

**BOARD BOOK OF  
April 8, 2021**



**Leo Vasquez III, Chair**  
**Leslie Bingham, Vice-Chair**  
**Paul Braden, Member**  
**Sharon Thomason, Member**  
**Ajay Thomas, Member**  
**Brandon Batch, Member**

## Texas Department of Housing and Community Affairs

### PROGRAMMATIC IMPACT

Fiscal Year 2021 (figures below through March 31, 2021)

#### Owner Financing and Down Payment

- 30-year, fixed interest rate mortgage loans
- Mortgage credit certificates
- Down payment, closing cost assistance
- Homebuyer education

*Programs:*

- Single Family Homeownership

Expended Funds:           \$1,510,406,108  
Total Households Served:   7,414

#### Energy Related Assistance

- Utility bill payment assistance
- Energy consumption education
- Weatherization for energy efficiency, TRR utility assistance

*Programs:*

- Comprehensive Energy Assistance Program (CEAP)
- Weatherization Assistance Program (WAP) ,

Expended Funds:           \$89,927,916  
Total Households Served:   55,336

#### Multifamily New Construction

- Affordable rental units financed and developed

*Programs:*

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds
- Multifamily Direct Loan Program\*

Expended Funds:           \$57,063,692  
Total Households Served:   4,886

#### Homelessness Services

- Shelter building rehabilitation, conversion, operations
- Essential services e.g., health services, transportation, job training, employment services

*Programs:*

- Emergency Solutions Grant Program (ESG)
- Homeless Housing and Services Program (HHSP)

Expended Funds:           \$7,747,715  
Total Individuals Served:   13,054

#### Multifamily Rehab Construction

- Affordable rental units financed and rehabilitated

*Programs:*

- 9% Housing Tax Credits (HTC)
- 4% Housing Tax Credits (HTC)
- Multifamily Bonds

Expended Funds:           \$43,958,306  
Total Households Served:   1,168

#### Supportive Services

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

*Program:*

- Community Services Block Grant Program (CSBG)

Expended Funds:           \$34,867,160  
Total Individuals Served:   191,183

#### Owner Rehabilitation Assistance

- Home rehabilitation, reconstruction
- Manufactured housing unit replacement
- Accessibility modifications e.g., ramp, grab bar installation

*Programs:*

- Homeowner Reconstruction Assistance Program (HRA)\*
- Amy Young Barrier Removal Program

Expended Funds:           \$6,947,247  
Total Households Served:   121

#### Rental Assistance

- Short, long term rent payment help
- Assistance linked with services, Transitional assistance
- Security, utility deposits

*Programs:*

- Tenant-Based Rental Assistance (TBRA)\*
- Section 8 Housing Choice Vouchers
- Section 811, CDBG Cares, Texas rent relief

Expended Funds:           \$10,169,575  
Total Households Served:   3,713

#### Single Family Development

- Single family development, reconstruction, rehabilitation
- NSP, Do-it-yourself, "sweat equity" construction (bootstrap), rehabilitation, Contract for Deed refinance

*Programs:*

- Single Family Development Program (SFD)\*
- Contract for Deed (CFD)

Expended Funds:           \$1,380,291  
Total Households Served:   30

**Total Expended Funds: 1,762,468,010**  
**Total Households Served: 276,905**

All FY2021 data as reported in TDHCA's 2021 performance measures.

*Note: Some households may have been served by more than one TDHCA program. For some programs, allocation is used as a proxy for expenditures. Because of timing of funds request, the funds expended for the quarter may be readjusted substantially by year end.*

\* 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  
April 8, 2021

**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/1109056901932240654>

Dial-in number: +1 (562) 247-8422, access code 492-043-120 (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

CERTIFICATION OF QUORUM

Leo Vasquez, Chair

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

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

Resolution Recognizing May as Community Action Month

\* 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>

## CONSENT AGENDA

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

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

#### EXECUTIVE

- a) Presentation, discussion, and possible action on Board meeting minutes summary for January 14, 2021, and February 11, 2021

**Beau Eccles**  
General Counsel

#### ASSET MANAGEMENT

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

**Rosalio Banuelos**  
Director of Asset  
Management

01040 Scott Street Townhomes Houston

#### COMMUNITY AFFAIRS

- c) Presentation, discussion, and possible action on release of the draft Federal Fiscal Years 2022-2023 Community Services Block Grant State Plan for public comment and authorization to procure vendors for services and release Requests for Applications

**Michael De Young**  
Director of  
Community Affairs

#### RULES

- d) Presentation, discussion and possible action on an order adopting the amendment of 10 TAC §8.7 Program Regulations and Requirements

**Spencer Duran**  
Director  
of Section 811

#### HOUSING RESOURCE CENTER

- e) Presentation, Discussion, and Possible Action on the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan

**Elizabeth Yevich**  
Director of  
Housing Resource Center

#### SINGLE FAMILY & HOMELESS PROGRAMS

- f) Presentation, discussion, and possible action on state fiscal year 2019 and 2020 Homeless Housing and Services Program reallocation

**Abigail Versyp**  
Director of Single Family &  
Homeless Programs

#### FINANCIAL ADMINISTRATION

- g) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

**Joe Guevara**  
Director of Financial  
Administration

#### BOND FINANCE

- h) Presentation, discussion, and possible action on Resolution No. 21-022 regarding the annual approval of the Department's Interest Rate Swap Policy  
i) Presentation, discussion, and possible action on Resolution No. 21-023 regarding the annual approval of the Department's Investment Policy

**Monica Galuski**  
Director of Bond Finance

## CONSENT AGENDA REPORT ITEMS

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

- a) Media Analysis and Outreach Report (February 2021)  
b) Report on Fair Housing Month Activities

**Michael Lyttle**  
Director of  
External Affairs  
**Cate Tracz**  
Manager of Fair Housing,  
Data Management &  
Reporting

## ACTION ITEMS

### ITEM 3: EXECUTIVE

- a) Report on Activities Related to the Department's Response to COVID-19 Pandemic

**Brooke Boston**

b) Executive Director's Report

**ITEM 4: ASSET MANAGEMENT**

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

**Rosalio Banuelos**  
Director of Asset  
Management

02469 Murdeaux Villas Dallas

**ITEM 5: BOND FINANCE**

- a) Presentation, discussion, and possible action regarding the Issuance of a Multifamily Housing Revenue Note (Murdeaux Villas) Series 2021, Resolution No. 21-024, and a Determination Notice of Housing Tax Credits
- b) Presentation, discussion, and possible action on Inducement Resolution No. 21-025 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for Providence on the Park (#21618) in Dallas
- c) Presentation, discussion and possible action on Resolution No. 21-026 regarding a Modification Agreement relating to Multifamily Housing Revenue Bonds Series 2019 for McMullen Square Apartments
- d) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Corona Del Valle Apartments) Series 2021 Resolution No. 21-027, and a Determination Notice of Housing Tax Credits
- e) Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Palladium Simpson Stuart Apartments) Series 2021 Resolution No. 21-028, and a Determination Notice of Housing Tax Credits

**Teresa Morales**  
Director of  
Multifamily Bonds

**ITEM 6: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action on a Determination Notice for 4% Housing Tax Credits and an Award of Direct Loan Funds for Trinity Oaks (#21443) in Sulphur Springs
- b) Presentation, discussion, and possible action on a Determination Notice for 4% Housing Tax Credits for Pine Terrace (#21444) in Mount Pleasant
- c) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications

**Teresa Morales**  
Director of  
Multifamily Bonds

21402 Belmont  
21411 Gateway Oak Cliff  
21414 Waterview  
21410 Life at DeSoto  
21408 Residences at Arbor Oaks  
21404 Agave  
20481 Villas at Echo East  
21412 Celebration Arlington  
21400 The Oaks

- d) Presentation, discussion, and possible action on a waiver relating to 10 TAC §11.01(b)(2) of the Qualified Allocation Plan (QAP) concerning Development Size Limitations and a Determination Notice for Housing Tax Credits for Bluebonnet Ridge (#21403) in Ennis
- e) Presentation, discussion, and possible action regarding streamlining 4% Housing Tax Credit Applications and Associated Waivers

**Teresa Morales**  
Director of  
Multifamily Bonds

**ITEM 7: COMMUNITY AFFAIRS**

- a) Presentation, discussion, and possible action on release of the draft 2022 Low Income Home Energy Assistance Program State Plan for public comment
- b) Presentation, discussion and possible action on the programming of Low Income Home Energy Assistance Program funds available to Texas through the American Rescue Plan Act of 2021 and authorization to award such funds and update on administrative flexibilities

**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):

**Leo Vasquez**  
Chair

The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

**OPEN SESSION**

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

**ADJOURN**

To access this agenda and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 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**, Community Action Agencies are nonprofit and unit of local government organizations designated under the Economic Opportunity Act of 1964 to serve to ameliorate the effects of poverty and help persons experiencing poverty to transition to self-sufficiency;

**WHEREAS**, Community Action builds and promotes economic stability and enhances stronger communities and the opportunity to live in dignity;

**WHEREAS**, nationally Community Action has enhanced the lives of millions by providing essential, life-changing services and opportunities;

**WHEREAS**, Community Action serves 99% of America’s counties in rural, suburban, and urban communities, and works toward the goal of ending poverty in our lifetime;

**WHEREAS**, Texas has a strong vibrant network of Community Action Agencies to deliver Community Action to Texans in need and this year has mobilized to provide needed assistance for families experiencing the impacts of the COVID-19 pandemic and Winter Storm Uri;

**WHEREAS**, Community Action will continue to implement innovative and cost-effective programs to improve the lives and living conditions of the impoverished; continue to provide support and opportunities for all eligible households in need of assistance; and continue to develop and carry out effective welfare system reforms; and

**WHEREAS**, the Texas Department of Housing and Community Affairs and the State of Texas support the Community Action network in Texas in working to improve communities and make Texas a better place to live not only during Community Action Month in May, but throughout the entire year;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate May 2021, as Community Action Month in Texas, and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the hard work and dedication of Texas Community Action agencies.

Signed this eighth day of April 2021.



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Leo Vasquez, Chair

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Leslie Bingham, Vice Chair

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Paul Braden, Member

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Sharon Thomason, Member

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Ajay Thomas, Member

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Brandon Batch, Member

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Bobby Wilkinson, Executive Director



# CONSENT AGENDA

1a

**BOARD ACTION REQUEST**

**BOARD SECRETARY**

**APRIL 8, 2021**

Presentation, discussion, and possible action on Board meeting minutes summaries for January 14, 2021, and February 11, 2021

**RECOMMENDED ACTION**

Approve the Board meeting minutes summaries for January 14, 2021, and February 11, 2021

**RESOLVED**, that the Board meeting minutes summaries for January 14, 2021, and February 11, 2021, are hereby approved as presented.

**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
January 14, 2021**

On Thursday, the fourteenth day of January 2021, at 9:05 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:

- Leo Vasquez, Chair
- Leslie Bingham, Vice Chair
- Brandon Batch
- Paul A. Braden
- Ajay Thomas

Leo Vasquez served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as secretary.

1) The Board unanimously approved the Consent Agenda except for Item 2(c) – Report on the Department’s Swap Portfolio and recent activities with respect thereto – which was pulled and move to the Action Item agenda.

2) Action Item 2(c) – Report on the Department’s Swap Portfolio and recent activities with respect thereto – was presented by Monica Galuski, TDHCA Director of Bond Finance. The Board heard the report and public comment (listed below) and took no action.

- Elizabeth Barber, Stifel, provided information on the item

3) Action Item 3 – Presentation, discussion, and possible action on an order proposing the amendment of 10 TAC §8.7 Program Regulations and Requirements, and directing publication for public comment in the *Texas Register* – was presented by Spencer Duran, TDHCA Director of the Section 811 Program, with additional information provided by Bobby Wilkinson, TDHCA Executive Director. The Board unanimously approved staff recommendation to publish the draft rule amendment for public comment.

4) Action Item 4 – Presentation, discussion, and possible action on timely filed appeal under the Department’s Multifamily Program Rules for Villas on Raiford (Exchange #15090009913) – was presented by Rosalio Banuelos, TDHCA Director of Asset Management, with additional information from Mr. Wilkinson and Mr. Eccles. Following public comment (listed below), the Board unanimously approved staff recommendation to deny the appeal.

- Terri Anderson, Villas on Raiford, testified in opposition to staff recommendation

5) Action Item 5(a) – Presentation, discussion, and possible action on the Dispute of EARAC’s Emergency Solutions Grants Coronavirus Aid, Relief, and Economic Security Act first allocation award recommendation for Galveston County Community Action Council, Inc., and approval of an award to The Salvation Army, Inc. serving Galveston County – was presented by Abigail Versyp, TDHCA Director of Single Family and Homeless Programs. Following public comment (listed below), the Board unanimously approved staff recommendation to deny the ESG award to Galveston County Community Action Council and approve the award to The Salvation Army.

- Robert Quintero, Galveston County Community Action Council, testified in opposition to staff recommendation
- Joe Compion, Galveston County Community Action Council, testified in opposition to staff recommendation
- Laurie Chinn, LFC Empowerment Center, testified in support of staff recommendation

6) Action Item 5(b) – Presentation, discussion, and possible action on Emergency Solutions Grants Coronavirus Aid, Relief, and Economic Security Act second allocation awards – was presented by Ms. Versyp. The Board unanimously approved staff recommendation on the awards.

7) Action Item 6 – Presentation, discussion and possible action on adoption of the second substantial amendment to the 2019 State of Texas Consolidated Plan: One-Year Action Plan relating to Community Development Block Grant funding under the CARES Act; authority to request waivers of HUD; and delegation of authority to the Department’s Executive Director to make awards to subrecipients – was presented by Elizabeth Yevich, TDHCA Director of the Housing Resource Center. The Board unanimously approved staff recommendation to adopt the Consolidated Plan amendment, approve the request to HUD for waivers, and delegate award authority to the executive director.

8) Action Item 7(a) – Presentation, discussion, and possible action on Inducement Resolution No. 21-008 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for Meadowbrook (#21604) – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to adopt the inducement resolution.

9) Action Item 7(b) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (The Montage) Resolution No. 21-009 and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales with additional information from Mr. Wilkinson. Following public comment (listed below), the Board unanimously approved staff recommendation to adopt the bond resolution and issue the housing tax credits.

- Tommy Calvert, Bexar County Commissioner, testified in opposition to staff recommendation

- Lisa Pfeiffer, Coalition of Northeast Neighborhoods, testified in opposition to staff recommendation
- Barry Palmer, Coats Rose attorney representing The Montage, testified in support of staff recommendation
- Andrea Williams, San Antonio resident, provided comments on the item

10) Action Item 7(c) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Oso Bay Apartments) Resolution No. 21-010 and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales. The Board unanimously approved staff recommendation to adopt the bond resolution and issue the housing tax credits.

11) The following items were not considered as they were pulled from the agenda:

- Action Item 8(a) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(a)(1) of the Qualified Allocation Plan (QAP) and the issuance of a Determination Notice for 4% Housing Tax Credits for 2100 Memorial in Houston (#20490)
- Action Item 8(b) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(8)(B)(iii) of the Qualified Allocation Plan (QAP) and the issuance of a Determination Notice for 4% Housing Tax Credits for The Oleanders at Broadway (#20497)

12) Action Item 8(c) – Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications for 20493 The Ridge at Lancaster, Dallas; and 20703 Cove in Odessa, Odessa – was presented by Ms. Morales. The Board unanimously approved staff recommendation to issue the housing tax credits for the two aforementioned applications.

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

- Elizabeth Roehm, Texas Housers, provided comments Sandpiper Cove, an affordable housing development in Galveston
- Ericka Bowman, Texas Housers, provided comments Sandpiper Cove, an affordable housing development in Galveston
- Miranda Sprague, ITEX Development, provided comments Sandpiper Cove, an affordable housing development in Galveston

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

and responses, and details of comments, is retained by TDHCA as an official record of the meeting.

There being no further business to come before the Board, the meeting adjourned at 11:44 a.m. The next meeting is set for Thursday, February 11, 2021.

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Secretary

Approved:

\_\_\_\_\_  
Chair

**Texas Department of Housing and Community Affairs Governing Board  
Board Meeting Minutes Summary  
February 11, 2021**

On Thursday, the eleventh day of February 2021, at 9:04 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:

- Leo Vasquez, Chair
- Leslie Bingham, Vice Chair
- Brandon Batch
- Paul A. Braden
- Ajay Thomas
- Sharon Thomason

Leo Vasquez served as Chair, and James “Beau” Eccles, TDHCA General Counsel, served as secretary.

1) The Board unanimously approved the Consent Agenda as presented.

2) At 9:07 a.m., the Board went into Executive Session and reconvened in open session at 9:45 a.m. During the Executive Session, the Board did not adopt any policy, position, resolution, rule, regulation, or take any formal action or vote on any item.

3) Chairman Vasquez exercised his discretion as board chair to take up agenda items out of posted order beginning with Action Item 6(a) – Presentation, discussion, and possible action on awards for 2021 Community Services Block Grant discretionary funds for education and employment services to Native American and Migrant Seasonal Farmworker populations – which was presented by Michael De Young, TDHCA Director of Community Affairs. The Board unanimously approved staff recommendation to make the aforementioned CSBG discretionary awards.

4) Action Item 6(b) – Presentation, discussion, and possible action on the reprogramming of Program Year 2020 Community Services Block Grant Administrative and Discretionary funds – was presented by Mr. De Young. The Board unanimously approved staff recommendation to reprogram the CSBG administrative and discretionary funds as outlined in the item.

5) Chairman Vasquez returned to the agenda order as posted with Action Item 3 – Report on the status of Sandpiper Cove in Galveston – presented by Cody Campbell, TDHCA Manager of Physical Inspections, with additional information from Bobby Wilkinson, TDHCA Executive Director. After hearing the report and public comment (listed below), the Board took no action.



- Bobken Simonians, ITEX Group, provided information on the item

6) Action Item 4(a) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Bella Vista Apartments) Series 2021, Resolution No. 21-011, and a Determination Notice of Housing Tax Credits – was presented by Teresa Morales, TDHCA Director of Multifamily Bonds. The Board unanimously approved staff recommendation to adopt the bond resolution and waivers requests, and issue the housing tax credits.

7) Action Item 4(b) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Crystal Falls Crossing) Series 2021, Resolution No. 21-012, and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales. The Board unanimously approved staff recommendation to adopt the bond resolution and issue the housing tax credits.

8) Action Item 4(c) – Presentation, discussion, and possible action regarding the Issuance of Multifamily Green Tax-Exempt Bonds (Green M-TEBS – Shiloh Village Apartments) Series 2021, Resolution No. 21-013, and a Determination Notice of Housing Tax Credits – was presented by Ms. Morales. The Board unanimously approved staff recommendation to adopt the bond resolution and waivers requests, and issue the housing tax credits.

9) Action Item 4(d) – Presentation, discussion, and possible action on Inducement Resolution No. 21-014 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for 21603 Park at Kirkstall, Dallas; 21608 Fiji Lofts, Dallas; and 21609 Throckmorton Villas, McKinney – was presented by Ms. Morales. The Board unanimously approved staff recommendation to adopt the bond resolution for the three transactions.

10) Action Item 4(e) – Presentation, discussion, and possible action on a waiver relating to 10 TAC §11.101(b)(2) of the Qualified Allocation Plan (QAP) concerning Development Size Limitations and Inducement Resolution No. 21-015 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for 21611 Reserve at Vineyard Oaks, Fredericksburg – was presented by Ms. Morales. The Board unanimously approved staff recommendation to grant the waiver and adopt the bond resolution.

11) Action Item 4(f) – Presentation, discussion, and possible action on Inducement Resolution No. 21-016 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority for 21612 Villas at Shriner’s Point in San Angelo – was presented by Ms. Morales. The Board unanimously approved staff recommendation to adopt the bond resolution.

12) Action Item 5(a) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(a)(1) of the Qualified Allocation Plan (QAP) and the issuance of a Determination Notice for 4% Housing Tax Credits for 2100 Memorial in Houston (#21419) – was presented by Ms. Morales. The Board unanimously approved staff recommendation to grant the waiver and issue the housing tax credits.

13) Action Item 5(b) – Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(a)(1) of the Qualified Allocation Plan (QAP), 10 TAC §11.101(b)(8)(B)(iii) of the QAP and the issuance of a Determination Notice for 4% Housing Tax Credits for The Oleanders at Broadway (#21418) – was presented by Ms. Morales. The Board unanimously approved staff recommendation to grant the waiver and issue the housing tax credits.

14) Action Item 5(c) – Presentation, discussion, and possible action regarding the re-issuance of a Determination Notice for 4% Housing Tax Credits for Villas del San Xavier in San Marcos (#21420) – was presented by Ms. Morales. The Board unanimously approved staff recommendation to reissue the housing tax credits.

15) Action Item 5(d) – Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications for 20499 Legacy Senior Residences II, Round Rock; 20701 City Heights, Austin; 20704 Applewood Ranch, San Antonio ETJ; and 20707 Kallison Ranch, San Antonio ETJ – was presented by Ms. Morales with additional information from Mr. Wilkinson. Following public comment (listed below), the Board unanimously approved staff recommendation to issue the housing tax credits for the four transactions.

- Jason Lucio, Southeast Combined Neighborhood Contact Team, testified in opposition to staff recommendation on 20701

16) Action Item 5(e) – Presentation, discussion and possible action regarding pre-determination of eligibility under 10 TAC §11.101(a)(2) related to Undesirable Site Features for 21147 (formerly 20318), Cypress Creek Apartment Homes at La Porte – was not heard as it was pulled from the agenda.

17) Action Item 7 – Presentation, discussion, and possible action on the election of Governing Board Officers for the upcoming biennium pursuant to Tex. Gov't Code §2306.030 – was presented by Chairman Vasquez with additional information from Mr. Eccles. The Board unanimously re-elected Ms. Bingham as Vice Chair, Mr. Eccles as Secretary, and Michael Lyttle, TDHCA Director of External Affairs, as Assistant Secretary.

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

There being no further business to come before the Board, the meeting adjourned at 11:07 a.m. The next meeting is set for Thursday, March 11, 2021.

\_\_\_\_\_  
Secretary

Approved:

\_\_\_\_\_  
Chair

1b

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement for Scott Street Townhomes (HTC #01040)

**RECOMMENDED ACTION**

**WHEREAS**, Scott Street Townhomes (the Development) received a 9% Housing Tax Credit (HTC) award in 2001 to construct 96 multifamily units in Houston, Harris County;

**WHEREAS**, the HTC application for the Development received points and/or other preferences for agreeing to provide a Right of First Refusal (ROFR) to purchase the Development over a two-year ROFR period, and this provision is reflected in the Land Use Restriction Agreement (LURA) for the Development;

**WHEREAS**, in 2015, the 84<sup>th</sup> Texas Legislature, Regular Session, amended Tex. Gov't Code §2306.6725 and §2306.6726 to allow, among other things, for a 180-day ROFR period and to permit a Qualified Entity to purchase a property under ROFR, and defined a Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, 26 U.S.C. §42(i)(7)(A), Internal Revenue Code of 1986;

**WHEREAS**, Scott Street Limited Partnership (the Development Owner or Owner) requests to amend the LURA for the Development to incorporate changes made to Tex. Gov't Code §2306.6725 and §2306.6726 in 2015; and

**WHEREAS**, amendment to the ROFR period in the LURA is a material change requiring Board approval under 10 TAC §10.405(b)(2)(E), and the Development Owner has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing;

**NOW, therefore, it is hereby**

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

## BACKGROUND

Scott Street Townhomes received a 9% HTC award in 2001 to construct 96 multifamily units in Houston, Harris County. In a letter dated January 21, 2021, Pamela P. Barineau, representative for the Development Owner, requested approval to amend the HTC LURA related to the ROFR provision.

In 2001, the Housing Tax Credit application allotted five points to the Development Owner in exchange for a two-year ROFR period. Upon completion of the Development, the Owner entered into a Declaration of Land Use Restrictive Covenants/Land Use Restriction Agreement for Low-Income Housing Credits recorded in Harris County on February 14, 2003.

The additional use restrictions in the current HTC LURA require, among other things, a two-year ROFR to sell the Development based on a set order of priority to a community housing development organization (as defined for purposes of the federal HOME Investment Partnership Program at 24 CFR Part 92), to a qualified nonprofit organization (as defined in Internal Revenue Code §42(h)(5)(C)), or to a tenant organization or to the Department, if at any time after the 15<sup>th</sup> year of the Compliance Period the Owner decides to sell the property. The Development is currently in the 20<sup>th</sup> year of the 40-year Extended Use Period. However, the Owner desires to exercise its rights under Tex. Gov't Code §2306.6726 to amend the LURA to allow for a 180-day ROFR period.

In 2015, the Texas Legislature, Regular Session, passed HB 3576, which amended Tex. Gov't Code §2306.6725 to allow for a 180-day ROFR period and Tex. Gov't Code §2306.6726 to allow for a Qualified Entity to purchase a development under a ROFR provision of the LURA and satisfy the ROFR requirement. Additionally, Tex. Gov't Code §2306.6726, as amended by HB 3576, defines Qualified Entity to mean an entity described by, or as amended, an entity controlled by an entity described by, §42(i)(7)(A) of the Internal Revenue Code of 1986. The Department's Uniform Multifamily Rules, Subchapter E, include administrative procedures to allow a Development Owner to conform to the new ROFR provisions described in the amended statute.

The Development Owner has complied with the amendment and notification requirements under 10 TAC §10.405(b). The Development Owner held a telephonic public hearing on the matter on February 23, 2021. There were three residents on the call, and while a question was asked about the amendment, no public comment was received regarding the requested amendment.

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

**SCOTT STREET GROUP, LLC**

7700 San Felipe, Suite 300, Houston, TX 77063  
Office (713) 425-2974 FAX (713) 917-0965

---

January 21, 2021

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

Subject: Scott Street Townhomes (TDHCA #01040)  
Request for LURA Amendment  
Conversion from two-year ROFR to 180-day ROFR

Dear Ms. Trevino:

This is to request that TDHCA amend the subject project's Declaration of Land Use Restrictive Covenants dated January 20, 2003 (LURA) to revise its Right of First Refusal (ROFR) period from two years to 180 days as permitted by current Texas law.

This request is being submitted for consideration by TDHCA's Governing Board at its upcoming meeting on March 11, 2021.

A copy of our proposed Notice to Residents to attend a public hearing on the requested change is attached for your information. The hearing will be held at least 15 business days prior to the scheduled Board meeting.

Also enclosed is a check payable to TDHCA for \$2,500 as a fee for processing this request.

Thank you for your cooperation.

Respectfully yours,



Pamela P. Barineau  
President, Scott Street Group, LLC  
Managing General Partner of  
Scott Street Limited Partnership  
Development Owner

Enclosures:

Resident Notice Letter  
Check for fee

1c



**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action on release of the draft Federal Fiscal Years 2022-2023 Community Services Block Grant State Plan for public comment and authorization to procure vendors for services and release Requests for Applications

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Health and Human Services (USHHS) requires that the Department submit a State Plan every two years in order to receive its allotment of Community Services Block Grant (CSBG) funds;

**WHEREAS**, the Department has prepared a draft Federal Fiscal Years (FFY) 2022-2023 CSBG State Plan (the Plan);

**WHEREAS**, USHHS requires that a draft Plan be released for public comment and the State requires a public hearing prior to the submission of the Plan to USHHS;

**WHEREAS**, as indicated in Section 7.6 of the Plan, 5% of the Department's CSBG allotment is allocated towards state administration expenses, of which a portion will be used to procure a vendor to provide and maintain a database designed to manage Organizational Standards to ensure compliance with USHHS requirements;

**WHEREAS**, as indicated in Section 7.9 and 7.11 of the Plan, \$150,000 annually in discretionary funding is allocated towards a vendor to perform Consultative and Assessment Services for subrecipient organizations which the Department intends to procure;

**WHEREAS**, 5% of the Department's CSBG allotment is allocated for discretionary purposes that include activities that may require making funds available through Requests for Applications; and

**WHEREAS**, staff is seeking authority to proceed with procurements for organizational standards and consultative/assessment services, and to proceed with issuance of Requests for Applications without requiring further board approval;

**NOW, therefore, it is hereby**

**RESOLVED**, that the draft Plan, in the form presented to this meeting, is hereby approved to be released for public comment, public hearing, posted on the Department's website and published in the *Texas Register*;

**FURTHER RESOLVED**, that if USHHS releases different guidance after Board approval, the Board authorizes staff to make needed conforming changes and non-substantive changes to the Plan, and if necessary to change the public hearing dates and the comment period;

**FURTHER RESOLVED**, that if the Texas Grant Management Standards (effective January 1, 2022) requires changes that the Board authorizes staff to make any conforming changes as necessary to comply with these standards;

**FURTHER RESOLVED**, that the final Plan with consideration for final grant guidance, public comment and technical corrections made by staff, along with award recommendations for eligible entities as indicated in Section 7.2 of the Plan, will be presented to the Board no later than July 2021; 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 this Board to execute, deliver, and cause to be performed such amendments, documents, and other writings and to make decisions as they or any of them may deem necessary or advisable to effectuate the procurement of vendors for Consultative and Assessment Services to maintain an Organizational Standards database, and to proceed with Requests for Applications.

### **BACKGROUND**

USHHS requires that the State of Texas submit a CSBG State Plan every two years on or before September 1<sup>st</sup> in order to receive its allotment of CSBG funds. In response to this requirement, the Department has prepared a draft FFY 2022-2023 CSBG State Plan. Eligible Entities had two previous opportunities to provide input into the drafting of this Plan. The first opportunity included a 14-day timeframe in January 2021 to provide comments on what they wanted changed from the 2020-2021 CSBG State Plan and the second opportunity included a 12-day period of time in March 2021 to comment on the draft 2022-2023 Plan before presenting it to the Board at this meeting.

The Plan, upon approval by the Board, will be posted on the Department's website, published in the *Texas Register*, released for public comment, and public hearings will be held.

An announcement of the availability of the draft Plan and details regarding the timeframe to accept comments from the public and the public hearing will be posted on the Department's website no later than April 9, 2021, and published in the *Texas Register* on April 23, 2021. The period to accept comments from the public regarding the Plan will be open from Friday, April 23, 2021, through Monday, May 24, 2021, at 5:00 p.m. Austin local time. Written comments concerning the Plan may be submitted to the Texas Department of Housing and Community Affairs, Community Affairs Division, P.O. Box 13941,

Austin, TX 78711-3941, or by email to [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us), or by fax to (512) 475-3935. Comments are due no later than 5:00 p.m. Austin local time on Monday, May 24, 2021.

The Department will also conduct two virtual public hearing through GoToWebinar. Meeting details are:

- Wednesday, May 12, 2021, from 2:00 p.m.-3:00 p.m.
  - Via GoToWebinar
  - To Register: <https://global.gotowebinar.com/join/7383217695375202320/94910646>
  
- Thursday, May 13, 2021, from 6:00 p.m.-7:00 p.m.
  - Via GoToWebinar
  - To Register: <https://global.gotowebinar.com/join/1364361302557537552/596155856>

Upon completion of the public comment period and public hearing, staff will modify the Plan, if appropriate, based on public comment. Staff will also include any changes required by federal guidance and necessary technical corrections made by staff. Staff anticipates presenting the revised Plan, along with recommendations for eligible entity awards, to the Board for review and final approval no later than July.

5% of the Department’s CSBG allocation is reserved for discretionary activities and can be used for a variety of CSBG related purposes. Examples of these purposes can include training and technical assistance for subrecipients and awarding funds to organizations conducting community development activities or neighborhood innovation projects. Recipients of CSBG discretionary funds may, but are not required to, be eligible entities. The table below reflects the proposed activities and funding levels for each activity across the 2020-2021 and 2022-2023 biennium.

<b>CSBG-Discretionary Activity</b>	<b>2020-2021</b>	<b>2022-2023</b>	<b>Difference*</b>
Network Training and Technical Assistance	\$150,000	\$150,000	\$0
Organizational Capacity Improvements (fka Network Operational Investments)	\$200,000	\$200,000	\$0
Direct Client Assistance	\$500,000	\$550,000	\$50,000
Consultative and Assessment Services (fka Intensive Assessments)	\$150,000	\$150,000	\$0
Network Transition Fund	\$50,000	\$50,000	\$0
Migrant Seasonal Farmworker & Native American Populations Employment and Educational Initiatives	\$300,000	\$300,000	\$0
Housing Voucher Program Support Fund	\$125,000	\$125,000	\$0
Disaster Recovery Fund	\$150,000	\$150,000	\$0

Balance of State Continuum of Care and Related Statewide Homelessness Initiatives	\$75,000	\$75,000	\$0
<b>Subtotal</b>	<b>\$1,700,000</b>	<b>\$1,750,000</b>	<b>\$50,000</b>

\* Reflects an increase in CSBG funding from USHHS to the Department between 2020-2021 and 2022-2023

Because there is often a need for outside vendor consultation and assessments to be provided to subrecipient organizations, it is staff’s recommendation, noted within Section 7.9 and 7.11 of the Plan, to allocate \$150,000 in discretionary funding for Consultative and Assessment Services. Such services will be used to assess subrecipient operations and procedures and provide expertise and guidance to subrecipients in a variety of functional areas including, but not limited to cost allocation, application processing, Board management, operations, and reporting. Additionally, eligible entities within the State of Texas are required by USHHS to comply with Organizational Standards, noted within Section 6 of the Plan, and TDHCA is responsible for statewide oversight and reporting of this information to USHHS. To fulfill its federally required responsibilities in this area, TDHCA must solicit a vendor for a software service that will allow Texas’ eligible entities to report Organizational Standards data to TDHCA. The selected vendor must provide a service for ongoing maintenance, support, and enhancements of the database. Staff recommends approval for staff to procure these providers to assist subrecipients in their ongoing efforts to deliver effective services and to ensure compliance with state and federal requirements.

In review of the Plan, attached, it should be noted that the Plan follows a template and series of required responses pre-determined by USHHS with character limitations and specific instructions. Also, the Plan is provided in blackline form reflecting the changes being recommended since the publication of the 2020-2021 CSBG State Plan.

The full text of the draft 2022-2023 CSBG State Plan may be viewed at the Department’s website: <https://www.tdhca.state.tx.us/public-comment.htm>. The public may also receive a copy of the draft 2022-2023 CSBG State Plan by contacting Gavin Reid at [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us).

**STATE OF TEXAS FFY 202~~20~~<sup>29</sup> and FFY 202~~31~~<sup>31</sup>**  
**COMMUNITY SERVICES BLOCK GRANT APPLICATION**  
**AND STATE PLAN**

**To be Submitted to**

**U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**August 20~~21~~<sup>19</sup>**

**by the**

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

Street Address: 221 East 11th Street, Austin, TX 78701  
Mailing Address: PO Box 13941, Austin, TX 78711  
Main Number: 512-475-3800 Toll Free: 1-800-525-0657  
Email: [info@tdhca.state.tx.us](mailto:info@tdhca.state.tx.us) Web: [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)

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## SECTION 1

### CSBG Lead Agency, CSBG Authorized Official, CSBG Point of Contact, and Official State Designation Letter

**1.1.** Provide the following information in relation to the lead agency designated to administer CSBG in the State, as required by Section 676(a) of the CSBG Act. The following information should mirror the information provided on the Application for Federal Assistance, SF-424M.

**1.1a.** Lead agency [**Texas Department of Housing and Community Affairs**]

**1.1b.** Cabinet or administrative department of this lead agency [**Check One and narrative where applicable**]

- Community Services Department
- Human Services Department
- Social Services Department
- Governor's Office
- Community Affairs Department
- Other, describe:

**1.1c.** Division, bureau, or office of the CSBG authorized official [**Community Affairs Division**]

**1.1d.** Authorized official of the lead agency [**Mr. ~~David Cervantes~~ Bobby Wilkinson, Acting Executive Director**]

**Instructional note:** The authorized official could be the director, secretary, commissioner etc. as assigned in the designation letter (attached under item 1.3). The authorized official is the person indicated as authorized representative on the SF-424M.

**1.1e.** Street address [**221 East 11<sup>th</sup> Street**]

**1.1f.** City [**Austin**]

**1.1g.** State [**Texas**]

**1.1h.** Zip [**78701**]

**1.1i.** Telephone number and extension [**512-475-3800**]

**1.1j.** Fax number [**512-475-3935**]

**1.1k.** Email address [**~~bobby.wilkinson~~ david.cervantes@tdhca.state.tx.us**]

**1.1l.** Lead agency website [[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)]

**1.2.** Provide the following information in relation to the designated State CSBG point of contact.

**Instructional Note:** The State CSBG point of contact should be the person that will be the main point of contact for CSBG within the State.

**1.2a.** Agency name [**Texas Department of Housing and Community Affairs**]

**1.2b.** Name of the point of contact [**Michael DeYoung**]

**1.2c.** Street address [**221 East 11<sup>th</sup> Street**]

**1.2d.** City [**Austin**]

**1.2e.** State [**Texas**]

**1.2f.** Zip [**78701**]

**1.2g.** Point of contact telephone number [**512-475-2125**]

**1.2h.** Fax number [**512-475-3935**]

**1.2i.** Point of contact email address [[michael.deyoung@tdhca.state.tx.us](mailto:michael.deyoung@tdhca.state.tx.us)]

**1.2j.** Point of contact agency website [[www.tdhca.state.tx.us](http://www.tdhca.state.tx.us)]

**1.3. Designation Letter:** Attach the State's official CSBG designation letter. If either the governor or designated agency has changed, update the letter accordingly. [**Attach a document**]

**Instructional Note:** The letter should be from the chief executive officer of the State and include, at minimum, the designated State CSBG lead agency and title of the authorized official of the lead agency who is to administer the CSBG grant award.

Per state law, programmatic designations to a State Agency from the Governor remain in effect unless rescinded.



## SECTION 2

### State Legislation and Regulation

- 2.1. **CSBG State Legislation:** Does the State have a statute authorizing CSBG?  
Yes  No
- 2.2. **CSBG State Regulation:** Does the State have regulations for CSBG?  
Yes  No

2.3. If yes was selected in item 2.1 or 2.2, attach a copy (or copies) of legislation and/or regulations or provide a hyperlink(s), as appropriate. **[Attach a document and/or provide a link] Link:**

Texas Government Code, Section 2105:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2105.htm>

Texas Government Code, Section 2306.092 and 2306.097:

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

Texas Administrative Code, 10 TAC, Chapter 1:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=10&pt=1&ch=1](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=1)

Texas Administrative Code, 10 TAC, Chapter 2:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=4&ti=10&pt=1&ch=2](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=10&pt=1&ch=2)

Texas Administrative Code, 10 TAC, Chapter 6, Subchapter A:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y)

Texas Administrative Code, 10 TAC, Chapter 6, Subchapter B:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=6&sch=B&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=B&rl=Y)

[Texas Grant Management Standards](#)

<https://comptroller.texas.gov/purchasing/grant-management/>

**2.4. State Authority:** Select a response for each question about the State statute and/or regulations authorizing CSBG:

**2.4a.** Did the State legislature enact authorizing legislation, or amendments to an existing authorizing statute, last year?  Yes  No

**2.4b.** Did the State establish or amend regulations for CSBG last year?  Yes  No

**2.4c.** Does the State statutory or regulatory authority designate the bureau, division, or office in the State government that is to be the State administering agency?  Yes  No

## SECTION 3

### State Plan Development and Statewide Goals

**3.1. CSBG Lead Agency Mission and Responsibilities:** Briefly describe the mission and responsibilities of the State agency that serves as the CSBG lead agency. **[Narrative:**

The mission of the Texas Department of Housing and Community Affairs is to administer its assigned programs efficiently, transparently, and lawfully and to invest its resources strategically and develop high quality affordable housing which helps Texas communities to thrive.

The Department accomplishes its mission largely by acting as a conduit for federal assistance for housing and community services. However, because several major housing programs require the participation of private investors and private lenders, TDHCA also operates as a housing finance agency.

Ensuring compliance with the many state and federal laws that govern housing programs is another important part of the Department's mission. This ensures that TDHCA's housing portfolio is being well maintained and correctly operated, that program funds are being compliantly and effectively administered, and that any misuse of those resources is identified and addressed.

TDHCA, chiefly through its community action network, provides important services to Texans who qualify based on their income level and, through its subrecipients provides affordable housing assistance as well. The Department offers educational materials and technical assistance for housing, housing-related, and community services matters statewide.]

**3.2. State Plan Goals:** Describe the State’s CSBG-specific goals for State administration of CSBG under this State Plan. **[Narrative:** The Agency’s Strategic Plan for Fiscal Years 2019-2023 includes the following measures related to CSBG:

Objective: To ease the hardship of poverty for 8.89 percent of the homeless and very low income persons each year.

Strategy 1: Administer poverty-related funds through a Network of Agencies.

Output Measures:

1. Number of persons assisted through Homeless and Poverty-related funds (Note: this includes CSBG and other grants)
2. Number of persons assisted that achieve income above poverty level
3. Number of persons assisted by the Community Services Block Grant Program]

**Instructional Note:** For examples of “goals,” see State Accountability Measure 1Sa(i).

**Note:** This information is associated with State Accountability Measure 1Sa(i) and may pre-populate the State’s annual report form.

**3.3. State Plan Development:** Indicate the information and input the State accessed to develop this State Plan.

**3.3a. Analysis of [Check all that applies and narrative where applicable]**

- State Performance Indicators and/or National Performance Indicators (NPIs)
- U.S. Census data
- State performance management data (e.g., accountability measures, ACSI survey information, and/or other information from annual reports)
- Other data (describe) **[Narrative, 2500 characters]**
- Eligible entity community needs assessments
- Eligible entity plans
- Other information from eligible entities, e.g., State required reports (describe)  
**[Narrative, 2500 characters]**

**3.3b. Consultation with [Check all that applies and narrative where applicable]**

- Eligible entities (e.g., meetings, conferences, webinars; not including the public hearing)
- State community action association and regional CSBG T & TA providers
- State partners and/or stakeholders (describe) **[Narrative:** The Department invites consultation with partners and stakeholders through our Executive Board Meeting, intra-agency councils, workgroups, and public hearings. State employees also attend state association conferences and Board meetings.]

