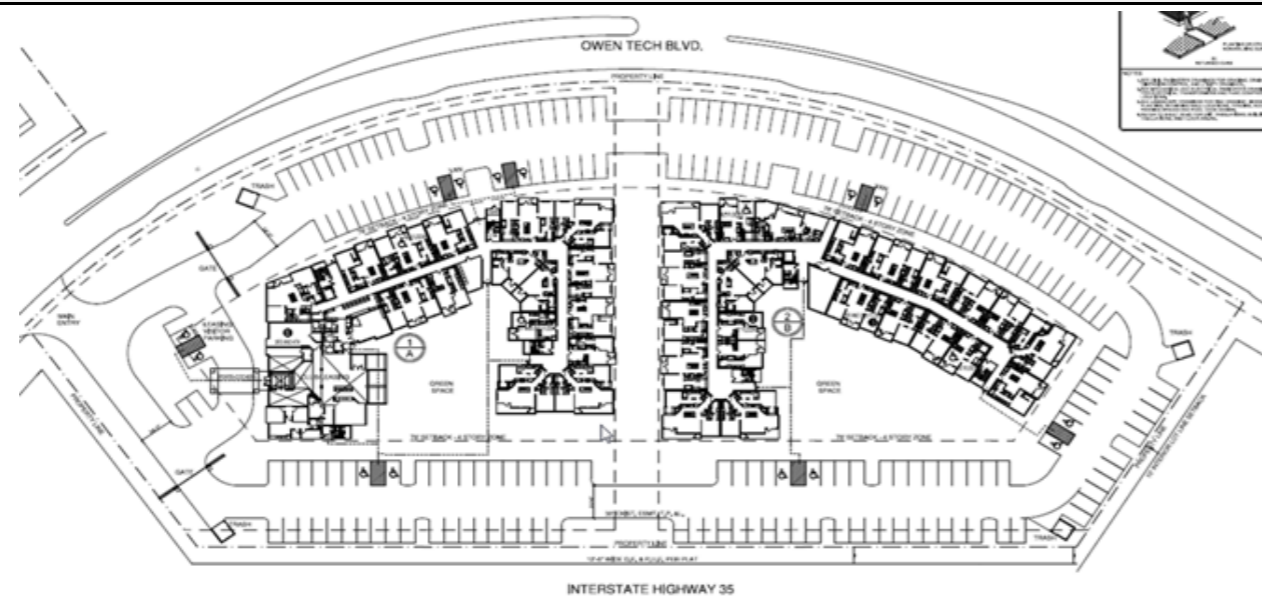


UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	-	0%
1	104	60%	40%	17	10%
2	70	40%	50%	-	0%
3	-	0%	60%	148	85%
4	-	0%	70%	9	5%
TOTAL	174	100%	TOTAL	174	100%

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		TDHCA's Pro Forma	
Debt Coverage	✓ 1.22	Expense Ratio	✓ 37.0%
Breakeven Occ.	✓ 82.2%	Breakeven Rent	\$962
Average Rent	\$1,084	B/E Rent Margin	✓ \$122
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$4,486/unit	Controllable	\$3,299/unit

SITE PLAN



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)	✓ 4.5%
Highest Unit Capture Rate	🟡 14% 2 BR/60% 61
Dominant Unit Cap. Rate	🟡 11% 1 BR/60% 87
Premiums (↑60% Rents)	N/A N/A
Rent Assisted Units	N/A

DEVELOPMENT COST SUMMARY

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	886 SF	Density	34.8/acre
Acquisition	\$14K/unit		\$2,450K
Building Cost	\$97.63/SF	\$86K/unit	\$15,050K
Hard Cost		\$107K/unit	\$18,542K
Total Cost		\$199K/unit	\$34,573K
Developer Fee	\$3,724K	(32% Deferred)	Paid Year: 5
Contractor Fee	\$2,596K	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
Key Bank	15/40	4.30%	\$19,000,000	1.34	TDHCA	15/30	0.00%	\$3,000,000	1.22	Monarch Private Capital, LLC	\$11,223,647
					BGO Architects	0/0	0.00%	\$150,000	1.22	AAHC/GHT	\$1,199,378
TOTAL DEBT (Must Pay)			\$19,000,000		CASH FLOW DEBT / GRANTS			\$3,150,000		TOTAL EQUITY SOURCES	\$12,423,025
										TOTAL DEBT SOURCES	\$22,150,000
										TOTAL CAPITALIZATION	\$34,573,025