- National organizations (describe) [Narrative, 2500 characters]
- Other (describe) [Narrative, 2500 characters]

### 3.4. Eligible Entity Involvement

3.4a. Describe the specific steps the State took in developing the State Plan to involve the eligible entities. [Narrative: Prior to the development of the State Plan, the Department sent an e-mail to the eligible entities and the State Association to offer an initial opportunity to provide comments on the plan and offered to convene a conference call to discuss specific sections they had an interest in discussing. No comments were received. Additionally, tThe State included CSBG eligible entities and the State Association in the development of the Plan and the use of CSBG funds by providing the eligible entities and the State Association with the draft Plan prior to presenting it to the TDHCA Governing Board. ~~The State reviewed their input and determined how to incorporate their feedback into the Plan. Only after that initial input was received was~~No comments were received. ~~†~~The plan was then presented to the Department’s Board so that it could be released as the draft Plan for an official public comment period lasting 30 days. This period provided the eligible entities and the State Association with a ~~second~~ third opportunity to comment on the Plan. There were also ~~two~~four separate virtual public hearings held, one during business hours and one after business hours in different areas of the state to provide input to the Plan. ]

**Note:** This information is associated with State Accountability Measures 1Sa(ii) and may pre-populate the State’s annual report form.

***If this is the first year filling out the automated State Plan, skip the following question.***

3.4b. **Performance Management Adjustment:** How has the State adjusted State Plan development procedures under this State Plan, as compared to past plans, in order 1) to encourage eligible entity participation and 2) to ensure the State Plan reflects input from eligible entities? Any adjustment should be based on the State’s analysis of past performance in these areas, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail.

[The State thoroughly reviewed the results of the ACSI 20197 Survey in developing the Plan.; One of the areas of feedback was that eligible entities asked to be able to provide input on the CSBG State Plan prior to the draft being released. In response to that suggestion, prior to beginning revisions, Department sent an e-mail to the eligible entities and the State Association to offer an initial opportunity to provide comments on the plan and offered to convene a conference call to discuss specific sections they had an interest in discussing. The network of eligible entities also requested that the draft Plan be provided to them prior to publication showing the tracked changes and the Department has done so. No eligible entities

~~expressed an interest in convening through a conference call. The State also released a copy of the draft Plan to garnering input during the early development of the draft Plan, prior to its being approved by the Board and released for public comment as a draft document. The network of eligible entities also requested that the draft Plan be provided to them prior to publication showing the tracked changes and the Department has done so. Some input also asked for the hearings to be held in different areas of the State — not only central Texas — so that the cost to attend a hearing is not cost prohibitive. In response, the Department held hearings in four areas of the State. At least one of the hearings was hosted in West Texas, which is an area of the State not previously selected as a public hearing site prior to 2017. The State reviewed the most recent ACSI results and continues to consider the input in the development of training and technical assistance in the areas of development of the Community Needs Assessment and, the implementation of ROMA Next Generation, and the new CSBG Reporting modules, and Other input in the 2019 ACSI Survey related to concerns over a lack of coordination with the Department’s Compliance Division and the Community Affairs Division Training Section. The two sections are aware of these concerns and continuously strive to communicate and coordinate their communications and guidance to the network to ensure consistent interpretation of state and federal regulations. The State will continue to utilize input from the Network throughout the period covered by this Plan.]~~

**Note:** This information is associated with State Accountability Measures 1Sb(i) and (ii) and may pre-populate the State’s annual report form.

**3.5. Eligible Entity Overall Satisfaction:** Provide the State’s target for eligible entity Overall Satisfaction during the performance period: ~~[6270]~~

**Instructional Note:** The State’s target score will indicate improvement or maintenance of the States’ Overall Satisfaction score from the most recent American Customer Survey Index (ACSI) survey of the State’s eligible entities. (See information about the ACSI in the CSBG State Accountability Measures document.)

**Note:** Item 3.5 is associated with State Accountability Measure 8S and may pre-populate the State’s annual report form.

## SECTION 4

### CSBG Hearing Requirements

**4.1. Public Inspection:** Describe how the State made this State Plan, or revision(s) to the State Plan, available for public inspection, as required under Section 676(e)(2) of the Act. **[Narrative:** The Draft Application and State Plan was made available for review at the April ~~825, 2021~~49, meeting of the TDHCA Governing Board. Subsequently, a public

comment period occurred from ~~April 23, 2021~~~~May 10, 2019~~, through ~~May 24, 2021~~~~June 10, 2019~~, whereby input into the Plan could be provided. The State held two virtual public hearings with one occurring during business hours and the other after business hours~~in four separate locations throughout the State at which time the Plan was also available for review~~. The draft Plan was also posted on the Department's website on April ~~9<sup>26</sup>~~, 2021~~19~~, and a link to the website posting was published in the *Texas Register* on ~~April 23, 2021~~~~May 10, 2019~~. Both the Department's website and the *Texas Register* publication announced the public comment period and the public hearing information.]

**4.2. Public Notice/Hearing:** Describe how the State ensured there was sufficient time and statewide distribution of notice of the public hearing(s) to allow the public to comment on the State Plan, as required under 676(a)(2)(B) of the CSBG Act. **[Narrative:** The State posted notice of the public hearings and the 30-day public comment period on the Department's website April ~~9<sup>26</sup>~~, 2021~~19~~. CSBG eligible entities and the State Association were also notified by e-mail that same day. Notice of Public Hearings and the Public Comment period were also published in the *Texas Register* on ~~April 23, 2021~~~~May 10, 2019~~.]

**4.3. Public and Legislative Hearings:** Specify the date(s) and location(s) of the public and legislative hearing(s) held by the designated lead agency for this State Plan, as required under Section 676(a)(2)(B) and Section 676(a)(3) of the Act. (If the State has not held a public hearing in the prior fiscal year and/or a legislative hearing in the last three years, provide further detail).

**Instructional Note:** The date(s) for the public hearing(s) must have occurred in the year prior to the first Federal fiscal year covered by this plan. Legislative hearings are held at least every three years, and must have occurred within the last three years prior to the first Federal fiscal year covered by this plan.

Public Hearings:

- Wednesday, May 12, 2021, 2:00 p.m. virtual hearing
- ~~Austin – Tuesday, May 28, 2019, 2:00 p.m. – 3:00 p.m. in room 116, TDHCA headquarters, 221 East 11<sup>th</sup> Street, Austin, TX~~
- Thursday, May 13, 2021, 6:00 p.m. virtual hearing
- ~~Fort Worth – Tuesday, May 28, 2019, 6:00 p.m. – 7:00 p.m. at Southside Community Center, 959 E. Rosedale, Fort Worth, TX 76104~~
- ~~Odessa – Wednesday, May 29, 2019, 2:00 p.m. – 3:00 p.m. at West Texas Opportunities offices, 1415 East 2<sup>nd</sup>, Odessa, TX 79762~~
- ~~Houston – Thursday, May 30, 2019, 6:00 p.m. – 7:00 p.m. Baker Ripley, Inc. offices, 3838 Aberdeen Way, Houston, TX 77025~~

Legislative Hearings:

House Committee on Appropriations, February 11, 2019, Texas State Capitol, Austin, Texas

Senate Committee on Finance, January 31, 2019, Texas State Capitol, Austin, Texas

Date	Location	Type of Hearing [Select an option]
<p><b>Legislative Hearings:</b></p> <p>House Committee on Appropriations on <del>February 11, 2019</del> <u>TBD</u></p> <p>Senate Committee on Finance on <del>January 31, 2019</del> <u>TBD</u></p>	<p>Texas State Capitol, Austin, Texas</p>	<ul style="list-style-type: none"> <li>• <input type="checkbox"/> Public</li> <li>• <input checked="" type="checkbox"/> Legislative</li> <li>• <input type="checkbox"/> Combined</li> </ul>
<p><b>Public Hearings:</b></p> <p><del>Wednesday, May 12, 2021, 2:00 p.m.</del></p> <p><del>Tuesday, May 28, 2019, from 2:00 p.m. – 3:00 p.m.</del></p> <p><u>Thursday, May 13,</u></p>	<p><u>Virtual hearings via GoToWebinar [TDHCA headquarters 221 East 11<sup>th</sup> Street, Room 116, Austin, TX 78701]</u></p> <p><u>Join meeting from your computer, tablet or smartphone.</u></p> <p><u>For the May 12, 2021 hearing:</u></p> <p><u>Register at</u> <u><a href="https://global.gotowebinar.com/join/7383217695375202320/94910646">https://global.gotowebinar.com/join/7383217695375202320/94910646</a></u></p> <p><u>You can also dial in using your phone.</u></p> <p><u>United States: +1 (562) 247-8422 (Persons using the dial in number and access code without registering online will only be able to hear the hearing and will not be able to provide comment)</u></p> <p><u>Access Code: 267-578-547</u></p> <p><u>For the May 13, 2021, hearing:</u></p>	<ul style="list-style-type: none"> <li>• <input checked="" type="checkbox"/> Public</li> <li>• <input type="checkbox"/> Legislative</li> <li>• <input type="checkbox"/> Combined</li> </ul>

Date	Location	Type of Hearing [Select an option]
<del>2021, 6:00 p.m. Tuesday, May 28, 2019 from 6:00 p.m. to 7:00 p.m. Wednesday, May 29, 2019, from 2:00 p.m. to 3:00 p.m. Thursday, May 30, 2019 from 6:00 p.m. to 7:00 p.m.</del>	<p><u>Register at</u>  <a href="https://global.gotowebinar.com/join/1364361302557537552/596155856">https://global.gotowebinar.com/join/1364361302557537552/596155856</a>  <u>You can also dial in using your phone.</u>  <u>United States: +1 (415) 655-0052 (Persons using the dial in number and access code without registering online will only be able to hear the hearing and will not be able to provide comment)</u>  <u>Access Code: 990-433-162</u>  <del>Southside Community Center, 959 E. Rosedale, Fort Worth, TX-76104</del>  <del>West Texas Opportunities offices, 1415 East 2nd Odessa, TX 79762</del>  <del>Baker Ripley, Inc. offices, 3838 Aberdeen Way, Houston, TX 77025</del></p>	

**ADD a ROW function** Note: rows will be able to be added for each additional hearing

**4.4.** Attach supporting documentation or a hyperlink for the public and legislative hearings. **[Attach a document or provide a hyperlink.]**

<https://www.sos.state.tx.us/texreg/archive/May102019/In%20Addition/In%20Addition.html#90>  
TBD

Legislative hearing documentation is attached.



## SECTION 5

### CSBG Eligible Entities

**5.1. CSBG Eligible Entities:** In the table below, list each eligible entity in the State, and indicate public or private, the type(s) of entity, and the geographical area served by the entity. (This table should include every CSBG Eligible Entity to which the State plans to allocate 90 percent funds, as indicated in the table in item 7.2. Do not include entities that only receive remainder/discretionary funds from the State or tribes/tribal organizations that receive direct funding from OCS under Section 677 of the CSBG Act.)

	<b>CSBG Eligible Entity</b>	<b>Public or Nonprofit</b>	<b>Type of Agency</b>	<b>CSBG Counties Served</b>
1	Aspermont Small Business Development Center, Inc.	Nonprofit	CAA	Haskell, Jones, Kent, Knox, Stonewall, Throckmorton
2	Austin, City of, Health and Human Services Department	Public	Local Government	Travis
3	Big Bend Community Action Committee, Inc.	Nonprofit	CAA	Brewster, Culberson, Hudspeth, Jeff Davis, Presidio
4	Brazos Valley Community Action Programs	Nonprofit	CAA	Brazos, Burleson, Chambers, Grimes, Leon, Liberty, Madison, Montgomery, Robertson, Walker, Waller, Washington
5	Cameron and Willacy Counties Community Projects, Inc.	Nonprofit	CAA	Cameron, Willacy
6	Central Texas Opportunities, Inc.	Nonprofit	CAA	Brown, Callahan, Coleman, Comanche, Eastland, McCulloch, Runnels
7	Combined Community Action, Inc.	Nonprofit	CAA	Austin, Bastrop, Colorado, Fayette, Lee
8	Community Action Committee of Victoria, Texas	Nonprofit	CAA	Aransas, Calhoun, De Witt, Goliad, Gonzales, Jackson, Lavaca, Refugio, Victoria
9	Community Action Corporation of South Texas	Nonprofit	CAA	Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, San Patricio
10	Community Action Inc. of Central Texas	Nonprofit	CAA	Blanco, Caldwell, Hays
11	Community Action Social Services & Education	Nonprofit	CAA	Maverick

	<b>CSBG Eligible Entity</b>	<b>Public or Nonprofit</b>	<b>Type of Agency</b>	<b>CSBG Counties Served</b>
12	Community Council of South Central Texas, Inc.	Nonprofit	CAA	Atascosa, Bandera, Comal, Dimmit, Edwards, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Kinney, LaSalle, Live Oak, McMullen, Medina, Real, Uvalde, Val Verde, Wilson, Zavala
13	Community Services of Northeast Texas, Inc.	Nonprofit	CAA	Bowie, Camp .Cass, Delta, Franklin, Hopkins, Lamar, Marion, Morris, Rains, Red River, Titus
14	Community Services, Inc.	Nonprofit	CAA	Anderson, Collin, Denton, Ellis, Henderson, Hunt, Kaufman, Navarro, Rockwall, Van Zandt
15	Concho Valley Community Action Agency	Nonprofit	CAA	Coke, Concho, Crockett, Irion, Kimble, Menard, Reagan, Schleicher, Sterling, Sutton, Tom Green
16	Community Council of Greater Dallas	Nonprofit	CAA	Dallas
17	Economic Action Committee of the Gulf Coast	Nonprofit	CAA	Matagorda
18	Economic Opportunities Advancement Corporation of Planning Region XI	Nonprofit	CAA	Bosque, Falls, Freestone, Hill, Limestone, McLennan
19	El Paso Community Action Program-Project BRAVO	Nonprofit	CAA	El Paso
20	Fort Worth, City of, Neighborhood Services Department	Public	Local Government	Tarrant
21	***Galveston County Community Action Council, Inc.	Nonprofit	CAA	Brazoria, Fort Bend, Galveston, Wharton
22	Greater East Texas Community Action Program	Nonprofit	CAA	Angelina, Cherokee, Gregg, Houston, Nacogdoches, Polk, Rusk, San Jacinto, Smith, Trinity, Wood
23	Gulf Coast Community Services Association	Nonprofit	CAA	Harris
24	Hidalgo County Community Services Agency	Public	Local Government	Hidalgo
25	Hill Country Community Action Association, Inc.	Nonprofit	CAA	Bell, Coryell, Hamilton, Lampasas, Llano, Mason, Milam, Mills, San Saba
26	Lubbock, City of, Community Development Department	Public	Local Government	Lubbock

	<b>CSBG Eligible Entity</b>	<b>Public or Nonprofit</b>	<b>Type of Agency</b>	<b>CSBG Counties Served</b>
27	Nueces County Community Action Agency	Nonprofit	CAA	Nueces
28	Panhandle Community Services	Nonprofit	CAA	Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler
29	Pecos County Community Action Agency	Nonprofit	CAA	Crane, Pecos, Terrell
30	Rolling Plains Management Corporation	Nonprofit	CAA	Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Mitchell, Montague, Taylor, Shackelford, Stephens, Wichita, Wilbarger, Young
31	San Antonio, City of, Department of Community Initiatives	Public	Local Government	Bexar
32	South Plains Community Action Association, Inc.	Nonprofit	CAA	Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lynn, Motley, Terry, Yoakum
33	South Texas Development Council	Public	Local Government	Jim Hogg, Starr, Zapata
34	Southeast Texas Regional Planning Commission	Public	Local Government	Hardin, Jefferson, Orange
35	Texas Neighborhood Services	Nonprofit	CAA	Erath, Hood, Johnson, Palo Pinto, Parker, Somervell, Wise
36	Texoma Council of Governments	Public	Local Government	Cooke, Fannin, Grayson
37	Tri-County Community Action, Inc.	Nonprofit	CAA	Harrison, Jasper, Newton, Panola, Sabine, San Augustine, Shelby, Tyler, Upshur
38	Webb County Community Action Agency	Public	Local Government	Webb
39	West Texas Opportunities, Inc.	Nonprofit	CAA	Andrews, Borden, Dawson, Ector, Fisher, Gaines, Glasscock, Howard, Loving, Martin, Midland, Nolan, Reeves, Scurry, Upton, Ward, Winkler
40	Williamson-Burnet County Opportunities, Inc.	Nonprofit	CAA	Burnet, Williamson

5.2. Total number of CSBG eligible entities:   40   [This will automatically update based on chart in 5.1]

5.3. **Changes to Eligible Entities List:** Has the list of eligible entities under item 5.1 changed since the State’s last State Plan submission? If yes, briefly describe the changes.

Yes  No [If yes is selected – Narrative: On March 11, 2021, TDHCA Board of Directors voted to remove the eligible entity status of Galveston County Community Action Council, Inc (GCCAC). The IM 116 process is ongoing and GCCAC will remain an eligible entity in 2022 until the process to terminate organizational eligibility is completed.~~Community Council of Greater Dallas, Inc. was selected to serve as the CSBG eligible entity for Dallas County in September 2017.~~]

**Instructional Note: Limited Purpose Agency** refers to an eligible entity that was designated as a limited purpose agency under title II of the Economic Opportunity Act of 1964 for fiscal year 1981, that served the general purposes of a community action agency under title II of the Economic Opportunity Act, that did not lose its designation as a limited purpose agency under title II of the Economic Opportunity Act as a result of failure to comply with that Act and that has not lost its designation as an eligible entity under the CSBG Act.

**Instructional Note: 90 percent funds** are the funds a State provides to eligible entities to carry out the purposes of the CSBG Act, as described under Section 675C of the CSBG Act. A State must provide “no less than 90 percent” of their CSBG allocation, under Section 675B, to the eligible entities.

## SECTION 6

### Organizational Standards for Eligible Entities

**Note:** Reference IM 138, *State Establishment of Organizational Standards for CSBG Eligible Entities*, for more information on Organizational Standards. Click [HERE](#) for IM 138.

- 6.1. Choice of Standards:** Check the box that applies. If using alternative standards, a) attach the complete list of alternative organizational standards, b) describe the reasons for using alternative standards, and c) describe how the standards are at least as rigorous as the COE-developed standards.

The State will use the CSBG Organizational Standards Center of Excellence (COE) organizational standards (as described in IM 138)

The State will use an alternative set of organizational standards **[Attach supporting documentation if this option is selected]**

- 6.2.** If the State is using the COE-developed organizational standards, does the State propose making a minor modification to the standards, as described in IM 138?  Yes

No

- 6.2a.** If yes was selected in item 6.2, describe the State's proposed minor modification to the COE-developed organizational standards, and provide a rationale.

[The state has administrative rules, the Texas Administrative Code (TAC), to address state requirements and implemented the organizational standards under the TAC. The rule was put into place in January 2016. Minor modifications to the TAC included the state law requirement that eligible entities follow the Texas ~~Uniform~~ Grant Management Standards and the State of Texas Single Audit Circular, unless there has been a federal preemption. Additionally, where the word bylaws is used the Department has modified the standards to read Certificate of Formation/Articles of Incorporation or bylaws, as needed to comply with state law. ]

- 6.3.** How will/has the State officially adopt(ed) organizational standards for eligible entities in the State in a manner consistent with the State's administrative procedures act? If "Other" is selected, provide a timeline and additional information, as necessary. **[Check all that applies and narrative where applicable]**

Regulation

Policy

Contracts with eligible entities

Other, describe: **[Narrative, 2500 characters]**

- 6.4.** How will the State assess eligible entities against organizational standards, as described in IM 138? **[Check all that apply]**

Peer-to-peer review (with validation by the State or State-authorized third party)

- Self-assessment (with validation by the State or State-authorized third party)
- Self-assessment/peer review with State risk analysis
- State-authorized third party validation
- Regular, on-site CSBG monitoring
- Other (desk and monitoring reviews)

6.4a. Describe the assessment process.

**[Narrative:**

The Texas Department of Housing and Community Affairs assesses eligible entities' compliance with organizational standards by using a software tool which allows eligible entities to upload documents to substantiate compliance with organizational standards. ~~FY 2018 was the second year that the Department utilized the software.~~ It allows eligible entities to upload documents throughout the federal fiscal year, except during the time period after the submission deadline has passed (i.e., September 30) at which time the Department reviews the documents to assess compliance. Eligible entities can log into their account and see which organizational standards they have met and not met and are sent any related comments via email.

The assessment of organizational standards occurs at the end of the federal fiscal year after which all eligible entities have uploaded their documentation showing compliance with each of the organizational standards. The Department notifies the network of eligible entities throughout the year of the deadline to upload documentation. If an eligible entity does not upload any documentation or the proper documentation by the deadline (i.e., September 30 of each year), then that entity will be placed in a "not met" category for the particular organizational standard. After the initial results of the assessment are provided to the eligible entities, they are provided a limited number of days to provide additional documentation to reverse a determination of "not met" organizational standards.

The Department places a high emphasis on Organizational Standards, and is available for technical assistance throughout the year. In the event that an entity does not meet a standard, the Department will determine whether that entity requires intensive technical assistance to meet the standard(s) and what other steps are necessary. Department staff will continue to provide technical assistance and, if necessary, develop a Technical Assistance Plan or Quality Improvement Plan with the entity until the standards have been met.]

6.5. Will the State make exceptions in applying the organizational standards for any eligible entities due to special circumstances or organizational characteristics, as described in IM 138?  Yes  No

**6.5a.** If yes was selected in item 6.5, list the specific eligible entities the State will exempt from meeting organizational standards, and provide a description and a justification for each exemption. **[Narrative, 2500 characters or attach document]**

***If this is the first year filling out the automated State Plan, skip the following question.***

**6.6. Performance Target:** What percentage of eligible entities in the State does the State expect will meet all the State-adopted organizational standards in the next year? **[Insert a percentage. ~~40~~50%]**

**Note:** This information is associated with State Accountability Measures 6Sa and may pre-populate the State's annual report form.

## SECTION 7

### State Use of Funds

#### Eligible Entity Allocation (90 Percent Funds) [Section 675C(a) of the CSBG Act]

**7.1 Formula:** Select the method (formula) that best describes the current practice for allocating CSBG funds to eligible entities. **[Check one and narrative where applicable]**

- Historic
- Base + Formula
- Formula Alone
- Formula with Variables
- Hold Harmless + Formula
- Other **[Narrative:** The Department distributes CSBG funds to CSBG eligible entities based on a distribution formula which incorporates the most recent U.S. Census Bureau Decennial ~~2010~~-Census and data from the American Community Survey (ACS) for information on persons at 125% of poverty; a \$50,000 base; a \$150,000 floor; 98% weighted factor for poverty population; and, a 2% weighted factor for the inverse ratio of population density. The formula is applied as follows: each eligible entity receives a base award; then, the weighted factors of poverty population and population density are applied to the state's balance of the 90% funds. If the base and application of the weighted factors do not yield sufficient funds for the minimum floor per entity, then the minimum floor amount is reserved for each of those CSBG eligible entities under the floor figure. Then, the formula is re-applied to the balance of the 90% funds for distributing the remaining funds to the remaining CSBG eligible entities. Following the use of the decennial Census data, then on a biennial basis, the Department will use the most recent ACS 5 year estimate data that is available. To the extent that there are significant reductions in CSBG funds received by the Department, the Department may revise the CSBG distribution formula through a rulemaking process.]

**7.1a.** Does the State statutory or regulatory authority specify the terms or formula for allocating the 90 percent funds among eligible entities?  Yes  No

**7.2. Planned Allocation:** Specify the planned allocation of 90 percent funds to eligible entities, as described under Section 675C(a) of the CSBG Act. The estimated allocations may be in dollars or percentages. For each eligible entity receiving funds, provide the Funding Amount in either dollars (columns 2 and 4) or percentage (columns 3 and 5) for the fiscal years covered by this plan.

**The estimated allocations are based on FY 20~~21~~<sup>19</sup> CSBG funding levels.**



	<b>CSBG Eligible Entity</b>	<b>Estimated 2022<del>0</del><sup>9</sup> Allocation</b>	<b>Estimated 202<del>2</del><sup>3</sup> Allocation</b>
1	Aspermont Small Business Development Center, Inc.	150,000	150,000
2	Big Bend Community Action Committee, Inc.	150,000	150,000
3	Brazos Valley Community Action Programs	<u>1,128,762</u> 1,074,088	<u>1,128,762</u> 1,074,088
4	Cameron and Willacy Counties Community Projects, Inc.	<u>936,461</u> 925,324	<u>936,461</u> 925,324
5	Central Texas Opportunities, Inc.	<u>183,472</u> 184,539	<u>183,472</u> 184,539
6	City of Austin Health and Human Services Department	<u>1,095,584</u> 1,106,425	<u>1,095,584</u> 1,106,425
7	City of Fort Worth Neighborhood Services Department	<u>1,868,682</u> 1,838,824	<u>1,868,682</u> 1,838,824
8	City of Lubbock Community Development Department	<u>411,176</u> 396,972	<u>411,176</u> 396,972
9	City of San Antonio Department of Community Initiatives	<u>2,135,095</u> 2,059,342	<u>2,135,095</u> 2,059,342
10	Combined Community Action, Inc.	<u>202,495</u> 202,067	<u>202,495</u> 202,067
11	Community Action Committee of Victoria, Texas	<u>290,201</u> 274,768	<u>290,201</u> 274,768
12	Community Action Corporation of South Texas	<u>323,554</u> 304,869	<u>323,554</u> 304,869
13	Community Action Inc. of Central Texas	<u>293,726</u> 279,675	<u>293,726</u> 279,675
14	Community Action Social Services and Education	150,000	150,000
15	Community Council of Greater Dallas	<u>3,206,498</u> 3,109,388	<u>3,206,498</u> 3,109,388
16	Community Council of South Central Texas, Inc.	<u>752,074</u> 717,668	<u>752,074</u> 717,668
17	Community Services of Northeast Texas, Inc.	<u>431,143</u> 431,692	<u>431,143</u> 431,692
18	Community Services, Inc.	<u>1,567,522</u> 1,515,249	<u>1,567,522</u> 1,515,249

	<b>CSBG Eligible Entity</b>	<b>Estimated 2022<sup>0</sup> Allocation</b>	<b>Estimated 2023<sup>1</sup> Allocation</b>
19	Concho Valley Community Action Agency	<u>228,308,226,667</u>	<u>228,308,226,667</u>
20	Economic Action Committee of the Gulf Coast	150,000	150,000
21	Economic Opportunities Advancement Corporation of Planning Region XI	<u>495,275,483,037</u>	<u>495,275,483,037</u>
22	El Paso Community Action Program-Project BRAVO	1,2 <u>41,701,24,972</u>	1,2 <u>41,701,24,972</u>
23	<u>Area serving Brazoria, Fort Bend, Galveston, and Wharton counties (currently Galveston County Community Action Council, Inc. – pending eligible entity termination proceedings)</u> <del>Galveston County Community Action Council, Inc.</del>	<u>987,241,934,196</u>	<u>987,241,934,196</u>
24	Greater East Texas Community Action Program	<u>946,439,920,926</u>	<u>946,439,920,926</u>
25	Gulf Coast Community Services Association	<u>5,136,525,494,942</u>	<u>5,136,525,494,942</u>
26	Hidalgo County Community Services Agency	<u>1,763,417,685,433</u>	<u>1,763,417,685,433</u>
27	Hill Country Community Action Association, Inc.	<u>530,528,511,744</u>	<u>530,528,511,744</u>
28	Nueces County Community Action Agency	<u>448,781,431,199</u>	<u>448,781,431,199</u>
29	Panhandle Community Services	<u>572,039,555,903</u>	<u>572,039,555,903</u>
30	Pecos County Community Action Agency	150,000	150,000
31	Rolling Plains Management Corporation	<u>472,109,466,094</u>	<u>472,109,466,094</u>
32	South Plains Community Action Association, Inc.	<u>263,599,261,345</u>	<u>263,599,261,345</u>
33	South Texas Development Council	231,5 <u>08,97</u>	231,5 <u>08,97</u>
34	Southeast Texas Regional Planning Commission	<u>482,848,469,161</u>	<u>482,848,469,161</u>
35	Texas Neighborhood Services	<u>462,632,447,079</u>	<u>462,632,447,079</u>

	<b>CSBG Eligible Entity</b>	<b>Estimated 2022<del>0</del></b> <b>Allocation</b>	<b>Estimated</b> <b>202<del>3</del><sup>4</sup></b> <b>Allocation</b>
36	Texoma Council of Governments	245,9113,900	245,9113,900
37	Tri-County Community Action, Inc.	331,46620,529	331,46620,529
38	Webb County Community Action Agency	589,92659,553	589,92659,553
39	West Texas Opportunities, Inc.	580,70343,203	580,70343,203
40	Williamson-Burnet County Opportunities, Inc.	334,34027,885	334,34027,885
	<b>Total</b>	<b>31,921,7410,965,</b> <b>225</b>	<b>31,921,7410,</b> <b>965,225</b>

**7.3. Distribution Process:** Describe the specific steps in the State’s process for distributing 90 percent funds to the eligible entities and include the number of days each step is expected to take; include information about State legislative approval or other types of administrative approval (such as approval by a board or commission). **[Narrative:** The Texas State Legislature meets biennially during which time the budgets of all state agencies are considered. The CSBG budget is included in the review and appropriation of the Department’s overall budget.

~~Prior to releasing funding contracts, the Department conducts an internal approval process of the individual funding contracts for the eligible entities. After approval, the Department posts an agenda seven days prior to a monthly Board meeting to include an item seeking approval of the CSBG State Plan, which includes obtaining Board approval to release funding contracts to the eligible entities. Upon Board approval of the CSBG State Plan and any rule changes effective for the program year, an internal approval process of the individual funding contracts for the eligible entities will occur.~~ The Department distributes funding utilizing an electronic contract and reporting system. Upon receipt of Notice of Grant Award from USHHS, the Department generates contracts to allocate the 90% pass-through funding to the CSBG eligible entities. This process can take up to 30 days.]

**7.4. Distribution Timeframe:** Does the State plan to make funds available to eligible entities no later than 30 calendar days after OCS distributes the Federal award?

Yes  No

**7.4a.** If no, describe State procedures to ensure funds are made available to eligible entities consistently and without interruption. **[Narrative:** The Department will make the funds available within 30 calendar days after Federal and State authority was provided, with the exception of the 1<sup>st</sup> quarter because of the State’s CSBG contract year beginning January 1<sup>st</sup>.]

**Note:** Item 7.4 is associated with State Accountability Measure 2Sa and may pre-populate the State’s annual report form.

***If this is the first year filling out the automated State Plan, skip the following question.***

**7.5. Performance Management Adjustment:** How is the State improving grant and/or contract administration procedures under this State Plan as compared to past plans? Any improvements should be based on analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any improvements, provide further detail. **[Narrative:** Because of feedback in the past from the network of eligible entities (e.g., most recent ACSI Survey), and an analysis of internal standard operating procedures, the State strives to improve its ~~has made improvements to its~~ internal contract administration process and ~~its~~ legal Department review process to ensure that the CSBG contracts are executed prior to the start date of the contract year. The State is always open to input from the network regarding its contract administration ~~processes and procedures through whatever medium it may come (e.g., public hearings, public comment, conversation, surveys, etc.).~~]

**Note:** This information is associated with State Accountability Measure 2Sb and may pre-populate the State’s annual report form.

**Administrative Funds** [Section 675C(b)(2) of the CSBG Act]

**7.6.** What amount of State CSBG funds does the State plan to allocate for administrative activities, under this State Plan? The estimate may be in dollars or a percentage. **[5%]**

**7.7.** How many State staff positions will be funded in whole or in part with CSBG funds under this State Plan? **[50]**

**7.8.** How many State Full Time Equivalents (FTEs) will be funded with CSBG funds under this State Plan? **[approximately 11.113]**

**Remainder/Discretionary Funds** [Section 675C(b) of the CSBG Act]

**7.9.** Does the State have remainder/discretionary funds?  Yes  No

If yes was selected, describe how the State plans to use remainder/discretionary funds in the table below.

**Note:** This response will link to the corresponding assurance, item 14.2.

**Instructional Note:** The assurance under 676(b)(2) of the Act (item 14.2 of this State Plan) specifically requires a description of how the State intends to use remainder/discretionary funds to “support innovative community and neighborhood-based initiatives related to the purposes of [the CSBG Act].” Include this description in row “f” of the table below and/or attach the information.

If a funded activity fits under more than one category in the table, allocate the funds among the categories. For example, if the State provides funds under a contract with the State Community Action Association to provide training and technical assistance to eligible entities and to create a statewide data system, the funds for that contract should be allocated appropriately between row a and row c. If allocation is not possible, the State may allocate the funds to the main category with which the activity is associated.

**Note:** This information is associated with State Accountability Measures 3Sa; the responses may pre-populate the State’s annual report form.

Remainder of Discretionary Fund Uses (See 675C(b)(1) of the CSBG Act)	Year One Planned \$	Year One Planned %	Year Two Planned \$	Year Two Planned %	Brief description of services/activities
a. Training and Technical Assistance	\$150,000	8.8257%	\$150,000	8.8257%	T&TA provided by staff or an outsourced provider in areas such as ROMA, Org Standards, Case Management, Board, Reporting, community action plans, needs assessments, strategic planning, data analysis, and other areas as requested.
b. Coordination of State-operated programs and/or local programs	\$0		\$0		
c. Statewide coordination and communication among eligible entities	\$0		\$0		
d. Analysis of distribution of CSBG funds to	\$0		\$0		

Remainder of Discretionary Fund Uses (See 675C(b)(1) of the CSBG Act)	Year One Planned \$	Year One Planned %	Year Two Planned \$	Year Two Planned %	Brief description of services/activities
determine if targeting greatest need					
e. Asset building programs	\$0		\$0		
f. Innovative programs/activities by eligible entities or other neighborhood groups	\$0		\$0		
g. State charity tax credits	\$0		\$0		
h. Other activities specify (see below for details)	\$1,55600,000	91.1843%	\$1,55600,000	91.1843%	See notes below
<b>Totals</b>	\$1,7050,000	100%	\$1,7050,000	100%	

Other Activities. Specify: The planned uses may change as directed by the Governing Board. Expected uses: 1) ~~Network Operational \$200,000 towards Organizational Capacity Improvements Investments which to~~ assists eligible entities in improving their organizational performance meeting requirements of Organizational Standards (including, but not limited to, efforts to meet organizational standards such as the development of Community Needs Assessments and Strategic Plans, staff compensation to attract qualified employees and reduce turnover, training for staff to become certified ROMA trainers, equipment, software, or repairs) ~~that they have not yet achieved primarily through tangible deliverables \$200,000~~; 2) \$550,000 towards Direct Client Assistance which can go to activities including, but not limited to, assisting eligible clients with obtaining job-associated uniforms and training, direct educational expenses (e.g., tuition, textbooks, etc.), the cost of transportation to and from work and other necessary functions, and the cost of certain health care needs ~~\$500,000~~; 3) 150,000 towards the provision of consultative and assessment services through an outside provider to assess eligible entity operations and provide training and technical assistance ~~Intensive CAA Assessments which provides intensive third party assessments to assess operations and procedures of approximately three to five CSBG eligible entities with critical needs \$150,000~~; 4) \$50,000 towards a -Network Transition Fund which helps CSBG eligible entities absorb with transitional expenses when they absorb other CSBG services areas ~~\$50,000~~; 5) \$300,000 towards Migrant Seasonal Farm Worker and Native American Populations Employment and Education Initiatives \$300,000; 6) \$125,000 towards the Housing Voucher Program Support Fund \$125,000; 7) \$150,000 towards a Disaster Recovery Fund ~~\$150,000~~; and 8) \$75,000 towards the provision of ~~to provide~~ training and technical assistance related to homelessness in the Balance of State Continuum of Care and related statewide homelessness initiatives ~~\$75,000~~.

As a result of this State Plan being approved by the TDHCA Governing Board, the Requests for Applications and awards for the Organizational Capacity Improvements and Direct Client Assistance activities ~~Request for Applications for the Direct Client Assistance and Network Operational Investments awards~~ will be released by Department staff without further Board approval.

~~When determining which eligible entities receive CSBG discretionary funds, the degree to which an eligible entity complies with meeting assigned TOP targets, CSBG discretionary fund expenditure rates, submittal requests by the Department regarding expenditure and performance reports, needs assessments, strategic plans, community action plans, annual report data, and compliance with CSBG Organizational Standards may be a criterion.~~

If any of the categories above are not fully expended during the ~~Contract~~ Term the Department may ~~shift~~ reprogram the unexpended funds to other discretionary categories that it determines are best suited to receive the funds at the time or to the network of eligible entities to be used for CSBG eligible activities.

If funding to the State from HHS is less than projected in the first ~~year~~ or second year, the reduced amount of the discretionary funds will be first taken from the Organizational Capacity Improvements ~~Network Operational Investment~~ activity and then reduced proportionally among the other discretionary categories.

If funding is more than projected in the first ~~year~~ or second year, some of the increased amount of the discretionary funds will be given to the Direct Client Assistance activity ~~Disaster Recovery Fund~~, and if unutilized may be and may also be programmed into other discretionary categories that are best suited to receive the funds at the time or to the network of eligible entities to be used for CSBG eligible activities.  
~~used to increase the amount of funds made available to Migrant Seasonal Farm Worker and Native American Populations Employment and Education Initiatives.~~

**7.10.** What types of organizations, if any, does the State plan to work with (by grant or contract using remainder/discretionary funds) to carry out some or all of the activities in table 7.9. **[Check all that apply and narrative where applicable]**

- CSBG eligible entities (15 to 40) (if checked, provide the expected number of CSBG eligible entities to receive funds)
- Other community-based organizations
- State Community Action association
- Regional CSBG technical assistance provider(s)
- National technical assistance provider(s)
- Individual consultant(s)
- Tribes and Tribal Organizations

Other [Migrant Seasonal Farm Worker Organizations, Housing Voucher Program Support, Homelessness Organization]

None (the State will carry out activities directly)

**Note:** This response will link to the corresponding CSBG assurance, item 14.2.

***If this is the first year filling out the automated State Plan, skip the following question.***

**7.11. Performance Management Adjustment:** How is the State adjusting the use of remainder/discretionary funds under this State Plan as compared to past plans? Any adjustment should be based on the State's analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail. **[Narrative:**

The Department anticipates an increase in CSBG funding for 2022~~0~~ and 2023~~1~~ as compared to the projections in the 2020~~18~~ and 2021~~19~~ CSBG State Plan. In 2022~~0~~ and 2023~~1~~, the Department will continue to utilize \$150,000 for training and technical assistance activities. Within the Other Activities category, the State will: rename Network Operational Investments to Organizational Capacity Improvements and increase the Direct Client Assistance activity funding from \$500,000 to \$550,000. ~~increase the budget for Intensive Eligible Entity Assessments from \$100,000 to \$150,000 to ensure that there are sufficient funds to address several entities in need of evaluation; decrease the Network Transition Fund from \$130,000 to \$50,000 because there are limited opportunities expected for such transitions to occur; splitting the Direct Client Assistance and/or Network Operational Investments into two separate activities, that may be pursued separately, while increasing the total from the two activities, now with \$200,000 for Network Operational Investments and \$500,000 for Direct Client Assistance; slightly decreasing the funds for the Housing Voucher Program from \$130,000 to \$125,000 based on recent expenditure trends; maintaining the Disaster Recovery Fund at \$150,000; increasing the support for homelessness efforts in the Balance of State Continuum of Care and related statewide homelessness initiatives through the Texas Homeless Network from \$50,000 to \$75,000 to address the ongoing critical need and emphasis on the importance of homeless activities; and retaining the funding level for Migrant Seasonal Farm Worker and Native American Employment and Educational Initiatives at \$300,000.~~

Note:

If funding is less or more than projected, reductions/increases will be implemented as described in Section 7.9. ~~These changes are consistent with feedback from the eligible entity network in the 2017 ACSI Survey with the exception of one comment contrary to the State using discretionary funds to support homelessness initiatives.~~ The State continues to support homelessness initiatives and feels that the use of this small amount of discretionary funds is able to create an impact in serving homelessness particularly in rural Texas. And, the State continues its commitment to provide funding to organizations



servicing migrant seasonal farmworkers and Native Americans to provide education and employment assistance.]

**Note:** This information is associated with State Accountability Measures 3Sb, and will pre-populate the State’s annual report form.

## SECTION 8 State Training and Technical Assistance

**8.1.** Describe the State’s plan for delivering CSBG-funded training and technical assistance to eligible entities under this State Plan by completing the table below. Add a row for each activity: indicate the timeframe; whether it is training, technical assistance or both; and the topic. (CSBG funding used for this activity is referenced under item 7.9(a), Use of Remainder/Discretionary Funds.)

**Note:** 8.1 is associated with State Accountability Measure 3Sc and may pre-populate the State’s annual report form.

Fiscal Year (Y) Quarter (Q) / Timeframe	Training (T), Technical Assistance (TA), or Both (B)	Topic	Brief Description of Other
FY1 - Q1	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, CA, SP, M, CM, NPI	Department staff provides technical assistance as identified by our T&TA Plan that was developed by the state office, state association, and RPIC. The T&TA plan was developed from eligible entity requests, monitoring reports, workgroups, surveys, and performance analysis. The State has an on-line system to request T&TA or to submit questions for TA. T&TA is conducted by the following means: on-site <u>and virtual</u> training, conferences, regional training series, webinars, teleconferences, workshops, videos, Best Practices, FAQs, and online tools/resources. Training is customized to the needs of the eligible entity. ROMA is embedded into all trainings, guidance, and materials. Initial CM training is provided through an online video training series. Subsequent CM training is provided

Fiscal Year (Y) Quarter (Q) / Timeframe	Training (T), Technical Assistance (TA), or Both (B)	Topic	Brief Description of Other
			<p>on-site and/or in regional. Individualized TA for <u>SP-CA</u> will be provided <del>in 2020</del>, as a continuation to <u>SP-CA</u> trainings and guides previously provided. GTB <u>trainings</u> are provided most quarters, <u>along with online Board training resources</u>. TA on reporting is provided <u>monthly</u> by Department reporting staff and performance analysis is provided by trainers <del>indicated by reports</del>. F, OS-G, OS-US, T&amp;TA will be provided as requested and as needed; although aspects of each are incorporated into <del>regular</del> trainings as appropriate. CA, SP, CSD, M, TA will be provided as needed. <del>SP primarily FY1Q1. Intensive assessment</del> <u>Consultative and Assessment Services through a third party and associated T&amp;TA</u> will be provided to entities identified as "at-risk".</p>
FY1 - Q2	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY1 – Q3	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY1 – Q4	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q1	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q2	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1

Fiscal Year (Y) Quarter (Q) / Timeframe	Training (T), Technical Assistance (TA), or Both (B)	Topic	Brief Description of Other
FY2 – Q3	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1
FY2 – Q4	B	F, GTB, OS-G, OS-US, CSD, R, ROMA, M, CM, NPI	Same as FY1-Q1

**Topic:**

- Fiscal (F)
- Governance/Tripartite Boards (GTB)
- Organizational Standards-General (OS-G)
- Organizational Standards (OS-US)– for eligible entities with unmet standards on Technical Assistance Plans or Quality Improvement Plans
- Correcting Significant Deficiencies Among Eligible Entities (CSD)
- Reporting (R)
- ROMA
- Community Assessment (CA)
- Strategic Planning (SP)
- Monitoring (M)
- Communications (C)
- Technology (T)
- National Performance Indicators (NPI)
- Other – Case Management (CM)

**8.1a.** The planned budget for the training and technical assistance plan (as indicated in the Remainder/Discretionary Funds table in item 7.9): **[150,000]**

***If this is the implementation year for organizational standards, skip question 8.2.***

**8.2.** Does the State have in place Technical Assistance Plans (TAPs) or Quality Improvement Plans (QIPs) for all eligible entities with unmet organizational standards, if appropriate?

Yes  No (The Department reviews all submitted documentation of Organizational Standards, and provides technical assistance and detailed guidance for all standards that are not met. The Department continues to train and assist the network of eligible entities which, as a whole, are still in the process of putting systems in place to achieve Organizational Standards compliance, and maintain applicable documentation on a regular and timely basis enabling them to upload related documents throughout the year. Improvements are made each succeeding year.

Eligible entities who meet 30%-69.99% of Organizational Standards will be required to work with the Department to develop a TAP which will include targeted training and

technical assistance and a timeframe for the entity to meet the standards. Failure to show progress in meeting TAP targets may result in an entity being placed on a QIP. Eligible entities who achieve 70%-99.99% will be provided with technical assistance with the goal of achieving 100% compliance in the following year. In FFY 202~~29~~<sup>20</sup> and 202~~31~~<sup>34</sup>, eligible entities who have met less than 30% of the Organizational Standards in consecutive years may be placed on a Quality Improvement Plan, which will establish a timeframe and benchmarks for improvement. ~~Failure to show progress in meeting TAP targets may result in an entity being placed on a QIP.~~ Additionally, any entity not showing progress in meeting Organizational Standards for three consecutive years may also result in an entity being placed on a QIP. Failure to show progress in meeting QIP targets as well as significant and repetitive issues identified in monitoring reviews may result in the State proceeding to take additional actions including termination of CSBG funding per CSBG Information Memorandum 116 and state rules.

**Note:** 8.2 is associated with State Accountability Measure 6Sb. QIPs are described in Section 678C(a)(4) of the CSBG Act. If the State, according to their corrective action procedures, does not plan to put a QIP in place for an eligible entity with one or more unmet organizational standards, the State should put a TAP in place to support the entity in meeting the standard(s).

**8.3.** Indicate the types of organizations through which the State plans to provide training and/or technical assistance as described in item 8.1, and briefly describe their involvement? (Check all that apply.) **[Check all that applies and narrative where applicable]**

- CSBG eligible entities (if checked, provide the expected number of CSBG eligible entities to receive funds) **[Narrative]**
- Other community-based organizations
- State Community Action association
- Regional CSBG technical assistance provider(s)
- National technical assistance provider(s)
- Individual consultant(s)
- Tribes and Tribal Organizations
- Other []

***If this is the first year filling out the automated State Plan, skip the following question.***

**8.4. Performance Management Adjustment:** How is the State adjusting the training and technical assistance plan under this State Plan as compared to past plans? Any adjustment should be based on the State's analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail. **[Narrative:** Texas has developed its T/TA Plan in partnership with the state association and RPIC (as laid out in the T/TA Template). Texas has increased network input through workgroups, and online

T&TA surveys/evaluations. Each Eligible Entity (EE) is assigned a personal trainer as their point-of-contact. Each personal trainer tracks all performance/expenditures, T&TA needs, and provides EEs with data analysis, TAPs, and other needs. The State uses the ACSSCI Survey results when developing the Joint State TTA Plan with the State Association. The State training team decided to address the two ACSSCI Survey drivers that had scores lower than the National scores.

In response to our score of 64-50 in the Monitoring and Corrective Action driver, the State implemented the following:

- Compliance monitors copy training staff on all eligible entity communications.
- The training team provides monitors with performance and expenditure dashboards for each eligible entity prior to the onsite visit.
- After each visit, the trainers meet with the monitors to discuss findings and/or concerns, and as appropriate, develop a TTA plan.
- The training team meets with monitors pre and/or post monitoring to review issues and ensure alignment.
- Technical assistance is provided to eligible entities related to monitoring findings.

In response to our score of 66-58 in the Communication driver, the State implemented the following:

- To eliminate redundancy and excessive emails to eligible entities, the training team forwards all upcoming training events (local, regional, and national) to the State Association to send out in a bi-monthly e-Newsletter, which is emailed to the entire Network.
- The training team disseminates announcements, changes and/or new requirements in a timely manner to the CSBG network~~provides Quarterly Network webinars to communicate changes and/or new requirements.~~
- ~~NA~~ Network emails are~~is~~ sent out whenever new or updated guides, best practices, or tools are released. Webinars, virtual meetings and trainings are conducted whenever training is required for use of new or updated materials.
- A contact list with name, email, and phone number of State staff to contact regarding contracts, reporting, fiscal, and training was sent to each eligible entity. Each trainer has a back-up trainer to promote greater staff availability.
- The Department has continued its use of the online submission of questions that are answered by staff within 72 hours, typically within the day.
- Created a COVID-19 webpage for flexibilities and COVID resources.
- Initiated check-in calls with EEs during COVID flare-ups or disasters.
- Streamlined Community Action Plan and Organizational Standard documentation to reduce burden, yet meet requirements.

]

**Note:** This information is associated with State Accountability Measures 3Sd and may pre-populate the State’s annual report form.

## SECTION 9 State Linkages and Communication

**Note:** This section describes activities that the State may support with CSBG remainder/discretionary funds, described under Section 675C(b)(1) of the CSBG Act. The State may indicate planned use of remainder/discretionary funds for linkage/communication activities in Section 7, State Use of Funds, items 7.9(b) and (c).

**9.1. State Linkages and Coordination at the State Level:** Describe the linkages and coordination at the State level that the State plans to create or maintain to ensure increased access to CSBG services to low-income people and communities under this State Plan and avoid duplication of services (as required by the assurance under Section 676(b)(5)). Describe or attach additional information as needed. **[Check all that apply from the list below and provide a Narrative.** The Department administers the CSBG grant along with LIHEAP and Weatherization, and all are administered by the Community Affairs Division. The Department also administers the State’s housing programs.

The Department is the administrative agency for the Texas Inter-Agency Council for the Homeless (TICH). The TICH membership includes representatives from the Governor’s Office, Texas Department of Family and Protective Services, Texas Education Agency, Texas Workforce Commission, Health and Human Services Commission, criminal justice state agencies, Texas Homeless Network, and other housing and homeless advocacy organizations. The Department chairs the TICH. At the ~~July 21, 2020~~ September 28, 2018 meeting, the TICH was provided information about the CSBG program and the eligible entities across the ~~s~~State.

The Department also chairs the State’s Housing and Health Services Coordination Council which is composed of several State agencies including the State’s WIOA agency, Child Protective Services, and the state health services agency. At the July 22, 2020, meeting, the HHSCC was provided information about the CSBG program and the eligible entities across the state.]

**Note:** This response will link to the corresponding CSBG assurance, item 14.5. In addition, this item is associated with State Accountability Measure 7Sa and may pre-populate the State’s annual report form.

- State Low Income Home Energy Assistance Program (LIHEAP) office
- State Weatherization office
- State Temporary Assistance for Needy Families (TANF) office

- State Head Start office
- State public health office
- State education department
- State Workforce Innovation and Opportunity Act (WIOA) agency
- State budget office
- Supplemental Nutrition Assistance Program (SNAP)
- State child welfare office
- State housing office
- Other

**9.2. State Linkages and Coordination at the Local Level:** Describe the linkages and coordination at the local level that the State plans to create or maintain with governmental and other social services, especially antipoverty programs, to assure the effective delivery of and coordination of CSBG services to low-income people and communities and avoid duplication of services (as required by assurances under Sections 676(b)(5) and (b)(6)). Attach additional information as needed. **[Narrative:** The Department administers the CSBG in a state whose territory is as vast as it is varied. As such, the Department’s strategy centers on ensuring local coordination through the local service providers. The Department requires CSBG eligible entities to coordinate funds and services at the local level. The Community Action Plan from each entity has to describe the eligible entities’ coordination efforts with city, county, schools, non-profits, and other local or regional organizations. CSBG eligible entities coordinate services and work to avoid duplication of services with other providers. CSBG eligible entities are encouraged to participate in local social service and homeless coalitions whose goal is to coordinate services. The Department has stressed the importance of CSBG eligible entities coordinating with WIOA agencies to assist persons to obtain employment and other benefits through WIOA and have their Community Action Plan provide information on how they work with WIOA. To assist in this coordination~~matter~~, the Department will continue to build upon the working relationship~~works~~ with the Texas Workforce Commission (TWC) and obtain from TWC contact data for local~~or the~~ Workforce Development Boards throughout the state and encourage request for eligible entities to~~putting them in~~ contact with the Executive Director or governing officer of each eligible entity~~the local workforce boards and their contractors who operate services and programs in order to be able to link CSBG clients to available WIOA programs in their area encouraging them to work with eligible entities so that low-income Texans in their area can so that their employment and education needs can be better ~~be~~-served. This coordination effort will also be of benefit to WIOA in helping them target persons most in need.]~~

**Note:** This response will link to the corresponding CSBG assurances, items 14.5 and 14.6.

**9.3. Eligible Entity Linkages and Coordination**

**9.3a State Assurance of Eligible Entity Linkages and Coordination:** Describe how the State will assure that the eligible entities will coordinate and establish linkages to assure the effective delivery of and coordination of CSBG services to low-income people and communities and avoid duplication of services (as required by the assurance under Section 676(b)(5)). Attach additional information as needed. **[Narrative:** The State requires CSBG eligible entities to coordinate funds at the local level. Their Community Action Plan has to describe their coordination efforts with city, county, schools, non-profits, and other organizations. CSBG eligible entities coordinate services and work to avoid duplication of services with other providers. Most CSBG eligible entities participate in local social service and homeless coalitions whose goal is to coordinate services.]

**Note:** This response will link to the corresponding CSBG assurance, item 14.5.

**9.3b State Assurance of Eligible Entity Linkages to Fill Service Gaps:** Describe how the eligible entities will develop linkages to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations, according to the assurance under Section 676(b)(3)(B) of the CSBG Act. **[Narrative:** The Department requires a Community Action Plan be submitted annually, which includes a section wherein eligible entities describe any gaps in services, and their strategy to address those gaps. If a gap is not currently being addressed or not being sufficiently addressed, eligible entities are to develop and implement a strategy to work with other organizations in their local communities to address the gaps in services. ]

**Note:** This response will link to the corresponding CSBG assurance, item 14.3b.

**9.4. Workforce Innovation and Opportunity Act (WIOA) Employment and Training Activities:** Does the State intend to include CSBG employment and training activities as part of a WIOA Combined State Plan, as allowed under the Workforce Innovation and Opportunity Act (as required by the assurance under Section 676(b)(5) of the CSBG Act)?

Yes  No

**Note:** This response will link to the corresponding CSBG assurance, item 14.5.

**9.4a** If the State selected “yes” under item 9.4, provide the CSBG-specific information included in the State’s WIOA Combined Plan. This information includes a description of how the State and the eligible entities will coordinate the provision of employment and training activities through statewide and local WIOA workforce development systems. This information may also include examples of innovative employment and training programs and activities conducted by community action agencies or other neighborhood-based organizations as part of a community antipoverty strategy. **[Narrative, 2500 Characters]**



**9.4b.** If the State selected “no” under item 9.4, describe the coordination of employment and training activities, as defined in Section 3 of WIOA, by the State and by eligible entities providing activities through the WIOA system. **[Narrative:** In 2021, the State began to have virtual meetings with management at the Texas Workforce Commission to develop a plan to better coordinate CSBG and WIOA programs at the State level in order to help facilitate coordination at the local level between CSBG eligible entities and local Workforce Boards and their contractors. Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of the Plan, if entities are providing employment and training activities, CSBG eligible entities must describe their coordination with WIOA offices in their service area. The Department encourages will be obtaining from the Texas Workforce Commission the contact names and contact information for local Workforce Boards and provide such to CSBG eligible entities and encourage require them to establish more formal effortsrelationships to coordinate with their regional WIOA providers and the Workforce Board contractors so that they can to develop ways to better coordinate services and collaborate to assist persons to transition out of poverty. Texas has twenty-eight Workforce Development Boards serving the State’s two-hundred and fifty-four counties.

Each Workforce Board determines how to administer the WIOA grants and selects their contractors to provide employment training and education. Therefore, close working relationships must-should be established at the local level by each CSBG eligible entity with both the Workforce Boards and their contractors. The State is available, upon request, to facilitate any CSBG eligible entity’s collaborative efforts with their local WIOA office. Additional information on WIOA in Texas can be found at <https://twc.texas.gov/>. As part of the Community Action Plan, eligible entities will continue if entities are providing to provide information related to employment and training activity coordination with their local WIOA office. ies, CSBG eligible entities must describe their coordination with WIOA offices in their service area. Additional information on WIOA in Texas can be found at <https://twc.texas.gov/>]

**9.5. Emergency Energy Crisis Intervention:** Describe how the State will assure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to Low-Income Home Energy Assistance) are conducted in each community in the State, as required by the assurance under Section 676(b)(6) of the CSBG Act). **[Narrative:** The Department administers the LIHEAP grant, which funds the Comprehensive Energy Assistance Program (CEAP). The CEAP provides utility assistance to low-income persons and includes an energy crisis component. LIHEAP also supports the Department’s weatherization program. The majority of the CSBG eligible entities administer both the CEAP and weatherization programs. The Department programs a portion of CSBG discretionary funds for assistance in the case of declared natural disasters. The funds may be used to provide emergency energy crisis intervention.]

**Note:** This response will link to the corresponding CSBG assurance, item 14.6.

**9.6. State Assurance: Faith-based Organizations, Charitable Groups, Community Organizations:** Describe how the State will assure local eligible entities will coordinate and form partnerships with other organizations, including faith-based organizations, charitable groups, and community organizations, according to the State’s assurance under Section 676(b)(9) of the CSBG Act. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of the plan, CSBG eligible entities describe the organizations with which they coordinate services including faith-based organizations, charitable groups, and community organizations. Close coordination and referral takes place with these organizations. Training further reinforces this coordination.]

**Note:** this response will link to the corresponding assurance, item 14.9

**9.7 Coordination of Eligible Entity 90 Percent Funds with Public/Private Resources:** Describe how the eligible entities will coordinate CSBG 90 percent funds with other public and private resources, according to the assurance under Section 676(b)(3)(C) of the CSBG Act. **[Narrative:** Annually, CSBG eligible entities must submit a Community Action Plan to the Department. As part of the plan, CSBG eligible entities describe the organizations with which they coordinate services, including private and public organizations. Many of the CSBG eligible entities obtain either in-kind assistance or funds from local governments to support the programs that they administer, including donations of space in local government facilities to be utilized by eligible entities to provide CSBG supported services. ]

**Note:** this response will link to the corresponding assurance, item 14.3c.

**9.8. Coordination among Eligible Entities and State Community Action Association:** Describe State activities for supporting coordination among the eligible entities and the State Community Action Association. **[Narrative:** The Department works closely with the state eligible entity association, the Texas Association of Community Action Agencies (TACAA). The Department meets with the association and their board on a regular basis to discuss ways that the Department can better meet the needs of the eligible entities. The Department receives their input on the development of the CSBG State Plan, training and technical assistance needs, rule revisions, use of CSBG discretionary funds, and other issues. The state association holds an annual conference for CSBG eligible entities and the Department provides staff to present training to CSBG eligible entities. When necessary, the Department also works with TACAA to form CSBG working groups to help the Department develop strategies on key issues. It should be noted that because not all eligible entities are members of TACAA, the Department ensures that all non-member eligible entities are included in all opportunities. ]

**9.9 Communication with Eligible Entities and the State Community Action Association:** In the table below, describe the State’s plan for communicating with eligible entities, the State Community Action Association, and other partners under this State Plan. Include

communication about annual hearings and legislative hearings, as described under Section 4, CSBG Hearing Requirements.

### Communication Plan

Topic	Expected Frequency	Format (drop down)	Brief Description of "Other"
<p><b>[Narrative: The</b>            Department <del>will continue</del>  <del>to hold quarterly periodic</del>  <del>meetings via webinar either</del>  <u>virtually or in-person</u> that            are open to the entire CSBG            network. During these            meetings, the Department            discusses issues and            announcements            surrounding CSBG related            topics (e.g., Organizational            Standards, RFAs, NOFAs,            rule revisions, CSBG            funding,            performance/expenditure            report deadlines, the State            Plan, public hearings and            public comment periods,            training announcements,            due dates of action plans,            needs assessments and            strategic plans, and similar            announcements and            coordination with other            Department programs such            as utility assistance and            weatherization. The            Department may bring            together periodic            workgroups for Network            input to state plans, rules,            and T&amp;TA needs. ]</p>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Daily</li> <li>• <input type="checkbox"/> Weekly</li> <li>• <input type="checkbox"/> Twice-Monthly</li> <li>• <input type="checkbox"/> Monthly</li> <li>• <input type="checkbox"/> <input checked="" type="checkbox"/> Quarterly</li> <li>• <input type="checkbox"/> Semi-Annually</li> <li>• <input type="checkbox"/> Annually</li> <li>• <input checked="" type="checkbox"/> Other (Periodically)</li> </ul>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Newsletter</li> <li>• <input type="checkbox"/> Mailing</li> <li>• <input checked="" type="checkbox"/> Meetings/Presentation</li> <li>• <input type="checkbox"/> Blog</li> <li>• <input checked="" type="checkbox"/> <input type="checkbox"/> Email</li> <li>• <input checked="" type="checkbox"/> <input type="checkbox"/> Website</li> <li>• <input type="checkbox"/> Social Media</li> <li>• <input checked="" type="checkbox"/> Other</li> </ul>	<p><b>[Narrative, 2500 characters]</b></p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column.            Other: <u>Communications, meetings, trainings, etc. are ongoing as needed and occur via multiple methods of communication.</u> From time to time as necessary, workgroups or meetings may be formed to address key issues. <u>Quarterly Regular meetings with eligible entities and the State Association are held via webinar as t</u>  <u>The Department determines the need for training on certain topics based on requests and on questions submitted through an on-line web-portal and based on issues that are identified in monitoring reports.</u></p>
<p><b>Topic</b></p> <p><b>[Narrative: The</b>            Department informs            CSBG eligible entities of            notices received from            USHHS, the National            Association for State            Community Services            Programs, and the            Community Action            Partnership. This occurs            as notices and guidance</p>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Daily</li> <li>• <input type="checkbox"/> Weekly</li> <li>• <input checked="" type="checkbox"/> <input type="checkbox"/> Twice-Monthly</li> <li>• <input type="checkbox"/> Monthly</li> <li>• <input type="checkbox"/> Quarterly</li> <li>• <input type="checkbox"/> Semi-Annually</li> <li>• <input type="checkbox"/> Annually</li> <li>• <input checked="" type="checkbox"/> <input type="checkbox"/> Other</li> </ul>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input checked="" type="checkbox"/> Newsletter</li> <li>• <input type="checkbox"/> Mailing</li> <li>• <input type="checkbox"/> Meetings/Presentation</li> <li>• <input type="checkbox"/> Blog</li> <li>• <input checked="" type="checkbox"/> Email</li> <li>• <input type="checkbox"/> Website</li> <li>• <input type="checkbox"/> Social Media</li> <li>• <input type="checkbox"/> Other</li> </ul>	<p><b>[Narrative, 2500 characters]</b></p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column            Other: <u>Information is continuously relayed from USHHS, NASCSP, and the CAP among other organizations to the eligible entities. Twice monthly</u></p>

Topic	Expected Frequency	Format (drop down)	Brief Description of "Other"
<p>arises. Many of these notices are shared in coordination with the Network by the State Association TACAA through their bi-monthly e-newsletter. ]</p>			<p><a href="#">newsletters are sent out via TACAA (the State Association) in coordination with the Department.</a></p>
<p><b>[Narrative:</b> The Department develops guidance for the annual Community Action Plan and for the annual budget. Every 3 years, the Department issues guidance for the Community Assessment and for the Strategic Plan every 5 years. The Department also issues other program guidance on areas such as case management, self-sufficiency, program reporting, and administration.]</p>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Daily</li> <li>• <input type="checkbox"/> Weekly</li> <li>• <input type="checkbox"/> Twice-Monthly</li> <li>• <input type="checkbox"/> Monthly</li> <li>• <input type="checkbox"/> Quarterly</li> <li>• <input type="checkbox"/> Semi-Annually</li> <li>• <input checked="" type="checkbox"/> Annually</li> <li>• <input checked="" type="checkbox"/> Other</li> </ul>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Newsletter</li> <li>• <input type="checkbox"/> Mailing</li> <li>• <input checked="" type="checkbox"/> Meetings/Presentations</li> <li>• <input type="checkbox"/> Blog</li> <li>• <input checked="" type="checkbox"/> Email</li> <li>• <input checked="" type="checkbox"/> Website</li> <li>• <input type="checkbox"/> Social Media</li> <li>• <input checked="" type="checkbox"/> Other</li> </ul>	<p><b>[Narrative, 2500 characters]</b></p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column Other: The guidance that is developed is posted on the Department's website. The Department may also conduct regional workshops, individualized workshops, webinars or teleconferences. Information may also be presented at State Association Conferences.</p>
<p><b>[Narrative:</b> The Department will conduct public hearings to obtain comment on the biennial CSBG State Plan and institution of rules. The Department will also accept public comment via e-mail or letters and at Governing Board meetings. ]</p>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Daily</li> <li>• <input type="checkbox"/> Weekly</li> <li>• <input type="checkbox"/> Twice-Monthly</li> <li>• <input type="checkbox"/> Monthly</li> <li>• <input type="checkbox"/> Quarterly</li> <li>• <input type="checkbox"/> Semi-Annually</li> <li>• <input type="checkbox"/> Annually</li> <li>• <input checked="" type="checkbox"/> Other</li> </ul>	<p><b>Dropdown Options:</b></p> <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Newsletter</li> <li>• <input type="checkbox"/> Mailing</li> <li>• <input checked="" type="checkbox"/> Meetings/Presentations</li> <li>• <input type="checkbox"/> Blog</li> <li>• <input checked="" type="checkbox"/> Email</li> <li>• <input checked="" type="checkbox"/> Website</li> <li>• <input type="checkbox"/> Social Media</li> <li>• <input checked="" type="checkbox"/> Other</li> </ul>	<p><b>[Narrative, 2500 characters]</b></p> <p>If "Other" is selected in columns 2 and/or 3, describe in this column. Other: Information regarding the public hearings will be posted in the <i>Texas Register</i> <a href="#">to coincide with the biennial CSBG State Plan.</a></p> <p>The hearings will be open to interested persons. Comments can be submitted in person at a hearing or in writing by e-mail or letter to the Department. <a href="#">During the COVID-19 pandemic, meetings will be conducted virtually.</a></p>

**9.10. Feedback to Eligible Entities and State Community Action Association:** Describe how the State will provide feedback to local entities and State Community Action Associations regarding performance on State Accountability Measures. **[Narrative:** The Department will, within 60 calendar days of receiving feedback from OCS, provide eligible entities and the State Association, via an e-mail communication, the results of the ACSI Survey. The Department will also provide a synopsis of key concerns identified by eligible entities. The Department will also communicate with the State Association to discuss survey results and develop a plan to address concerns.]

**Note:** This information is associated with State Accountability Measure 5S(iii). The measure indicates feedback should be provided within 60 calendar days of the State getting feedback from OCS.

*If this is the first year filling out the automated State Plan, skip the following question.*

**9.11. Performance Management Adjustment:** How is the State adjusting the Communication plan in this State Plan as compared to past plans? Any adjustment should be based on the State's analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If the State is not making any adjustments, provide further detail. **[Narrative:** The Department works in partnership with the State Association regarding communications sent out to the Network. The State Association sends out a twice a month e-newsletter which compiles guidance from OCS, the Department, upcoming T&TA opportunities, and other information. The Department continually assesses the need to form workgroups with either the State Association or with eligible entities or both in order to receive input to rules, plans, guidance, or T&TA needs. Other ways the Department obtains the Network's input is surveys and e-mail communications. One of the comments in the 2019~~7~~ ACSI survey was the need for the Department to have consistent messages from ~~all program~~ staff in the Community Affairs Division and monitors in the Compliance Division and divisions. In response to that input ~~t~~The Community Affairs Division, which administers the CSBG grant, has ~~continued~~ ~~to~~strengthened their coordination work more closely with the Compliance Division to share the results of monitoring reviews, and to develop and deliver training and technical assistance to address identified issues. Pandemic related communications are posted on a Department COVID-19 Webpage. FAQs are updated as needed with an email announcement of posting and new FAQs.]

**Note:** This information is associated with State Accountability Measures 7Sb; this response may pre-populate the State's annual report form.

## SECTION 10

### Monitoring, Corrective Action, and Fiscal Controls

**Monitoring of Eligible Entities** (Section 678B(a) of the CSBG Act)

**10.1.** Specify the proposed schedule for planned monitoring visits including: full on-site reviews; on-site reviews of newly designated entities; follow-up reviews – including return visits to entities that failed to meet State goals, standards, and requirements; and other reviews as appropriate.

This is an estimated schedule to assist States in planning. States may indicate “no review” for entities the State does not plan to monitor in the performance period.

For States that have a monitoring approach that does not fit within the table parameters, attach the State’s proposed monitoring schedule.

**Note:** This information is associated with State Accountability Measure 4Sa(i); this response may pre-populate the State’s annual report form.

CSBG Eligible Entity	Review Type	Target Date FY20- FY21(Quarter) (Note: the dates may change based on risk)	Date of Last Full Onsite Review (if applicable)	Brief Description of “Other”
El Paso Community Action program, Project BRAVO, Inc.	<del>Full Onsite</del> <del>on-site</del> <del>No</del> <del>Review</del>	<del>FY22Q1</del>	<del>January 24,</del> <del>2018</del> <del>February 3,</del> <del>2020</del>	Risk Based and can change accordingly
Panhandle Community Services	Full on-site	<del>FY20</del> <del>FY23Q4</del>	<del>November 1,</del> <del>2017</del> <del>FY21Q4</del>	Risk Based and can change accordingly
Brazos Valley Community Programs	Full on-site	<del>FY20</del> <del>FY22Q3</del>	<del>August 28,</del> <del>2018</del> <del>March 23,</del> <del>2020</del>	Risk Based and can change accordingly
Rolling Plains Management Corp.	Full on-site	<del>FY21</del> <del>Q1</del>	<del>November 26,</del> <del>2018</del> <del>December 1,</del> <del>2020</del>	Risk Based and can change accordingly
Combined Community Action, Inc.	<del>No</del> <del>Review</del> <del>Full</del> <del>on-site</del>	<del>FY22Q3</del> <del>Q2</del>	<del>February 1,</del> <del>2018</del> <del>November 18,</del> <del>2019</del>	Risk Based and can change accordingly

CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of "Other"
Hidalgo County Community Services Agency	Full on-site	FY2 <del>3</del> <u>Q4</u>	<del>December 31, 2018</del> <u>FY21Q3</u>	Risk Based and can change accordingly
Community Action Social Services and Education	Full on-site	FY2 <del>2</del> <u>Q1</u>	March 31, 2018	Risk Based and can change accordingly
South Texas Development Council	Full on-site	FY2 <del>2</del> <u>Q2</u>	<del>May 23, 2018</del> <u>January 14, 2021</u>	Risk Based and can change accordingly
Gulf Coast Community Services Association	<del>Full on-site</del> <u>No Review</u>	<u>FY19-Q3</u>	<del>May 26, 2017</del> <u>May 7, 2019</u> <u>FY21Q4</u>	Risk Based and can change accordingly
Austin, City of, Health and Human Service Department	Full on-site	FY2 <del>2</del> <u>Q1</u>	August 22, 2018	Risk Based and can change accordingly
Community Council of Greater Dallas	<del>Initial Full</del> on-site	<u>FY19-Q4</u> <u>FY22Q3</u>	<del>No review performed yet</del> <del>newly designated Entity</del> <u>July 22, 2019</u>	Risk Based and can change accordingly
Community Action Committee of Victoria, Texas	<del>No Review</del> <u>Full on-site</u>	<u>FY22Q3</u>	<del>May 22, 2018</del> <u>September 30, 2019</u>	Risk Based and can change accordingly
Cameron and Willacy Counties Community Projects, Inc.	Full on-site	<u>FY20-Q1</u> <u>FY22Q1</u>	<del>July 20, 2017</del> <u>October 28, 2019</u>	Risk Based and can change accordingly
Tri-County Community Action, Inc.	Full on-site	FY2 <del>3</del> <u>Q2</u>	<del>November 16, 2018</del> <u>FY21Q3</u>	Risk Based and can change accordingly
Community Services, Inc.	Full on-site	<u>FY19-Q4</u> <u>FY22Q3</u>	<del>June 14, 2016</del> <u>July 8, 2019</u>	Risk Based and can change accordingly
Pecos County Community Action Agency	Full on-site	<u>FY19-Q2</u> <u>FY23Q4</u>	<del>April 3, 2018</del> <u>January 11, 2021</u>	Risk Based and can change accordingly
Economic Opportunities Advancement Corp of PR XI	<del>No Review</del> <u>Full on-site</u>	<u>FY22Q3</u>	<del>November 8, 2017</del> <u>January 1, 2020</u>	Risk Based and can change accordingly
Texas Neighborhood Services	Full on-site	<u>FY19-Q3</u> <u>FY22Q1</u>	<del>September 21, 2015</del> <u>May 28, 2019</u>	Risk Based and can change accordingly
Aspermont Small Business Development Center, Inc.	Full on-site	<u>FY20</u> <u>FY22Q1</u>	<del>June 25, 2017</del> <u>November 18, 2019</u>	Risk Based and can change accordingly
West Texas Opportunities, Inc.	Full on-site	<u>FY20-Q1</u> <u>FY23Q2</u>	<del>March 23, 2018</del> <u>July 27, 2020</u>	Risk Based and can change accordingly
Greater East Texas Community Action Program	Full on-site	<u>FY20-Q3</u> <u>FY23Q3</u>	<del>February 14, 2016</del> <u>April 4, 2020</u>	Risk Based and can change accordingly
Southeast Texas Regional Planning Commission	Full on-site	<u>FY20-Q1</u> <u>FY22Q1</u>	<del>February 23, 2017</del> <u>July 22, 2019</u>	Risk Based and can change accordingly
City of San Antonio Department of Community Initiatives	<del>No Review</del> <u>Full on-site</u>	<u>FY22Q2</u>	<del>November 1, 2017</del> <u>February 24, 2020</u>	Risk Based and can change accordingly

CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of "Other"
Central Texas Opportunities, Inc.	<u>Full On-site</u>	<u>FY23Q3</u>	<del>March 29, 2018</del> <u>September 28, 2020</u>	Risk Based and can change accordingly
Concho Valley Community Action Agency	Full On-site	<del>FY23</del> <u>Q4</u>	<del>October 17, 2018</del> <u>FY21Q3</u>	Risk Based and can change accordingly
Community Action Inc. of Central Texas	Full On-site	<del>FY21</del> <u>FY22Q1</u>	<del>October 22, 2018</del> <u>FY21Q3</u>	Risk Based and can change accordingly
Community Services of Northeast Texas, Inc.	Full On-site	<u>FY21</u> <u>FY23Q1</u>	<del>May 24, 2018</del> <u>FY21Q2</u>	Risk Based and can change accordingly
South Plains Community Action Association, Inc.	<del>Full on-site</del> <u>No Review</u>	<del>FY21</del>	<del>April 19, 2018</del> <u>FY21Q4</u>	Risk Based and can change accordingly
City of Fort Worth Neighborhood Services Department	Full On-site	<del>FY20</del> <u>FY22Q2</u>	<del>February 2, 2018</del> <u>February 10, 2020</u>	Risk Based and can change accordingly
City of Lubbock Community Development Department	<del>Full on-site</del> <u>No Review</u>	<u>FY19-Q2</u>	<del>October 27, 2016</del> <u>February 4, 2019</u> <u>FY21Q4</u>	Risk Based and can change accordingly
Economic Action Committee of the Gulf Coast	Full on-site	<u>FY19-Q4</u> <u>FY22Q3</u>	<del>February 15, 2017</del> <u>February 4, 2019</u> <u>July 10, 2019</u>	Risk Based and can change accordingly
Galveston County Community Action Council, Inc.*	<del>Risk-based on-site</del> <u>Full on-site</u>	<u>FY19-Q3</u> <u>FY22Q4</u>	<del>May 4, 2018</del> <u>March 25, 2019</u>	Risk Based and can change accordingly
Webb County Community Action Agency	<del>No Review</del> <u>Full on-site</u>	<u>FY22Q1</u>	<del>December 8, 2017</del> <u>December 9, 2019</u>	Risk Based and can change accordingly
Williamson-Burnet County Opportunities, Inc.	Full on-site	<u>FY19-Q3</u> <u>FY22Q2</u>	<del>October 14, 2016</del> <u>April 22, 2019</u>	Risk Based and can change accordingly
Big Bend Community Action Committee, Inc.	<del>Full on-site</del> <u>No review</u>	<u>FY19-Q3</u>	<del>May 3, 2017</del> <u>April 29, 2019</u> <u>FY21Q4</u>	Risk Based and can change accordingly
Community Action Corporation Of South Texas	Full on-site	<u>FY19-Q4</u> <u>FY23Q3</u> <del>1</del>	<del>March 8, 2017</del> <u>July 8, 2019</u>	Risk Based and can change accordingly
Community Council of South Central Texas, Inc.	Full on-site	<del>FY21</del> <u>FY23Q1</u> <del>3</del>	<del>November 5, 2018</del> <u>October 9, 2020</u>	Risk Based and can change accordingly
Hill Country Community Action Association, Inc.	<del>No Review</del> <u>Full on-site</u>	<u>FY22Q2</u>	December 6, 2018	Risk Based and can change accordingly



CSBG Eligible Entity	Review Type	Target Date (Quarter)	Date of Last Full Onsite Review (if applicable)	Brief Description of "Other"
Nueces County Community Action Agency	Full on-site	<del>FY19-Q2</del> <a href="#">FY23Q2</a>	<del>March 2, 2017</del> <a href="#">February 11, 2019</a> <a href="#">FY21Q4</a>	Risk Based and can change accordingly
Texoma Council of Governments	Full on-site	<del>FY19-Q4</del> <a href="#">FY22Q3</a>	<del>April 20, 2017</del> <a href="#">July 29, 2019</a>	Risk Based and can change accordingly

\* If the eligible entity removal process is complete, the Department will conduct a close-out monitoring within 90 days.

**10.2. Monitoring Policies:** Provide a copy of State monitoring policies and procedures by attaching and/or providing a hyperlink. **[Refer to Attachment A - The FY202~~20~~ and FY202~~34~~ monitoring schedule is aggregate in nature. The schedule is created on an at-risk assessed basis determined every quarter. The schedule is maintained on the Compliance Subrecipient Monitoring Tracking Database and Performance Records. The proposed schedule above can change each quarter depending on risk.]**

**10.3. Initial Monitoring Reports:** According to the State’s procedures, by how many calendar days must the State disseminate initial monitoring reports to local entities? [It is the Department’s goal to submit CSBG monitoring reports within 30 calendar days from the last day of the monitoring visit. However, if extenuating circumstances are present, the CSBG monitoring report will be submitted within 60 days of the completion of the monitoring review with the exception of those few reports requiring executive and legal review due to deficiencies.]

**Note:** This item is associated with State Accountability Measure 4Sa(ii) and may pre-populate the State’s annual report form.

**Corrective Action, Termination and Reduction of Funding and Assurance Requirements**  
(Section 678C of the Act)

**10.4. Closing Findings:** Are State procedures for addressing eligible entity findings/deficiencies, and the documenting of closure of findings included in the State monitoring protocols attached above?  Yes  No

**10.4a.** If no, describe State procedures for addressing eligible entity findings/deficiencies, and the documenting of closure of findings. **[Narrative, 2500 characters]**

**10.5. Quality Improvement Plans (QIPs):** How many eligible entities are currently on Quality Improvement Plans? **[~~There are currently two CSBG entities under a QIP.0~~ ]**

**Note:** The QIP information is associated with State Accountability Measures 4Sc.

**10.6. Reporting of QIPs:** Describe the State’s process for reporting eligible entities on QIPs to the Office of Community Services within 30 calendar days of the State approving a QIP? **[Narrative:** The Department will contact the Office of Community Services either by phone or through e-mail to inform them of eligible entities on a Quality Improvement Plan.]

**Note:** This item is associated with State Accountability Measure 4Sa(iii)).

**10.7. Assurance on Funding Reduction or Termination:** Does the State assure, according to Section 676(b)(8), that “any eligible entity that received CSBG funding the previous fiscal year will not have its funding terminated or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in Section 678C(b).”  Yes  No

**Note:** This response will link with the corresponding assurance under item 14.8.

#### **Policies on Eligible Entity Designation, De-designation, and Re-designation**

**10.8.** Does the State CSBG statute and/or regulations provide for the designation of new eligible entities?  Yes  No

**10.8a.** If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for the designation of new eligible entities. **[Narrative:** Texas Administrative Code

[10 TAC §6.208](#)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208) ]

**10.9.** Does the State CSBG statute and/or regulations provide for de-designation of eligible entities?  Yes  No

**10.9a.** If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for de-designation of new eligible entities. **[Narrative:** Texas Administrative Code:

~~[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=2&rl=202](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=2&rl=202)~~

~~[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=2&rl=203](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=2&rl=203)~~

[10 TAC §1.411](#)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=1&rl=411](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=1&rl=411)

[10 TAC §2.203](#)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=2&sch=B&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=2&sch=B&rl=Y)

[10 TAC §6.208](#)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208)

**10.10.** Does the State CSBG statute and/or regulations specify a process the State CSBG agency must follow to re-designate an existing eligible entity?  Yes  No

**10.10a.** If yes, provide the citation(s) of the law and/or regulation. If no, describe State procedures for re-designation of existing eligible entities. **[Narrative:** Texas Administrative Code

[10 TAC §2.203](#)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=2&sch=B&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=2&sch=B&rl=Y)

[10 TAC §6.208](#)

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=208](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=208)

### **Fiscal Controls and Audits and Cooperation Assurance**

**10.11. Fiscal Controls and Accounting:** Describe how the State's fiscal controls and accounting procedures will a) permit preparation of the SF-425 Federal fiscal reports (FFR) and b) permit the tracing of expenditures adequate to ensure funds have been used appropriately under the block grant, as required by Block Grant regulations applicable to CSBG at 45 CFR 96.30(a). **[Narrative:** All expenditures are recorded in the Department's PeopleSoft accounting system. Indexes, grant numbers and fund numbers allow for identification of charges to a specific grant and cost categories. Policies and Procedures are in place to ensure compliance with statutes and regulations. Independent annual financial audit and single audit are performed for the Department.

Every draw is reviewed by program staff upon submittal by contractor localities. All drawdowns must be consistent within the most current approved budget. Draws are then processed by accountants and approved by senior accountant or team leader. Back up to support draws are reviewed during on site monitoring.

The general ledger is the source for the SF-425 Federal fiscal reports. They are prepared by the grant accountant, reviewed by the financial team leader and approved by management prior to submittal. Reports are prepared according to program rules and regulations.]

**10.12. Single Audit Management Decisions:** Describe State procedures for issuing management decisions for eligible entity single audits, as required by Block Grant regulations applicable to CSBG at 45 CFR 75.521. If these procedures are described in the State monitoring protocols attached under item 10.2, indicate the page number. **[Narrative:** The Department requires each eligible entity to complete an Audit Certification form within 60 days from the end of the Entity’s fiscal year. This is used to determine if a Single Audit is required. Upon receipt of the Single Audit, a review is completed to determine if the packet submitted is complete and all opinions are provided. If the audit contains findings, it is reviewed and discussed by the director of Internal Audit, the Director of Compliance, the Director of Subrecipient Monitoring and staff to determine the appropriate steps to ~~address any CSBG ensure the entity corrects the~~ issues identified in the audit report or management letter. The Department ~~may~~ will issue correspondence to the entity, identifying ~~applicable that~~ corrective action measures ~~must be performed and/or~~ requiring support documentation ~~to be provided~~ addressing program deficiencies. The entity will be provided a time frame to respond to ~~complete the corrective action and to respond to~~ the correspondence. ~~At a maximum, the entity must correct all identified issues within six (6) months of the Single Audit being submitted to the Federal Clearing House.~~

Except for non-discretionary CSBG funds, the Department will not execute new contracts with the entity until issues with the single audit are resolved, unless the issue is a late audit submittal and the entity has provided documentation of an extension received from the federal cognizant agency.]

**Note:** This information is associated with State Accountability Measure 4Sd.

**10.13. Assurance on Federal Investigations:** Will the State “permit and cooperate with Federal investigations undertaken in accordance with Section 678D” of the CSBG Act, as required by the assurance under Section 676(b)(7) of the CSBG Act?  Yes  No

**Note:** This response will link with the corresponding assurance, item 14.7

***If this is the first year filling out the automated State Plan, skip the following question.***

**10.14. Performance Management Adjustment:** How is the State adjusting monitoring procedures in this State Plan as compared to past plans? Any adjustment should be based on the State’s analysis of past performance, and should consider feedback from eligible entities, OCS, and other sources, such as the public hearing. If this State is not making any adjustments, provide further detail. **[Narrative:** The Department closely reviewed the responses to the 2017~~9~~ ACSI Survey related to monitoring and the Department’s Director of Subrecipient Monitoring continues to make concerted efforts to maintain a good working relationship with CSBG eligible entities. The Director ensures that monitoring staff receive directives and audit training as the need arises. Staff meetings are held regularly to promote consistency and increase knowledge between the monitoring staff. Community Affairs Training and Technical Assistance staff receive all monitoring reports from compliance monitors and work closely with each other so that training and technical

assistance staff can provide eligible entities follow-up tips and resources to address findings or concerns identified in the monitoring reports. ]

**Note:** This item is associated with State Accountability Measure 4Sb and may pre-populate the State’s annual report form.