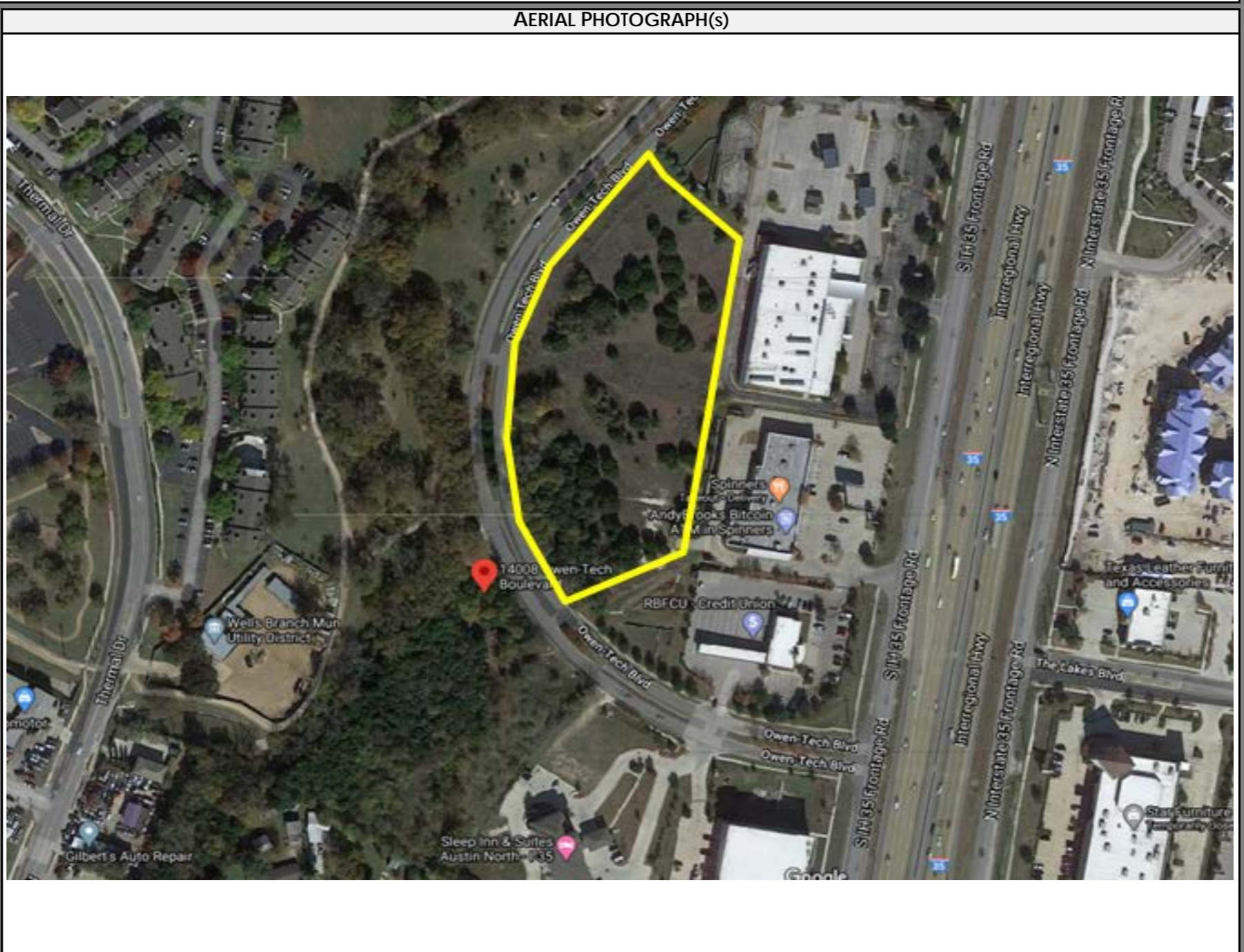
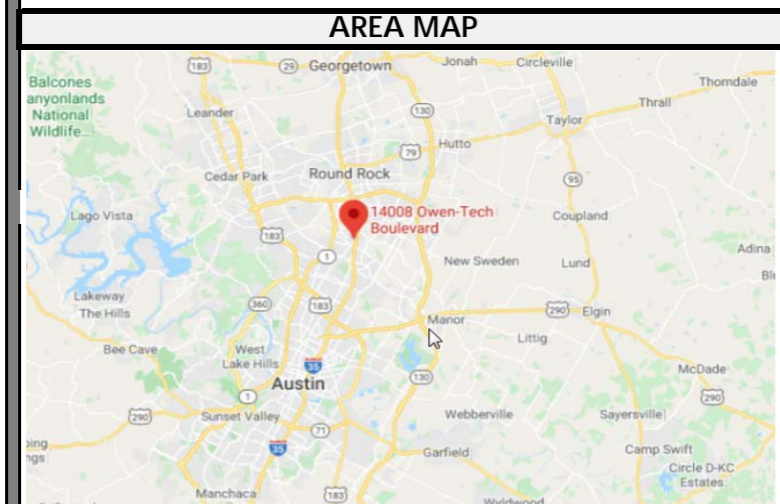
CONDITIONS

- 1 Receipt and acceptance before Direct Loan Closing
 - a: Updated application exhibits: Rent Schedule, Utility Allowance, Operating Expenses, Long-Term Pro Forma, Development Cost Schedule, Schedule of Sources; and documentation necessary to support any changes from previous underwriting.
 - b: Substantially final construction contract with Schedule of Values.
 - c: Updated term sheets with substantially final terms from all lenders
 - d: Substantially final draft of limited partnership agreement.
 - 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:
 - a: Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
 - b: Evidence that the units and buildings have met the requirements for use of an Energy Star Utility Allowance.