## SECTION 11

### Eligible Entity Tripartite Board

**11.1.** Which of the following measures are taken to ensure that the State verifies CSBG Eligible Entities are meeting Tripartite Board requirements under Section 676B of the CSBG Act? **[Check all that applies and narrative where applicable]**

- Attend Board meetings
- Review copies of Board meeting minutes
- Keep a register of Board vacancies/composition
- Other: [The Department reviews board rosters and Board member election/selection material. We also get information on board vacancies on their CSBG Monthly Performance Report. Through CSBG organizational standards reviews, we get information on board vacancies/composition also. Lastly, Department staff attends some Board meetings of entities.]

**11.2.** How often does the State require eligible entities (which are not on TAPs or QIPs) to provide updates (e.g., copies of meeting minutes, vacancy alerts, changes to bylaws, low-income member selection process, etc.) regarding their Tripartite Boards? **[Check all that applies and narrative where applicable]**

- Annually
- Biannually
- Quarterly
- Monthly
- Other [~~We also get information~~ concerning on-board vacancies and new hires must be received by the Department within 30 days of such occurrence. Eligible entities must also report board vacancies by sector in itson their CSBG Monthly Performance Reports. Lastly, withOrganizational Standards, a yearly requirement, also indicates board vacancies and composition. ~~CSBG organizational standards reviews, we get information on board vacancies/composition.~~]

**11.3. Assurance on Eligible Entity Tripartite Board Representation:** Describe how the State will carry out the assurance under Section 676(b)(10) of the CSBG Act that the State will require eligible entities to have policies and procedures by which individuals or organizations can petition for adequate representation on an eligible entities’ Tripartite Board. **[Narrative:** The Department has instituted a rule, in the Texas Administrative Code, that requires an entity to have written procedures under which a low-income

individual, community organization, religious organization, or representative of such may petition for adequate representation on the board of the eligible entity.]

**Note:** This response will link with the corresponding assurance, item 14.10.

- 11.4.** Does the State permit public eligible entities to use, as an alternative to a Tripartite Board, “another mechanism specified by the State to assure decision-making and participation by low-income individuals in the development, planning, implementation, and evaluation of programs” as allowed under Section 676B(b)(2) of the CSBG Act.  
 Yes  No

- 11.4a.** If yes, describe the mechanism used by public eligible entities as an alternative to a Tripartite Board. **[Narrative:** [Public agencies have advisory boards and develop bylaws for the advisory board.](#)

[Texas Administrative Code, Chapter 6, Subchapter B, Community Services Block Grant, RULE §6.210 Board Structure, states the following related to public organizations:](#)

[“\(b\) For a Public Organization that is an Eligible Entity, the entity shall administer the CSBG grant through an advisory board that fully participates in the development, planning, implementation and evaluation of programs that serve low-income communities or through another mechanism specified by the state and that satisfies the requirements of a tripartite board in subsection \(a\) above. The advisory board is the only alternative mechanism for administration the Department has specified.”](#)

[The “alternative mechanism” is an “advisory board” and Public Organizations who utilize an advisory board must ensure that the advisory board meets the requirements of having 1\) One-third of the members of the board shall be elected public officials, holding office on the date of the selection, or their representatives. 2\) Not fewer than 1/3 of the members are persons chosen in accordance with the Eligible Entity’s Board-approved written democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and each representative of low-income individuals and families selected to represent a specific neighborhood within a community resides in the neighborhood represented by the member. And 3\) The remainder are members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.](#)

[Public agencies have advisory boards and develop bylaws for the advisory board. The State requirements can be found at: \[https://texreg.sos.state.tx.us/public/readtac\\\$ext.TacPage?sl=R&app=9&p\\\_dir=&p\\\_rloc=&p\\\_tloc=&p\\\_ploc=&pg=1&p\\\_tac=&ti=10&pt=1&ch=6&rl=210\]\(https://texreg.sos.state.tx.us/public/readtac\$ext.TacPage?sl=R&app=9&p\_dir=&p\_rloc=&p\_tloc=&p\_ploc=&pg=1&p\_tac=&ti=10&pt=1&ch=6&rl=210\)](#)

## SECTION 12

### Individual and Community Income Eligibility Requirements

**12.1. Required Income Eligibility:** What is the income eligibility threshold for services in the State? **[Check one item below.]**

- 125% of the HHS poverty line
- X % of the HHS poverty line (fill in the threshold): \_\_\_\_\_% **[insert up to a 3 digit percentage]**
- Varies by eligible entity

**12.1a.** Describe any State policy and/or procedures for income eligibility, such as treatment of income and family/household composition. **[Narrative:** The Department's administrative rule, TAC Rule §6.4, states the following: "(a) Eligibility for program assistance is determined under the Poverty Income Guidelines and calculated as described herein (some forms of income may qualify the Household as Categorically Eligible for assistance in §6.2(b)(3), however Categorical Eligibility does not determine the level of benefit, which is determined through the Income Determination process). Income means cash receipts earned and/or received by the applicant before taxes during applicable tax year(s), but not the excluded income listed in paragraph (2) of this subsection. Gross income is to be used, not net income, except that from non-farm or farm self-employment net receipts must be used (i.e., receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses), and net income from gambling or lottery winnings."

The TAC RULE §6.4 identifies types of income sources that are excluded.

(b) The requirements for determining whether an applicant Household is eligible for assistance require the Subrecipient to annualize the Household income based on verifiable documentation of income, within 30 days of the application date. Income is based on the Gross Annual Income for all household members 18 years or older. Annual gross income is the total amount of money earned annually before taxes or any deductions.

(c) The Subrecipient must document all sources of income, including excluded income, for 30 days prior to the date of application, for all household members 18 years of age or older.

(d) Identify all income sources, not on the excluded list, for income calculation.

(1) The Subrecipient must calculate projected annual income by annualizing current income. Income that may not last for a full 12 months should be calculated assuming current circumstances will last a full 12 months, unless it can be

documented that employment is less than 12 months/year and pay is not prorated over the entire 12 month period. For incomes not able to be annualized over a twelve month period, the income shall be calculated on the total annual earning period (e.g., for a teacher paid only nine months a year, the annual income should be the income earned during those nine months). In limited cases where income is not paid hourly, weekly, bi-weekly, semi-monthly nor monthly, the Subrecipient may contact the Department to determine an alternate calculation method in unique circumstances on a case-by-case basis.

(2) For all customers including those with categorical eligibility, the Subrecipient must collect verifiable documentation of Household income received in the 30 days prior to the date of application.

(3) Once all sources of income are known, Subrecipient must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:

(A) Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);

(B) Weekly wages by 52;

(C) Bi-weekly wages (paid every other week) by 26;

(D) Semi-monthly wages (paid twice each month) by 24; and

(E) Monthly wages by 12.

(F) One-time employment income should be added to the total after the income has been annualized.

(4) Except where a more frequent period is required by federal regulation, re-certification of income eligibility must occur at least every twelve months.

For the complete rule see attachment.

Refer to State requirements at

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y)

**12.2. Income Eligibility for General/Short Term Services:** For services with limited in-take procedures (where individual income verification is not possible or practical), how does the State ensure eligible entities generally verify income eligibility for services? An example of these services is emergency food assistance. **[Narrative:** Subrecipients must maintain income



documentation for a direct service funded with CSBG funds. If proof of income is unobtainable they can utilize a Declaration of Income Statement. Per TAC RULE §6.4 (f) If proof of income is unobtainable, the applicant must complete and sign a Declaration of Income Statement (DIS).

Refer to State requirements at

~~[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac\\_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=10&pt=1&ch=6&sch=A&rl=Y)~~

~~and~~

~~[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=207](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207)~~

- 12.3. Community-targeted Services:** For services that provide a community-wide benefit (e.g., development of community assets/facilities, building partnerships with other organizations), how does the State ensure eligible entities' services target and benefit low-income communities? **[Narrative:** The Department's Texas Administrative Code Rule §6.206 (d) Services to Poverty Population require that services be provided equitably in the CSBG service area (county/counties served). Also, in their Community Action Plan they must identify how the services proposed address the top five needs identified in their Community Action Plan. The state issues guidance on development of the Community Action Plan. If they are not planning to address one of the top five needs, they must provide an explanation as to why they are not.

Refer to State requirements at

~~[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=206](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=206)~~

## SECTION 13

### Results Oriented Management and Accountability (ROMA) System

- 13.1. ROMA Participation:** In which performance measurement system will the State and all eligible entities participate, as required by Section 678E(a) of the CSBG Act and the assurance under Section 676(b)(12) of the CSBG Act? **[Check one]**

**Note:** This response will also link to the corresponding assurance, item 14.12.

- The Results Oriented Management and Accountability (ROMA) System
- Another performance management system that meets the requirements of section 678E(b) of the CSBG Act
- An alternative system for measuring performance and results

**13.1a.** If ROMA was selected in item 13.1, attach and/or describe the State’s written policies, procedures, or guidance documents on ROMA. **[Attachment and Narrative:**

The Department has incorporated ROMA principles in the areas of reporting, community action plans, strategic planning, community needs assessments, goal/target setting, case management, and Board trainings. Entities report monthly on outcomes for family, agency and community goals identified in their community action plan. These reports are then used to evaluate entity performance. An outcome matrix, tracking incremental change, is used as part of case management services; along with tools for capturing outcomes. TDHCA has 2 certified ROMA trainers on staff, and ~~1-2~~ NCRIs ~~with another beginning NCRI certification~~. Eligible entities now have ~~17-11~~ NCRTs on staff, of which 2 are Master NCRTs, and there are ~~28-24~~ NCRIs. All entities have been provided “Intro to ROMA” training and have access to a ROMA trainer. Refer to State requirements at [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=T&app=9&p\\_dir=P&p\\_rloc=193075&p\\_tloc=&p\\_ploc=1&pg=2&p\\_tac=&ti=10&pt=1&ch=6&rl=207](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=T&app=9&p_dir=P&p_rloc=193075&p_tloc=&p_ploc=1&pg=2&p_tac=&ti=10&pt=1&ch=6&rl=207) [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=206](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=206)

**13.1b.** If ROMA was not selected in item 13.1, describe the system the State will use for performance measurement. **[Narrative:** The Department will employ the ROMA System as described above.

**13.2.** Indicate and describe the outcome measures the State will use to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization, as required under Section 676(b)(12) of the CSBG Act? **[Narrative:** The State assigns eligible entities a goal for the number of persons to transition out of poverty (TOP) each year. TOP is defined as the household achieving an income above 125% FPIG. The State has issued requirements related to the systems that must be in place to assist households to TOP, refer to

[http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=207](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=207)

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=206](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=206)

The CSBG monthly performance report includes a section where CSBG entities report the number of persons working to TOP and the number of persons that successfully TOP. Entities are to target their CSBG resources to assist persons to transition out of poverty and move towards self-sufficiency consistent with identified gaps in need. The entities’ efforts in self-sufficiency, family stability, and community revitalization are reported using the NPIs in their CSBG monthly performance report.]

**Note:** This response will also link to the corresponding assurance, item 14.12.

- CSBG National Performance Indicators (NPIs)
- NPIs and others
- Others

**13.3.** How does the State support the eligible entities in using the ROMA system (or alternative performance measurement system)? **[Narrative:** The Department has designed the CSBG training curriculum with a focus on ROMA principals. The Department has 2 certified ROMA trainers and 1 NCRI. The state association has also assisted CSBG eligible entities in helping some of their staff to become Certified ROMA trainers. All trainings provided to entities are ROMA-focused and the Department’s ROMA Certified staff members are available to provide training and technical assistance. Results achieved compared to CAP Plan are evaluated for the impact on implementation processes, re-assessment activities, and future plans. Entities can request training and technical assistance at any time and can submit questions on-line or can contact staff by phone or e-mail. The Department has developed a comprehensive video training module and accompanying materials on case management with the goal of assisting persons to transition out of poverty. This module is available on our website. The Department ~~has set~~ aside CSBG Discretionary funds to be used for Organizational Capacity Improvements which can be used for network operational investments. Many entities awarded the CSBG Discretionary funds utilize the funds to pay for the costs of staff to become NCRTs or to obtain training to retain their NCRT or NCRI certifications. The Department facilitates a ROMA support group for the TX CSBG NRCTs and NCRIs, using Go-To-Meeting, who meet on a quarterly basis. Using the new Virtual Intro to ROMA course, the ROMA group is working toward being able to offer regional Intro to ROMA courses on an annual basis to new staff. Additionally, the state created a ROMA certified workgroup of state and eligible entity staff to create and revise the Organizational Standard (OS) guide and tools to help increase OS achievement. This group continues to provide review and input on guides and tools that the state provides eligible entities for meeting various CSBG requirements.]

**Note:** The activities described under item 13.3 may include activities listed in “Section 8: Training and Technical Assistance.” If so, mention briefly, and/or cross-reference as needed. This response will also link to the corresponding assurance, item 14.12.

**13.4. Eligible Entity Use of Data:** How is the State validating that the eligible entities are using data to improve service delivery? **[Narrative:** The Department assigns each CSBG eligible entity a goal for the number of persons to transition out of poverty each program year. At the end of the program year, the Department reviews their performance and entities that did not meet their assigned goal are asked to provide a plan of action to improve performance. The Department also reviews the eligible entities’ CSBG Performance Report each month and their end of the year final report. The Department does acknowledge that quite a few entities find it challenging to design and carry out community initiatives, as many just entered into this level of work. The Department will continue to provide technical assistance to entities to improve their performance through

data analysis, process mapping, and training materials. To assist with data use the Department provides the network with links to data sources that may be useful to them, such as the American Community Survey and the Community Action Partnership's Community Needs Assessment Online Tool.]

**Note:** This response will also link to the corresponding assurance, item 14.12.

### Community Action Plans and Needs Assessments

- 13.5.** Describe how the State will secure a Community Action Plan from each eligible entity, as a condition of receipt of CSBG funding by each entity, as required by Section 676(b)(11) of the CSBG Act. **[Narrative:** The Department develops Community Action Plan Requirements and guidance and posts this information to our website at <https://www.tdhca.state.tx.us/community-affairs/csbg/additional-requirements.htm>. Annually, CSBG eligible entities must submit a Community Action Plan. Staff reviews the CAP and provides technical assistance to eligible entities on improvements. ]

**Note:** this response will link to the corresponding assurance, item 14.11.

- 13.6. State Assurance:** Describe how the State will assure that each eligible entity includes a community needs assessment for the community served (which may be coordinated with community needs assessments conducted by other programs) in each entity's Community Action Plan, as required by Section 676(b)(11) of the CSBG Act. **[Narrative:** Every three years, CSBG eligible entities must complete and submit a Community Needs Assessment (CNA). The State provides forms and guidance on how to conduct a CNA and on the required areas to be addressed in their CNA document. As part of the CNA, they must identify at least the top 5 needs in their service area based on their community assessment.

Annually, CSBG eligible entities must submit a Community Action Plan (CAP). Every third year, the CAP must be completely revised to incorporate the latest CNA results. The two years following the initial year of the CAP, they provide updates to any changes and primarily revise their performance targets for NPIs and SRVs and community initiatives. In the first year of the CAP, they must include their top 5 needs and identify the organizations providing the service or strategy to address the need, the services or strategies that will address the need, the NPIs that will be reported on, and the county(ies). They also include information on the gaps in services, the county where it exists, how they will address the gaps, names of partners they will work with and how the partner will help meet the gaps in services. SRVs and NPIs with targets are linked to one of the top 5 needs if applicable.

The Department develops Community Needs Assessment guidance and posts this information to the Department's website at <https://www.tdhca.state.tx.us/community-affairs/csbg/additional-requirements.htm>. Entities are required to submit a community needs assessment every 3 years. During CAP development, the Department works with

~~eligible entities in analyzing data from <https://engagementnetwork.org/>, their performance reports, and tying that to the most current Needs Assessment.]~~

**Note:** this response will link to the corresponding assurance, item 14.11.

## **SECTION 14**

### **CSBG Programmatic Assurances and Information Narrative**

#### **(Section 676(b) of the CSBG Act)**

#### **14.1 Use of Funds Supporting Local Activities**

##### ***CSBG Services***

**14.1a. 676(b)(1)(A):** Describe how the State will assure “that funds made available through grant or allotment will be used –

- (A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under title IV of the Social Security Act, homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals--
  - (i) to remove obstacles and solve problems that block the achievement of self-sufficiency (particularly for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);
  - (ii) to secure and retain meaningful employment;
  - (iii) to attain an adequate education with particular attention toward improving literacy skills of the low-income families in the community, which may include family literacy initiatives;
  - (iv) to make better use of available income;
  - (v) to obtain and maintain adequate housing and a suitable living environment;
  - (vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent individual and family needs;
  - (vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners to –
    - (l) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and

- (II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP outlines their proposed activities. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds and meet the noted assurances.]

***Needs of Youth***

**14.1b. 676(b)(1)(B)** Describe how the State will assure “that funds made available through grant or allotment will be used –

- (B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as--
  - (i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and
  - (ii) after-school child care programs;

**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP outlines their proposed activities. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds. The Department requires that entities provide a referral to the Texas Attorney General’s Office for families for whom child support might be a needed resource.]

***Coordination of Other Programs***

**14.1c. 676(b)(1)(C)** Describe how the State will assure “that funds made available through grant or allotment will be used –

- (C) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts)

**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP outlines their proposed activities. The CAP also includes several forms that address funding

coordination, coordination with WIOA Programs, referrals to Child Support Office, and participation in social service coalitions. Staff reviews the CAP Plan and ensures that the activities supported are eligible uses of CSBG funds.]

### **State Use of Discretionary Funds**

- 14.2 676(b)(2)** Describe “how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle.”

**Note:** The Department describes this assurance under “State Use of Funds: Remainder/Discretionary,” items 7.9-7.11.

**[No response; links to items 7.9 and 7.10.]**

### **Eligible Entity Service Delivery, Coordination, and Innovation**

- 14.3. 676(b)(3)** “Based on information provided by eligible entities in the State, a description of...”

#### ***Eligible Entity Service Delivery System***

- 14.3a. 676(b)(3)(A)** Describe “the service delivery system, for services provided or coordinated with funds made available through grants made under 675C(a), targeted to low-income individuals and families in communities within the State;

**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). The CAP includes a description of the service delivery system, the counties served, the facilities where services are available, and information regarding how the eligible entity conducts outreach and delivers services in counties where service centers are not available. The CAP also describes how the eligible entity coordinates funds with other organizations. ]

#### ***Eligible Entity Linkages – Approach to Filling Service Gaps***

- 14.3b. 676(b)(3)(B)** Describe “how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and follow-up consultations.”

**Note:** The Department describes this assurance in the State Linkages and Communication section, item 9.3b.

[No response; links to 9.3b.]

***Coordination of Eligible Entity Allocation 90 Percent Funds with Public/Private Resources***

**14.3c. 676(b)(3)(C)** Describe how funds made available through grants made under 675C(a) will be coordinated with other public and private resources.”

**Note:** The Department describes this assurance in the State Linkages and Communication section, item 9.7.

[No response; links to 9.7]

***Eligible Entity Innovative Community and Neighborhood Initiatives, Including Fatherhood/Parental Responsibility***

**14.3d. 676(b)(3)(D)** Describe “how the local entity will use the funds [made available under 675C(a)] to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging parenting.”

**Note:** The description above is about eligible entity use of 90 percent funds to support these initiatives. States may also support these types of activities at the local level using state remainder/discretionary funds, allowable under Section 675C(b)(1)(F). In this State Plan, the Department indicates funds allocated for these activities under item 7.9(f).

**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). As part of the CAP, entities must complete a document which provides information regarding any innovative community and neighborhood-based initiatives related to the purpose of CSBG, which may include fatherhood initiatives and other initiatives which strengthen families and encourage effective parenting. A limited number of CSBG eligible entities have reported these types of initiatives. The Department will continue to work with CSBG eligible entities to promote these initiatives if such gaps are identified in their CAP. As the Department identifies information on webinars or funding opportunities related to this area, the Department shares this information with CSBG eligible entities. ]

**Eligible Entity Emergency Food and Nutrition Services**

**14.4. 676(b)(4)** Describe how the State will assure “that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals.”



**[Narrative:** The Department requires CSBG eligible entities to submit an annual Community Action Plan (CAP). As part of the CAP, entities must complete a document which provides information related to how the CSBG eligible entity will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals. Most CSBG eligible entities work with either a local food pantry or the food bank to provide food in these circumstances. If there are no other resources available, then CSBG funds are utilized to provide nutritional support.  
**]**

### **State and Eligible Entity Coordination/linkages and Workforce Innovation and Opportunity Act Employment and Training Activities**

- 14.5. 676(b)(5)** Describe how the State will assure “that the State and eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services, and [describe] how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 3 of the Workforce Innovation and Opportunity Act, in the State and in communities with entities providing activities through statewide and local workforce development systems under such Act.”

**Note:** The Department describes this assurance in the State Linkages and Communication section, items 9.1, 9.2, 9.3a, 9.4, 9.4a, and 9.4b.

**[No response; links to items 9.1, 9.2, 9.3a, 9.4, 9.4a, and 9.4b]**

### **State Coordination/Linkages and Low-income Home Energy Assistance**

- 14.6. 676(b)(6)** Provide “an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community.”

**Note:** The Department describes this assurance in the State Linkages and Communication section, items 9.2 and 9.5.

**[No response; links to 9.2 and 9.5]**

### **Federal Investigations**

- 14.7. 676(b)(7)** Provide “an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D.”

**Note:** The Department addresses this assurance in the Fiscal Controls and Monitoring section, item 10.13.

**[No response; links to 10.13]**

#### **Funding Reduction or Termination**

- 14.8. 676(b)(8)** Provide “an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b).”

**Note:** The Department addresses this assurance in the Fiscal Controls and Monitoring section, item 10.7.

**[No response; links to 10.7]**

#### **Coordination with Faith-based Organizations, Charitable Groups, Community Organizations**

- 14.9. 676(b)(9)** Describe how the State will assure “that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations.”

**Note:** The Department describes this assurance in the State Linkages and Communication section, item 9.6.

**[No response; links to 9.6]**

#### **Eligible Entity Tripartite Board Representation**

- 14.10. 676(b)(10)** Describe how “the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation.”

**Note:** The Department describes this assurance in the Eligible Entity Tripartite Board section, 11.3

**[No response; links to item 11.3]**

#### **Eligible Entity Community Action Plans and Community Needs Assessments**

**14.11. 676(b)(11)** Provide “an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs.”

**[No response; links to items 13.5 and 13.6]**

#### **State and Eligible Entity Performance Measurement: ROMA or Alternate system**

**14.12. 676(b)(12)** Provide “an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and [describe] outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization.”

**Note:** The Department describes this assurance in the ROMA section, items 13.1, 13.2, 13.3, and 13.4.

**[No response; links to 13.1, 13.2, 13.3, and 13.4]**

#### **Validation for CSBG Eligible Entity Programmatic Narrative Sections**

**14.13. 676(b)(13)** Provide “information describing how the State will carry out the assurances described in this section.”

**Note:** The Department provides information for each of the assurances directly in section 14 or in corresponding items throughout the State Plan, which are included as hyperlinks in section 14.

**[No response for this item]**

By checking this box, the State CSBG authorized official is certifying the assurances set out above.

## SECTION 15

### Federal Certifications

**The box after each certification must be checked by the State CSBG authorized official.**

#### 15.1 Lobbying

##### *Certification for Contracts, Grants, Loans, and Cooperative Agreements*

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all entities shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

##### *Statement for Loan Guarantees and Loan Insurance*

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete

and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the State CSBG authorized official is providing the certification set out above.

## **15.2 Drug-Free Workplace Requirements**

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

### ***Certification Regarding Drug-Free Workplace Requirements*** (Instructions for Certification)

- (1) By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
- (2) The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
- (3) For grantees other than individuals, Alternate I applies.
- (4) For grantees who are individuals, Alternate II applies.
- (5) Workplaces under grants, for grantees other than individuals, need to be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
- (6) Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

- (7) If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
- (8) Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

### ***Certification Regarding Drug-Free Workplace Requirements***

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about - -
  - (1) The dangers of drug abuse in the workplace;
  - (2) The grantee's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and

- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will - -
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within 10 calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted - -
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code) **[Narrative:**

**Texas Department of Housing and Community Affairs**

**221 East 11<sup>th</sup> Street**

**Austin, Travis County, Texas 78701-2410]**

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

- By checking this box, the State CSBG authorized official is providing the certification set out above.

**15.3 Debarment**

***CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS***

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - -

Primary Covered Transactions

Instructions for Certification

- (1) By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.



- (4) The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- (7) The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusive-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

***Certification Regarding Debarment, Suspension, and Other Responsibility Matters - -***

Primary Covered Transactions

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

***Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - - Lower Tier Covered Transactions***

Instructions for Certification

- (1) By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- (2) The certification in this clause is a material representation of fact upon which reliance was
- (3) Placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- (4) The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier

participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

- (5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- (6) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- (7) The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph five of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - - Lower Tier Covered Transactions*

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the State CSBG authorized official is providing the certification set out above.

**15.4 Environmental Tobacco Smoke**

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity by signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

By checking this box, the State CSBG authorized official is providing the certification set out above.

## **ATTACHMENTS**

**Attachment A**  
**Response to Question 10.2 Monitoring Policies**

**Compliance Division**  
**Subrecipient Monitoring Section**

Standard Operating Procedures

**1.0 Risks and Control Objectives**

- 1.1** The risks associated with not having an SOP for Assignments and Risk Assessments and the control objectives to ensure that those risks are minimized, are illustrated in the following table:

<b>Risks</b>	<b>Control Objectives</b>
The risks associated with not having an SOP for monitoring procedures are that that monitoring reviews may not be conducted or be conducted in a consistent manner and within the requirements of the Department and/or Federal requirements.	This SOP will minimize the risks described by providing a comprehensive process for a monitoring risk assessment, monitoring assignment and for the completion of monitoring reports and responses.

**2.0 Policy**

- 2.1** It is the requirement of the Texas Department of Housing and Community Affairs and its Compliance Division to perform monitoring functions of federal and state funds, in a consistent manner that is compliant with Department and Funding source requirements. The Chief of Compliance oversees three (3) monitoring sections within the Compliance Division, one (1) of which is the Compliance Subrecipient Monitoring section. The Compliance Subrecipient Monitoring director oversees the section of employees that monitor the programs that are administered by the Community Affairs Division, Single Family, and Home and Homelessness Programs Divisions of the Department.

**3.0 General**

- 3.1** Abbreviations

- A. Texas Department of Housing and Community Affairs – Department
- B. Community Affairs Division – CAD
- C. Compliance Division - Compliance
- D. Compliance Division Subrecipient Monitoring Section - CMSM
- E. Compliance Subrecipient Monitoring Director – CMSM Director
- F. Subrecipient Monitor – Compliance Monitor or Monitor
- G. Community Affairs Division program awardees (Non-profit corporations, Counties, Cities, Council of Government’s) – Subrecipient
- H. Weatherization Assistance Program – WAP
- I. Comprehensive Energy Assistance Program – CEAP
- J. Community Services Block Grant - CSBG
- K. Department of Energy – DOE
- L. Emergency Solutions Grant – ESG
- M. HOME Investments Partnership – HOME
- N. Homeless Housing and Services Program – HHSP
- O. Housing Trust Fund – HTF
- P. Low Income Housing and Energy Assistance Program – LIHEAP
- Q. LIHEAP Weatherization Assistance Program – LI-WAP
- R. National Housing Trust Fund – NHTF
- S. Neighborhood Stabilization Program – NSP
- T. Quality Control Inspector - QCI

### 3.2 Purpose

- A. This SOP describes the Department’s methodology for monitoring Subrecipients.
- B. To comply with Department rules on the administration on program funds.
- C. To comply with Federal Funding source requirements for administering program funds.
- D. It establishes consistent processes and procedures when monitoring CAD programs.
- E. Monitoring activities are planned to focus on areas of highest risk and to help ensure the most effective use of monitoring resources.
- F. To ensure the CMSM Compliance Monitors completed monitoring reports and responses within a designated time frame to ensure Subrecipients address any corrective actions in a timely manner.

- G. To ensure monitoring responses are reviewed to ensure corrective actions were completed.

#### **4.0 Responsibilities**

- 4.1 The CMSM section is responsible for ensuring the CEAP, CSBG, ESG, HOME, HHSP, HTF, [Ending Homelessness, CDBG](#), Multifamily Direct HOME Loans, NHTF, NSP and WAP programs (DOE and LIHEAP) are administered and funds are expended in accordance with contract provisions and applicable State and Federal rules, regulations, policies, and related statutes.
- 4.2 The CMSM Director will ensure a monitoring schedule is developed that identifies the Subrecipients that are to be monitored.
- 4.3 According to individual program requirements and/or standards, the CMSM section will develop a list of specific compliance requirements to be reviewed. The section will also develop a methodology to review each compliance requirement consistently.
- 4.4 The CMSM section will perform the respective monitoring to determine Subrecipient compliance.
- 4.5 The CMSM monitors will notify the CMSM Director and/or Chief of Compliance if a finding or concern of fraud, waste and/or abuse were noted during a Subrecipient's monitoring.
- 4.6 Within 30 days of the completion of the monitoring, the CMSM section will develop a report or correspondence, for the Subrecipient, reflecting the results of the monitoring.
- 4.7 The CMSM section will address the Subrecipient's response to the report and/or close out the monitoring process.
- 4.8 The CMSM section will notify and work with the CAD Training section to address any findings consistent within the Subrecipient network.

#### **5.0 Subrecipient Monitoring Selection**

- 5.1 The CMSM section will complete a Subrecipient monitoring review schedule, at least quarterly each year. The schedule will identify the quarter in which the Subrecipient will be monitored.
- 5.2 The CMSM section utilizes the most efficient use of its travel and monitoring budget, as its methodology in developing the Subrecipient monitoring review schedule. The schedule takes into account the program contract periods and may require Compliance Monitors to review multiple programs during the review.
- 5.3 The Department's schedule is used as a planning tool and is subject to change. The CMSM Section may encounter situations that arise and cause Subrecipients to be monitored in



a different month or more frequently than what is identified in the schedule. These situations may include:

1. Subrecipient who may not or have not met the minimum on-site monitoring threshold.
  2. There is low production in the program(s) selected for monitoring.
  3. Monitor(s) attempt to schedule a monitoring and provides proposed monitoring dates. However, the Subrecipient is unable to accommodate the monitoring during the proposed dates.
  4. The Department receives fraud, waste and/or abuse concerns against a Subrecipient.
  5. The Department receives a credible complaint against a Subrecipient.
- 5.4 As needed, the CMSM will also factor in the results of a Subrecipient's prior monitoring review and/or Single Audit findings when determining the monitoring schedule. Subrecipient's with prior and/or repetitive monitoring and/or Single Audit findings are a priority to be monitored.
- 5.5 At a minimum:
- A. DOE (July-June) and LIHEAP WAP (Jan. – Dec.) Subrecipients will be monitored at least once each year;
  - B. LIHEAP Subrecipients will be monitored at least once every three (3) years (Triennial).
  - C. CSBG Subrecipients will be monitored at least once every three (3) years (Triennial).

## **6.0 Determining Compliance Requirements**

- 6.1 The CMSM section will review Subrecipient's compliance with program requirements, contract provisions and Federal, State, local government rules and regulations.
- A. The CMSM section will determine compliance on specific contract provisions, rules, regulations and/or program requirements are most applicable to be reviewed or required to be reviewed by the funding source. The CMSM section will verify if the Subrecipients have complied with the requirements. The CMSM section will utilize a monitoring tool (instrument) that identifies the areas of compliance that will be reviewed. The monitoring tool will have a methodology to reflect the process used to

determine compliance of each selected contract provision, rule, regulation and/or requirement.

- B. The monitoring tool will be in electronic format and the CMSM section will enter the selected compliance requirements into the document.
  - C. The monitoring tool will be maintained in the Department's monitoring software (Teammate).
- 6.2 The monitoring tool and the list of compliance requirements that are to be reviewed may be revised, updated, or changed from period to period due to program, legislative and/or budget changes.
- A. The listed monitoring tool is reviewed on a continual basis, during the federal fiscal year or Subrecipient program year (as applicable), to account for changes in rules and/or program requirements.

### **7.0 Monitoring Announcement**

- 7.1 After it has been determined which Subrecipients will be monitored, the CMSM Director will assign monitors, to the Subrecipients who will be monitored. The CMSM Director will determine the method of distributing the Subrecipients to the Monitors.
- 7.2 After a review of risk factors utilized in previous risk assessments the following factors have been identified by staff consensus as the set of indicators that most accurately present the highest degree of program and fiscal risk:
  - ◇ Program Activity Type
  - ◇ Number of months remaining on the contract;
  - ◇ Time Since Most Recent Monitoring Evaluation of the elapsed length of time since a Subrecipient has received an on-site visit or desk review;
  - ◇ Results of previous on-site visit(s) and/or desk review;
  - ◇ Total Funds Budgeted – Evaluation of the total amount of funds awarded to a Subrecipient;
  - ◇ Total Funds Committed – Evaluation of the percentage of funds committed to the projects of the contract(s);
  - ◇ Total Cumulative Draws – Evaluation of the percentage of contract funds drawn;
  - ◇ Match obligation for contract;
  - ◇ Set-aside Type;
  - ◇ Construction Activities – A review to determine if subrecipient's performing activities with a construction component have incurred Davis-Bacon Labor Standards requirements; and

- ◇ Details of any reported complaints (internal and external).

Risk Factors may be revised, updated, or changed from period to period due to program, legislative, or budget changes. *The Risk Factors utilized may also be governed or restricted by constraints inherent in the architecture of the central data base system. It may not be 100% accurate or cost-effective to include some risk factors because of this constraint. An example is Single Audit Status.*

Other Risk Factors may include:

- ◇ Multiple funding sources for a contract;
- ◇ Significant gaps between expected and actual results of previous contracts;
- ◇ Multiple contracts for an individual subrecipient; and
- ◇ Instability in the management environment.

- 7.3 The Monitor will contact each of the assigned Subrecipients and schedule future on-site monitoring. The Monitor will make every attempt to provide the Subrecipient with a minimum of 30 days' notice prior to the monitoring review.
- A. On occasions, the monitoring may occur with fewer than 30 days' notice. Situations that may warrant a monitoring occurring with fewer than 30 days' notice include:
1. The Subrecipient notifies the Department that it is not able to be monitored the proposed week and chooses the monitoring date.
  2. The Department receives credible fraud, waste and/or abuse concerns against a Subrecipient requiring little to no notice of the monitoring.
  3. The Department receives a credible complaint against a Subrecipient requiring little to no notice of the monitoring.
- 7.4 After the monitoring date has been confirmed, the Monitor will complete a Monitoring Announcement letter.
- 7.5 When the announcement letter has been completed, the document will be scanned and saved to the Subrecipient's respective Monitoring file within the computerized Monitoring Software.
- 7.6 The scanned version will be emailed to the Subrecipient. If applicable, a copy of the announcement letter will be sent to appropriate individuals.

- 7.7 The Monitoring Announcement letter should be sent to the Subrecipient as soon as the monitoring dates have been set, but no less than two (2) weeks prior to the monitoring.
- 7.8 In some instances a Monitoring Announcement letter may be submitted less than two (2) weeks from the scheduled monitoring. This may occur when 7.2 A (1) is met.
- 7.9 In some instances a Monitoring Announcement letter may not be submitted to the Subrecipient prior to the monitoring. This may occur when 7.2 A (2) and (3) are met.

## **8.0 Performing the On-site Monitoring**

**NOTE: Virtual monitoring and desk review of files to occur during the COVID-19 pandemic in place of on-site monitoring.**

- 8.1 The CMSM section will utilize electronic monitoring tool to review the selected compliance requirements and to document the Subrecipients compliance with the specific requirement.
- 8.2 If the appropriate Subrecipient staff is available, the Monitor will have an Entrance Conference prior to the start of the monitoring. In the Entrance Conference the Monitor will provide a brief summary of the on-site monitoring process and/or the on-site monitoring plan. The Monitor will also utilize this time to answer Subrecipient questions that are specific to the monitoring and/or the programs.
- 8.4 After the Entrance conference, the Monitor will review the compliance requirements and perform the methodology to determine compliance with the selected requirements. The monitor will complete each question and section of the selected compliance requirements on electronic testing documents. The CMSM section will document the reason for the inability to verify any of the selected compliance requirements.
  - A. Weatherization Assistance Program (“WAP”) Monitorings- may be performed as a Full Monitoring or as a Unit Inspection.
    - a. A Full WAP Monitoring will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements, client eligibility requirements and performing an inspection of weatherized units.

b. Unit Inspection monitoring consists of the Compliance Monitor(s) reviewing weatherization client files for compliance and eligibility requirements and performing an inspection of the weatherized units.

c. Client file reviews and Unit Inspections will vary according to the funding source used to weatherize the unit. When units are weatherized with LIHEAP funding only, the Compliance Monitor(s) will review the weatherized work based on an established Priority Rating sheet. When units are weatherized with DOE funding only, or with DOE and LIHEAP funds, the Compliance Monitor(s) will review the weatherized work based on an approved Energy Audit. Compliance Monitors will be required to have all applicable field tests performed during the Unit Inspection. The Compliance Monitor(s) may supervise a Subrecipient's performance of the field test. The Compliance Monitor(s) must document the results of the field tests.

d. The Compliance Monitor will utilize the following as a guide when determining the number of units to inspect. The actual number of units inspected will vary according to the number of QCI staff employed by the Subrecipient and the process the Subrecipient follows for their Assessments and Final Inspections.

a. When a Compliance Monitor is conducting a monitoring visit, in which the Subrecipient has limited QCI staff therefore the same QCI staff will perform more than one function in the unit, the Compliance Monitor(s) will perform a minimum of:

i. Ten percent (10%) unit inspections of the total units completed

b. When a Compliance Monitor is conducting a monitoring visit, in which the Subrecipient has multiple QCI staff therefore the QCI staff performing the final inspection will not perform any other function in the unit, Compliance Monitor(s) will perform a minimum of:

i. Five percent (5%) unit inspections of the total units completed

e. The CMSM Section will be required to monitor a minimum of 5% of all completed weatherized units (at the time of the monitoring) that are funded by DOE and inspected by a QCI who was not involved in the assessment of the weatherized unit. The CMSM Section will monitor a minimum of 10% of all completed weatherized units (at the time of the monitoring) that were inspected by a QCI that was involved in the assessment of the weatherized unit. The CMSM section will utilize the monitoring tracking database to track the number of units that have been inspected. The Department will also review Monthly Expenditure Reports to track the number of total completed units and will adjust the monitoring schedule to ensure that it meets the minimum number of units inspected.

- a. A Compliance Monitor may not be able to monitor the minimum number of weatherized units if:
  - i. the Subrecipient does not have enough completed weatherized units;
  - ii. the geographical location of the weatherized homes prohibits the ability to inspect units;
  - iii. inclement weather persists.

B. Community Services Block Grant

- 1. A CSBG Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
- 2. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.

C. Comprehensive Energy Assistance Program

- 1. A CEAP Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
- 2. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.

- 8.5 When the respective methodology is not enough to determine compliance, the Monitor(s) will make every effort to determine if the requirement is compliant. This may require the Monitor(s) to perform additional testing, request additional information or clarification from Subrecipient staff and/or request assistance from peer Monitors, CA Division staff, the CMSM Director or the Chief of Compliance.
- 8.6 The Monitor will obtain and maintain the appropriate documentation to justify any finding, disallowed and/or questioned cost.
- 8.7 The Monitor will notify the CA Trainers of the Subrecipient's need for Training and/or Technical Assistance if necessary.
- 8.8 If the Monitor(s) is unable to complete the monitoring during the specified period, the Monitor(s) must notify the CMSM Director of the circumstance(s) that resulted in the inability to complete the monitoring. The CMSM Director will determine the appropriate course of action to complete the monitoring. The Monitor must notify the Subrecipient that additional time is required to complete the monitoring and of the course of action that was determined by the CMSM Director. The inability to complete the monitoring and the course of action must be documented in the computerized Monitoring Software or the Monitoring Instrument.

- 8.9 Time permitting and if the appropriate Subrecipient staff are available, the Monitor will make every attempt to provide the Subrecipient with an on-site Exit Conference. The Exit Conference is intended to explain, to the Subrecipient, the preliminary results of the monitoring. In some situations the Subrecipient may be provided a few days to submit documentation, if the documentation was not readily available during the onsite visit. In this situation, an Exit conference may not be conducted on-site.
- 8.10 If an on-site exit conference cannot be completed, the Monitor will schedule an Exit conference via conference call. The call will typically occur within 5 business days from the last day the monitoring.
- 8.11 The Monitor(s) will create electronic copies of all applicable monitoring documents and/or Finding support documentation obtained during the review. The Monitor will save the electronic copies to the monitoring file within the computerized Monitoring Software.

## **9.0 Monitoring Report**

- 9.1 The Monitor(s) will be required to develop a report, detailing the results of the monitoring. Each Monitoring Report will contain general program information and/or a brief description of the monitoring process that was performed. If applicable, the monitoring report will contain:
- A. Finding/Deficiency (CSBG only)
    - 1. A brief and concise description of the lack of compliance of a specific program requirement;
    - 2. A brief description of the program requirement;
    - 3. A description of any disallowed or questioned cost; and
    - 4. The respective reference for program compliance.
  - B. Action Required for a Finding/Deficiency
    - 1. A brief requirement for the Subrecipient to meet;
    - 2. A requirement for the Subrecipient to complete a specific action to resolve the finding;
    - 3. A requirement for the Subrecipient to provide a reimbursement, documents, an assurance and/or a response to the monitoring report.

- C. If there were findings or deficiencies of noncompliance, a 30 calendar day corrective action deadline. If there were no Findings or Required Action, the Monitoring Report will reflect that no response is required and that the Monitoring Review is considered closed.
- D. A Concern
  - 1. A brief and concise description of the lack of compliance of a specific program requirement;
  - 2. A brief description of the program requirement;
  - 3. The respective reference for program compliance.
- E. Action Required for a Concern
  - 1. A brief requirement for the Subrecipient to meet;
  - 2. A requirement for the Subrecipient to complete a specific action to resolve the Concern;
- F. Observation
  - 1. A brief and concise description of the policy, practice or procedure observed through the course of monitoring that may lead to a lack of compliance of a specific program requirement.