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	Austin Affordable Public Finance Corporation
Expiration Date	7/1/2020
Bond Amount	\$20,000,000
BRB Priority	3
Close Date	
Bond Structure	Private Placement
% Financed with Tax-Exempt Bonds	73.1%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Low expense-to-income ratio due to property tax
▫	Developer experience
▫	feasibility indicators
WEAKNESSES/RISKS	
▫	feasibility dependent on 100% tax-exemption



7b

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

7c

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**

7d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
MAY 21, 2020

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(1) regarding Ineligible Developments for 20128 OST Lofts

RECOMMENDED ACTION

WHEREAS, 10 TAC §11.101(a) of the 2020 Qualified Allocation Plan (QAP) related to Site Requirements and Restrictions identifies specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department;

WHEREAS, 10 TAC §11.101(a)(1) requires that for Development Sites within a floodplain, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain;

WHEREAS, the Applicant for 20128 OST Lofts has submitted a request that the Board waive this requirement and allow the Applicant to move forward with an Application proposing the construction of a Development for which one of the driveways will be lower the six inches below the floodplain;

WHEREAS, 10 TAC §11.207 related to Waiver of Rules identifies the requirements a waiver request must meet, and staff does not believe that the waiver meets those requirements; and

WHEREAS, staff believes that the location of the Development Site was within the Applicant's control, so staff is not able to recommend a waiver;

NOW, therefore, it is hereby

RESOLVED, that the Board shall determine whether the waiver of 10 TAC §11.101(a)(1) should be granted for 20128 OST Lofts.

BACKGROUND

10 TAC §11.101(a) of the 2020 Qualified Allocation Plan (QAP) related to Site Requirements and Restrictions identifies specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department. Per the rule:

(1) Floodplain. New Construction or Reconstruction Developments located within a 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent federal or local requirements they must also be met.

Application 20128 OST Lofts proposes the New Construction of 125 Units for a general population in Houston. The entrance to the Development Site at Old Spanish Trail would be 168 feet south of Brays (also known as Braes) Bayou. According to the FEMA Flood Insurance Rate Map (FIRM), the majority of the Development Site is located within Zone AE, inside Houston's Special Flood Hazard Area. Per the request, "[t]he Development Site is located on Old Spanish Trail ("OST"), a public road that is also located in the AE flood zone. There is potential that the driveway from the street to the apartment buildings and parking area will be lower than six inches below the floodplain." The request states that "if a major rain event occurs and OST is partially flooded access to the site can be maintained from the second public street, Produce Row, located well above the 100 Year Floodplain."

The request includes certifications from the architect and the civil engineer. Per the architect, "[w]hile the portion of Old Spanish Trail serving the low side of our site is below the 100 year BFE by more than 6", parking and driveways within our site will be compliant with the TDHCA's minimum of 30.4 (6" below the 100 Year Floodplain). In major rain events, if Old Spanish Trail is partially flooded, access for our entire site can be maintained from the second public street, Produce Row, well above the 100 Year Floodplain. All resident cars can exit via Produce Row, without incurring any floodwaters that may emanate from the bayou beyond Old Spanish Trail." Per the engineer, "[a]lthough driveway tie-in connection to Old Spanish Trail will be below 100-year elevation, slope grade for driveway will be increased immediately after proposed public sidewalk to reach a minimum elevation of 30.9. With this, proposed parking and drive areas will be set minimum 6-inch below 100-year elevation."

While the Applicant states that there is "potential" that the driveway from Old Spanish Trail to the apartment buildings and parking area will be lower than six inches below the floodplain, the architect states that Old Spanish Trail "is below", and the engineer states that the driveway tie-in "will be below" the 100-year base flood elevation. Building a driveway in this location could encourage residents to drive through even minor flooding on Old Spanish Trail to access the Development. .

10 TAC §11.207 related to Waiver of Rules states:

(1) A waiver request made at or prior to pre-application or Application must establish that the need for the waiver is not within the control of the Applicant. In applicable circumstances, this may include limitations of local building or zoning codes, limitations of existing building structural elements for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments, required amenities or design elements in buildings designated as historic structures that would conflict with retaining the historic nature of the building(s), or provisions of the design element or amenity that would not benefit the tenants due to limitations of the existing layout or design of the units for Adaptive Reuse or Rehabilitation (excluding Reconstruction) Developments. A recommendation for a waiver may be subject to the Applicant's provision of alternative design elements or amenities of a similar nature or that serve a similar purpose. Waiver requests for items that were elected to meet scoring criteria or where the Applicant was provided a menu of options to meet the requirement will not be considered to satisfy this paragraph as such waiver request would be within the Applicant's control.

(2) The waiver request must establish how, by granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, (which are general in nature and apply to the role of the Department and its programs, including the Housing Tax Credit program) than not granting the waiver.

Staff does not believe the request meets the requirements of 10 TAC §11.207(1) because the issues described in the request appear to be completely related to the Applicant's selection of a Development Site that is within Zone AE, which is completely within the control of the Applicant. The request simply says "[t]his waiver is not preventable by the Applicant."

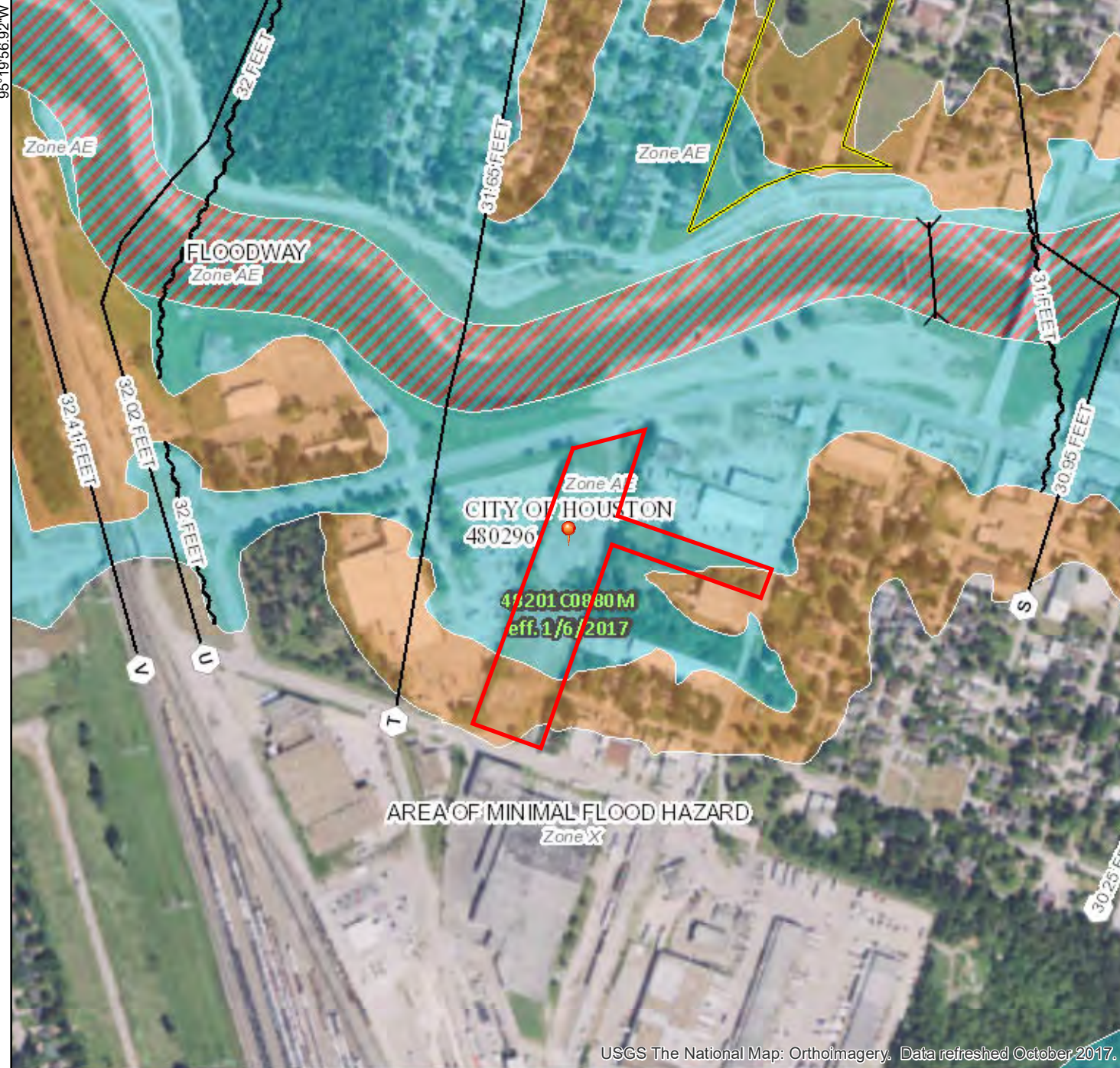
Staff requests that the Board determine whether the waiver of 10 TAC §11.101(a)(1) should be granted for 20128 OST Lofts.

20128 OST Lofts FEMA Flood Insurance Rate Map

National Flood Hazard Layer FIRMette



29°42'52.64"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER AREAS		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
OTHER FEATURES		Coastal Transect Baseline
		Profile Baseline
		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **11/13/2018 at 1:25:41 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Waiver Request

OST Lofts Waiver of Rules

The Applicant believes a Waiver pursuant to Section 11.207 of the 2020 QAP may be necessary with regard to the location of the Development Site in FEMA Floodplain Zone AE. The Development is located in Houston and a majority of the Development Site is located within the 100 year Floodplain, including one of the streets that provides access to the Development Site. Section 11.101(a)(1) of the QAP states:

Floodplain. New Construction or Reconstruction Developments located within a 100 year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent federal or local requirements they must also be met.

The Applicant commits that the Site will be developed so that it is in full compliance with all applicable requirements of the National Flood Protection Act. The City of Houston will also require that all finished ground floor elevations are at least 2 feet above the floodplain and the Applicant will adhere to the City of Houston's more restrictive local requirements. Attached please find as **Exhibits A & B** Certifications from Mark Mucasey, the project architect and BGE, the civil engineering firm. These certifications provide a detailed summary of how the project and all parking will be design in full compliance with all federal, state and local criteria.