- 9.2 Monitors are expected to, on average, complete monitoring letters within 30 calendar days from the last day of the onsite visit. However, DOE-WAP monitoring letters must be completed within 30 calendar days.
- 9.3 The Monitor(s) will make an electronic copy of the Monitoring Report and save the copy to the Subrecipient's respective monitoring file within the computerized Monitoring Software. The scanned version will be emailed. A hard copy report will be mailed to the Subrecipient if email is not an option.
- 9.4 At a minimum, the Monitor will e-mail the Monitoring Report to the Subrecipient and a copy of the report to the Subrecipient's Board Chair or the assigned Board representative.
- 9.5 The date the monitoring report is considered complete and submitted to the Subrecipient, is when the report is emailed to the Subrecipient.

### **10.0 Response to the Monitoring Report**

- 10.1 The Subrecipient will be provided a 30 day corrective action period which can be extended for good cause by the Chief of Compliance.



- 10.2 The Monitor(s) is responsible for tracking corrective action due dates. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the "Notes" area of the Monitoring Tracking System.
- 10.3 If the Subrecipient's response is submitted as a paper document, the Monitor will make an electronic copy of the response. The Monitor will then save the copy to the Subrecipient's respective Monitoring File within the electronic software.
- 10.4 The Monitor(s) will review the Subrecipient's response to the report for compliance with the specific Finding's required action and program rules, regulations and requirements.
- 10.5 Within 45 business days of the receipt of the response, the Monitor(s) will provide correspondence to the Subrecipient addressing each Finding and/or required action. For each Finding, the monitor(s) will:
- A. Briefly state the Finding that occurred;
  - B. The Subrecipient's response and/or documentation;
  - C. Any concern or question posed in the Subrecipient's response;
  - D. The results of the Department's review of the response and/or documentation;
  - E. Necessary information to address the Subrecipient's concern or question;
  - F. If the response and/or documentation is acceptable to resolve the Finding;
  - G. If the Finding is resolved;
  - H. If applicable, the Finding is closed;
    - i. A Finding will not be considered resolved, but closed when the Department believes the Subrecipient's required action is not obtainable. The Subrecipient will no longer be required to complete the required action.
    - ii. The Department should consider the efforts the Subrecipient made to resolve the Finding.
    - iii. A "Closed" Finding will not be used on the Required Action of a Subrecipient to reimburse the Department for disallowed expenditures.

- I. If applicable, the additional required action to resolve the Finding.
- 10.6 The Monitor(s) will make an electronic copy of the document addressing the Subrecipient's response to the report. The Monitor will save the copy to the Subrecipient's respective monitoring file in the computerized Monitoring Software. The scanned version will be emailed to the Subrecipient. If applicable, a copy of the document will be sent to appropriate individuals.
  - 10.7 If the Subrecipient's response did not resolve the Findings and/or required actions of the monitoring report, the Monitor(s) will keep abreast of the Subrecipient's 30 day response period. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the Monitoring Tracking System.
  - 10.8 When the Subrecipient submits the response from 10.7, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines the Subrecipient's response to Finding(s) to remain unresolved, the Monitor will continue with 10.6 and 10.7 of the SOP. However, unless prior approval from the Chief of Compliance, the original Corrective Action deadline is not amended. The Subrecipient must resolve the Finding(s) as soon as possible. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the Monitoring Tracking System.
  - 10.9 Similarly, when the Subrecipient submits the response from 10.8, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines the Subrecipient's response to Finding(s) to remain unresolved, the CMSM Director will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and SOPs.
  - 10.10 If a Subrecipient has submitted its second response and is still not able to comply with the required action(s), the Monitor(s) will note in its subsequent correspondence that the Subrecipient is able to request a meeting with the Department's Compliance committee. The Subrecipient may request the committee to review the validity of the Finding or to appeal the required action.
    - A. The Subrecipient must include in its subsequent response that it request a meeting with the Compliance committee.

- B. Once the request has been received, the Department will follow the rules and the SOP's pertaining to the Compliance committee.

APPROVAL:

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***Earnest Hunt***  
***Compliance Subrecipient Monitoring Director***

***2/12/2019***

1d

**BOARD ACTION REQUEST**

**SECTION 811 DIVISION**

**APRIL 8, 2021**

Presentation, discussion, and possible action on an order adopting the amendment to 10 TAC §8.7 Program Regulations and Requirements

**RECOMMENDED ACTION**

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

**WHEREAS**, Department staff has recognized the need for revisions to 10 TAC Chapter 8, which governs the 811 PRA Program, specifically to §8.7, relating to Program Regulations and Requirements; and

**WHEREAS**, the proposed rule was submitted to the *Texas Register* for public comment, which was accepted from February 1, 2021, through March 3, 2021, one comment was received, and the Department has taken into consideration the comment and provided a reasoned response;

**NOW, therefore, it is hereby**

**RESOLVED**, that the amendment to 10 TAC §8.7 Program Regulations and Requirements, is hereby adopted; and

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

**BACKGROUND**

10 TAC §8.7 relates to the regulations and requirements that govern the Section 811 PRA Program. This rule amendment requires that properties receive written permission from the Department prior to reinstating a household in the Section 811 PRA Program, in accordance with federal requirements. This is necessary to provide clarity to Owners and to ensure that program funds are not committed when in fact no funds are available for such commitment. This situation arises when an 811 PRA-assisted household, whose assistance was terminated because they no longer met the program's eligibility

requirements but was allowed to remain in the unit paying the full rent, once again becomes program eligible.

For example: an eligible household has been receiving 811 assistance. Their income increases above the program's limits. The tenant pays the unassisted rent required for the unit. Several months later, the household's income drops again, and they now meet the eligibility requirements of the program. However, the program may no longer have funds available to commit to another household at that time. Additionally, other households would have been waiting for assistance and may need to be assisted first.

Based on this example it can be seen that a property cannot commit to a household that they are able to receive 811 PRA assistance again without first obtaining Department approval. Upon request from the property, the Department will determine if the household can be reinstated.

This amendment protects the integrity of the program in three ways. First, the rule amendment ensures the Department is not encumbering more funds than are available. Second, the rule amendment prevents the property from exceeding the number of units set aside for the Section 811 PRA Program. Third, the rule amendment ensures that no households on the property's Section 811 PRA waiting list are skipped over.

This rule amendment adheres to the program's federal regulations. Termination and reinstatement to the Section 811 PRA Program is informed by HUD Handbook 4350.3, which describes the program's occupancy requirements and procedures. Tenants whose assistance is terminated may remain in the unit, but they must pay the full applicable rent set by the owner. Owners are authorized to terminate assistance only in limited circumstances and after following required procedures to ensure that tenants have received proper notice and an opportunity to respond. HUD Handbook 4350.3 Chapter 8, includes the requirement that assistance is available for the unit. This rule amendment ensures assistance is available for the unit.

The amended rule was submitted to the *Texas Register* for public comment, which was accepted from February 1, 2021, through March 3, 2021. One public comment was received.

Behind the preamble for the amendment the rule is shown in final form.

## **Attachment 1: Preamble amendment to 10 TAC Chapter 8.7 Program Regulations and Requirements**

The Texas Department of Housing and Community Affairs (the Department) adopts an amendment to 10 TAC §8.7, Program Regulations and Requirements, as it relates to properties participating in the Section 811 Program. The purpose of the amendment is to clarify for Owners that the Department must confirm that assistance is available for an eligible household prior to the property owner reinstating that household to the program. The amendment specifies that property owners or agents must request and receive written confirmation from the Department that the household can be reinstated to the Section 811 PRA Program.

Tex. Gov't Code §2001.0045(b) does not apply to the rule being adopted because there is no cost to the rule change.

### **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 amendment would be in effect:

1. The amended rule does not create or eliminate a government program. This amended rule merely ensures that program funding is available to support a household prior to reinstatement, and that no other households are skipped over. This rule also harmonizes the Department's policy regarding a property's actions with the federal regulation, HUD Handbook 4350.3.
2. The amended 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 workload to a degree that eliminates any existing employee positions.
3. The amended rule does not require additional future legislative appropriations.
4. The amended 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 amended rule is not creating a new regulation, except that it is amending a rule to ensure reinstated households have funding available to support them and that no other eligible households are skipped over.
6. The amended rule will expand an existing regulation by adding an additional communication requirement that ensures the program is administered fairly and does not exceed the property's obligation or the program's budget.
7. The amended rule will not increase or decrease the number of individuals subject to the rule's applicability; and
8. The amended 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 §2306.041 and §2306.0504.

1. The Department has evaluated this rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. This rule relates to the procedures in place for owners and managers of developments participating in Department programs. Other than in the case of a small or micro-business that participates in the Department's program covered by this rule, no small or microbusinesses are subject to the rule. If a small or micro-business does participate in the program, the rule provides a clear set of regulations for doing so and the amendment poses no fiscal impact on such businesses.
3. The Department has determined that because all potential penalties can be avoided by adhering to program rules, 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 amended 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 amended rule has no economic effect on local employment. Property management partners will not have to hire additional staff to comply with this amended rule. Therefore, no local employment impact statement is required to be prepared for this rule.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the amended rule has no economic impact on local employment, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).

Mr. Wilkinson has determined that, for each year of the first five years the amended section is in effect, the public benefit anticipated as a result of the amended sections will be the creation of a control that will prevent funding from being committed that is not actually available. There will not be any economic cost to any individuals required to comply with the amended section because the process described by the rule does not net an economic cost to the property owner or owner's agent subject to the rule.

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 amended section does not have any foreseeable implications related to



costs or revenues of the state or local governments, based on the Department's history and past experience with penalty collections.

g. SUMMARY OF COMMENT AND REASONED RESPONSE. The public comment period was held February 1, 2021 through March 3, 2021. One comment was received. A summary of the public comment and reasoned response is below. One public comment was received from Gloria Purvis with the Houston-Galveston Area Council, an Aging and Disability Resource Center.

1. General Comment (Commenter One)

**COMMENT SUMMARY:** The commenter states the following, "These critical and compelling changes provided additional clarification for the purpose of increasing successful participation, enhancing communication and clearly defining roles and expectations for owners and well as prospective tenants who participate in this program. These important and considerate revisions also provided additional clarity which should help to increase inclusion for the first five years of this program....The new revisions were clear and transparent, and emphasized that the program funding is available to ensure that no qualifying household is skipped over."

**STAFF RESPONSE:** TDHCA appreciates the comment as it comes from an organization that provides and coordinates services for people with disabilities. No changes were made as a result of this comment to the amended rule.

**STATUTORY AUTHORITY.** The amended section is adopted pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the amended section affects no other code, article, or statute.

### **§8.7 Program Regulations and Requirements**

(a) Participation in the 811 PRA Program is encouraged and incentivized through the Department's Multifamily Rules. Once committed in the Multifamily Application, a Development must not accept a fund source that would prevent it from participating in the 811 PRA Program.

(b) An Existing Development that is already participating in the 811 PRA Program is eligible to have an additional commitment of 811 PRA Units as long as the integrated housing requirements as noted in §8.3(c) of this chapter (relating to Participation as a Proposed Development) are not violated.

(c) The types (e.g., accessible, one bedroom, first floor, etc.) and the specific number of Assisted Units (e.g., units 101, 201, etc.) will be "floating" (flexible) and dependent on the needs of the Department and the availability of the Assisted Units on the Eligible Multifamily Property.

(d) Occupancy Requirements. Owner is required to follow all applicable Program Requirements including but not limited to the following occupancy requirements found in HUD Handbook 4350.3 REV-1 and Housing Notices:

- (1) H 2012-06, Enterprise Income Verification (EIV) System;
- (2) H 2012-26, Extension of Housing Notice 2011-25, Enterprise Income Verification (EIV) & You Brochure-Requirements for Distribution and Use;
- (3) H 2012-22, Further Encouragement for O/As to Adopt Optional Smoke-Free Housing Policies;
- (4) H 2012-11, State Registered Lifetime Sex Offenders in Federally Assisted Housing;
- (5) H 2012-09, Supplemental Information to Application for Assistance Regarding Identification of Family Member, Friend or Other Persons or Organization Supportive of a Tenant for Occupancy in HUD Assisted Housing; or
- (6) H 2017-05, Violence Against Women Act (VAWA) Reauthorization Act of 2013, Additional Guidance for Multifamily Owners and Management Agents.

(e) Use Agreements. The Owner must execute the Use Agreement, as found in Exhibit 10 of the Cooperative Agreement, before the execution of the RAC and comply with the following:

- (1) Use Agreement should be properly recorded according to local laws in the official public records on the Eligible Multifamily Property. The Owner shall provide to TDHCA within 30 days of its receipt of the recorded Use Agreement, a copy of the executed, recorded Use Agreement.
- (2) From the date the Property Agreement is entered into, the Owner shall not enter into any future use agreements or other subsidy programs that would diminish the number of Assisted Units that can be placed on the Eligible Multifamily Property.
- (3) TDHCA will enforce the provisions of the Use Agreement and RAC consistent with HUD's internal control and fraud monitoring requirements.

(f) Tenant Certifications, Reporting and Compliance.

- (1) TRACS & EIV Systems. The Owner shall have appropriate software to access the Tenant Rental Assistance Certification System (TRACS) and the EIV System. The Owner shall be responsible for ensuring Program information is entered into these systems. TRACS is the only system by which an Eligible Multifamily Property can request Project Rental Assistance payments.
- (2) Outside Vendors. The Owner has the right to refuse assistance from outside vendors hired by TDHCA, but is still required to satisfy the Program Requirements.
- (3) Tenant Certification. The Owner shall transmit Eligible Tenant's certification and recertification data, transmit voucher data, and communicate errors electronically in a form consistent with HUD reporting requirements for HUD Secure Systems.

(g) Tenant Selection and Screening.

- (1) Target Population. TDHCA will screen Eligible Applicants for compliance with TDHCA's Program Target Population criteria and do an initial screening for Program Requirements. The Inter-Agency Partnership Agreement describes the specific Target Population eligible for TDHCA's Program. The Target Population may be revised, with HUD approval.
- (2) Tenant Selection Plan. Upon the execution of the Participation Agreement, the Owner will submit the Eligible Multifamily Property's Tenant Selection Criteria, as defined by and in accordance with 10 TAC §10.802 (relating to Written Policies and Procedures), to TDHCA for approval. TDHCA will review the Tenant Selection Plan for compliance with existing Tenant Selection Criteria requirements, and consistent with TDHCA's Section 811 PRA Participant Selection Plan.

(3) Tenant Eligibility and Selection. The Owner is responsible for ultimate eligibility and selection of an Eligible Tenant and will comply with the following:

(A) The Owner must accept referrals of an Eligible Tenant from TDHCA and retain copies of all applications received. The Owner is responsible for notifying the prospective Eligible Tenant and TDHCA in writing regarding any denial of a prospective Eligible Tenant's application to an Eligible Multifamily Property and the reason for said denial. In the notice of denial, the Owner is responsible for notifying the Eligible Tenant of the right to dispute a denial, as outlined in HUD Handbook 4350.3. The results of the dispute must be sent to the Eligible Tenant and TDHCA in writing.

(B) The Owner is responsible for determining age of the qualifying member of the Eligible Families. Eligible Family member must be at least 18 years of age and under the age of 62.

(C) The Owner is responsible for criminal background screening as required by HUD Handbook 4350.3.

(D) Verification of Income. The Owner is responsible for determining income of Eligible Families. The Owner shall verify income through the Enterprise Income Verification (EIV) System. The Owner must certify an Eligible Tenant and Eligible Families at least annually and verify their income. If the household is also designated under the Housing Tax Credit or other Department administered program, the Owner must obtain third party, or first hand, verification of income in addition to using the EIV system.

(h) Rental Assistance Contracts.

(1) Applicability. If requested by TDHCA, the Owner shall enter into a RAC. Not all properties with an Owner Participation Agreement will have a RAC, but when notified by TDHCA, the Eligible Multifamily Property must enter into a RAC(s) and begin serving Eligible Applicants.

(2) Notice. TDHCA will provide written notice to the Owner if and when it intends to enter into a RAC with the Owner.

(3) Assisted Units. TDHCA will determine the number of Units (up to the maximum listed in the Property Agreement) to place in the RAC(s) which may be fewer than the number of Units identified in the Property Agreement.

(4) TDHCA will designate the bedroom composition of the Assisted Units, as required by the RAC. However, based on an actual Eligible Tenant, this may fluctuate. It is possible that an Eligible Multifamily Property will have a RAC for fewer units than the number committed in the Participation Agreement.

(5) If no additional applicants are referred to the property, the RAC may be amended to reduce the number of Assisted Units. Owners who have an executed RAC must continue to notify TDHCA of any vacancies for units not under a RAC if additional units were committed under the Agreement. For instance, if the Owner has committed 10 units under the Agreement and only has a RAC for five Assisted Units, the Owner must continue to notify TDHCA of all vacancies until there is a RAC for 10 Assisted Units.

(6) Amendments. The Owner agrees to amend the RAC(s) upon request of TDHCA. Some examples are amendments that may either increase or decrease the total number of Assisted Units or increase or decrease the associated bedroom sizes; multiple amendments to the RAC may occur over time. The total number of Assisted Units in the RAC will not exceed the number of Assisted Units committed in the Participation Agreement, unless by request of the Owner.

(7) Contract Term. TDHCA will specify the effective date of the RAC. During the first year of the RAC and with approval from HUD, the Owner may request to align the anniversary date of the RAC with existing federal or state housing programs layered on the Eligible Multifamily Property.

(8) Rent Increase. Owners must submit a written request to TDHCA 30 days prior to the anniversary date of the RAC to request an annual increase.

(9) Utility Allowance. The RAC will identify the TDHCA approved Utility Allowance being used for the Assisted Units for the Eligible Multifamily Property. The Owner must notify TDHCA if there are changes to the Utility Allowance calculation methodology being used.

(10) Termination. Although TDHCA has discretion to terminate a RAC due to good cause, an Owner cannot opt-out of a RAC. The RAC survives a foreclosure, assignment, sale in lieu of foreclosure, or sale of the Eligible Multifamily Property to the extent allowed by law.

(11) Foreclosure of Eligible Multifamily Property. Upon foreclosure, assignment, sale in lieu of foreclosure, or sale of the Eligible Multifamily Property to the extent allowed by law:

(A) The RAC shall be transferred to new owner by contractual agreement or by the new owner's consent to comply with the RAC, as applicable;

(B) Rental Assistance Payments will continue uninterrupted in accordance with the terms of the RAC; and

(C) Voluntary and involuntary transfers or conveyances of property must adhere to the ownership transfer process in 10 TAC §10.406, (as amended), regarding Ownership Transfer requests.

(i) Advertising and Affirmative Marketing.

(1) Advertising Materials. Upon the execution of the Property Agreement, the Owner must provide materials for the purpose of advertising the Eligible Multifamily Property, including but not limited to:

(A) Depictions of the units including floor plans;

(B) Brochures;

(C) Tenant selection criteria;

(D) House rules;

(E) Number and size of available units;

(F) Number of units with accessible features (including, but not limited to units designed to meet Uniform Federal Accessibility Standards, the Fair Housing Act, or the Americans with Disabilities Act);

(G) Documentation on access to transportation and commercial facilities; and

(H) A description of onsite amenities.

(2) Affirmative Marketing. TDHCA and its service partners will be responsible for affirmatively marketing the Program to Eligible Applicants.

(3) At any time, TDHCA may choose to advertise the Eligible Multifamily Property, even if the Eligible Multifamily Property has not yet entered into a RAC.

(j) Leasing Activities.

(1) Segregation of Assisted Units. The Owner must take actions or adopt procedures to ensure that the Assisted Units are not segregated to one area of a building (such as on a particular floor or part of a floor in a building) or in certain sections within the Eligible Multifamily Property.

(2) Form of Lease. The Owner will use the HUD Section 811 PRA Model Lease (HUD-92236-PRA), Exhibit 11 of the Cooperative Agreement and any Department approved Addendums, for all Eligible Families once a RAC is signed. The initial lease will be for not less than one year.

(3) Communication. Owners are required to:

(A) Document in writing all communication between the Eligible Tenant and the Owner, or Owner-designated agent regarding applications, notifications, evictions, complaints, non-renewals and move outs.

(B) Submit a written request to TDHCA before reinstating a household previously terminated from the Section 811 Program. Within three TDHCA business days of receipt of request, TDHCA will notify the Owner whether or not the household can be reinstated. The household may be reinstated if the following conditions are satisfied:

(i) Funding is available as determined by the Department and in the budget established under the property's Rental Assistance Contract;

(ii) Reinstating the household would not cause the property to exceed the number of assisted Units indicated in Exhibit 1 of the Rental Assistance Contract;

(iii) No eligible households on the property's Section 811 PRA waiting list will be skipped over; and

(iv) The reinstated household will occupy a Unit located in the original Eligible Multifamily Property.

(4) Lease Renewals and Changes. The Owner must notify TDHCA of renewals of leases with Eligible Families and any changes to the terms of the lease.

(k) Rent.

(1) Tenant Rent Payment. The Owner is responsible for remitting any Tenant Rent payment due to the Eligible Tenant if the Utility Allowance exceeds the Total Tenant Payment. The Owner will determine the Tenant Rent payment of the Eligible Tenant, based on HUD Handbook 4350.3, and is responsible for collecting the Tenant Rent payment.

(2) Rent Increase. Owner must provide the Eligible Tenant with at least 30 days notice before increasing rent.

(3) Rent Restrictions. Owner will comply with the following rent restrictions:

(A) If the Development has a TDHCA enforced rent restriction that is equal to or lower than Fair Market Rent (FMR), the initial rent is the maximum TDHCA enforced rent restriction at the Development.

(B) If there is no existing TDHCA enforced rent restriction on the Unit, or the existing TDHCA enforced rent restriction is higher than FMR, TDHCA will work with the Owner to conduct a market analysis of the Eligible Multifamily Property to support that a rent higher than FMR is attainable.

(C) After the signing of the original RAC with TDHCA, the Owner may request a new anniversary date to be consistent with other rent restrictions on the Eligible Multifamily Property allowed by TDHCA.

(D) After the signing of the original RAC, upon request from the Owner to TDHCA, Rents may be adjusted on the anniversary date of the RAC.

(E) Adjustments may not result in higher rents charged for an Assisted Unit as compared to a non-assisted unit. The calculation or methodology used for the annual increase amount will be identified in the Eligible Multifamily Property's RAC.

(F) Owner can submit a request for a rent increase or to change the contract anniversary date using HUD Form 92458.

(l) Vacancy; Transfers; Eviction; Household Changes.

(1) Holding Assisted Units. Once an Owner signs a RAC, the Eligible Multifamily Property must hold an available Assisted Unit for 60 days while a qualified Eligible Applicant applies for and moves into the Assisted Unit.

(2) Notification. Owner will notify TDHCA of determination of ineligibility or the termination of any participating Eligible Families or any member of a participating Eligible Family.

(3) Initial Lease-up. Owners of newly constructed, acquired or rehabilitated Eligible Multifamily Property must notify TDHCA no later than 180 days before the Eligible Multifamily Property will be available for initial move-in.

(4) Vacancy. Once a RAC is executed, the Owner must notify TDHCA of the vacancy of any Unit, including those that have not previously been occupied by an Eligible Tenant, as soon as possible, not to exceed seven calendar days from when the Owner learns that an Assisted Unit will become available. TDHCA will acknowledge receipt of the notice by responding to the Owner in writing within three business days from when the notice is received by the Department stating whether or not TDHCA will be accepting the available Unit, and making a subsequent referral for the Unit. If the qualifying Eligible Tenant vacates the Assisted Unit, TDHCA will determine if the remaining family members are eligible for continued assistance from the Program.

(5) Vacancy Payment. An Owner of an Eligible Multifamily Property that is not under a RAC may not receive a vacancy payment. TDHCA may make vacancy payments not to exceed 80% of the Contract Rent, during this time to the Eligible Multifamily Property, potentially for up to 60 days. After 60 days, the Owner may lease that Assisted Unit to a non-Eligible Tenant.

(6) Household Changes; Transfers. Owners must notify TDHCA if the Eligible Tenant requests an Assisted Unit transfer. Owner will notify TDHCA of any household changes in an Assisted Unit within three business days. If the Owner determines that, because of a change in household size, an Assisted Unit is smaller than appropriate for the Eligible Tenant to which it is leased or that the Assisted Unit is larger than appropriate, the Owner shall refer to TDHCA's written policies regarding family size, unit transfers, and waitlist management. If the household is determined by TDHCA to no longer be eligible, TDHCA will notify the Owner. Rental Assistance Payments with respect to the Assisted Unit will not be reduced or terminated until the eligible household has been transferred to an appropriately sized Assisted Unit.

(7) Eviction and Nonrenewal. Owners are required to notify the Department by sending a copy of the applicable notice via email to the 811 TDHCA Point of Contact, as identified in the Owner Participation Agreement, at least three calendar days before providing a Notice to Vacate or a Notice of Nonrenewal to the Tenant.

(m) Construction Standards, Accessibility, Inspections and Monitoring.

(1) Construction Standards. Upon execution of a RAC, the Eligible Multifamily Property shall be required to conform to Uniform Physical Conditions Standards (UPCS) which are uniform national standards established by HUD for housing that is decent, safe, sanitary, and in good repair. The site, building exterior, building systems, dwelling units and common areas of the Eligible Multifamily Property, as more specifically described in 24 CFR §5.703, must be inspected in any physical inspection of the property.

(2) Inspection. Prior to occupancy, the Eligible Tenant must be given the opportunity to be present for the move-in unit inspection.

(3) Repair and Maintenance. Owner will perform all repair and maintenance functions, including ordinary and extraordinary maintenance; will replace capital items; and will maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD and TDHCA requirements.

(4) Accessibility. Owner must ensure that the Eligible Multifamily Property will meet or exceed the accessibility requirements under 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973; the Fair Housing Act Design Manual; Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189), as implemented by the U.S. Department of Justice regulations at 28 CFR Parts

35 and 36; and the Federal Fair Housing Act as implemented by HUD at 24 CFR Part 100. However, Assisted Units can consist of a mix of accessible units for those persons with physical disabilities and non-accessible units for those persons without physical disabilities.

(n) Owner Training. The Owner is obligated to train all property management staff on the requirements of the Program. The Owner will ensure that any new property management staff who is involved in serving Eligible Families review training materials found on the Program's webpage including webinars, manuals and checklists.

(o) Reporting Requirements. Owner shall submit to TDHCA such reports on the operation and performance of the Program as required by the Participation Agreement and as may be required by TDHCA. Owner shall provide TDHCA with all reports necessary for TDHCA's compliance with 24 CFR Part 5, or any other federal or state law or regulation.

(p) Environmental Laws and Regulations.

(1) Compliance with Laws and Regulations. Owner must comply with, as applicable, any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Land or the Improvements, including without limitation, the following, as now or hereafter amended:

(A) Hazardous Materials Transportation Act (49 U.S.C.A. §1801 et seq.);

(B) Insecticide Fungicide and Rodenticide Act (7 U.S.C.A. §136 et seq.);

(C) National Environmental Policy Act (42 U.S.C. §4321 et seq.) (NEPA);

(D) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C.A. §9601 et seq.) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499, 100 Stat. 1613, as amended Pub. L. No. 107-377) (Superfund or SARA);

(E) Resource, Conservation and Recovery Act (24 U.S.C.A. §6901 et seq.) (RCRA);

(F) Toxic Substances Control Act, (15 U.S.C.A. §2601 et seq.);

(G) Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C.A. §1101 et seq.);

(H) Clean Air Act (42 U.S.C.A. §7401 et seq.) (CAA);

(I) Federal Water Pollution Control Act and amendments (33 U.S.C.A. §1251 et seq.) (Clean Water Act or CWA);

(J) Any corresponding state laws or ordinances including but not limited to Chapter 26 of the Texas Water Code regarding Water Quality Control;

(K) Texas Solid Waste Disposal Act (Chapter 361 of the Texas Health & Safety Code, formerly Tex. Rev. Civ. Stat. Ann. Art. 4477-7);

(L) Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act (Chapter 363 of the Texas Health & Safety Code);

(M) County Solid Waste Control Act (Chapter 364 of the Texas Health & Safety Code);

(N) Texas Clean Air Act (Chapter 382 of the Texas Health & Safety Code);

(O) Hazardous Communication Act (Chapter 502 of the Texas Health & Safety Code); and

(P) Regulations, rules, guidelines, or standards promulgated pursuant to such laws, statute and regulations, as such statutes, regulations, rules, guidelines, and standards, as amended from time to time.

(2) Environmental Review. The environmental effects of each activity carried out with funds provided under this Agreement must be assessed in accordance with the provisions of the Program Requirements, National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. §432 et seq.). Each such activity must have an environmental review completed and support documentation prepared in accordance with 10 TAC §10.305 complying with the NEPA, including screening for vapor encroachment following American Society for Testing and Materials (ASTM) 2600-10.

(q) Labor Standards.

(1) Owner understands and acknowledges that every contract for the construction (rehabilitation, adaptive reuse, or new construction) of housing that includes 12 or more units assisted with Program funds must contain provisions in accordance with Davis-Bacon Regulations.

(2) Owner understands and acknowledges that every contract involving the employment of mechanics and laborers of said construction shall be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. §§3701 to 3708), Copeland (Anti-Kickback) Act (40 U.S.C. §3145), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, et seq.) and Davis-Bacon and Related Acts (40 U.S.C. §§3141 - 3148).

(3) Owner further acknowledges that if more housing units are constructed than the anticipated 11 or fewer housing units, it is the Owner's responsibility to ensure that all the housing units will comply with these federal labor standards and requirements under the Davis-Bacon Act as supplemented by the U.S. Department of Labor regulations ("Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5).

(4) Owner also understands that structuring the proposed assistance for the rehabilitation or construction of housing under this Agreement to avoid the applicability of the Davis-Bacon Act is prohibited.

(5) Construction contractors and subcontractors must comply with regulations issued under these federal acts described herein, with other federal laws, regulations pertaining to labor standards, including but not limited to "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction" at 29 CFR Part 5, HUD Federal Labor Provisions (HUD form 4010).

(r) Lead-Based Paint. Housing assisted with Program funds is subject to 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 Title X of the 1992 Housing and Community Development Act at 24 CFR Part 35, (including subparts A, B, J, K, M and R). Owner shall also comply with the Lead: Renovation, Repair, and Painting Program Final Rule, 40 CFR Part 745 and Response to Children with Environmental Intervention Blood Lead Levels. Failure to comply with the lead-based paint requirements may be subject to sanctions and penalties pursuant to 24 CFR §35.170.

(s) Limited English Proficiency. Owner shall comply with the requirements in Executive Order 13166 of August 11, 2000, reprinted at 65 FR 50121, August 16, 2000, Improving Access to Services for Persons with Limited English Proficiency and 67 FR 41455. To ensure compliance the Owner must take reasonable steps to insure that LEP persons have meaningful access to the program and activities. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.



(t) Procurement of Recovered Materials. Owner, its subrecipients, and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(u) Drug-Free Workplace. Owner will follow the Drug-Free Workplace Act of 1988 (41 U.S.C §701, et seq.) and HUD's implementing regulations at 2 CFR Part 2429. Owner affirms by executing the Certification Regarding Drug-Free Workplace Requirements attached hereto as Addendum B, that it is implementing the Drug-Free Workplace Act of 1988.

(v) Nondiscrimination, Fair Housing, Equal Access and Equal Opportunity.

(1) Equal Opportunity. The Owner agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965, as amended, and its implementing regulations at 41 CFR Part 60.

(2) Fair Housing Poster. The Owner is required to place a fair housing poster (HUD-928.1 and HUD-9281.A) provided by TDHCA in the leasing office, online, or anywhere else rental activities occur pursuant to 24 CFR §200.620(e). A copy of the poster in Spanish and in English can be found at <http://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm>.

(3) Nondiscrimination Laws. Owner shall ensure that no person shall, on the grounds of race, color, religion, sex, disability, familial status, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any Program or activity funded in whole or in part with funds provided under this Agreement. Owner shall follow Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. §6101 et seq.) and its implementing regulations at 24 CFR Part 146, Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 - 12189; 47 U.S.C. §§155, 201, 218 and 255) as implemented by U.S. Department of Justice at 28 CFR Parts 35 and 36, Section 527 of the National Housing Act (12 U.S.C. §1701z-22), the Equal Credit Opportunity Act (15 U.S.C. §1691 et seq.), the Equal Opportunity in Housing (Executive Order 11063 as amended by Executive Order 12259) and its implementing regulations at 24 CFR Part 107 and The Fair Housing Act (42 U.S.C. §3601 et seq.), as implemented by HUD at 24 CFR Part 100-115.

(4) Affirmatively Furthering Fair Housing. By Owner's execution of the Agreement and pursuant to Section 808(e)(5) of the Fair Housing Act, Owner agrees to use funds in a manner that follows the State of Texas' "Analysis of Impediments" or "Assessment of Fair Housing", as applicable and as amended, and will maintain records in this regard.

(5) Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. Subpart L of 24 CFR part 5 shall apply to the Assisted Units in Eligible Multifamily Properties.

(w) Security of Confidential Information.

(1) Systems Confidentiality Protocols. Owner must undertake customary and industry standard efforts to ensure that the systems developed and utilized under this Agreement protect the confidentiality of

every Eligible Applicant's and Eligible Tenant's personal and financial information, both electronic and paper, including credit reports, whether the information is received from the Eligible Applicants, Tenants or from another source. Owner must undertake customary and industry standard efforts so that neither they nor their systems vendors disclose any Eligible Applicant's or Tenant's personal or financial information to any third party, except for authorized personnel in accordance with this Agreement.

(2) Protected Health Information. If Owner collects or receives documentation for disability, medical records or any other medical information in the course of administering the Program, Owner shall comply with the Protected Health Information state and federal laws and regulations, as applicable, under 10 TAC §1.24, (relating to Protected Health Information), Chapter 181 of the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936, enacted August 21, 1996), and the HIPAA Privacy Rules (45 CFR Part 160 and Subparts A and E of 45 CFR Part 164). When accessing confidential information under this Program, Owner hereby acknowledges and further agrees to comply with the requirements under the Interagency Data Use Agreement between TDHCA and the Texas Health and Human Services Agencies dated October 1, 2015, as amended.

(x) Real Property Acquisition and Relocation. Except as otherwise provided by federal statute, HUD-assisted programs or projects are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (42 U.S.C. §4601), and the government wide implementing regulations issued by the U.S. Department of Transportation at 49 CFR Part 24. The Uniform Act's protections and assistance apply to acquisitions of real property and displacements resulting from the acquisition, rehabilitation, or demolition of real property for federal or federally assisted programs or projects. With certain limited exceptions, real property acquisitions for a HUD-assisted program or project must comply with 49 CFR Part 24, Subpart B. To be exempt from the URA's acquisition policies, real property acquisitions conducted without the threat or use of eminent domain, commonly referred to as voluntary acquisitions, the Owner must satisfy the applicable requirements of 49 CFR §24.101(b)(1) - (5). Evidence of compliance with these requirements must be maintained by the recipient. The URA's relocation requirements remain applicable to any tenant who is displaced by an acquisition that meets the requirements of 49 CFR §24.101(b)(1) - (5). The relocation requirements of the Uniform Act, and its implementing regulations at 49 CFR Part 24, cover any person who moves permanently from real property or moves personal property from real property as a direct result of acquisition, rehabilitation, or demolition for a program or project receiving HUD assistance. While there are no statutory provisions for temporary relocation under the URA, the URA regulations recognize that there are circumstances where a person will not be permanently displaced but may need to be moved from a project for a short period of time. Appendix A of the URA regulation (49 CFR §24.2(a)(9)(ii)(D)) explains that any tenant who has been temporarily relocated for a period beyond one year must be contacted by the displacing agency and offered URA relocation assistance.

(y) Dispute Resolution; Conflict Management.

(1) Eligible Tenant Disputes. The Owner or Owner's representative is required to participate in a Dispute Resolution process, as required by HUD, to resolve an appeal of an Eligible Tenant dispute with the Owner.

(2) Agreement Disputes. In accordance with Tex. Gov't Code 2306.082, it is TDHCA's policy to encourage the use of appropriate alternative dispute resolution procedures (ADR) under the Governmental Dispute

Resolution Act and the Negotiated Rulemaking Act (Chapters 2009 and 2006 respectively, Tex. Gov't Code), to assist in the fair and expeditious resolution of internal and external disputes involving the TDHCA and the use of negotiated rulemaking procedures for the adoption of TDHCA rules. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by TDHCA's ex parte communications policy, TDHCA encourages informal communications between TDHCA staff and the Owner, to exchange information and informally resolve disputes. TDHCA also has administrative appeals processes to fairly and expeditiously resolve disputes. If at any time the Owner would like to engage TDHCA in an ADR procedure, the Owner may send a proposal to TDHCA's Dispute Resolution Coordinator. For additional information on TDHCA's ADR policy, see TDHCA's Alternative Dispute Resolution and Negotiated Rulemaking at 10 TAC §1.17.

(3) Conflict Management. The purpose of the Conflict Management process is to address any concerns that Owner or Owner's agent or representative may have with an Eligible Family. At any time, an Eligible Family may choose to give consent to their Section 811 service coordinator to work directly with the property manager of the Eligible Multifamily Property. However, such consent cannot be made a condition of tenancy.

1e

**BOARD ACTION REQUEST**  
**HOUSING RESOURCE CENTER**  
**APRIL 8, 2021**

Presentation, Discussion, and Possible Action on the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) requires the submission of a One-Year Action Plan in accordance with 24 CFR §91.320;

**WHEREAS**, the Department has developed the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan (the Plan), which reports on the intended use of funds received by the State of Texas from HUD for Program Year (PY) 2021, beginning on September 1, 2021, and ending on August 31, 2022;

**WHEREAS**, a public comment period will be open from Monday, April 26, 2021, through Wednesday, May 26, 2021, and a public hearing will be held on Wednesday, May 5, 2021, to garner input on the Plan;

**WHEREAS**, per 24 CFR §91.15(a)(1), the Plan is required to be submitted to HUD on July 18, 2021, which is at least 45 days before the start of PY 2021; and

**WHEREAS**, the American Rescue Plan Act provides an additional allocation of HOME funds to be used for eligible HOME or homelessness activities, and HUD may direct that the programming of such funds be included in the Plan;

**NOW, therefore, it is hereby**

**RESOLVED**, that the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan, in the form presented to this meeting, is hereby approved for release for public comment;

**FURTHER RESOLVED**, that the Executive Director and his designees are each hereby authorized, empowered and directed, for and on behalf of the Department, to cause notice of the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan to be published in the *Texas Register* and, in connection therewith, to make such non-substantive grammatical, monetary and technical changes as they deem necessary or advisable; and

**FURTHER RESOLVED**, that should HUD release guidance that HOME funds under the American Rescue Plan Act are to be included in the 2021 One-Year Action Plan, staff is requesting the Board's authority to edit the plan before it goes out for public comment, or while out for comment (if applicable), to reflect these additional funds and allow for the accelerated deployment of assistance.

## **BACKGROUND**

The Texas Department of Housing and Community Affairs (TDHCA), Texas Department of Agriculture (TDA), and Texas Department of State Health Services (DSHS) prepared the draft 2021 State of Texas Consolidated Plan: One-Year Action Plan (Plan) in accordance with 24 CFR §91.320. TDHCA coordinates the preparation of the State of Texas Consolidated Plan documents. The Plan covers the State's administration of the Community Development Block Grant Program (CDBG) by TDA, the Housing Opportunities for Persons with AIDS Program (HOPWA) by DSHS, the Emergency Solutions Grant (ESG) Program, the HOME Investment Partnerships (HOME) Program, and the National Housing Trust Fund (NHTF) Program by TDHCA.<sup>1</sup>

The Plan reflects the intended uses of funds received by the State of Texas from HUD for Program Year 2021. The Program Year begins on September 1, 2021, and ends on August 31, 2022. The Plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2020-2024 State of Texas Consolidated Plan.

Upon approval by the Board, the draft Plan will be available for public comment on the TDHCA Public Comment Center at <http://www.tdhca.state.tx.us/public-comment.htm>. The public comment period will be open from Monday, April 26, 2021, through Wednesday, May 26, 2021, and a public hearing will be held on Wednesday, May 5, 2021, at 2:00 p.m. Austin local time via GoToWebinar. 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.

Following the public comment period, staff will present a final Plan to the Board, prior to submission to HUD. Per 24 CFR §91.15(a)(1), the Plan is required to be submitted to HUD by July 18, 2021, which is at least 45 days before the start of PY 2021.

The Department has received the PY 2021 allocation amounts for CDBG, HOPWA, HOME and ESG; the allocation for NHTF has yet to be released. Therefore, last year's allocation amount for NHTF is being used as an estimate in the draft Plan. Should the allocation amount be released by HUD prior to the start of the comment period staff will ensure NHTF amounts are updated in the version released for Public Comment. If the NHTF allocation amount is not released in time for the public comment period, the Plan will be updated with final numbers prior to board approval of the final Plan.

In addition, the American Rescue Plan Act provides an additional allocation of HOME funds to be used for eligible HOME or homelessness activities. HUD may direct that the programming of such funds be included in the Plan. Should the Department receive guidance from HUD that CPD funding from the American Rescue Bill is to be included in the 2021 One-Year Action Plan, staff is requesting the Board's authority to edit the plan before it goes out for public comment – or while out for comment - to reflect the inclusion of these additional funds. Staff intends to present the Plan to the Board for final approval at the Board meeting of June 17, 2021, allowing sufficient time for the Plan to be submitted to HUD prior to the deadline of July 18, 2021.

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<sup>1</sup> The Texas General Land Office (GLO) is the responsible entity for developing the State Community Development Block Grant Disaster Recovery Program (CDBG-DR) Action Plan and submitting any required amendments to the Consolidated Plan in accordance with HUD guidelines. CDBG-DR planning documents are available at <https://recovery.texas.gov/action-plans/index.html>.