The Development Site is located on Old Spanish Trail ("OST"), a public road that is also located in the AE flood zone. There is potential that the driveway from the street to the apartment buildings and parking area will be lower than six inches below the floodplain. Therefore we are requesting a waiver of the requirement that this entrance driveway be no lower than 6 inches below the flood plain. This waiver is not preventable by the Applicant. Also, as noted in the certification from Mark Mucasey if a major rain event occurs and OST is partially flooded access to the site can be maintained from the second public street, Produce Row, located well above the 100 Year Floodplain.

This waiver will allow for the provision of much needed affordable housing in an area of Houston that has very few affordable housing units. The granting of this waiver would further the purpose of the Department in Section 2306.001, 2306.002, 2306.359 and 2306.6701 of the Texas Government Code by, in part, providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income. This Development will also help establish an affordable housing option in a decent, safe and affordable living environment that is beginning to change rapidly with the impending development of the newly approved University of Houston Medical School. After the expansion of the University of Houston Campus in close proximity to the Development Site it will be important to, pursuant to Section 2306.6701(1), encourage the development of appropriate types of

rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace. Also, the Applicant is including a non-profit partner in the Development. The participation of nonprofit organizations is a stated goal of the administration of the low-income housing tax credit program in accordance with Section 2306.6701.



OST LOFTS FLOODPLAIN CERTIFICATION

Mucasey & Associates, Architects

February 20, 2020

The site spans between two public streets, Old Spanish Trail and Produce Row. The internal driveways tie between the two streets, connecting all parking, driveways, and building entrances together. Based on City of Houston public records, Old Spanish Trail is the low side at approximately elevation 22.0, and Produce Row is the high side at approximate elevation 34.0. The 100 year BFE is elevation 31.4, and the 500 year BFE is elevation 34.0. The finished floor of both the Apartment Building and the Classroom Building will occur as required, 2' above the 500 year BFE, at elevation 36.00.

In order to achieve the required first finished floor elevation, the Apartment Building will be raised above the existing grade between 24-48", using a crawl space construction, that will allow the existing grade level to remain below the buildings. The foundation system will be concrete spread footings set at the existing grade, with concrete block stem walls up to the point where wood truss floor framing will create the first finished floor. The space below the wooden floor deck will be hollow, open below to the existing grade, with flood vents around the entire perimeter designed to aerate the crawl space and to allow flood waters in major rain events to circulate well beneath the first finished floor, with no effect at all to the building.

Access to all first floor units will be provided by handicap accessible ramps, that will connect all first floor units along breezeway corridors to all parking down at grade. Additional steps will provide other access points down, but all amenities and accessible parking spaces will be available to all first floor units via the various ramp systems that tie units/amenities to their nearby required parking spaces and amenities.

Due to existing conditions, the proposed driveway to Old Spanish Trail will be connected at elevation of approximately 22.0 and immediately start going up to a minimum elevation of 30.9 once into the project serving any parking spaces. Internal parking and driveways will be built at a minimum elevation of 30.9 at the low side near Old Spanish Trail, to elevation 35.0 at the high side near Produce Row. Parking and driveways internal to the site will be at a minimum of 30.9, which is 6" below the 100 Year Floodplain level for this site.

While the portion of Old Spanish Trail serving the low side of our site is below the 100 year BFE by more than 6", parking and driveways within our site will be compliant with the TDHCA's minimum of 30.4 (6" below the 100 Year Floodplain). In major rain events, if Old Spanish Trail is partially flooded, access for our entire site can be maintained from the second public street, Produce Row, well above the 100 Year Floodplain. All resident cars can exit via Produce Row, without incurring any floodwaters that may emanate from the bayou beyond Old Spanish Trail.

The Classroom Building occurs at the high side of the site, adjacent to the public street Produce Row, where the natural grade is at elevation 34.0. That immediate portion of the site for the Classroom Building, its associated parking, and its associated outdoor playground will be raised with fill to get to the required elevation 36.0 for the finished floor of the classroom interior space, and 34.0-35.0 for the outdoor spaces. All parking, driveways, and outdoor amenity spaces serving the Classroom Building will be located well above the TDHCA minimum required 30.9 (6" below the 100 Year Floodplain). The foundation for the Classroom Building will be a typical post-tensioned concrete slab on grade, without the need for any crawl space, since it occurs at the high side of the property.

Certified by:

Mark S. Mucasey, A.I.A.
Mucasey & Associates, Architects

Mark S. Mucasey, A.I.A.
Principal

4808 Gibson • Suite 200 • Houston, Texas 77007
Tel: (713) 521-1233 Fax: (713) 520-1904
Email: office@mucaseyarchitects.com

Will Cummings, Sr. Associate
Paul Titterington, Sr. Associate
David Howland, Sr. Associate
Agnar Nielsen, Arch. Sys. Mgr.



Memorandum

To: Donna Rickenbacker
DWR Development Group, LLC

From: Astrid Castano, P.E. and E. Benton Schmaltz, P.E.

Date: February 21, 2020

Subject: OST Lofts aka Old Spanish Trail Lofts – Memorandum

The project site is a 5.437-acre tract located West of the intersection between Delafield Street and Old Spanish Trail in City of Houston, Harris County, Texas (Key Map No. 534F). The tract has access to public right-of-way to the north to Old Spanish Trail, to the south to Produce Row and to the east to Brook Street and Delafield Street. Proposed development includes a multifamily apartment complex of 125 units and a day care facility.

The site is located on Flood Insurance Rate Map Number 48201 C 0880 M, revised January 6, 2017. According to the map the site is located in shaded zone “AE”, which is designated to be a special flood hazard area that is within the 0.2% annual chance of flood. The 100-year flood elevation is approximately 31.4 and 500-year flood elevation is approximately 34.0.

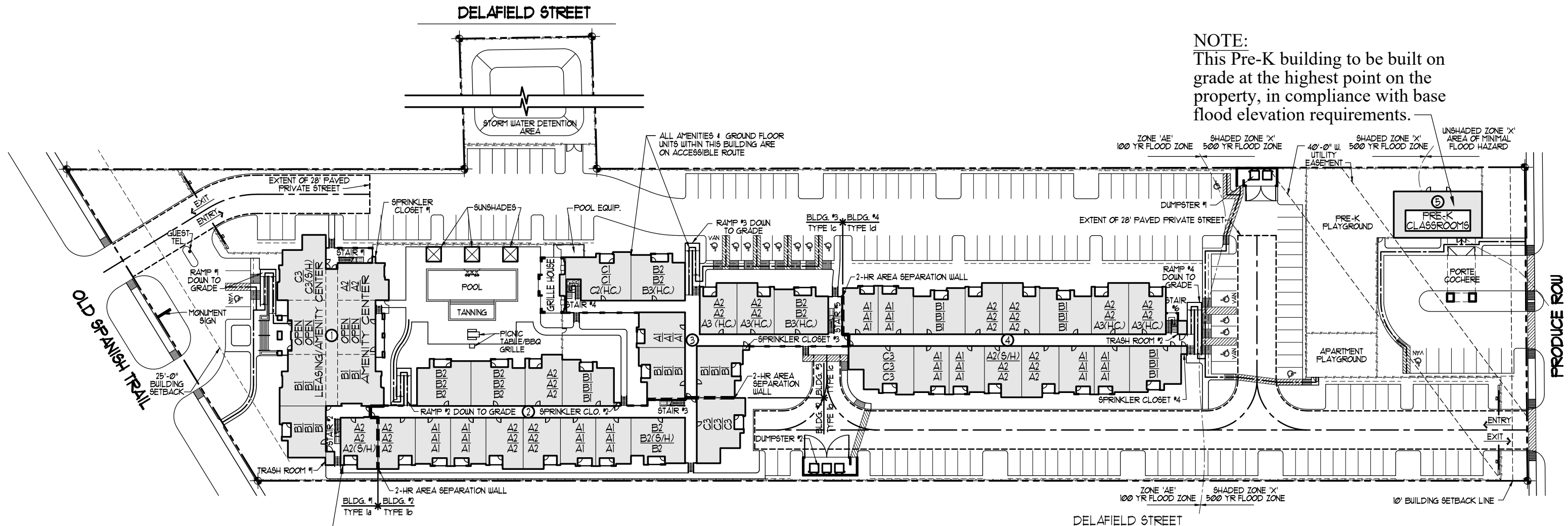
Based on 2019 Infrastructure Design Manual, the site will require mitigation of any fill placed up to 500-year elevation. Also, proposed Finished Floor Elevation (FFE) should be at least 24-inch above 500-year floodplain. Per Texas Department of Housing & Community Affairs (TDHCA) parking and drive areas can not be lower than 6-inch below 100-year flood elevation.

Based on City of Houston public records existing road elevations along Old Spanish Trail are lower than 100-year elevation, at approximately 22.0, while elevations along Produce Row are approximately at 34.0. These elevations are estimated and not based on any surveyed information.

Proposed FFE will be set minimum at 36.0, above existing ground elevations. This will be accomplished using a crawl space construction and spread footing foundation system at ground elevation, creating a hollow space between proposed building’s FFE and foundation. It will allow surface rain flow to maintain existing flow patterns and drain towards Bays Bayou and/or public Right-of-Way. Access to first floor units will be provided by a system of handicap accessible ramps.

Although driveway tie-in connection to Old Spanish Trail will be below 100-year elevation, slope grade for driveway will be increased immediately after proposed public sidewalk to reach a minimum elevation of 30.9. With this, proposed parking and drive areas will be set minimum 6-inch below 100-year elevation. In case of major rain events, drive areas can access public Right-of-Way through Produce Row which is above 100-year elevation.

Proposed elevations for buildings FFE, parking and drive areas for this development will be following COH and TDHCA criteria.



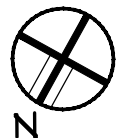
NOTE:
This apartment building to be built ± 3'-6" above existing grade to comply with base flood elevation requirements. The first floor structure will be wood framing over a ventilated crawl space, with handicapped accessible ramps from grade up to the first finished floor.

H.C. INDICATES MOBILITY IMPAIRED UNIT S/H INDICATES SIGHT/HEARING IMPAIRED UNIT
NOTE: STRUCTURE IS COMPRISED OF 5 DISTINCT BLDGS., #1, #2, #3 AND #4 SEPARATED TWO-HOUR AREA SEPARATION WALLS.