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**BOARD ACTION REQUEST**

**SINGLE FAMILY AND HOMELESS PROGRAMS DIVISION**

**APRIL 8, 2021**

Presentation, discussion, and possible action on state fiscal year 2019 and 2020 Homeless Housing and Services Program reallocation

**RECOMMENDED ACTION**

**WHEREAS**, the Homeless Housing and Services Program (HHSP) was created by the 81<sup>st</sup> Texas Legislature to be administered by the Texas Department of Housing and Community Affairs (the Department) to fund homelessness prevention and homeless services in Texas municipalities with populations over 285,500;

**WHEREAS**, the Texas Legislature has, through the enactment of House Bill (HB) 1 (86<sup>th</sup> Legislature), provided General Revenue funds of \$4,949,504 each year of the biennium for HHSP general set-aside, which was reduced by \$294,088 in state fiscal year 2021 due to the anticipated economic impact of COVID-19 and approximately \$49,504 for Department administration;

**WHEREAS**, HB 1 included Rider 16, designating \$1,500,000 of HHSP funds each year of the biennium to provide services to unaccompanied homeless youth and homeless young adults 24 years of age and younger to be distributed through a youth set-aside within HHSP;

**WHEREAS**, the Department has identified and received permission to use approximately \$47,946 in 2019 HHSP funds and approximately \$52,849 in 2020 HHSP funds that was unexpended by HHSP Subrecipients remain and must be expended by August 31, 2021 and August 31, 2022, respectively;

**WHEREAS**, the Board had authorized use of 2019 HHSP funds for relief from COVID-19 effects on March 26, 2020;

**WHEREAS**, due to the expenditure deadlines for 2019 and 2020 HHSP funds, staff proposes to reallocate the 2019 and 2020 HHSP funds through an award that is no more 125% of the original 2021 HHSP contract awards to the HHSP Subrecipients with the highest expenditure rates; and

**WHEREAS**, based on expenditure rates and contract amounts for 2021 HHSP Contracts, Haven for Hope would be awarded \$79,336 in HHSP general set-aside funds, City of Plano would be awarded \$11,624 in 2020 youth set-aside funds, and the City of Arlington would be awarded \$9,835 in 2020 HHSP youth set-aside funds;



**NOW, therefore, it is hereby**

**RESOLVED**, that the Director and his designees, be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to take any and all such actions as they or any of them may deem necessary or advisable to effectuate the awarding of not less than \$100,795 in HHSP Contracts, in the amounts reflected herein.

**BACKGROUND**

The Department administers HHSP in accordance with Tex. Gov't Code §2306.2585 and 10 TAC Chapters 1 and 2, and Chapter 7, Subchapters A and B. Allowable activities include case management for households experiencing or at-risk of homelessness; construction, conversion, or rehabilitation of structures targeted to serving Homeless persons or persons at-risk of homelessness; essential services for Homeless persons or persons at risk of homelessness; provision of direct services; operation of emergency shelters or administrative facilities; and other Homeless-related activity, as approved by the Department in writing.

In accordance with 10 TAC §7.21, Purpose and Use, HHSP provides funding to areas in municipalities with populations of 285,500 or greater, as determined by the most recent available One Year American Community Survey (ACS). HHSP is allocated to the geographic areas of Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Houston, Plano, and San Antonio.

HB 1 passed by the 86<sup>th</sup> Texas Legislature authorized state general revenue funding totaling \$6,449,504 each year of the biennium for HHSP. Rider 16 requires that, of the total authorized funds, \$1,500,000 is set-aside yearly for provision of HHSP homeless assistance to youth under the age of 24. The Department retained \$49,504 yearly for its administration.

In 2019, the Board authorized awards of \$4,900,000 in general set-aside contracts and \$1,500,000 in youth set-aside 2020 HHSP Contracts. The awards were contracted, extensions were granted when requested, and a majority of the contracts are closed. Approximately \$31,390 in general set-aside and \$21,459 in youth set-aside funds remain, which are required to be returned to the Comptroller by August 31, 2022.

On March 26, 2020, the Board authorized awards of \$239,884 in previously deobligated general set-aside HHSP funding, which was allocated to each of the nine municipalities. The awards were contracted, extensions were granted when requested, and the contracts were closed. Of the reallocated amount, approximately \$191,938 was expended, leaving approximately \$47,946 in 2019 HHSP funds which are required to be returned to the Comptroller by August 31, 2021.

On July 23, 2020, the Board authorized awards of \$4,605,912 in general and \$1,500,000 in youth HHSP funds to entities in the nine largest cities. The funding for SFY 2021 was reduced due to the expected impact of COVID-19 on the state budget. The decrease in available funds did not impact the youth set-aside outlined in Rider 16, which remained \$1,500,000. The contracts commenced on September 1, 2020, and will expire on August 31, 2021. For the general set-aside contracts, Haven for Hope has the highest expenditure rate. For the youth set-aside contracts, the City of Plano and the City of Arlington have the highest expenditure rates of youth set-aside funds, in that order.

Staff recommends an award to Haven for Hope of \$47,946 in 2019 HHSP general set-aside funds for COVID-19 related expenses, and \$31,390 in 2020 HHSP general set-aside funds. Staff also recommends awarding the City of Plano \$11,624, and the City of Arlington \$9,835 in 2020 HHSP youth set-aside funds. These recommended award amounts do not cause the contract to exceed 125% of the original 2021 award amounts. These contracts will operate under the Texas Administrative Code rules in effect on April 8, 2021. The 2019 funds will have an expenditure deadline of July 16, 2021, and the 2020 funds will have an expenditure deadline of July 16, 2022.

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BOARD ACTION REQUEST

FINANCIAL ADMINISTRATION DIVISION

APRIL 8, 2021

Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

RECOMMENDED ACTION

WHEREAS, the Texas Department of Housing and Community Affairs (the Department), a public and official governmental agency of the State of Texas, was created and organized pursuant to and in accordance with the provisions of Tex. Gov't Code, Chapter 2306 (the Code), as amended;

WHEREAS, the Code authorizes the Department, among other things: (a) to make and acquire and finance, and to enter into advance commitments to make and acquire and finance, mortgage loans and finance, participating interests therein, secured by mortgages on residential housing in the State of Texas (the State); (b) to issue its bonds, for the purpose of, among other things, obtaining funds to acquire or finance such mortgage loans, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues receipts or resources of the Department, including the revenues and receipts to be received by the Department from such single family mortgage loans of participating interests, and to mortgage, pledge or grant security interests in such mortgages of participating interests, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds;

WHEREAS, on July 23, 2020, the Governing Board adopted a resolution designating signature authority to reflect the structure of the Department; and

WHEREAS, organizational and working title changes have occurred such that the Governing Board has now determined that its resolution adopted July 23, 2020, designating signature authority, should be superseded by a new resolution designating signature authority in order to conform to the Department's current organizational structure, working titles, and operations;

NOW, THEREFORE, it is hereby

RESOLVED that the Governing Board makes changes to its resolution adopted July 23, 2020, as shown below.

SECTION 1 – Supersession of the Prior Signature Authority. The Governing Board hereby supersedes its prior resolution, adopted July 23, 2020, designating signature authority by adopting this new resolution.

SECTION 2 – Designation of Signature Authority for Bond and Indenture-Related Transactions. The Governing Board hereby authorizes and designates the Board Secretary, the Assistant Board Secretary, the Executive Director, the Director of Administration, the Director of Financial Administration, the Director of Bond Finance and Chief Investment Officer, Director of Multifamily Bonds, the Director of Texas Homeownership Program, and each of them as signatories for single family and multifamily bond and indenture-related transactions as well as transactions under the Department's "to be announced" or TBA program including, but not limited to letters of instruction, officer's certificates, bond transactional documents and all other documents and certificates executed in connection with such transactions. In addition, the Governing Board authorizes and designates the Manager of Single Family Finance and Senior Bond Financial Analysts within the Bond Finance division as signatories for day-to-day operations activities related to advances taken through the Federal Home Loan Bank of Dallas (FHLB) for the purchase of loan participations from the Idaho Housing and Finance Association (IHFA), the Department's Master Servicer, including directing the wiring of such advances from FHLB to IHFA.

SECTION 3 – Designation of Signatory Authority for Real Estate Transactions. The Governing Board hereby authorizes and designates the following persons holding the positions described and each of them to execute and deliver, as specified, earnest money contracts, deeds or conveyances of title, leases of real property, settlement statements on purchase or sale of real property, deposits and disbursements on agency bank accounts, real estate transactional documents and all other documents executed in connection with real estate or real estate-related transactions. Every reference to a signatory office or title herein includes any person serving in an acting or interim capacity:

- (a) Executive Director, Deputy Executive Director of Programs, Deputy Executive Director of Program Controls and Oversight, Director of Administration, Board Secretary, and Assistant Board Secretary: All real estate or real estate related transactions;
- (b) Director of Financial Administration: All real estate or real estate-related transactions administered by the Financial Administration Division;
- (c) Director of Multifamily Finance: All real estate or real estate-related transactions administered by the Multifamily Finance Division;
- (d) Director of Multifamily Asset Management: All real estate or real estate-related transactions administered by the Multifamily Asset Management Division;
- (e) Director of Bond Finance and Chief Investment Officer: All real estate or real estate-related transactions administered by the Bond Finance and Texas Homeownership Divisions;
- (f) Director of Multifamily Bonds: All real estate or real estate-related transactions administered by the Multifamily Bonds, Bond Finance and Texas Homeownership Divisions, and 4% Housing Tax Credit transactions;
- (g) Director of Texas Homeownership Program: All real estate or real estate-related transactions administered by the Texas Home Ownership Division;

- (h) Director of Single Family and Homeless Programs: All real estate or real estate-related transactions administered by the Single Family and Homeless Programs, which includes HOME, Housing Trust Fund (HTF); Office of Colonia Initiatives (OCI); and Neighborhood Specialization Program (NSP);
- (i) Director of Section 811 Program: All transactions administered by the Section 811 Program;
- (j) CDBG CARES Director: All transactions administered by the Community Development Block Grant CARES Program;
- (k) Director of Texas Rent Relief Program: All transactions administered by the Texas Rent Relief Program;
- (l) Signatory authority on deposits and disbursements on agency bank accounts is limited to those persons designated on the applicable signature cards, as specified by the Executive Director; provided however, that no person may be so designated other than the Executive Director, Director of Administration, or a Director.

SECTION 4 – Designation of Signatory Authority for Fund Transfers. The Governing Board hereby authorizes and designates the following persons and each of them to execute and deliver any necessary fund transfer documents, including letters of instruction, in the manner prescribed below.

Fund transfers require dual signatures, consisting of one signatory from each of the following two groups:

- (a) Director of Administration, or Director of Financial Administration; and
- (b) Executive Director, Deputy Executive Director of Program Controls and Oversight, or Deputy Executive Director of Programs.

SECTION 5 – Execution of Documents. The Governing Board hereby authorized the Executive Director, or in his absence the Director of Administration, the Deputy Executive Director of Programs, or the Deputy Executive Director of Program Controls and Oversight, to execute, on behalf of the Department, any and all documents, instruments reasonably deemed necessary to effectuate this resolution.

SECTION 6 – Effective Date. This Resolution shall be in full force and effect from and upon its adoption until and unless it is revoked or superseded.

#### BACKGROUND

This Resolution updates and designates signature authority to reflect the current organizational structure of the Department and the current working titles for the positions designated. The update allows for the CDBG Cares Director to sign documents related to the Community Development Block Grant Cares Program, the Director of Texas Rent Relief to sign documents related to the Texas Rent Relief Program, and keeping previous authorizations the same.

Incumbency Certificate

I, James "Beau" Eccles, the duly appointed and serving Secretary of the Governing Board of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that Robert "Bobby" Wilkinson is the duly appointed Executive Director of the Department, appointed by its governing board and approved by the Governor effective August 15, 2019, and set forth below opposite his name is his true and correct signature:

Bobby Wilkinson \_\_\_\_\_

Executed and seal of the Department affixed this \_\_\_\_ day of \_\_\_\_\_, 2021 at Austin, Texas.

\_\_\_\_\_  
James "Beau" Eccles

(SEAL)

Certificate

I, Robert "Bobby" Wilkinson, the duly appointed Executive Director of the Texas Department of Housing and Community Affairs (the Department), do hereby certify that set forth below is a true and correct listing setting forth specific positions within the Department, the name of the person currently designated by me to hold each such position, and, opposite their name, their true and correct signature. Each person listed currently holds the position indicated:

Board Secretary	_____
	James "Beau" Eccles
Assistant Board Secretary	_____
	Michael Lyttle
Director of Administration	_____
	David Cervantes
Director of Financial Administration	_____
	Jose Guevara
Director of Bond Finance/Chief Investment Officer	_____
	Monica Galuski
Director of Multifamily Bonds	_____
	Teresa W. Morales
Director of Multifamily Finance	_____
	Margaret L. Holloway
Director of Texas Homeownership Program	_____
	Cathy Gutierrez
Deputy Executive Director of Programs	_____
	Brooke Boston
Director of Multifamily Asset Management	_____
	Rosalio Banuelos
Director of Single Family and Homeless Programs	_____
	Abigail Versyp
Director of Section 811 Program	_____
	Spencer Duran
CDBG CARES Director	_____
	Rudy Bentancourt
Director of Texas Rent Relief Program	_____
	Mariana Salazar
Deputy Executive Director of Program Controls and Oversight	_____
	Homero V. Cabello, Jr.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2021 at Austin, Texas.

\_\_\_\_\_  
Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs



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BOARD ACTION REQUEST  
BOND FINANCE DIVISION  
APRIL 8, 2021

Presentation, discussion, and possible action on Resolution No. 21-022 regarding the annual approval of the Department's Interest Rate Swap Policy

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

The Department adopted an Interest Rate Swap Policy (the Swap Policy) on September 9, 2004, to establish guidelines for the use and administration of interest rate management agreements, including but not limited to, interest rate swaps, caps, collars, and floors acquired in connection with the issuance of debt obligations. The Swap Policy is reviewed and approved annually. It underwent substantial changes in 2009, and has had minor edits since.

Staff, in conjunction with the Department's Swap Advisor and Bond Counsel, has reviewed the proposed Swap Policy and recommends approval and adoption of Resolution 21-022.

The proposed Swap Policy, blacklined against the prior policy, contains minor edits (changes to dates and a title), and adds language regarding the termination of LIBOR, which was discussed at the January Board meeting; a copy is attached for your reference.

RESOLUTION NO. 21-022

RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INTEREST RATE SWAP POLICY

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "Department"), was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (together with other laws of the State applicable to the Department, collectively, the "Act"); and

WHEREAS, the Governing Board of the Department (the "Governing Board") desires to approve the Department's Interest Rate Swap Policy in the form presented to the Governing Board;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department's Interest Rate Swap Policy. The Interest Rate Swap Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 ISDA Protocols. Each Authorized Representative is hereby severally authorized to take such actions as are necessary or desirable to enable the Board to adhere to any protocols promulgated by the International Swaps and Derivatives Association, Inc. ("ISDA") in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act or in relation to the replacement of LIBOR, which adherence may (i) include the use of documents intended to address the subject matter of any such protocol but not using forms promulgated by ISDA, and (ii) be with respect to such counterparties as an Authorized Representative determines in his judgment are appropriate.

Section 1.3 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director or Acting Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, and the Secretary or Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

## ARTICLE 2

### GENERAL PROVISIONS

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

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

[EXECUTION PAGE FOLLOWS]

PASSED AND APPROVED this 8<sup>th</sup> day of April, 2021.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

As presented to the Board on April 8, 2021

# 2021

April 8, 2021

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

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

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

### I. Introduction

The purpose of this Interest Rate Swap Policy ("Policy") of the Texas Department of Housing and Community Affairs (the "Department") is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively "Swaps" or "Agreements") incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

### II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department's use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

The Director of Administration and the Director of Bond Finance and Chief Investment Officer are the designated administrators of the Department's Policy. The Bond Finance Division shall have the day-to-day responsibility for structuring, implementing, and managing Swaps, which includes, with the approval of the Executive Director, the execution of the Department's right to optional

termination of Swaps to avoid being overswapped (having a higher notional amount of swap outstanding than par amount of related bonds), for economic benefit to the Department, or to achieve other goals of the Department.

The Department shall be authorized to enter into Swaps only with qualified Swap counterparties as defined herein. The Director of Bond Finance and Chief Investment Officer, in consultation with the Director of Administration, or a Department designee, shall have the authority to recommend counterparties, so long as the criteria set forth in this Policy are met.

The Director of Administration and the Director of Bond Finance and Chief Investment Officer shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

### III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
- Lack adequate liquidity to terminate without incurring a significant bid/ask spread;
- Are characterized by insufficient pricing transparency and therefore make reasonable valuation difficult.

### IV. Evaluation of Risks Associated with Swaps

Before entering into a Swap, the Department shall evaluate the risks inherent in the transaction. The risks to be evaluated will include basis risk, tax risk, counterparty risk, credit risk, termination risk, rollover risk, liquidity risk, remarketing risk, amortization mismatch risk, mortgage yield risk, non-origination risk, and PAC band risk. The following table outlines these various risks and the Department's evaluation methodology for those risks.



Risk	Description	Evaluation Methodology
Basis Risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The Department will review historical trading differentials between the variable rate bonds and the index.
Tax Risk	The risk created by potential tax events that could affect Swap payments or their relationship to future bond payments.	The Department will review the tax events in proposed Swap agreements. The Department will evaluate the impact of potential changes in tax law on LIBOR indexed Swaps.
Counterparty Risk	The failure of the counterparty to make required payments or the occurrence of an event modifying the credit rating of the counterparty.	The Department will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination Risk	The need to terminate the transaction in a market that dictates a termination payment by the Department.	The Department will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Rollover Risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The Department will determine its capacity to service variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.

Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.
PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.
Floating Rate Benchmark Transition Risk (LIBOR Replacement)	The Financial Conduct Authority, the U.K. regulator for LIBOR, has announced that all tenors of US Dollar LIBOR will no longer be published or no longer be representative after June 30, 2023. The expected discontinuation of LIBOR presents risks to the Department, including but not limited to fallback mechanisms and mismatch between fallback mechanisms of the derivative and the hedged debt.	The Department should work with their legal, tax, financial and accounting advisors regarding fallback mechanisms, including and not limited to, adhering to the ISDA 2020 IBOR Fallbacks Protocol or bilateral amendments to incorporate fallback mechanisms.

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department's exposure ("Maximum Net Termination Exposure"). For purposes of these limits, "Maximum Net Termination Exposure" shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance and Chief Investment Officer shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

The Department will review the use of forward-starting swaps and determine the duration based on market condition and the risk associated with using a forward-starting swap. The Department does not have any swaps with a knock-out option which could expose the Department to higher interest rates. The Department will advise the Board prior to entering into either a forward-starting swap or knock-out option.

The Department will inform the Board if the swap is a fixed notional value swap or a declining notional value swap. The Director of Bond Finance and Chief Investment Officer will review proposed swaps to ensure that the use of fixed notional value swaps does not place the Department at risk of incurring an incrementally higher expense if the related bond principal is paid off early.

The total "net notional amount" of all Swaps related to a bond issue should not exceed the amount of outstanding bonds, or bonds anticipated to be issued. For purposes of calculating the net notional amount, credit shall be given to any Swaps that offset another Swap for a specific bond transaction.

## V. Long Term Financial Implications

In evaluating a particular transaction involving the use of derivatives, the Department shall review long-term implications associated with entering into derivatives, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, liquidity capacity, opportunities to refund related debt obligations and other similar considerations.

### Impact of Use of Liquidity

The Department shall consider the impact of any variable rate demand bonds issued in combination with a Swap on the availability and cost of liquidity support for other Department variable rate programs.

### Call Option Value considerations

When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

### Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

## VI. Form of Swap Agreements

Each Swap executed by the Department shall contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. (“ISDA”) Master Agreement, including any schedules and confirmations. The Swaps between the Department and each qualified Swap counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the Director of Bond Finance and Chief Investment Officer deems necessary, desirable, or consistent with industry best practices.

## VII. Qualified Swap Counterparties

The Department will make its best efforts to work with qualified Swap counterparties that (i) have, or has a credit support counterparty that has, a general credit rating of at least “A2” with respect to ratings by Moody’s Investors Service or “A” with respect to ratings by Standard and Poor’s Rating Services or Fitch Ratings.

In addition to the rating criteria specified herein, the Department may seek additional credit enhancement and safeguards in the form of:

- i. Contingent credit support or enhancement;
- ii. Collateral consistent with the policies contained herein; and/or
- iii. Ratings downgrade triggers.

In addition, the Department will take into consideration a Swap counterparty’s track record of successfully executing Swap transactions. The Department will only execute Swap transactions with qualified Swap counterparties.

In addition to credit-related requirements, swap counterparties and other providers of derivative products must comply with the following requirements to be eligible to enter into a contract with the Department:

Anti-Boycott Verification. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2270 of the Texas Government Code.

Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

Exemption from Disclosure of Interested Parties. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Counterparties or providers that make a representation that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is a publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Swap counterparties and providers of derivative products are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Swap counterparties and providers of derivative products must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

## VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Director of Bond Finance and Chief Investment Officer, in consultation with the Director of Administration, shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department's Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody's; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Director of Bond Finance and Chief Investment Officer, in consultation with the Director of Administration, shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements).

#### IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.

#### X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

#### XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

#### XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

### XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the Director of Administration and Director of Bond Finance and Chief Investment Officer may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.
- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.
- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.
- The Director of Bond Finance and Chief Investment Officer, in consultation with the Director of Administration, shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

### XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.

Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers and Major Swap Participants as published and enacted by the Commodity Futures Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance and Chief Investment Officer that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.



## XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.
- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.
- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, and Foreign Currency Risk.

With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.

The Director of Administration and the Director of Bond Finance and Chief Investment Officer will review this Policy on an annual basis.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

As presented to the Board on April 8, 2021

~~2020~~2021

~~April 23, 2020~~April 8, 2021

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INTEREST RATE SWAP POLICY

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

The Act authorizes the Department: (a) to acquire, and to enter into advance commitments to acquire, mortgage loans (including participations therein) secured by mortgages on residential housing in the State of Texas (the "State"); (b) to issue its bonds, for the purpose of obtaining funds to make and acquire such mortgage loans or participations therein, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds; 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 mortgage loans or participations therein, and to mortgage, pledge or grant security interests in such mortgages, mortgage loans or other property of the Department, to secure the payment of the principal or redemption price of and interest on such bonds.

### I. Introduction

The purpose of this Interest Rate Swap Policy ("Policy") of the Texas Department of Housing and Community Affairs (the "Department") is to establish guidelines for the use and management of all interest rate management agreements, including, but not limited to, interest rate swaps, swaptions, caps, collars and floors (collectively "Swaps" or "Agreements") incurred in connection with the issuance of debt obligations. This Policy sets forth the manner of execution of Swaps and provides for security and payment provisions, risk considerations, and certain other relevant provisions.

### II. Authority

The Department is authorized by Sections 1371.056 and 2306.351 of the Texas Government Code to enter into Swaps from time to time to better manage assets and liabilities and take advantage of market conditions to lower overall costs and reduce interest rate risk.

This Policy shall govern the Department's use and management of all Swaps. While adherence to this Policy is required in applicable circumstances, the Department recognizes that changes in the capital markets, agency programs, and other unforeseen circumstances may from time to time produce situations that are not covered by this Policy and will require modifications or exceptions approved or authorized by the Governing Board to achieve policy goals.

The ~~Chief Financial Officer~~Director of Administration and the Director of Bond Finance and Chief Investment Officer are the designated administrators of the Department's Policy. The Bond Finance Division shall have the day-to-day responsibility for structuring, implementing, and managing Swaps, which includes, with the approval of the Executive Director, the execution of the

Department's right to optional termination of Swaps to avoid being overswapped (having a higher notional amount of swap outstanding than par amount of related bonds), for economic benefit to the Department, or to achieve other goals of the Department.

The Department shall be authorized to enter into Swaps only with qualified Swap counterparties as defined herein. The Director of Bond Finance and Chief Investment Officer, in consultation with the ~~Chief Financial Officer~~Director of Administration, or a Department designee, shall have the authority to recommend counterparties, so long as the criteria set forth in this Policy are met.

The ~~Chief Financial Officer~~Director of Administration and the Director of Bond Finance and Chief Investment Officer shall review this Policy on an annual basis and recommend any necessary changes to the Governing Board.

### III. Purpose

The incurring of obligations by the Department involves a variety of interest rate payments and other risks for which a variety of financial instruments are available to offset, hedge, or reduce. It is the policy of the Department to utilize Swaps to better manage its assets and liabilities. The Department may execute Swaps if the transaction can be expected to result in one of, but not limited to, the following:

- Reduce exposure to changes in interest rates on a particular financial transaction or in the context of the management of interest rate risk derived from the Department's overall asset/liability balance.
- Result in a lower net cost of borrowing with respect to the Department's debt, a higher return on assets, and/or a stronger balance sheet.
- Manage variable interest rate exposure consistent with prudent debt practices.
- Achieve flexibility in meeting overall financial and programmatic objectives that cannot be achieved in conventional markets.
- Lock in fixed rates in current markets for use at a later date.
- Manage the Department's exposure to the risk of changes in the legal or regulatory treatment of tax-exempt bonds.
- Manage the Department's credit exposure to financial institutions.

The Department will not use Agreements that:

- Are purely speculative or incorporate extraordinary leverage;
- Lack adequate liquidity to terminate without incurring a significant bid/ask spread;
- Are characterized by insufficient pricing transparency and therefore make reasonable valuation difficult.

### IV. Evaluation of Risks Associated with Swaps

Before entering into a Swap, the Department shall evaluate the risks inherent in the transaction. The risks to be evaluated will include basis risk, tax risk, counterparty risk, credit risk, termination risk, rollover risk, liquidity risk, remarketing risk, amortization mismatch risk, mortgage yield risk, non-origination risk, and PAC band risk. The following table outlines these various risks and the Department's evaluation methodology for those risks.

Risk	Description	Evaluation Methodology
Basis Risk	The mismatch between actual variable rate debt service and variable rate indices used to determine Swap payments.	The Department will review historical trading differentials between the variable rate bonds and the index.
Tax Risk	The risk created by potential tax events that could affect Swap payments or their relationship to future bond payments.	The Department will review the tax events in proposed Swap agreements. The Department will evaluate the impact of potential changes in tax law on LIBOR indexed Swaps.
Counterparty Risk	The failure of the counterparty to make required payments or the occurrence of an event modifying the credit rating of the counterparty.	The Department will monitor exposure levels, ratings thresholds, and collateralization requirements.
Termination Risk	The need to terminate the transaction in a market that dictates a termination payment by the Department.	The Department will compute its termination exposure for all existing and proposed Swaps at market value and under a worst-case scenario.
Rollover Risk	The mismatch of the maturity of the Swap and the maturity of the underlying bonds.	The Department will determine its capacity to service variable rate bonds that may be outstanding after the maturity of the Swap.
Liquidity Risk	The inability to continue or renew a liquidity facility, and the risk that the cost of a facility will increase beyond expectations.	The Department will evaluate the expected availability of liquidity support for swapped and unhedged variable rate debt, if any.
Remarketing Risk	The risk that a remarketing agent may be unable to remarket VRDBs.	The Department will obtain a standby bond purchase facility to provide the funds necessary to purchase the VRDBs.
Amortization Mismatch Risk	The mismatch of outstanding Swap notional amount versus the outstanding bond principal subject to the hedge.	The Department may incorporate one or a combination of the following features: par termination options, PAC or lockout bonds.
Mortgage Yield Risk	The bond issue may not comply with yield restrictions if the Swap is terminated.	The Department will obtain legal opinions and or certificates as appropriate.

Non-origination Risk	The bond proceeds may not originate within the prescribed timeframe and require an unused proceeds call and possible termination payment.	The Department will evaluate bond and mortgage market conditions and quantify the potential termination payment due upon non-origination.
PAC Band Break Risk	The targeted PAC bonds may amortize faster than anticipated based on the PAC amortization schedule.	The Department will rely upon credit rating agency cashflows to ensure adequate PAC/companion bond structural integrity.
Collateral Posting Risk	The risk that the Department may be required to post liquid collateral to the Counterparty. Inability to post such liquid collateral upon short notice may result in the early termination of a Swap transaction.	The Department will seek to structure Swap Agreements so that the need to post collateral is highly unlikely. This can be accomplished by using high posting thresholds or low rating triggers.
Accounting Risk	The risk that the Department may be required to record changes in fair value of a derivative transaction as a gain or loss in its annual financial statements.	The Department, when feasible, should aim to structure Transactions that would expect to qualify as effective hedges under GASB 53.
<u>Floating Rate Benchmark Transition Risk (LIBOR Replacement)</u>	<u>The Financial Conduct Authority, the U.K. regulator for LIBOR, has announced that all tenors of US Dollar LIBOR will no longer be published or no longer be representative after June 30, 2023. The expected discontinuation of LIBOR presents risks to the Department, including but not limited to fallback mechanisms and mismatch between fallback mechanisms of the derivative and the hedged debt.</u>	<u>The Department should work with their legal, tax, financial and accounting advisors regarding fallback mechanisms, including and not limited to, adhering to the ISDA 2020 IBOR Fallbacks Protocol or bilateral amendments to incorporate fallback mechanisms.</u>

The Department will diversify its exposure to counterparties. To that end, before entering into a transaction, the Department will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect that exposure. The exposure will not be measured solely in terms of notional amount, but rather how changes in interest rates would affect the Department's exposure ("Maximum Net Termination Exposure"). For purposes of these limits, "Maximum Net Termination Exposure" shall equal the aggregate termination payment for all existing and projected Swaps that would be paid by an individual counterparty. For purposes of this calculation, the aggregate termination payment is equal to the reasonably expected worse case termination payment of all existing Swaps plus the proposed transaction.

The Department will base the Maximum Net Termination Exposure on all outstanding derivative transactions. Limits will be established for each counterparty as well as the relative level of risk associated with each existing and projected Swap. In order to lessen counterparty risk, the Department will diversify exposure among multiple counterparties and avoid excessive concentration to any one counterparty. In situations where the Department may execute a swap transaction that would result in offsetting counterparty risk with an existing counterparty, the Department should seek to utilize that counterparty.

The Director of Bond Finance and Chief Investment Officer shall determine the appropriate term for a Swap on a case-by-case basis. The slope of the Swap curve, the marginal change in Swap rates from year to year along the Swap curve, and the impact that the term of the Swap has on the overall exposure of the Department shall be considered in determining the appropriate term of any Swap. The term of a Swap between the Department and a qualified Swap counterparty shall not extend beyond the final maturity date of the associated debt, or in the case of a refunding transaction, beyond the final maturity date of the refunding bonds.

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When considering the relative advantage of a Swap versus fixed rate bonds, the Department will take into consideration the value of any call option on fixed rate bonds.

### Qualified Hedges

The Department understands that, (1) if payments on and receipts from the Agreement are to be taken into account in computing the yield on the related bonds, the Agreement must meet the requirements for a “qualified hedge” under federal tax law (sometimes referred to as an “integrated Swap”); and (2) if one of the goals of entering into the Agreement is to convert variable yield bonds into fixed yield bonds (sometimes referred to as a “super integrated Swap”), then certain additional requirements must be met. In both of these situations, the terms of the Agreement and the process for entering into the Agreement must be reviewed and approved in advance by tax counsel.

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Iran, Sudan and Foreign Terrorist Organizations. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each counterparty or provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

Exemption from Disclosure of Interested Parties. Swap counterparties and other providers of derivative products are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Counterparties or providers that make a representation that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is a publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Swap counterparties and providers of derivative products are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Swap counterparties and providers of derivative products must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

### VIII. Termination Provisions

The Department shall include in all Swaps provisions granting the Department the right to optionally terminate a Swap at any time at market over the term of the Agreement. The Director of Bond Finance and Chief Investment Officer, in consultation with the ~~Chief Financial Officer~~Director of Administration, shall determine if it is financially advantageous for the Department to terminate a Swap.

A ratings-based additional termination event shall be included in all of the Department's Swaps if the provider (or its credit support provider) fails to maintain either:

1. A credit rating of at least Baa2 from Moody's; or
2. A credit rating of at least BBB from S&P; or,
3. An equivalent rating determined above by a nationally recognized ratings service acceptable to both parties.

A termination payment to or from the Department may be required in the event of termination of a Swap due to a default or a decrease in credit rating of either the Department or the counterparty. If the cause of the termination is a counterparty downgrade, termination payments will be calculated on the side of the bid-offer spread that favors the Department. Additionally, the termination amount of the Swap should seek to compensate the Department, as allowed under the ISDA Agreement, all other costs for creating a replacement transaction of like terms and conditions.

It is the intent of the Department not to make a termination payment to a counterparty that does not meet its contractual obligations. Prior to making any such termination payment, the Director of Bond Finance and Chief Investment Officer, in consultation with the ~~Chief Financial Officer~~Director of Administration, shall evaluate whether it is financially advantageous for the Department to obtain a replacement counterparty to avoid making such termination payment or finance the termination payment through a long-term financing product.

For payments on early termination and optional termination, Market Quotation and the Second Method will apply, allowing for two way mark-to-market breakage (assuming the Swaps are documented under the 1992 form of the ISDA Master Agreements).

## IX. Security and Source of Repayment

The Department may use the same security and source of repayment (pledged revenues) for Swaps as is used for the bonds that are hedged or carried by the Swap, if any, but shall consider the economic costs and benefits of subordinating the Department's payments and/or termination payment under the Swap. The use of the same security and source of repayment (pledged revenues) is subject to the respective bond indenture's covenants and the prior approval of the Department's bond counsel.

## X. Specified Indebtedness

The specified indebtedness related to credit events in any Swap should be narrowly defined and refer only to indebtedness of the Department that could have a materially adverse effect on the Department's ability to perform its obligations under the Swap. Debt should typically only include obligations within the same lien as the Swap obligation.

## XI. Governing Law

Governing law for Swaps will be the State of Texas. Issues relating to jurisdiction, venue, waiver of jury trial and sovereign immunity will be subject to prevailing law and approval of the Texas Attorney General Office. Preference will be given to language providing that the counterparty will consent to jurisdiction in the Texas courts with respect to enforcement of the Agreement.

## XII. Events of Default

Events of default of a Swap counterparty shall include, but are not limited to the counterparty's:

1. Failure to make payments when due;
2. Breach of representations and warranties;
3. Illegality;
4. Failure to comply with downgrade provisions; and
5. Failure to comply with any other provisions of the Agreement after a specified notice period.

## XIII. Collateral Requirements

As part of any Swap, the Department may require the counterparty or the counterparty may require the Department to post collateral or other credit enhancement to secure any or all Swap payment obligations. As appropriate, the ~~Chief Financial Officer~~Director of Administration and Director of Bond Finance and Chief Investment Officer may require collateral or other credit enhancement to be posted by each Swap counterparty under the following circumstances:

- Each counterparty to the Department may be required to post collateral if the credit rating of the counterparty or parent falls below a certain rating threshold, which varies by counterparty. Additional collateral for further decreases in credit ratings of each counterparty shall be posted by each counterparty in accordance with the provisions contained in the credit support annex to each Swap with the Department. At the

current time, collateral posting rating triggers by the counterparties would range from A2/A to Baa1/BBB+.

- Collateral shall consist of cash, U.S. Treasury securities, or other mutually acceptable highly liquid securities.
- Collateral shall be deposited with an eligible third party custodian, or as mutually agreed upon between the Department and each counterparty.
- The market value of the collateral shall be determined on at least a weekly basis.
- The Department will determine reasonable threshold limits for increments of collateral posting based on a sliding scale reflective of credit ratings.
- The Director of Bond Finance and Chief Investment Officer, in consultation with the ~~Chief Financial Officer~~ Director of Administration, shall determine on a case-by-case basis whether a form of credit enhancement in lieu of, or in addition to, collateral is more beneficial to the Department.
- The Department shall seek to not post collateral to the counterparty unless the Department's ratings fall below "A2" or "A".

#### XIV. Other Criteria

The Department may use a competitive or a negotiated process to select a Swap counterparty and price a Swap as it believes business, market or competitive conditions justify such a process. The conditions under which a negotiated selection is best used are provided below.

- Marketing of the Swap will require complex explanations about the security for payment or credit quality.
- Demand is weak among Swap counterparties.
- Market timing is important, such as for refundings.
- Coordination of multiple components of the financing is required.
- The Swap has non-standard features.
- The par amount is large enough to move the market in a manner adverse to the Department's interests.
- Counterparties are likely to demand individual changes in bid documents.

If a transaction is awarded through a negotiated process, the counterparty will provide the Department with:

- A statement that, in the counterparty's judgment, the difference in basis points between the rate of the transaction and the mid-market rate for a comparable transaction falls within the commonly occurring range for comparable transactions.
- A statement of the amount of the difference as determined by the counterparty.
- If the counterparty does not know of a comparable transaction or mid-market rate, a statement of another suitable measure of pricing acceptable to the counterparty.

The Department will use a swap advisory firm to assist in the price negotiation. Such swap advisory firm shall act as the "qualified independent representative" ("QIR") of the Department for purposes of CFTC Rule 23.450 (b) (1) to advise the Department on swaps, provided that such firm provide certification to the Department addressing why such firm meets the requirements to act as a QIR pursuant to CFTC Regulation 23.450(b)(1). Also, the Department may obtain an opinion

from an independent party that the terms and conditions of any derivative entered into reflect a fair market value of such derivatives as of the execution date.

The counterparty must provide to the Department disclosure of any payments the counterparty made to another person to procure the transaction.

Prior to or at execution of any new swap transaction, the swap dealer and/or swap advisor, as the case may be, shall provide information to the Department consistent with the rules and regulations in effect at the time. Such rules would include the Business Conduct Standards for Swap Dealers and Major Swap Participants as published and enacted by the Commodity Futures Trading Commission. In addition the swap dealer should represent to the Department that it is in compliance with such rules including pay-to-play restrictions.

The Department will determine that the swap transaction will conform to this Interest Rate Swap Policy after reviewing a report of the Director of Bond Finance and Chief Investment Officer that identifies with respect to the transaction:

- its purpose;
- the anticipated economic benefit and the method used to determine the anticipated benefit;
- the use of the receipts of the transaction;
- the notional amount, amortization, and average life compared to the related obligation;
- any floating indices;
- its effective date and duration;
- the identity and credit rating of the counterparties;
- the cost and anticipated benefit of transaction insurance;
- the financial advisors and the legal advisors and their fees;
- any security for scheduled and early termination payments;
- any associated risks and risk mitigation features; and
- early termination provisions.

#### XV. Ongoing Monitoring and Reporting Requirements

Written records noting the status of all Swaps will be maintained by the Bond Finance Division and shall include the following information:

- Highlights of all material changes to Swaps or new Swaps entered into by the Department since the last report.
- Market value of each of the Swaps.
- The net impact of a 50 or 100 basis point parallel shift or other relevant shift in the appropriate Swap index or curve.
- For each counterparty, the total notional amount, the average life of each Swap and the remaining term of each Swap.
- The credit rating of each Swap counterparty and credit enhancer insuring Swap payments.
- Actual collateral posting by Swap counterparty, if any, in total by Swap counterparty.

- A summary of each Swap, including but not limited to the type of Swap, the rates paid by the Department and received by the Department, indices, and other key terms.
- Information concerning any default by a Swap counterparty to the Department, and the results of the default, including but not limited to the financial impact to the Department, if any.
- A summary of any Swaps that were terminated.

The Department will monitor its Swaps exposure on a periodic basis, as necessary, and will look for ways to reduce the cost of a Swap(s) or the overall Swap exposure.

The Bond Finance Division will monitor the performance of the QIR on an on-going basis.

The Department shall report its Swaps exposure in its annual financial statements and will reflect the use of derivatives in accordance with GASB requirements. With the adoption of GASB 53, the Department will be required to test hedge effectiveness on an annual basis. Any hedge deemed to be ineffective will result in the change in fair value being recorded as a gain or loss. While the long term economic value of the transaction should be more important when structuring a derivative, the Department should seek to structure transactions that are expected to be effective and would not result in changes in fair value affecting net income. For example, while a transaction structured to meet the Consistent Critical Terms method of GASB 53 would ensure hedge effectiveness, the Department should consider the tradeoffs of utilizing a transaction structure that may provide greater expected economic benefits at the expense of potentially not meeting hedge effectiveness. The disclosure requirements include:

1. Objective of the Derivative
2. Significant Terms
3. Fair Value
4. Associated Debt
5. Risks including but not limited to Credit Risk, Termination Risk, Interest Rate Risk, Basis Risk, Rollover Risk, Market Access Risk, and Foreign Currency Risk.

With the adoption of GASB 72, the Department will be required to report the fair value of its Swaps in its annual financial statements, as more fully described in GASB 72. The Department will follow these guidelines and may engage a third party to assist in the required calculations.

The ~~Chief Financial Officer~~Director of Administration and the Director of Bond Finance and Chief Investment Officer will review this Policy on an annual basis.

1i



BOARD ACTION REQUEST

BOND FINANCE DIVISION

APRIL 8, 2021

Presentation, discussion, and possible action on Resolution No. 21-023 regarding the annual approval of the Department's Investment Policy

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

The provisions of Tex. Gov't Code, Chapter 2256 (also known as the Public Funds Investment Act) require state agency boards to develop, adopt annually, and maintain a written investment policy (the Investment Policy) that, among other things, details investment priorities and strategies, describes permissible investments, addresses ethics and conflicts of interest, establishes training requirements, and designates Investment Officers. The Investment Policy also establishes requirements for financial advisors and service providers, and requires that investment professionals acknowledge receipt of the Investment Policy in order to do business with the Department. David Cervantes, Director of Administration, and Monica Galuski, Director of Bond Finance and Chief Investment Officer, are the Investment Officers for the Department.

The Investment Officers, in conjunction with the Department's Financial Advisor and Bond Counsel, have reviewed the proposed Investment Policy and recommend approval and adoption of Resolution 21-023.

The proposed Investment Policy, blacklined against the prior policy, proposes no significant changes and includes only minor comments (dates and clean-up); a copy is attached for your reference.

RESOLUTION NO. 21-023

RESOLUTION OF THE GOVERNING BOARD APPROVING THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS INVESTMENT POLICY

WHEREAS, the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "Department"), was created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended (together with other laws of the State applicable to the Department, collectively, the "Act"); and

WHEREAS, the Governing Board of the Department (the "Governing Board") desires to approve the Department's Investment Policy in the form presented to the Governing Board;

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

ARTICLE 1

APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

Section 1.1 Approval of the Department's Investment Policy. The Investment Policy in the form presented to the Governing Board is hereby authorized and approved.

Section 1.2 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director or Acting Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, and the Secretary or Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

ARTICLE 2

GENERAL PROVISIONS

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

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

PASSED AND APPROVED this 8<sup>th</sup> day of April, 2021.

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Chair, Governing Board

ATTEST:

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Secretary to the Governing Board

(SEAL)

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

As presented to the Board for adoption on April 8, 2021

# 2021

April 8, 2021

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

### I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the "Department") to invest public funds in a manner that will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department's enabling legislation, Texas Government Code, Chapter 2306, Texas Government Code, Chapter 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and specifically Texas Government Code, Chapter 2256, the Public Funds Investment Act (the "Act").