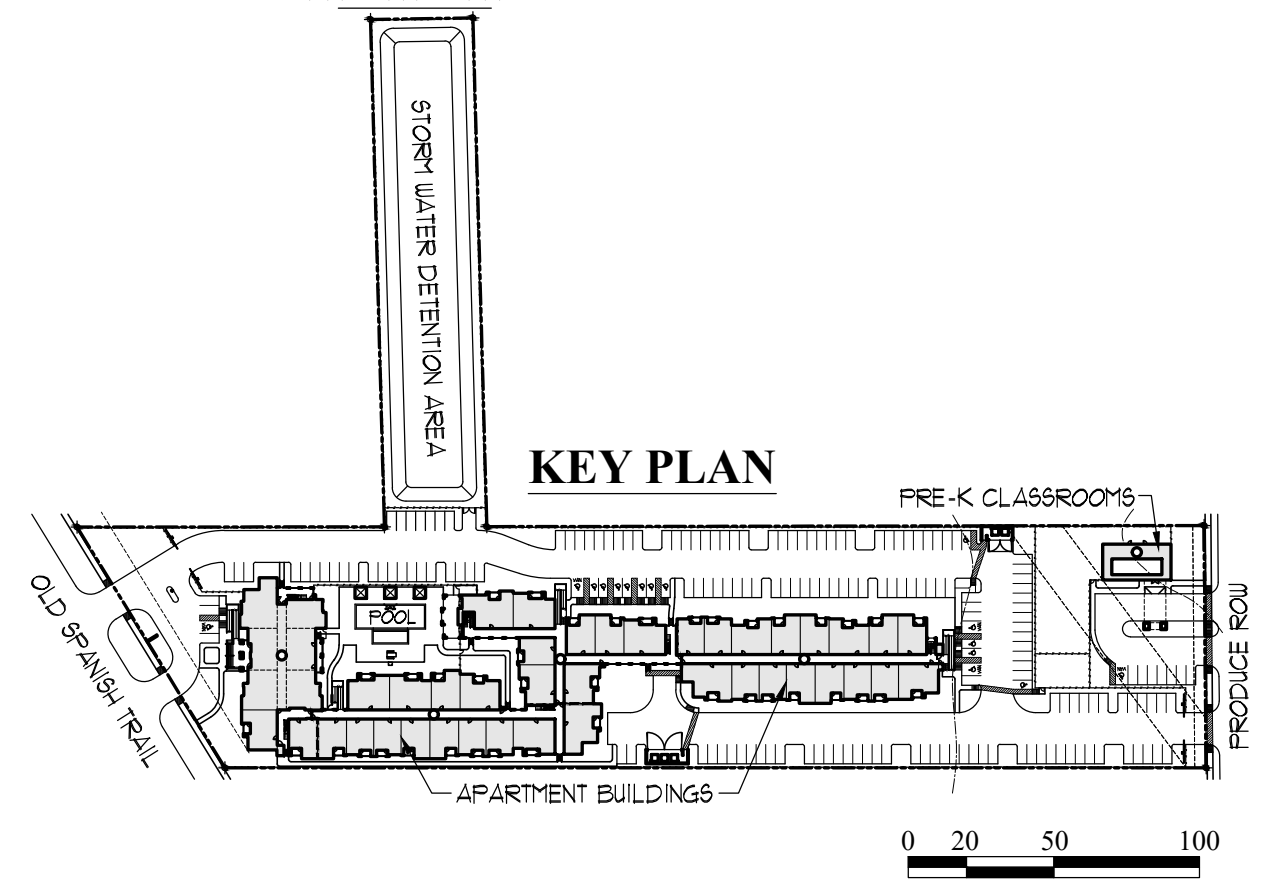
PROPERTY AREA: 5.431 ACRES
SEE SITE PLAN FOR FLOOD ZONE LOCATIONS
GRADING FILL TO BE MITIGATED BY CRAWLSPACE UNDER BUILDING
STORM WATER DETENTION PROVIDED BY ON-SITE STORM WATER DETENTION AREA.

SITE PLAN

OST Lofts
Mucasey & Associates, Architects



TDHCA Disclosure: In accordance with the rules of the Texas Department of Housing and Community Affairs, aspects of this development may be subject to change, including but not limited to, changes in the amenities ultimately selected and provided.



20128 OST Lofts
Supplemental Information
Excerpt

DWR DEVELOPMENT GROUP, LLC

6300 West Loop South, Ste. 670

Bellaire, Texas 77401

(713) 940-9940 – p

(713) 583-8858 – f

Donna@DWRDevelopment.com

May 12, 2020

Marni Holloway
Multifamily Finance Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

Re: TDHCA Application No. 20128-OST Lofts; Waiver Request

Dear Marni,

OST Lofts will be part of a mixed use planned development that will be located at 5520 Old Spanish Trail, Houston, Texas. The Applicant submitted a waiver request to TDHCA pursuant to Section 11.207 of the QAP rules because Old Spanish Trail (OST), one of the public streets providing access to the Development will be lower than 6" below the floodplain which is not allowed under Section 11.101(a)(1) of the QAP rules. Our waiver package made a part of the tax credit application included a site plan and certifications from our civil engineer and architect recognizing certain measure being taken by the Applicant in the design of the development to mitigate the requirement that drive areas be no lower than 6" below the floodplain. While a portion of OST serves the low side of our site if a major flood event occurs that would prevent the use of the OST driveway then the residents can safely use other driveway points that are well above the floodplain and meet the requirements of Section 11.101(a)(1) of the QAP rules.

We respect Staff's recommendation to deny the waiver request but hope that the TDHCA Board will look more favorably on our request.

We respectfully request that this letter and the attachments that includes additional mitigation measures be included in the May 21, 2020 board material for consideration by the TDHCA Board. Since the site is served by three public streets that include OST, Produce Road and Delafield, we have made minor modifications to the site plan to remove OST as a driveway point and alternatively use Produce Road and Delafield for access into the site as these two streets are both above the 100-year floodplain eliminating the need for a waiver.

We have also attached a letter from Council Member Robert Gallegos whose district includes the OST Lofts development site.

Marni Holloway
TDHCA No. 20128-OST Lofts
May 12, 2020
Page -2-

We appreciate your consideration of our request to include this supplemental information for consideration by the Board in connection with our waiver request.

Sincerely,

A handwritten signature in blue ink that reads "Donna Rickenbacker". The signature is written in a cursive style with a small asterisk above the letter 'i' in "Rickenbacker".

Donna Rickenbacker
Principal

cc: Dr. Adriana Tamez – Via Email



ROBERT GALLEGOS
HOUSTON COUNCIL MEMBER
DISTRICT I

April 22, 2020

Via Email – michael.lyttle@tdhca.state.tx.us

Honorable Leslie Bingham, Vice Chairman & Board Members
Texas Department of Housing and Community Affairs (TDHCA)
And

Bobby Wilkinson, Executive Director of TDHCA – Via Email –
bobby.wilkinson@tdhca.state.tx.us

221 E. 11th Street
Austin, TX 78701

Re: TDHCA Application No. 20128; Waiver Request

Dear Vice Chairman Bingham and Members of the TDHCA Board,

I submit this letter in support of the planned community in my district being proposed at 5520 Old Spanish Trail in Houston, Texas (Development Site). The proposal is to combine OST Lofts, an affordable rental housing community and a quality pre-kindergarten program that will be available to the residents of OST Lofts and to those living in the neighborhood. The sponsors (Sponsors) of this development submitted a 9% housing tax credit application to TDHCA to finance a portion of the development cost for this project.

I have been working with the Sponsors for several months on this planned development. Houston City Council passed Ordinance No. 2019-986 on December 4, 2019, expanding the boundaries of TIRZ #7 (Old Spanish Trail/Almeda Corridors Zone) to include, in part, the Development Site with the intentions of continuing the revitalization efforts taking place in TIRZ #7 especially along Brays Bayou and the road systems along the Old Spanish Trail corridor. It was envisioned from our initial efforts that high quality mixed income affordable housing be constructed on the Development Site given its proximity to the University of Houston Central Campus (U of H). The U of H is constructing their new medical school along Old Spanish Trail across the street from the Development Site which will create opportunities for employment and healthcare for the future residents of OST Lofts.

In addition to expanding the TIRZ #7 zone to include the Development Site, Houston City Council granted a resolution of support to the Sponsors on February 19, 2020 supporting the location of OST Lofts on the Development Site.



It has come to my attention that TDHCA staff is recommending denial of a waiver submitted by the Sponsors to deviate from the requirement that the driveway into OST Lofts from Old Spanish Trail, a public street system be “no lower than six inches below the floodplain”. If the TDHCA Governing Board accepts Staff’s recommendation it will put at risk efforts made to date and potentially the project moving forward.

The City of Houston is very sensitive to developments in floodplain areas especially housing given the devastating effect of Hurricane Harvey and other flood events that have ravaged the City. The Sponsors took this sensitivity into consideration in the design of OST Lofts which will be developed in full compliance with NFPA as well as the more restrictive requirements of the City of Houston. The waiver is in connection with only one of the three driveways included in the development plan presented by the Sponsors. As stated in the waiver request, the Old Spanish Trail entrance is the only one that is located in Zone AE. If, and only if, there is a major flood event and the Old Spanish Trail entrance cannot be utilized then the residents of OST Lofts and the children attending the pre-kindergarten program will be able to use the other driveways including Produce Road that is located in Zone X and is the main driveway to the resident parking areas and the Pre-Kindergarten school.

I hope you will take these points into consideration in your deliberation of the Waiver Request. This is a unique opportunity to increase the supply of affordable housing and invest in our children especially our low income children through early education.

We appreciate your service to the State of Texas and hope that you will have this letter read into the record before consideration of the agenda item.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Gallegos", with a long, sweeping flourish extending to the right.

Robert Gallegos
Houston Council Member
District I

cc: Dr. Adriana Tamez – via email
Donna Rickenbacker – via email

7e

**TO BE POSTED
NOT LATER THAN
THE THIRD DAY
BEFORE THE
DATE OF THE
MEETING**