It is further the intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department's presentation of its financial statements.

### II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department's Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a "qualified hedge" as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

### III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department's investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment should the need arise to liquidate before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

### V. STRATEGIES

The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.



2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
  - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
    - limiting investments to the safest types of securities;
    - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
    - diversifying the investment portfolio to minimize potential losses on individual securities.
  - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:
    - structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities in the open market prior to maturity, and
    - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department's investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment to reduce risk in the event the Department needs to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.
5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
6. Yield. The Department's investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into

account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

- A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
- B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
- C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

## VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board's intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department's investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Director of the Department, ("Executive Director"). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance and Chief Investment Officer and the Director of Administration acting in those capacities (collectively the "Investment Officer") who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

## VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:

- A. Texas Government Code, Section 825.211, Certain Interests in Loans, Investments or Contracts Prohibited;
- B. Texas Government Code, Section 572.051, Standards of Conduct for Public Servants;
- C. Texas Government Code, Sections 553.001-003, Disclosure by Public Servants of Interest in Property Being Acquired by Government;
- D. Texas Government Code, Section 552.352, Distribution of Confidential Information;
- E. Texas Government Code, Section 572.054, Representation by Former Officer or Employee of Regulatory Agency Restricted;
- F. Texas Penal Code, Chapter 36, Bribery, Corrupt Influence and Gifts to Public Servants; and
- G. Texas Penal Code, Chapter 39, Abuse of Office, Official Misconduct.

The omission of any applicable statute from this list does not excuse violation of its provisions.

- 2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
- 3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
  - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
  - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.
  - C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.
  - D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of

the fact that a relationship with the Department exists, provided that no misrepresentation is involved.

- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
- the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
  - funds received by the Investment Officer from the business organization exceed 10 percent of the individual's gross income from the previous year; or
  - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

#### VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department (in conjunction with the State Comptroller) will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds, the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, and who will not be providing an investment instrument, shall not be subject to the above requirements and may only be engaged if approved by the Board.

## IX. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78<sup>th</sup> Legislature, Regular Session, the Texas Legislature passed Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers ("Chapter 2263"). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
  - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
  - B. an institution of higher education as defined by Section 61.003, Education Code; or
  - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial

advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is exempted from required public disclosure.

Anti-Boycott Verification. Financial advisors and service providers are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

Exemption from Disclosure of Interested Parties. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Financial advisors and service providers that make a representation that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is a publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Financial advisors and service providers are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Financial advisors and service providers must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

#### X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable Indenture of Trust and any applicable supplemental indenture(s).

General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas Government Code, Section 404.024 and Article 5221(f), Subsection 13A(d) as amended relating to Manufactured Housing.

#### Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including "Investment Securities" as listed in such Indenture and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:
  - A. Obligations of, or guaranteed by governmental entities:
    - Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including Federal Home Loan Banks.
    - Direct obligations of this state or its agencies and instrumentalities.
    - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; provided collateralized mortgage obligations (i) that have a stated final maturity date of greater than 10 years; or (ii) the interest rate of which is determined by an index that adjusts opposite to the changes in a market index are not permitted investments.



- Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
  - Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:
- guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
  - secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy, but excluding those mortgage backed securities of the nature described by Section 3 below; and
  - secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity, or a broker that has its main office or branch in this state and is selected from the list attached hereto as Attachment E;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
- the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

- at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.
- C. A “repurchase agreement” is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:
- has a defined termination date;
  - is secured by collateral described in Section XV(1) and Section X(2)D [if desired] of this policy;
  - requires the securities being purchased by the Department to be pledged to the Department, held in the Department’s name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
  - is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
  - in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.
- D. Commercial Paper is an authorized investment under this policy if the commercial paper:
- has a stated maturity of 365 days or fewer from the date of its issuance; and
  - is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating

agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

3. The following are not authorized investments pursuant to the Act:
  - A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
  - B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
  - C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
  - D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

#### XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

#### XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

#### XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

#### XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

#### XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.

Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

#### XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

#### XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and
2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.

5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

## XVIII. REPORTING

1. Methods. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:
  - A. describe in detail the investment position of the Department on the date of the report;
  - B. be prepared jointly by each Investment Officer of the Department;
  - C. be signed by each Investment Officer of the Department;

- D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
  - book value and market value of each separately invested asset at the beginning and end of the reporting period; and
  - fully accrued interest for the reporting period;
- E. state the maturity date of each separately invested asset that has a maturity date;
- F. state the fund in the Department for which each individual investment was acquired; and
- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department's investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

- 2. Performance Standards. The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
- 3. Marking to Market. A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

#### XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

#### XX. INVESTMENT POLICY ADOPTION

The Department's investment policy shall be adopted by resolution of the Board.

- 1. Exemptions. Except as provided by Texas Government Code, Chapter 2270, any investment currently held that does not meet the guidelines of this policy shall be

exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

#### XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

#### XXII. TRAINING

Each member of the Department's Board and the Investment Officer who are in office on September 1, 1996 or who assume such duties after September 1, 1996, shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.



# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment A

### STRATEGY

#### SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

- General Fund
- Trust Funds
- Agency Funds
- Proprietary Funds (excluding Revenue Bond Funds)

#### SECTION 2

The Department's Revenue Bond Funds, including bond proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment B

### POLICY STATEMENTS AND RECOMMENDED PRACTICE

#### Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

1. I am a qualified representative of \_\_\_\_\_ (the "Business Organization").
2. The Business Organization proposes to engage in an investment transaction (the "Investments") with the Texas Department of Housing and Community Affairs (the "Department").
3. I acknowledge that I have received and reviewed the Department's investment policy.
4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department's investment policy.
5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department's entire portfolio and which requires an interpretation of subjective investment standards.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name: \_\_\_\_\_

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

Business Organization: \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers



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2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes\_\_\_\_\_ No\_\_\_\_\_

If yes, please explain in detail. (Attach additional sheets as needed.)

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**PART 3: SIGNATURE AND DATE**

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature\_\_\_\_\_ Date\_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E



**COMPTROLLER OF PUBLIC ACCOUNTS  
 FY 2021 Broker Dealer List  
 October 2020**

Amherst Pierpont Securities LLC	MUFG Securities Americas, Inc.
Barclays Capital Inc.	Multi-Bank Securities, Inc.
BMO Capital Markets Corp.	Natalliance Securities LLC
BNP Paribas Securities Corp.	NatWest Markets Securities Inc.
BNY Mellon Capital Markets LLC.	Nomura Securities International Inc.
B of A Securities, Inc.	Oppenheimer & Co. Inc.
BOK Financial Services, Inc.	Piper Sandler & Co. (formerly Piper Jaffray & Co.)
Brean Capital LLC	Raymond James & Associates, Inc.
Cantor Fitzgerald & Co.	RBC Capital Markets, LLC
Capital Institutional Services, Inc.	Rice Securities, LLC
CIBC World Markets Corp.	Robert W. Baird & Co., Inc.
Citigroup Global Markets, Inc.	Samuel A. Ramirez & Co., Inc.
Credit Agricole Securities (USA) Inc.	Scotia Capital (USA) Inc.
Daiwa Capital Markets America Inc.	S.G. Americas Securities LLC
FHN Financial Securities Corp. (formerly FTN Financial Securities Corp.)	Siebert-Williams Shank & Co., LLC (formerly Williams Capital)
Goldman Sachs & Co.	Signature Securities Group Corporation
HSBC Securities (USA) Inc.	Stern Brothers & Co.
InCapital LLC	Stifel, Nicolaus & Company Inc.
Jefferies, LLC	TD Securities (USA) LLC
J.P. Morgan Securities, LLC	Truist Securities, Inc. (formerly SunTrust Robinson Humphrey, Inc.)
Loop Capital Markets LLC	UBS Securities LLC
Mesirow Financial Group	Vining-Sparks IGB, L.P.
Mischler Financial Group	Virtu Americas, LLC
Mizuho Securities USA Inc.	Wells Fargo Securities, LLC
Morgan Stanley & Co. LLC	ZB, NA, Investment Division

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# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

As presented to the Board for adoption on ~~April 23, 2020~~April 8, 2021

~~2020~~2021

~~April 23, 2020~~April 8, 2021

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## INVESTMENT POLICY

### I. POLICY

It is the policy of the Texas Department of Housing and Community Affairs (the "Department") to invest public funds in a manner that will provide, by priority, the following objectives:

1. Safety of principal;
2. Sufficient liquidity to meet Department cash flow needs;
3. Market rate of return for the risk assumed; and
4. Conformance to all applicable state statutes governing the investment of public funds including the Department's enabling legislation, Texas Government Code, Chapter 2306, Texas Government Code, Chapter 2263, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and specifically Texas Government Code, Chapter 2256, the Public Funds Investment Act (the "Act").

It is further the intent of the Department to set forth in this document how all investments will be administered, providing for an all-inclusive document that will ensure consistency and thoroughness in the presentation of such investments, as they affect the Department's presentation of its financial statements.

### II. SCOPE

This investment policy applies to all investments, including both direct investments and investments that are subject to trust indentures created and supplemented in connection with bonds issued by the Department. All of these investments are accounted for in the Department's Comprehensive Annual Financial Report and include the General Fund, Special Revenue Fund, Trust and Agency Fund, and Enterprise Fund.

This investment policy does not apply to investments in instruments that constitute hedges, which include but are not limited to, interest rate swaps, caps, floors, futures contracts, forward contracts, etc., that satisfy the eligibility requirements of a "qualified hedge" as defined by Section 1.148-4(h)(2) of the Internal Revenue Code.

The Department has created and adopted a separate Interest Rate Swap Policy for guidance regarding the use and management of such hedges.

### III. PRUDENCE

Investments shall be made with judgment and care under prevailing circumstances which persons of prudence, discretion and intelligence would exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety and liquidity of capital as well as the probable income to be derived.

The standard of prudence to be used by the investment officers named herein shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. An investment officer acting in accordance with the investment policy and written procedures and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### IV. INVESTMENT PRIORITIES

Investment by the Department will be in accordance with the following priorities in order of importance:

1. Understanding the suitability of the investment to the financial requirements of the Department. Suitability is the first priority in the Department's investment strategy, and will be evaluated on an overall basis and as a specific component of each of the remaining priorities;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment should the need arise to liquidate before maturity;
5. Diversification of the investment portfolio; and
6. Yield (after taking into account the previous five priorities).

Such investment will be in accordance with all federal and state statutes, rules, and regulations.

### V. STRATEGIES

The following are the primary strategies for investment activities in order of priority after taking into account the suitability of any investment:

1. Suitability. In accordance with Section 2256.005(d) of the Act, the first priority is the suitability of investment.

2. Preservation and Safety of Principal. Investments of the Department shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk. To achieve this objective, diversification is required so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
  - A. Credit risk is the risk of loss due to the failure of the security issuer or backer, and may be mitigated by:
    - limiting investments to the safest types of securities;
    - pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with whom the Department will do business; and
    - diversifying the investment portfolio to minimize potential losses on individual securities.
  - B. Interest rate risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates, and may be mitigated by:
    - structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities in the open market prior to maturity, and
    - investing operating funds primarily in shorter-term securities.
3. Liquidity. The Department's investment portfolio shall remain sufficiently liquid to meet all reasonably anticipated cash flow needs. This is accomplished by structuring the portfolio so that securities mature concurrent with estimated or projected cash needs to meet anticipated demands. Since not all cash demands can be fully anticipated or projected with total accuracy, the portfolio should consist largely of securities with active secondary or resale markets, providing a reasonable level of flexibility to deal with unforeseen cash needs.
4. Marketability. The Department will evaluate investment opportunities based on the marketability of each investment to reduce risk in the event the Department needs to liquidate the investment before maturity. Specifically, the Department will take into consideration the activity level of the secondary market for the investment.
5. Diversification. The Department will maintain a diversified investment portfolio. Maturities will be staggered to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.
6. Yield. The Department's investment portfolio shall be designed with the objective of attaining a market rate of return through budgetary and economic cycles, taking into

account the investment risk constraints and cash flow needs of the Department. Return on investment for short-term operating funds is of less importance than the safety and liquidity objectives described above. The core of investments is limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity with the following exceptions:

- A. A security experiencing or reasonably seen as being at risk of material decline in credit quality could be sold early to minimize the risk of loss of principal;
- B. A security swap would improve the quality, yield, or target duration of the overall portfolio without creating other material risks or adverse features; or
- C. Liquidity needs of the portfolio require that the security be sold and there are no preferable alternatives.

## VI. DELEGATION OF AUTHORITY

The Board establishes the investment policy and objectives, obtains expert advice and assistance with respect to its actions as is necessary to exercise its responsibilities prudently, and monitors the actions of staff and advisors to ensure compliance with its policy. It is the Board's intention that this policy be carried out by those persons who are qualified and competent in their area of expertise.

Authority to manage the Department's investment program is granted under the provisions of Texas Government Code, Section 2306.052(b) (4) and (5) to the Director of the Department, ("Executive Director"). Responsibility for the operation of the investment program is hereby delegated by the Executive Director to the Director of Bond Finance and Chief Investment Officer and the Director of Administration acting in those capacities (collectively the "Investment Officer") who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Procedures should include reference to safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, collateral/depository agreements and banking service contracts. Such procedures may include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer.

## VII. ETHICS AND CONFLICTS OF INTEREST

1. Department employees and Board members must comply with all applicable laws, and should specifically be aware of the following statutes:

- A. Texas Government Code, Section 825.211, Certain Interests in Loans, Investments or Contracts Prohibited;
- B. Texas Government Code, Section 572.051, Standards of Conduct for Public Servants;
- C. Texas Government Code, Sections 553.001-003, Disclosure by Public Servants of Interest in Property Being Acquired by Government;
- D. Texas Government Code, Section 552.352, Distribution of Confidential Information;
- E. Texas Government Code, Section 572.054, Representation by Former Officer or Employee of Regulatory Agency Restricted;
- F. Texas Penal Code, Chapter 36, Bribery, Corrupt Influence and Gifts to Public Servants; and
- G. Texas Penal Code, Chapter 39, Abuse of Office, Official Misconduct.

The omission of any applicable statute from this list does not excuse violation of its provisions.

- 2. Department employees and Board members must be honest in the exercise of their duties and must not take actions which will discredit the Department.
- 3. Department employees and Board members should be loyal to the interest of the Department to the extent that such loyalty is not in conflict with other duties which legally have priority, and should avoid personal, employment or business relationships that create conflicts of interest.
  - A. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.
  - B. Officers and employees shall disclose to the Executive Director any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the Department's investment portfolio.
  - C. Officers and employees shall refrain from undertaking personal investment transactions with the same individuals with whom business is conducted on behalf of the Department.
  - D. Department employees and Board members may not use their relationship with the Department to seek or obtain personal gain beyond agreed compensation and/or any properly authorized expense reimbursement. This should not be interpreted to forbid the use of the Department as a reference or the communication to others of

the fact that a relationship with the Department exists, provided that no misrepresentation is involved.

- E. Department employees and Board members who have a personal business relationship with a business organization offering to engage in an investment transaction with the Department shall file a statement disclosing that personal business interest. An individual who is related within the second degree by affinity or consanguinity to an individual seeking to sell an investment to the Department shall file a statement disclosing that relationship. A statement required under this section must be filed with the Texas Ethics Commission and the Department's Board. For purposes of this policy, an individual has a personal business relationship with a business organization if:
- the individual owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
  - funds received by the Investment Officer from the business organization exceed 10 percent of the individual's gross income from the previous year; or
  - the individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

#### VIII. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

The Department (in conjunction with the State Comptroller) will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness; these may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by state law.

The Department will use as its authorized list of broker/dealers and financial institutions any broker/dealer or financial institution that is authorized to do business with the State Comptroller. With respect to investments provided in connection with the issuance of bonds, the above requirements will be deemed met if the investment provider has the minimum credit ratings required by rating agencies and is acceptable to the bond insurer/credit enhancer, if applicable, and if the investment meets the requirements of the applicable bond trust indenture. A broker, engaged solely to secure a qualified investment referred to in this paragraph on behalf of the Department, and who will not be providing an investment instrument, shall not be subject to the above requirements and may only be engaged if approved by the Board.



## IX. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

During the 78<sup>th</sup> Legislature, Regular Session, the Texas Legislature passed Chapter 2263, Ethics And Disclosure Requirements For Outside Financial Advisors And Service Providers ("Chapter 2263"). Chapter 2263, under Senate Bill 1059, requires certain actions by governing boards of state entities involved in the management and investment of state funds and adds disclosure requirements for outside financial advisors and service providers. Chapter 2263 became effective September 1, 2003. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this Act, must have adopted its initial rules in time for the rules to take effect not later than January 1, 2004.

Applicability. Chapter 2263 applies in connection with the management or investment of any state funds managed or invested:

1. under the Texas Constitution or other law, including Chapter 404, State Treasury Operations of Comptroller, and Chapter 2256, Public Funds Investment; and
2. by or for:
  - A. a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;
  - B. an institution of higher education as defined by Section 61.003, Education Code; or
  - C. another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

Chapter 2263 applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

Chapter 2263 does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the comptroller.

Definition. With respect to this Chapter 2263, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Construction With Other Law. To the extent of a conflict between Chapter 2263 and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Ethics Requirements For Outside Financial Advisors Or Service Providers. The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial

advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

1. may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or
2. render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described immediately above, in regard to compensation or duties, is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

In addition to the disclosures required by Chapter 2263 and described below, the Department will rely upon financial advisors and service providers' submission of an Acknowledgement of Receipt of Investment Policy and Certificate of Compliance with the Public Funds Investment Act forms to evidence compliance with the Department's code of conduct and procedures as related to investments.

Disclosure Requirements For Outside Financial Advisor Or Service Provider. A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

1. any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and
2. all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

The financial advisor or service provider shall disclose a relationship described by the immediately preceding subsections (1) or (2) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

The annual statement must be filed not later than April 15 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe. The Department's disclosure form is provided as Attachment "D".

The financial advisor or service provider shall promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report related to the immediately preceding subsections (1) or (2).

Public Information. Chapter 552, Government Code, controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or is exempted from required public disclosure.

Anti-Boycott Verification. Financial advisors and service providers are required to comply with the requirements of Chapter 2270 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) (i) does not boycott Israel and (ii) will not boycott Israel during the term for which they provide services to the Department.

Iran, Sudan and Foreign Terrorist Organizations. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Compliance includes a representation by each financial advisor or service provider that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is not an entity listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code.

Exemption from Disclosure of Interested Parties. Financial advisors and service providers are required to comply with the requirements of Chapter 2252 of the Texas Government Code. Financial advisors and service providers that make a representation that their firm (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate) is a publicly traded business entity are exempt from Section 2252.908 of the Texas Government Code.

Prohibition on Certain Bids and Contracts Related to Persons Involved in Human Trafficking. Financial advisors and service providers are required to comply with the requirements of Chapter 2155 of the Texas Government Code. Financial advisors and service providers must certify their firm is not ineligible under Section 2155.0061 of the Texas Government Code.

#### X. AUTHORIZED AND SUITABLE INVESTMENTS

Trust Indenture Funds for which the Department has control of the investment decisions, all of which are held by Treasury Safekeeping for the benefit of bondholders, will be subject to the authorized investments set-forth in the applicable Indenture of Trust and any applicable supplemental indenture(s).

General, Special Revenue and Trust and Agency Funds, all of which are on deposit with the State Treasury (specifically excluding Enterprise Funds), are invested by the Treasury pursuant to Texas Government Code, Section 404.024 and Article 5221(f), Subsection 13A(d) as amended relating to Manufactured Housing.

#### Enterprise Fund

1. Subject to a resolution authorizing issuance of its bonds, the Department is empowered by Texas Government Code, Section 2306.173 to invest its money in bonds, obligations or other securities: or place its money in demand or time deposits, whether or not evidenced by certificates of deposit. A guaranteed investment contract is an authorized investment for bond proceeds. All bond proceeds and revenues subject to the pledge of an Indenture shall be invested in accordance with the applicable law and the provisions of the applicable indenture including "Investment Securities" as listed in such Indenture and so defined.
2. All other enterprise funds shall be invested pursuant to state law. The following are permitted investments for those funds pursuant to the Act:
  - A. Obligations of, or guaranteed by governmental entities:
    - Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including Federal Home Loan Banks.
    - Direct obligations of this state or its agencies and instrumentalities.
    - Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; provided collateralized mortgage obligations (i) that have a stated final maturity date of greater than 10 years; or (ii) the interest rate of which is determined by an index that adjusts opposite to the changes in a market index are not permitted investments.

- Other obligations the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities.
  - Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- B. A Certificate of Deposit is an authorized investment under this policy if the certificate of deposit is issued by a depository institution that has its main office or a branch office in this state and is:
- guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor;
  - secured by obligations that are described in subsection 2A above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates and secured by collateral as described in Section XII of this policy, but excluding those mortgage backed securities of the nature described by Section 3 below; and
  - secured in any other manner and amount provided by law for deposits of the Department.

In addition to the authority to invest funds in certificates of deposit noted above, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this policy:

- the funds are invested by an investing entity through a depository institution that has its main office or a branch office in this state and that is selected by the investing entity, or a broker that has its main office or branch in this state and is selected from the list attached hereto as Attachment E;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
- the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity acts as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity; and

- at the same time that the funds are deposited and the certificates of deposit are issued for the account of the investing entity, the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor as selected by the investing entity receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the investing entity through the depository institution guaranteed or insured by the Federal Deposit Insurance Department (FDIC) or its successor.
- C. A “repurchase agreement” is a simultaneous agreement to buy, hold for a specified time, and sell back at a future date, obligations of the United States or its agencies and instrumentalities at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. The Department will comply with the Policy Statements and Recommended Practices for Repurchase Agreements as outlined in Attachment B. A fully collateralized repurchase agreement is an authorized investment under this policy if the repurchase agreement:
- has a defined termination date;
  - is secured by collateral described in Section XV(1) and Section X(2)D [if desired] of this policy;
  - requires the securities being purchased by the Department to be pledged to the Department, held in the Department’s name, and deposited at the time the investment is made with the Department or with a third party selected and approved by the Department;
  - is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state; and
  - in the case of a reverse repurchase agreement, notwithstanding any other law other than the Act, the term of any such reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. In addition, money received by the Department under the terms of a reverse security repurchase agreement may be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.
- D. Commercial Paper is an authorized investment under this policy if the commercial paper:
- has a stated maturity of 365 days or fewer from the date of its issuance; and
  - is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally-recognized credit rating agencies, or one nationally-recognized credit rating

agency and is fully secured, and by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

3. The following are not authorized investments pursuant to the Act:
  - A. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
  - B. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
  - C. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
  - D. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

#### XI. DIVERSIFICATION

The Department will diversify its investments by security type and institution. The amount of required diversification will be determined based upon:

1. The maturity date of the investment – longer maturity dates will require more diversification; and
2. The rating of the underlying investment – lower rated investments will require a greater degree of diversification.

#### XII. PERFORMANCE STANDARDS

The investment portfolio shall be designed and managed with the objective of preserving principal and obtaining a rate of return throughout budgetary and economic cycles commensurate with the investment risk constraints and the cash flow needs. The basis used to determine whether market yields are being achieved shall be the three-month U.S. Treasury bill.

#### XIII. EFFECT OF LOSS OF REQUIRED RATING

An investment that requires a minimum rating under this subchapter does not qualify as an authorized investment during the period the investment does not meet or exceed the minimum rating. The Department shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not meet or exceed the minimum rating. Still further, the Investment Officer is required to review monthly all investments subject to this policy to ensure that there have been no rating changes which would render such investment in violation of this policy.

#### XIV. MAXIMUM MATURITIES

To the extent possible, the Department will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Department will not directly invest in securities maturing more than five years from the date of purchase. The Department will periodically determine what the appropriate average weighted maturity of the portfolio should be based on anticipated cash flow requirements.

General funds dedicated to the support of single family programs may be invested in securities exceeding five years if the maturities of such investments are made to coincide as nearly as practicable with the expected use of funds.

In addition, funds may be invested in any investments that are being sold from a bond indenture or are the result of the operation of the Department's single family program so long as:

1. such investment furthers the goals of that program;
2. the Investment Officer receives Board approval prior to undertaking such investment.

#### XV. COLLATERALIZATION

Collateralization will be required on certificates of deposit, repurchase and reverse repurchase agreements, and savings and demand deposits if not insured by FDIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level should be at least 101% of the market value of principal and accrued interest for repurchase and reverse repurchase agreements. Collateralization of 100% will be required for overnight repurchase agreements and bank deposits in excess of FDIC insurance.

The following obligations may be used as collateral under this policy:

1. obligations of the United States or its agencies and instrumentalities;
2. direct obligations of this state or its agencies and instrumentalities;
3. collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. other obligations, the principal and interest of which are unconditionally guaranteed or insured by or backed by the full faith and credit of this state or the United States or their respective agencies and instrumentalities; and
5. obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally-recognized investment rating firm not less than A or its equivalent.



Collateral will always be held by an independent third party with whom the Department has a current custodial agreement. A clearly marked evidence of ownership or a safekeeping receipt must be supplied to the Department and retained. The right of collateral substitution is granted subject to prior approval by the Investment Officer.

#### XVI. SAFEKEEPING AND CUSTODY

All security transactions, including collateral for repurchase agreements, entered into by the Department will be executed by Delivery vs. Payment (DVP). This ensures that securities are deposited in the eligible financial institution prior to the release of funds. Securities will be held by a third-party custodian as evidenced by safekeeping receipts.

#### XVII. INTERNAL CONTROL

The Investment Officer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that:

1. the cost of a control should not exceed the benefits likely to be derived; and
2. the valuation of costs and benefits requires estimates and judgments by management.

Once every two years, the Department, in conjunction with its annual financial audit, shall have external/internal auditors perform a compliance audit of management controls on investments and adherence to the Department's established investment policies. The internal controls shall address the following points:

1. Control of collusion. Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. Separation of transaction authority from accounting and record keeping. By separating the person who authorizes or performs the transaction from the person who records or otherwise accounts for the transaction, a separation of duties is achieved.
3. Custodial safekeeping. Securities purchased from any bank or dealer including appropriate collateral as defined by state law shall be placed with an independent third party for custodial safekeeping.
4. Avoidance of physical delivery securities. Book entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.

5. Clear delegation of authority to subordinate staff members. Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. Written confirmation or telephone transactions for investments and wire transfers. Due to the potential for error and improprieties arising from telephone transactions, all telephone transactions must be supported by written communications and approved by the appropriate person, as defined by investment internal control procedures. Written communications may be via fax if on letterhead and the safekeeping institution has a list of authorized signatures.
7. Development of a wire transfer agreement with the lead bank or third party custodian. This agreement should outline the various controls, security provisions, and delineate responsibilities of each party making and receiving wire transfers.

The Department's external/internal auditors shall report the results of the audit performed under this section to the Office of the State Auditor not later than January 1 of each even-numbered year. The Office of the State Auditor compiles the results of reports received under this subsection and reports those results to the legislative audit committee once every two years.

## XVIII. REPORTING

1. Methods. Not less than quarterly, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report of investment transactions for all funds covered by this policy for the preceding reporting period; including a summary that provides a clear picture of the status of the current investment portfolio and transactions made over the previous reporting period. This report will be prepared in a manner which will allow the Department and the Board to ascertain whether investment activities during the reporting period have conformed to the investment policy. While not required under the Act, this report will provide information regarding investments held under bond trust indentures as well as investments covered under the Act. The report must:
  - A. describe in detail the investment position of the Department on the date of the report;
  - B. be prepared jointly by each Investment Officer of the Department;
  - C. be signed by each Investment Officer of the Department;

- D. contain a summary statement, prepared in compliance with generally accepted accounting principles for each fund that states the:
  - book value and market value of each separately invested asset at the beginning and end of the reporting period; and
  - fully accrued interest for the reporting period;
- E. state the maturity date of each separately invested asset that has a maturity date;
- F. state the fund in the Department for which each individual investment was acquired; and
- G. state the compliance of the investment portfolio of the Department as it relates to the investment strategy expressed in the Department’s investment policy and relevant provisions of the policy.

The reports prepared by the Investment Officer under this policy shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

- 2. Performance Standards. The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of return during a market/economic environment of stable interest rates. Portfolio performance will be compared to appropriate benchmarks on a regular basis.
- 3. Marking to Market. A statement of the market value of the portfolio shall be issued at least quarterly. The Investment Officer will obtain market values from recognized published sources or from other qualified professionals as necessary. This will ensure that a review has been performed on the investment portfolio in terms of value and subsequent price volatility.

XIX. AUTHORIZED LIST OF BROKER/DEALERS AND FINANCIAL INSTITUTIONS

Not less than annually, the Investment Officer shall prepare and submit to the Executive Director and the Board of the Department a written report outlining the list of authorized broker/dealers and financial institutions maintained by the State Comptroller. The current list is provided in Attachment E.

XX. INVESTMENT POLICY ADOPTION

The Department’s investment policy shall be adopted by resolution of the Board.

- 1. Exemptions. Except as provided by Texas Government Code, Chapter 2270, any investment currently held that does not meet the guidelines of this policy shall be

exempted from the requirements of this policy. At maturity or liquidation, such monies shall be reinvested only as provided by this policy.

2. Amendment. The policy shall be reviewed at least annually by the Board and any amendments made thereto must be approved by the Board. The Board shall adopt by written resolution a statement that it has reviewed the investment policies and strategies.

#### XXI. ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction related to Department funds. The qualified representative of the business organization shall execute a written instrument in a form acceptable to the Department and the business organization, substantially to the effect that the offering business organization has:

1. received and reviewed the investment policy of the Department; and
2. acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Department and the business organization that are not authorized by the Department's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the Department's entire portfolio or requires an interpretation of subjective investment standards.

The Investment Officer of the Department may not buy any securities from a person who has not delivered to the Department an instrument complying with this investment policy. (See sample documents in Attachment "C".)

#### XXII. TRAINING

Each member of the Department's Board and the Investment Officer who are in office on September 1, 1996 or who assume such duties after September 1, 1996, shall attend at least one training session relating to the person's responsibilities under this chapter within six months after taking office or assuming duties. Training under this section is provided by the Texas Higher Education Coordinating Board and must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this policy. The Investment Officer shall attend a training session not less than once in a two-year period and may receive training from any independent source approved by the Department's Board. The Investment Officer shall prepare a report on the training and deliver the report to the Board not later than the 180th day after the last day of each regular session of the legislature.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment A

### STRATEGY

#### SECTION 1

All of the Department's funds as listed below are program / operational in nature, excluding the bond funds which are listed separately in Section 2 below. The following funds are held in the State Treasury and the Department earns interest on those balances at the then applicable rate.

- General Fund
- Trust Funds
- Agency Funds
- Proprietary Funds (excluding Revenue Bond Funds)

#### SECTION 2

The Department's Revenue Bond Funds, including bond proceeds, are invested in various investments as stipulated by the controlling bond indenture. Certain investments, controlled by indentures prior to the latest revised Public Funds Investment Act, are properly grandfathered from its provisions. Typical investments include: guaranteed investment contracts; agency mortgage-backed securities resulting from the program's loan origination; in some cases, long-term Treasury notes; and bonds used as reserves with maturities that coincide with certain long-term bond maturities.

# TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

## Attachment B

### POLICY STATEMENTS AND RECOMMENDED PRACTICE

#### Repurchase Agreements

1. Repurchase agreements (“repos”) are the sale by a bank or dealer of government securities with the simultaneous agreement to repurchase the securities on a later date. Repos are commonly used by public entities to secure money market rates of interest.
2. The Department affirms that repurchase agreements are an integral part of its investment program.
3. The Department and its designated Investment Officer should exercise special caution in selecting parties with whom they will conduct repurchase transactions, and be able to identify the parties acting as principals to the transaction.
4. Proper collateralization practices are necessary to protect the public funds invested in repurchase agreements. Risk is significantly reduced by delivery of underlying securities through physical delivery or safekeeping with the purchaser’s custodian. Over-collateralization, commonly called haircut, or marking-to-market practices should be mandatory procedures.
5. To protect public funds the Department should work with securities dealers, banks, and their respective associations to promote improved repurchase agreement procedures through master repurchase agreements that protect purchasers’ interests, universal standards for delivery procedures, and written risk disclosures.
6. Master repurchase agreements should generally be used subject to appropriate legal and technical review. If the prototype agreement developed by the Public Securities Association is used, appropriate supplemental provisions regarding delivery, substitution, margin maintenance, margin amounts, seller representations and governing law should be included.
7. Despite contractual agreements to the contrary, receivers, bankruptcy courts and federal agencies have interfered with the liquidation of repurchase agreement collateral. Therefore, the Department should encourage Congress to eliminate statutory and regulatory obstacles to perfected security interests and liquidation of repurchase collateral in the event of default.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment C

ACKNOWLEDGMENT OF RECEIPT OF INVESTMENT POLICY

1. I am a qualified representative of \_\_\_\_\_ (the "Business Organization").
2. The Business Organization proposes to engage in an investment transaction (the "Investments") with the Texas Department of Housing and Community Affairs (the "Department").
3. I acknowledge that I have received and reviewed the Department's investment policy.
4. I acknowledge that the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the business organization and the Department that are not authorized by the Department's investment policy.
5. The Business Organization makes no representation regarding authorization of the Investments to the extent such authorization is dependent on an analysis of the Department's entire portfolio and which requires an interpretation of subjective investment standards.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Name: \_\_\_\_\_

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

Business Organization: \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment D

Annual Disclosure Statement for Financial Advisors and Service Providers





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2) Do you or does your business entity have any direct or indirect pecuniary interests in any party to a transaction with the state governmental entity if the transaction is connected with any financial advice or service that you or your business entity provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please explain in detail. (Attach additional sheets as needed.)

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**PART 3: SIGNATURE AND DATE**

I hereby attest that all information provided above is complete and accurate. I acknowledge my or my firm's responsibility to submit promptly a new or amended disclosure statement to the parties listed in step 4 of the instructions if any of the above information changes.

Signature \_\_\_\_\_ Date \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Attachment E



**COMPTROLLER OF PUBLIC ACCOUNTS  
FY 2021 Broker Dealer List  
October 2020**

Amherst Pierpont Securities LLC	MUFG Securities Americas, Inc.
Barclays Capital Inc.	Multi-Bank Securities, Inc.
BMO Capital Markets Corp.	Natalliance Securities LLC
BNP Paribas Securities Corp.	NatWest Markets Securities Inc.
BNY Mellon Capital Markets LLC.	Nomura Securities International Inc.
B of A Securities, Inc.	Oppenheimer & Co. Inc.
BOK Financial Services, Inc.	Piper Sandler & Co. (formerly Piper Jaffray & Co.)
Brean Capital LLC	Raymond James & Associates, Inc.
Cantor Fitzgerald & Co.	RBC Capital Markets, LLC
Capital Institutional Services, Inc.	Rice Securities, LLC
CIBC World Markets Corp.	Robert W. Baird & Co., Inc.
Citigroup Global Markets, Inc.	Samuel A. Ramirez & Co., Inc.
Credit Agricole Securities (USA) Inc.	Scotia Capital (USA) Inc.
Daiwa Capital Markets America Inc.	S.G. Americas Securities LLC
FHN Financial Securities Corp. (formerly FTN Financial Securities Corp.)	Siebert-Williams Shank & Co., LLC (formerly Williams Capital)
Goldman Sachs & Co.	Signature Securities Group Corporation
HSBC Securities (USA) Inc.	Stern Brothers & Co.
InCapital LLC	Stifel, Nicolaus & Company Inc.
Jefferies, LLC	TD Securities (USA) LLC
J.P. Morgan Securities, LLC	Truist Securities, Inc. (formerly SunTrust Robinson Humphrey, Inc.)
Loop Capital Markets LLC	UBS Securities LLC
Mesirow Financial Group	Vining-Sparks IGB, L.P.
Mischler Financial Group	Virtu Americas, LLC
Mizuho Securities USA Inc.	Wells Fargo Securities, LLC
Morgan Stanley & Co. LLC	ZB, NA, Investment Division

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Thomas Jefferson Rusk State Office Building    208 East 10<sup>th</sup> Street    Austin, Texas 78701  
Phone (512) 463-4300    Fax (512) 463-4368

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## TDHCA Outreach and Media Analysis, February 2021

A compilation of TDHCA media analysis designed to enhance the awareness of TDHCA programs and services among key stakeholder groups and the general public, and outreach activities, such as trainings and webinars. The following is an analysis of print and broadcast news, and social media reporting for the time period of February 1 through February 28, 2021 (news articles specifically mentioned the Department).

Total number of articles referencing TDHCA: 552

Breakdown by Medium:<sup>1</sup>

- Print: 23 (Editorials/Columnists = 3)
- Broadcast: 276
- Trade, Government or Internet-Based Publications: 253

Figure 1 News Tone

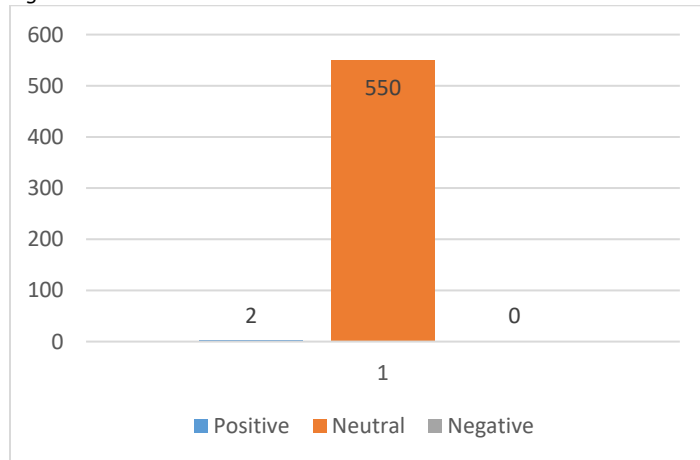
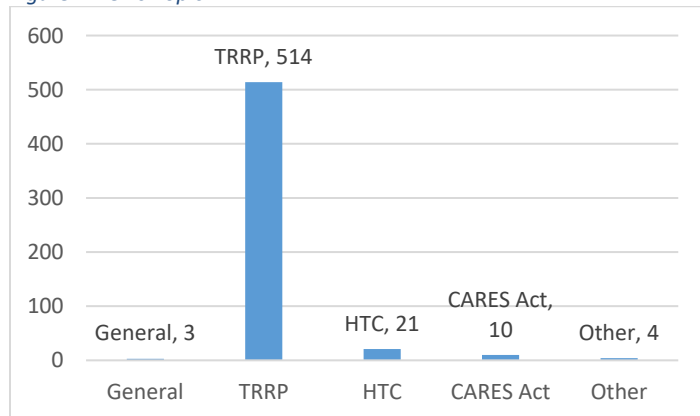
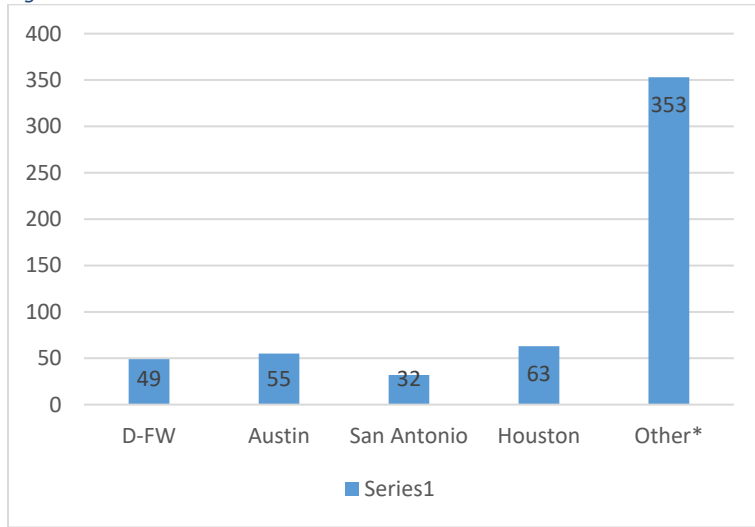


Figure 2 News Topic



<sup>1</sup> Broadcast numbers may represent instances in which TDHCA was referenced on a television or radio station's website, rather than in a specific broadcast news segment

Figure 3 Media Market

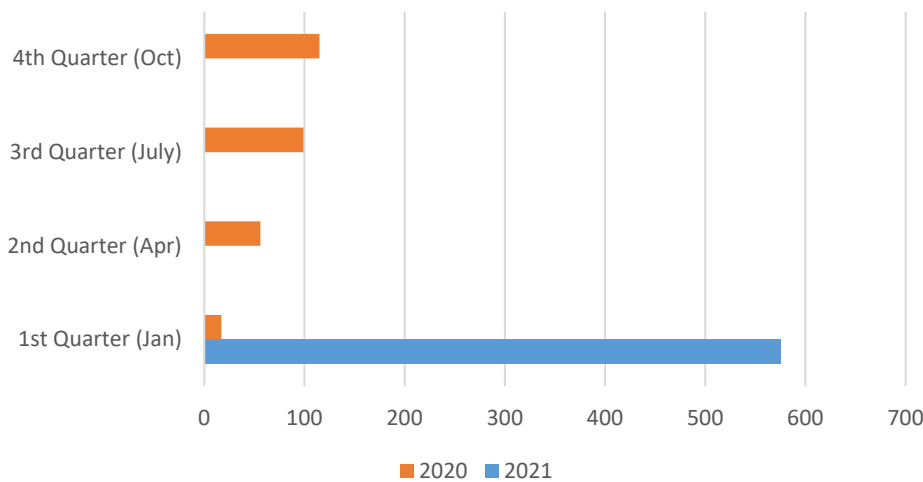


**Summary:**

Reporting on Department activities by the news media totaled 552 references in February 2021. Most significantly, news mentions reflected TDHCA’s launch of the Texas Rent Relief Program, with statewide coverage promoting the funding available, program qualifications, website and call center information.


There were 0 perceived negative articles related to TDHCA in February. The following table illustrates the number of news mentions during each quarter of 2021 compared to 2020, starting January comparisons first.

TDHCA News Trends




**Social media:**

Currently, TDHCA’s Twitter account has more than 2,500 followers and its Facebook account has nearly 3,000 fans. TDHCA’s YouTube views nearly doubled from January to February with more than 11,000 views. The following is a summary analysis of TDHCA’s efforts to engage stakeholders and the public on federal and state resources, initiatives and programs.

					
Month/Yr	Posts	Clicks	Engagements	Shared posts	Liked posts
January 2021	50	20	56	20	18
February 2021	52	193	2,609	1,163	18

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post

					
Month/Yr	Tweets	Clicks	Engagements	Retweets	Liked posts
January 2021	52	224	13	4	7
February 2021	61	186	92	38	39

\* Clicks = number of times an individual clicked on a link provided in a post. Engagements = any action a person takes on our post



Month	Views	Watch time (hours)	Avg. view duration	Impressions	Impressions click-through rate
January 2021	684	105.8	9:16	7,760	2.2%
February 2021	11,479	1,174	6:08	91,326	1.8%



## February 2021

Video	Views ↓	Watch time (hours)	Average view duration	Impressions	Impressions click-through rate
<input type="checkbox"/> <b>Total</b>	<b>11,479</b>	<b>1,174.0</b>	<b>6:08</b>	<b>91,326</b>	<b>1.8%</b>
<input type="checkbox"/> Texas Rent Relief Program webinar	9,995 87.1%	974.2 83.0%	5:50	72,719	1.2%
<input type="checkbox"/> TERAP Application Workshop	310 2.7%	27.7 2.4%	5:21	2,558	5.6%
<input type="checkbox"/> TERAP Implementation Workshop	301 2.6%	57.1 4.9%	11:22	2,878	4.2%
<input type="checkbox"/> Average Income Webinar - Sept. 2, 2020	174 1.5%	45.6 3.9%	15:43	2,412	4.7%
<input type="checkbox"/> Texas Rent Relief Program Webinar - Feb. 26, 2021	150 1.3%	21.4 1.8%	8:33	363	9.1%
<input type="checkbox"/> Texas Emergency Mortgage Assistance Program TEMAP Webinar - ...	106 0.9%	16.7 1.4%	9:27	809	4.2%
<input type="checkbox"/> Overview of Updates to Compliance, Affirmative Marketing and Writ...	71 0.6%	7.4 0.6%	6:15	1,636	2.9%
<input type="checkbox"/> Cost Certification Roundtable - November 18, 2020	68 0.6%	5.0 0.4%	4:24	1,444	2.5%
<input type="checkbox"/> 20 IncomeDeterminationTraining	52 0.5%	5.1 0.4%	5:51	658	3.7%
<input type="checkbox"/> TDHCA Utility Allowance Roundtable - Oct. 13, 2020	44 0.4%	1.4 0.1%	1:55	887	3.0%
<input type="checkbox"/> Section 811 PRA Updates for Referral Agents	43 0.4%	2.3 0.2%	3:10	681	5.4%
<input type="checkbox"/> Accessing Texas Department of Aging and Disability Services	41 0.4%	1.9 0.2%	2:51	477	4.4%
<input type="checkbox"/> Digital Outreach Webinar	36 0.3%	1.5 0.1%	2:30	791	2.5%
<input type="checkbox"/> Rental Assistance	23 0.2%	0.6 0.1%	1:37	427	3.5%
<input type="checkbox"/> For Sec. 811 Referral Agents - PRA Barrier Busting Funds	20 0.2%	2.5 0.2%	7:22	292	2.7%
<input type="checkbox"/> TDHCA's Multifamily Direct Loan Training - Sept. 24, 2020	15 0.1%	0.9 0.1%	3:34	1,354	0.7%
<input type="checkbox"/> Virtual Roundtable - TDHCA's Enforcement Rule	15 0.1%	2.3 0.2%	9:03	392	2.6%
<input type="checkbox"/> Accessing Texas Department of State Health Services	5 0.0%	0.0 0.0%	0:09	222	0.5%
<input type="checkbox"/> Previous Participation Review 2016	4 0.0%	0.1 0.0%	1:18	89	4.5%
<input type="checkbox"/> 2020 04 14 10 00 Fair Housing Month 2020 Assistance Animals	3 0.0%	0.4 0.0%	8:23	155	0.7%
<input type="checkbox"/> Energy Assistance	3 0.0%	0.0 0.0%	0:15	82	3.7%

## TDHCA Outreach February 2021

A compilation of outreach activities such as meetings, trainings and webinars.

GoToMeetings	Meeting Date	Meeting Title	Attendees
	February 1, 2021 – February 28, 2021		
Homeownership	Feb 02, 2021	Radio Show, Hispanic Real Estate Broker Association	40
Internal Audit	Feb 10, 2021	Entrance Conference- Internal Audit of the Management of Nonperforming Loans	10
Real estate Analysis	Feb 10, 2021	TDHCA Market Analyst Q&A	42
TDHCA	Feb 11, 2021	Governing Board Meeting	165
Community Development Block Grant	Feb 12, 2021	Texas Rent Relief.com	1690

Single Family - Homeless	Feb 18, 2021	ESG CARES Landlord incentives & Rental Assistance Agreement Reimbursement	89
Community Development Block Grant	Feb 18, 2021	ESG CARES 2 Implementation	154
Homeownership	Feb 23, 2021	Monthly Lender Lunch & Learn Series	265
Homeownership	Feb 23, 2021	Texas Mortgage Bankers Association Secondary Conference	173
FHDMR	Feb 23, 2021	Affirmative Marketing	213
Compliance	Feb 24, 2021	TAA sponsored training	113
FHDMR	Feb 25, 2021	Limited English Proficiency	136
Community Development Block Grant	Feb 26, 2021	Texas Rent Relief.com	436

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**BOARD REPORT ITEM**

**FAIR HOUSING, DATA MANAGEMENT AND REPORTING**

**APRIL 8, 2021**

Report on Fair Housing Month Activities

**FAIR HOUSING MONTH OVERVIEW**

April 2021 is Fair Housing Month and marks 53 years since the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968), signed by U.S. President Lyndon Baines Johnson on April 11, 1968. The Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the sale, rental, financing, or advertising of housing.

On March 10, 2021, Governor Abbott signed a Proclamation declaring April 2021 Fair Housing Month in Texas to reaffirm the State’s commitment to equal opportunity in housing. During this month, we recognize the importance of fair housing policies, and the impact they have had on furthering equal access to housing for all Texans.

**FAIR HOUSING INITIATIVE PROGRAM GRANT**

The 2019 Analysis of Impediments to Fair Housing Choice identified the need for greater outreach and education. In an effort to meet this need, effective June 1, 2020, TDHCA’s Fair Housing staff began administering a one-year grant from HUD for the Fair Housing Initiative Program (FHIP) – Education and Outreach Initiative. This initiative seeks to increase compliance with the Fair Housing Act by developing, implementing, carrying out, and coordinating education and outreach programs designed to inform members of the public concerning their rights and obligations under the provisions of the Fair Housing Act. Under this grant, TDHCA has developed and delivered several training webinars and is currently producing short-form videos based on the webinars and fair housing brochures that focus on the needs of low-income households in Texas.

**TDHCA’S FAIR HOUSING MONTH ACTIVITIES**

Each April, TDHCA collaborates with the Texas Workforce Commission’s Civil Rights Division (TWC-CRD) to provide a series of two or three free training opportunities on fair housing topics. This year, with the support of the FHIP grant, TDHCA has expanded the training schedule to six webinars. Additionally, The Governors Committee for Persons with Disabilities will be hosting TDHCA and TWC-CRD staff via webinar to provide fair housing information geared towards persons with disabilities. Finally, TDHCA staff will be presenting fair housing information to the Habitat for Humanity affiliates in Texas.

<b>Date</b>	<b>Topic</b>	<b>Hosts and Presenters</b>
Thursday, April 1, 2021	Fair Housing Overview	TDHCA and TWC-CRD
Friday, April 9, 2021	Accessibility and Disability Policy Webinar Series: An Overview of Fair Housing Topics	GCPD hosting TDHCA and TWC-CRD
Tuesday, April 13, 2021	Reasonable Accommodations and Modifications	TDHCA and TWC-CRD
Thursday, April 15, 2021	Assistance Animals	TDHCA and TWC-CRD
Tuesday, April 20, 2021	Fair Housing Overview for Habitat Affiliates	Habitat for Humanity Texas hosting TDHCA
Thursday, April 22, 2021	Violence Against Women Act and Fair Housing	TDHCA
Tuesday, April 27, 2021	Affirmative Marketing	TDHCA
Thursday, April 29, 2021	Limited English Proficiency and Language Access Plans	TDHCA

Registration for TDHCA and GCPD trainings is available on the Fair Housing Announcements webpage: <https://www.tdhca.state.tx.us/fair-housing/announcements.htm>, and on the TDHCA event calendar webpage: <https://www.tdhca.state.tx.us/events/index.jsp>.

All TDHCA hosted trainings will have closed captioning and a sign language interpreter. After the trainings are presented, all recordings, materials, and transcripts will be available on the TDHCA website. Individuals who require communication auxiliary aids or services for the training should contact Fair Housing staff at [FHEOI@tdhca.state.tx.us](mailto:FHEOI@tdhca.state.tx.us) or Relay Texas at 1-800-735-2989 at least three days before the meeting so that appropriate arrangements can be made. If you have any additional questions, please email: [FHEOI@tdhca.state.tx.us](mailto:FHEOI@tdhca.state.tx.us).

TDHCA's Fair Housing staff looks forward to celebrating and honoring Fair Housing Month with our State partners, and providing guidance on the fair housing policies that impact our work every day.

# ACTION ITEMS

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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Update on TDHCA Programs Addressing COVID-19 Pandemic Response  
As of April 1, 2021

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 and Coronavirus Relief Bill funds.

Program	Timelines / Contract Periods	Planned Activities	Waivers and Initial Approvals Needed	Program Status	Staffing Admin Funds	Served to Date	Total Program Funding Obligated (%) Drawn (%)	Other Notes
<b>EARLY REPROGRAMMING OF EXISTING TDHCA PROGRAM FUNDS</b>								
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. The HUD waivers were extended by HUD in December 2020 to expire September 30, 2021.	23 contracted administrators representing 120 counties.	No added TDHCA staffing.  No added admin funds.	1,865*  Includes active, pending PCR, and closed activities	Up to \$11,290,076 \$9,986,604.* 88.45% \$5,235,376 52.42%	2,576 (households) activities submitted. Includes total served.  * Amount Reserved
Reprogram 2019 and 2020 CSBG Discretionary and Admin. Funds	<ul style="list-style-type: none"> <li>Board approval March 2020.</li> <li>Recipients contracts effective: 3/26/20</li> <li>Expenditure Deadline: 8/31/20</li> </ul>	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 <sup>1</sup> ) Income Eligibility: 200% poverty (normally is 125%)	None	Program completed 8/31/20. Final close out reports from 2 subrecipients are still outstanding.	No added TDHCA staffing.  No added admin funds.	9,468 persons	\$1,447,993 1,447,993 100% \$1,434,352 99%	38 CAA subs

<sup>1</sup> 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"> <li>Board approval March 2020.</li> <li>Spend by 8/31/20 for 2018 HHSP funds, and extensions on some 2019 HHSP funds beyond that date.</li> </ul>	<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.	100% of \$88,547 in 2018 funds expended. Remaining 2019 HHSP funds are proposed for reprogramming on this month's Board agenda.	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	462 persons	<p>\$239,886</p> <p>\$239,886 100%</p> <p>\$191,939.53 80%</p>	9 subs
<b>CARES ACT FUNDS</b>								
CSBG CARES	<ul style="list-style-type: none"> <li>Board approved April 2020.</li> <li>On 9/3/20 Board programmed 7% in reserve for eviction diversion pilot.</li> <li>Expend 90% by 8/31/22</li> <li>45 day closeout</li> </ul>	<p>90% to CAAs using regular CSBG formula for households affected by COVID-19; 2% (\$949,120) to Texas Homeless Network<sup>2</sup>; 7% for an eviction diversion pilot program; and 1% for state admin.</p> <p>Geography: Available statewide Income Eligibility: 200% of poverty (normally is 125%)</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	All contracts executed. THN awarded \$489,970 of their barrier funds to 11 entities covering all six regions of the Balance of State. Eviction Diversion program has been completed.	<p>1 Art. IX FTE for CSBG reporting</p> <p>1% admin (\$474,560)</p>	72,408 persons	<p>\$48,102,282</p> <p>\$48,102,282 100%</p> <p>\$27,169,442 56%</p>	<p>40 CAA subs</p> <p>CSBG-CV Discretionary has various deadlines.</p>
LIHEAP CARES	<ul style="list-style-type: none"> <li>Board approved April 2020</li> <li>By 4/30/21 need to decide on the 9% reserve</li> <li>Expend by 8/30/21</li> <li>45 day closeout</li> </ul>	<p>90% to CEAP subs using regular CEAP 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. No weatherization.</p> <p>Geography: Available statewide Income Eligibility: 150% of poverty</p>	The <a href="#">flexibilities allowed by USHHS</a> have been accepted.	<p>37 out of 37 contracts have been executed.</p> <p>Added program flexibilities to improve assistance to households impacted by Winter Storm Uri.</p>	<p>1 Art. IX FTE for CEAP TA/capacity (Filled)</p> <p>1% admin (\$892,670)</p>	67,321 persons	<p>\$94,023,896</p> <p>\$85,561,744 91%</p> <p>\$24,290,343 28%</p>	37 subs. No subs declined funds.

<sup>2</sup> The award to THN is to address homelessness and those at risk of homelessness 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 – Phases I, II and III	<p>Board approved general use of the funds for CDBG Phase I in April 2020 and Plan Amendment in October 2020. A second Plan Amendment was approved by the Board in January 2021.</p> <p>80% of funds must be expended within 3 years of the grant agreement date; remaining 20% by 6 years from the grant agreement date.</p> <p>90-day closeout</p>	<p>Planned Usage: rental assistance in 44 cities/counties; mortgage payment assistance statewide; reimbursement of food expenses; broadband planning; legal services; assistance for providers of persons with disabilities; and possible HMIS data warehouse funds.</p> <p>Geography: \$36.3 million for rental assistance in entitlement areas. \$40,000,886 to be allocated in non-entitlement areas for mortgage assistance. \$29.7 million in mortgage assistance funds also to be regionally allocated to cover the state.</p>	<p>Office of the Governor designated TDHCA as the state agency recipient for all CDBG CARES on June 15, 2020. Plan Amendment reflecting use of these funds was approved by HUD on October 27, 2020. HUD agreement executed. A second Plan Amendment was accepted by HUD on January 15, 2021.</p>	<p>Rental assistance contracts w/ 41 of 44 cities/ counties now executed. NOFA for mortgage assistance published on January 29, 2021; applications are due in April. TDHCA is drafting contracts and program documents to implement legal services, and assistance for disability provider activities. A third amendment is expected in May 2021 to reprogram food expenses no longer needing to be reimbursed.</p>	<p>CDBG Director position filled. 6 positions filled. May still hire several posted positions.</p> <p>All FTES are Art. IX</p> <p>Up to 7% admin and TA budget (\$9,929,238)</p>	164	<p>1<sup>st</sup> allocation: \$40,000,886 2<sup>nd</sup> Allocation: \$63,546,200 3<sup>rd</sup> Allocation: \$38,299,172</p> <p>Total: \$141,846,258</p> <p>33,981,073.89* 26%</p> <p>\$312,990.18 .92%</p>	<p>Income Eligibility: For households at or below 80% of AMI for rental assistance.</p> <p>* Figure represents 42 of the 44 rental assistance contracts.</p>
ESG CARES – Phase I	<ul style="list-style-type: none"> <li>Board approved programming plan on April 2020, and conditional awards on July 23, 2020.</li> <li>Expend by 9/30/22</li> <li>90 day closeout</li> </ul>	<p>Four streams:</p> <ul style="list-style-type: none"> <li>Existing subs were offered 100% to 200% of current contract amount (~\$12.5M)</li> <li>ESG Coordinators decided via local process for their CoC, and awards made in three areas without ESG Coordinators by offering funds to CoC awardees (~\$17.2M)</li> <li>Legal/HMIS (\$1.9M)</li> </ul> <p>Geography: Locations of all funded grantees Income Eligibility: 50% AMI for homeless prevention.</p>	<p>HUD mega-waivers accepted.</p> <p>An updated waiver request to HUD was submitted on August 31, 2020. One-Year Plan/ Con Plan amendment to HUD on May 8.</p>	<p>Signed grant agreement sent to HUD 5/15/20.</p> <p>Funds live in HUD system 5/22/20. 101 contracts executed</p> <p>3 legal service providers</p>	<p>3 Art. IX FTE (for all phases of ESG as well)</p> <p>5.4% admin (\$1,818,620)</p>	21,536 persons	<p>\$33,254,679</p> <p>\$32,997,679 99%</p> <p>\$8,860,836.76 26.6%</p>	<p>This is the first \$1B of national ESG.</p> <p>HMIS/Coordination funds totaling \$417,949 will go to the 8 ESG Coordinators.</p>

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
ESG CARES – Phase II	<ul style="list-style-type: none"> <li>Board approved awards January 14, 2021.</li> <li>Expend by 9/30/22</li> <li>90 Day closeout</li> </ul>	<p>Two streams:</p> <ul style="list-style-type: none"> <li>\$61,031,041 for Homelessness Prevention and Rapid Rehousing.</li> <li>\$274,649 for ESG CARES and HMIS Coordination through each Continuum of Care.</li> </ul>	<p>ESG Guidance issued by HUD on 9/1/20.</p> <p>Plan Amendment submitted to HUD 10/21/20. HUD signed grant agreement on 10/27/2020.</p>	<ul style="list-style-type: none"> <li>50 out of 51 contracts generated for ESG CARES 2 Subrecipients and HMIS lead agencies. Subs are in process of signing.</li> </ul>	<p>FTEs noted under ESG CARES Phase I will be utilized for both phases.</p> <p>5% admin (\$3,232,247)</p>	30 persons	<p>\$64,537,937</p> <p>\$62,636,234 97%</p> <p>\$137,581.53 0.0%</p>	This is the state's share of the second (final) allocation of \$2.96 billion.
Housing Choice Voucher Program Admin	<p>HUD has clarified that expenditure must occur by 6/30/21 (this is an update from a previous noted deadline of 12/31/20). (PIH 2020-08)</p> <p>1<sup>st</sup> Award: \$117,268 2<sup>nd</sup> Award: \$140,871 (8/10/2020)</p>	<ul style="list-style-type: none"> <li>Software upgrades with Housing Pro to allow more efficient remote interface.</li> <li>Landlord incentive payments.</li> <li>Possible damage assistance, PPE expenses, tablets</li> <li>October 2020 Board approved use of funds for retention payments to existing owners to ensure their ongoing participation in the program.</li> </ul>	<p>Received HUD interpretation that using funds for software upgrades are acceptable. \$11,620 was paid for the system purchase.</p>	<p>Purchases of Housing Pro upgrades complete. Training underway. Materials for landlord incentives completed. \$68,827 was offered to 87 households for landlord incentives. \$18,000 offered to 53 households for landlord retention payments.</p>	No added TDHCA staffing.	17 Landlords; 10 new landlord added	<p>\$258,139</p> <p>\$50,216 19.4%</p> <p>\$11,827 (Landlord Payment) 4.6%</p>	\$380M nationally
Housing Choice Voucher Program MVP	<p>12 months of assistance, start date begins whenever we designate with HUD.</p> <p>Orig. Alloc: \$105,034 Supp. Alloc.: \$5,268</p>	<p>15 additional MVP vouchers consistent with our award of MVP, which for us is for the Project Access List.</p> <p>A quarterly supplemental allocation from HUD in the amount of \$5,268 was received on 8/10/2020 to support the 15 vouchers.</p>	None needed.	<p>Received award from HUD. Issued the 15 vouchers on 5/22/20.</p>	<p>No added TDHCA staffing.</p> <p>No added admin funds.</p>	2 families in current leases. 3 families leased total.	<p>\$110,302</p> <p>\$1,275 1.2%</p> <p>\$0 0%</p>	Of the 13 households searching for units, 6 expired. 7 searching. Remaining vouchers reissued.

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
<b>CORONAVIRUS RELIEF BILL – PART OF THE CONSOLIDATED APPROPRIATIONS ACT OF 2021</b>								
Emergency Rental Assistance 1.0 (Texas Rent Relief Program)	Signed by the President on December 27, 2020, the bill, tied to the appropriation bill, dedicated funds through Treasury specifically for rental assistance. Called ERA 1.0.  Must obligate funds by 9/30/21  Expend funds by 9/30/22 (extended by American Rescue Bill)	Program provides up to 15 months of rental and utility assistance including arrears. Households must reapply every 3 months. Program run by the state directly with no subrecipients. 10% of funds may be used for and Housing Stability services. 10% admin expenses allowed. A 10% set-aside of funds for eviction diversion has been established.  Geography: Available statewide. Income Eligibility: For households at or below 80% of AMI.	Treasury has provided periodic updated FAQs as informal guidance – most recently March 26, 2021. As released, policies adjusted.	A vendor to provide the system and staffing of the program was selected in late January. Application acceptance went live on February 15, 2021. Two additional vendors have been contracted to assist with eligibility reviews. A third party vendor to perform quality control and quality assurance services is also being selected.	Positions filled include the Director and 7.5 positions filled. More positions posted.  All FTES are Art. IX  Up to 10% budget for admin (\$130,811,062)	252 Households	\$1,308,110,629  \$512,634,940* 39.19%  \$1,472,384.56 0%	* While not formally obligated, this amount reflects the amount of funds requested in applications received. Those amounts are held for those households temporarily pending approval, represent 81,874 applications.
Low-Income Household Water Assistance Program (LIHWAP)	Part of the appropriation bill; provides dedicated funds through HHS for the Low-Income Household Drinking Water and Wastewater Emergency Assistance Program  Must obligate funds by: TBD  Must expend funds by: TBD	Program provides funds to assist low-income households that pay a high proportion of household income for drinking water and wastewater services, by providing funds to owners/operators of public water and treatment systems to reduce arrearages charged. No guidance from HHS on the program has been issued.  Geography: TBD Income Eligibility: TBD	The governor designated TDHCA as the recipient state agency on March 5, 2021.	HHS is expected to issue guidance on allocation amounts, procedures for state plans, assurances & certifications, and expectations for reporting.	Temporary positions may be needed – it will depend on HHS program design which has not been released yet.  Any FTES will be Art. IX  Admin % not yet known	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$638M Nationally

**AMERICAN RESCUE PLAN**

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
Emergency Rental Assistance 2.0 (Texas Rent Relief Program)	Passed as part of the American Rescue Plan, dedicates funds through Treasury specifically for rental assistance. Section 3201.  As early as March 31, 2022 may reallocate funds to other grantees if not used.  Must expend funds by 9/30/25	Program limits assistance up to 18 month (including any assistance under ERA 1.0) for rental and utility assistance including arrears. Will use the same system of delivery as ERA 1.0. Up to 15% of funds may be used for admin expenses and up to 10% may be used for Housing Stability services.  Geography: Available statewide. Income Eligibility: For households at or below 80% of AMI.	No guidance released to date.	To be determined.	The TRR Director will now include this additional fund in her oversight. 7.5 positions filled.  All FTES are Art. IX  Up to 10% budget for admin (TBD)	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$21.5B nationally. Texas amount not yet available. Unlike ERA 1.0 establishes High Need Grantees to receive a portion of funds. Provides the states an initial 40% of funds within the first 60 days.
Homeless Assistance and Supportive Services Program	Passed as part of the American Rescue Plan, dedicates funds through HUD allowing flexible uses that can include typical HOME activities as well as homeless services and non-congregate shelter. Section 3205.  Must expend funds by 9/30/25	Funds can be used for tenant based rental assistance, development of affordable housing, supportive services, non-congregate emergency shelter, permanent supportive housing, and operating costs for eligible nonprofit organizations.  Geography: TBD Households Eligibility: For homeless, at risk of homelessness, fleeing Domestic Violence, or others with housing instability.	No guidance released to date. We anticipate this will require a Con Plan Amendment to specify planned activities.	Program design to be determined.	Being administered through Single Family and Homelessness Division. Positions to be filled not yet determined.  All FTES are Art. IX  Up to 15% budget for admin and planning (\$XXX)	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$5B nationally. Texas amount not yet available.

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
Homeowner Assistance Fund	Passed as part of the American Rescue Plan, dedicates funds through Treasury specifically for preventing mortgage delinquencies, defaults, foreclosures, loss of utilities and displacement. Section 3206.  Must expend funds by 9/30/25	Program provides mortgage payment assistance, principal reduction, interest rate reduction, utilities including internet and broadband, flood insurance, HOA fees, and utility assistance including arrears. 60% of funds must be for those whose incomes do not exceed the higher of 100% of national median income or 100% Area Median Income.  Geography: Available TBD Income Eligibility: See above.	States must request program funds from Treasury within 45 days of enactment. If not requested, states will not be eligible. No guidance released to date.	Program design to be determined.	TBD TBD positions filled.  All FTES are Art. IX  Up to 10% budget for admin (\$XXX)	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$9.9B nationally. Texas amount not yet available.
LIHEAP Rescue Plan	Passed as part of the American Rescue Plan, dedicates funds through HHS for home energy costs. Section 2911.  Must expend funds by: 9/30/22	Proposed separately on this agenda. To be updated on next month's report.  Geography: Available statewide Income Eligibility: 150% of poverty	Not yet known.	Being presented separately on this Board agenda.	3 Art. IX FTE for CEAP TA/capacity (Filled)  1% admin (\$XXX)	To be determined	\$234M est.  \$0 0%  \$0 0%	\$4.5B nationally.
LIHWAP Rescue Plan	Passed as part of the American Rescue Plan, dedicates funds through HHS for home water costs. Section 2912.  Must obligate funds by: TBD Must expend funds by: TBD	See LIHWAP above. No guidance from HHS on the program has been issued.  Geography: TBD  Income Eligibility: TBD	The governor designated TDHCA as the recipient state agency for the 1 <sup>st</sup> round of funds on March 5, 2021; uncertain whether another designation will be required.	None yet.	Temporary positions may be needed  Any FTES will be Art. IX  Admin % not yet known	0	Amount for Texas TBD  \$0 0%  \$0 0%	\$500M Nationally

Note that the American Rescue Plan may also make available some limited rental assistance to TDHCA as a Public Housing Authority, to be determined.

Note that the American Rescue Plan makes available additional funds nationally for the Fair Housing Initiatives Program, which TDHCA may pursue via the competitive NOFA process.

3b

# ORAL PRESENTATION



4

**BOARD ACTION REQUEST**  
**ASSET MANAGEMENT DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement for Murdeaux Villas (HTC #02469)

**RECOMMENDED ACTION**

**WHEREAS**, Murdeaux Villas formerly known as Sphinx at Murdeaux (the Development) received an award of 4% Housing Tax Credits (HTCs) and bonds in 2003 for the construction of 240 units of multifamily housing in Dallas, Dallas County;

**WHEREAS**, Murdeaux Rehab Development, LP (the Applicant) has submitted an Application for a 4% Housing Tax Credit award in order to acquire the property from the current Development Owner, Murdeaux Villas, L.P. (the Development Owner or Owner), and rehabilitate the Development;

**WHEREAS**, in conjunction with the Application, the Applicant is seeking approval to reconfigure 61 Units (40 three-bedroom/two-bathroom units and 21 four-bedroom/two-bathroom units) into 40 efficiency/one-bathroom units and 82 one-bedroom/one-bathroom units, increasing the total units from 240 to 301;

**WHEREAS**, Board approval is required for a modification of the number of units and bedroom mix as directed in Tex. Gov't Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B), and for a material amendment to the LURA under 10 TAC §10.405(b)((2)(F) because a revision to the number of units is enforceable by a household or other third party under the LURA;

**WHEREAS**, the Applicant has complied with the procedural amendment requirements in 10 TAC §10.405(b) to place this request before the Board, including holding a public hearing; and

**WHEREAS**, the amendment reflecting the reconfiguration will be recorded at the time of Bond closing;

**NOW, therefore, it is hereby**

**RESOLVED**, that the requested material amendment to the original Application and the material LURA amendment for Murdeaux Villas 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 Board’s determination.

**BACKGROUND**

Murdeaux Villas (the Development) received an award of 4% Housing Tax Credits and mortgage revenue bonds in 2003 for the construction of 240 units of multifamily housing in Dallas, Dallas County. The HTC LURA for the Development requires all units to be restricted to households with incomes at or below the 60% Area Median Income (AMI), and under the bond program, rents are restricted at 50% AMI. At the meeting held June 25, 2020, the Board was notified that a pre-Application was received for the acquisition and rehabilitation of the Development. At that time, the pre-Application was placed on the Department’s waiting list to receive a Reservation. The Board was also advised that the Applicant’s proposed rehabilitation included a plan to reconfigure several three- and four-bedroom units and that the change to the unit mix and unit count would require an amendment to the Application and the existing LURA.

On September 15, 2020, Murdeaux Rehab Development, LP (Applicant) submitted the 4% Housing Tax Credit Application (HTC #20617/21614) to acquire and rehabilitate the Development. The Application included a letter dated August 4, 2020, later revised to a letter dated March 19, 2021, from James R. Fisher, the representative for the Applicant, requesting a material amendment to the LURA. The information provided indicates that the Applicant is seeking approval to convert 40 three-bedroom/two-bathroom units and 21 four-bedroom/two-bathroom units, a total of 61 units, into 40 efficiency/one-bathroom units and 82 one-bedroom/one-bathroom units, resulting in an overall increase in the Development’s total number of units from 240 to 301. In addition, in order to meet accessibility requirements for two-bedroom units, one of the existing three-bedroom units will be leased as a two-bedroom unit. It should be noted that the Applicant is not seeking to change the current income and rent restrictions in the existing LURAs.

The following table identifies the requested changes to the unit mix:

<b>Material Alterations as defined in Tex. Gov’t Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B)</b>							
<b>Application</b>				<b>Amendment</b>			
<u># of Units</u>	<u>Unit Type</u>	<u>Unit Size (Sq. Ft.)</u>	<u>NRA</u>	<u># of Units</u>	<u>Unit Type</u>	<u>Unit Size</u>	<u>NRA</u>
0	0BR/1BA	508	-	40	0BR/1BA	508	20,320
0	1BR/1BA	650	-	82	1BR/1BA	650	53,300
32	2BR/2BA	955	30,560	32	2BR/2BA	960	30,720
32	2BR/2BA	990	31,680	32	2BR/2BA	990	31,680
				1*	2BR/2BA	1,158	1,158
128	3BR/2BA	1,158	148,224	87	3BR/2BA	1,158	100,746
<u>48</u>	4BR/2BA	1,300	<u>62,400</u>	<u>27</u>	4BR/2BA	1,300	<u>35,100</u>
240			272,864	301			273,024 s.f.

<b>Material Alterations as defined in Tex. Gov't Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B)</b>	
	*This unit is a 3BR/2BA, but to meet accessibility requirements, it will be leased as a 2BR/2BA unit.

Of the 61 units that are designated to be reconfigured, the Applicant states that, as of the end of February, all necessary three-bedroom/two-bathroom and four-bedroom/two-bathroom units are either vacant or have volunteers to move to make this modernization happen. It is essential to this amendment that there will be no permanent displacement of tenants as a result of this re-configuration of units.

The Applicant states that the reconfiguration is needed because there is not sufficient demand in the area to support the Development's current number of three-bedroom units and four-bedroom units. As a result, the Development has occupancy issues, including over-housing of households, and has been financially unstable for several years. A review of the rent rolls indicates the Development's average occupancy rate for the period between January 2017 and October 2020 is 74.24%. During that time, 37 three-bedroom units and 14 four-bedroom units have been vacant for more than 20 months. In addition, several three and four bedroom units currently and historically have contained households that have insufficient household members to require a three or four bedroom unit. A review of the financial audits from 2017 through 2019 indicates that the Development has also incurred significant losses each year. The 2019 audit notes that the General Partner made a capital contribution to pay off the outstanding balance of \$1,744,275 in Deferred Developer Fee. The audit also indicates that Affiliates of the General Partner have provided loans to fund operating losses and that the loans are only repayable from surplus cash. Therefore, it appears that the rent rolls and audits support that the Development is financially unstable and that there is a high vacancy rate and over-housing in the three- and four-bedroom units. The Applicant also represented, on behalf of the Owner, that the Development is still renting units and has no waitlist. Additionally, the current Owner explained that another one of their properties, Delafield Villas (HTC #04419), which is within a few miles of this property, has a lower number of three-bedroom units and no four-bedroom units and has not had the occupancy issues that Murdeaux Villas has experienced. Staff found no evidence that contradicts the Applicant's claim regarding demand, and it does not appear that the proposed re-configuration will have any impact on current and future households in need of three or four bedroom units. An underwriting review indicates that the Development is expected to be financially feasible with the proposed unit mix.

The Applicant states that there is a purchase agreement between the current Owner and an affiliate of the Applicant. However, closing of the transaction is contingent on approval to reconfigure the units as noted above and represented in the Application. The Applicant states that the good cause for the requested amendment is to avoid the risk of a foreclosure by the lenders and the loss of affordable housing stock. As a critical component of this amendment, a letter from the Department of Housing and Urban Development (HUD), the current lender, specifically approves and endorses the change in the unit mix. HUD is supportive of the redevelopment to preserve the project's long-term affordability and the change in the unit mix

as proposed by the developer, subject to funding of the redevelopment plan by the Department, among other conditions.

The Applicant has complied with the amendment and notification requirements under 10 TAC §10.405(b). A public hearing was held on the matter both virtually and in-person on October 16, 2020. The meeting minutes indicate one resident expressed concern about the Owner's ability to manage a larger number of units, given the previous difficulty in managing the existing units; however, the Applicant explained that the new developer has experience with rehabilitation developments. Other than that, there was no opposition to the proposed amendment from the attendees.

The amendment request letter also states that the parking requirements will be met per the requirements of the City of Dallas.

The modification of the number of units and bedroom mix of units requires approval by the Board under Tex. Gov't Code §2306.6712(d)(2) and 10 TAC §10.405(a)(4)(B).

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

**Murdeaux Rehab, L.P.**  
**Attn: Ryan Hamilton and Bill Fisher**  
**14821 Dallas Parkway, Suite 125**  
**Dallas, TX 75254**  
**214-608-7201 (Bill)**  
**417-882-1701 (Ryan)**  
**214-505-5322 (Jay-SDC)**

Ms. Teresa Morales  
Direct of Multifamily Bond Finance  
TDHCA  
211 E. 11<sup>th</sup> Street  
Austin, TX 77011

March 19, 2021

RE: Request for Material Amendment to the LURA for Murdeaux Villas; TDHCA #02-469; MRB 2003-99

Dear Teresa:

The starting point with this request is based upon a troubled asset workout of this existing affordable development. The property is subject to an Action Plan with HUD, the current lender, who is requiring the sale or refinancing of the debt under threat of foreclosure (note sale). HUD asset management Fort Worth has provided written confirmation of this status. They have also provided to TDHCA a written conditional approval of the redevelopment plans proposed in these applications.

The development has consistently under-performed initial feasibility from start of operations. The property has already been through a HUD PPC process where the first mortgage was split, three years post-closing, into a first lien loan for \$6.5MM requiring debt service monthly and a \$6.0MM cash flow only second lien note. The property was unable to meet debt service early in its operations in this location of South Dallas. The property has never made a single cash flow payment on the second lien note after more than ten years. Principal and accrued interest on the HUD loan is in excess of \$15MM.

The financial performance history speaks to a long history of occupancy in the 70% range. Reflecting large numbers of units un-occupied even though available for lease. The unit mix is not compatible with demand in this market-place. Too many 3/2 and 4/2 units on a site without sufficient capacity and amenities for this many floor plans for large families with children. There is always demand for units in this set aside in our experience. The exception being this kind of heavy skewed units mix that works well only on excel spreadsheets. The current LURA allows for leasing of the units at 50% rents with the income limit at or below 60%. The proposed bond set aside for the redevelopment will provide additional targeting, with 50% of the rental-units income restricted, at or below 50% of area median family income for the DFW MSA. This redevelopment will serve a lower income band than the prior LURA. A core mission of TDHCA enabling legislation.

No resident household will be forced to move off the property nor out of their unit. In fact, the requested approval is wholly conditioned on the covenant of NO permanent relocation in the floor plans proposed to be reconfigured. The requested LURA amendment is to change\ alter the unit mix only, subject to the conditioned listed above.

This redevelopment proposes to alter the unit mix to match market demand and modernize the community to market standards. The proposed amendment is tied to a purchase and sale agreement to be financed with an allocation of 4% credits and tax exempt bonds. This material amendment package submission includes a complete application to TDHCA standards in support of the requested material amendment. In furtherance of the Action Plan

Page Two  
LURA Amendment  
Murdeaux Villas, L.P.

there is a purchase and sale agreement between Hamilton Development Corporation and Murdeaux Villas, LP (Sphinx Development Corporation). The contract is contingent on Hamilton Development, through their affiliate, Murdeaux Rehab, LP, approval to alter and improve the unit mix as proposed in this application. Net rentable area, NRA, square footage, SF, will remain the same. However, the unit count will increase from 240 units to 301 living units. As 3/2 and 4/2 units that cannot be occupied consistently are converted to one bedroom and studio units. The building footprints will not change consistent with a rehab. The result is we serve more households at or below 50% rent in this workout proposal for Murdeaux Villas in a market unit mix for a sustainable development plan.

The parking requirements will decrease from the current unit mix. The parking requirements in Dallas are based upon number of bedrooms. The number of bedrooms decrease with this reconfiguration. A market study to TDHCA standards supports this new unit mix. The study was included in the submission for staff review and consideration.

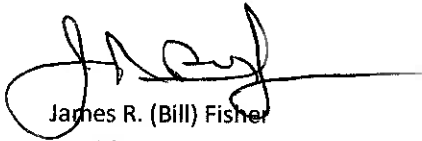
Good cause for the material amendment is preservation of affordable housing at or below 50% of AMFI rent that is at risk of foreclosure and loss of the affordable housing stock. Neither the original Developer, the REA department nor the lenders and investors anticipated the poor financial and occupancy performance from a unit mix with no one bedrooms or studios. Of the 240 total units 73% are 3/2 and 4/2 floorplans. I understand REA is aware these configurations have not performed well in the past. Murdeaux Villas is no exception.

Please see the unit mix detail attached. The redevelopment proposal takes 21 of the existing forty eight 4/2 floor plans and converts them to two one bedrooms (650 SF each). Of the total 3/2 floor plans, the redevelopment proposes to convert 40 to one studio and 1 one bedroom each (508 and 650 SF NRA respectively). Please note, one 3/2 existing ADA unit will also be dedicated as an ADA 2/2 unit at the 2/2 rent to bring the property into compliance with TDHCA requirements in this circumstance. This one ADA will not be reconfigured just dedicated to a 2/2 household at the 2/2 rent in need of a ground floor accessible unit.

On behalf of SDC and Hamilton Development, we request staff's review of the request and affirmative support for Board approval of a material LURA amend to rescue Murdeaux Villas Apartments.

The Sponsor reserves the right to supplement with additional relevant information to the maximum extent allowed by the rules, QAP or Texas law. Your consideration if this request is appreciated.

Sincerely,



James R. (Bill) Fisher  
President-Manager  
Sonoma Housing Advisors, LLC  
Development Consultant

**REDEVELOPMENT UNIT MIX FOR MURDEAUX REHAB, LP**

Rent Designations (select from Drop down menu)					Priority 1a							
HTC Units	MFDL - HOME Units	MFDL - NHTF Units	TDHCA MRB Units	Other/ Subsidy Units	# of Units	# of Bed-rooms	# of Baths	Unit Size (Net Rentable Sq. Ft.)	Total Net Rentable Sq. Ft.	Program Rent Limit	Tenant Paid Utility Allow.	Rent Collected /Unit
					(A)			(B)	(A) x (B)			(E)
TC 50%			MRB 60%		20	0	1.0	508	10,160	755	49	706
TC 50%			MRB 60%		41	1	1.0	650	26,650	808	59	749
TC 50%			MRB 60%		16	2	2.0	960	15,360	970	75	895
TC 50%			MRB 60%		16	2	2.0	990	15,840	970	75	895
TC 50%			MRB 60%		42	3	2.0	1158	48,636	1,120	87	1,033
TC 50%			MRB 60%		13	4	2.0	1300	16,900	1,250	105	1,145
									0			
TC 50%			MRB 60%		2	3	2.0	1158	2,316	1,120	87	1,033
									0			
TC 50%			MRB 50%		20	0	1.0	508	10,160	755	49	706
TC 50%			MRB 50%		41	1	1.0	650	26,650	808	59	749
TC 50%			MRB 50%		16	2	2.0	960	15,360	970	75	895
TC 50%			MRB 50%		16	2	2.0	990	15,840	970	75	895
TC 50%			MRB 50%		43	3	2.0	1158	49,794	1,120	87	1,033
TC 50%			MRB 50%		14	4	2.0	1300	18,200	1,250	105	1,145
									0			
TC 50%			MRB 50%	ADA	1	2	2.0	1158	1,158	970	75	895
									0			



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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**APRIL 8, 2021**

Presentation, discussion, and possible action regarding the Issuance of a Multifamily Note (Murdeaux Villas) Series 2021 Resolution No. 21-024, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for Murdeaux Villas at the Board meeting of June 25, 2020;

**WHEREAS**, an application for Murdeaux Villas requesting 4% Housing Tax Credits, sponsored by GHFC Murdeaux Rehab GP, LLC, and Trinity Housing Development was submitted to the Department on September 15, 2020;

**WHEREAS**, a Certificate of Reservation was issued in the amount of \$35,000,000 on January 28, 2021, with a bond delivery deadline of July 27, 2021;

**WHEREAS**, a material amendment to the existing 4% Housing Tax Credit Land Use Restriction Agreement, adjusting the unit count and mix of the development, was approved on an earlier item on today's board agenda;

**WHEREAS**, in accordance with 10 TAC §1.301(f), 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 approval of the issuance of a Multifamily Note (Series 2021) for Murdeaux Villas and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of an unrated Multifamily Note (Murdeaux Villas) Series 2021 in the amount of \$35,000,000, Resolution No. 21-024, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$2,218,728 in 4% Housing Tax Credits for Murdeaux Villas, 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 Bonds will be issued in accordance with Tex. Gov't Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds 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:* Murdeaux Villas is located at 125 S Murdeaux Lane in Dallas, Dallas County, and proposes the acquisition, rehabilitation, and reconfiguration of 301 units that will continue to serve the general population. The Certificate of Reservation from the Bond Review Board was issued under the Priority 1A designation, which requires that 50% of the units within the development have rents restricted to 50% of Area Median Family Income (AMFI), and 50% of the units have rents restricted to 60% of AMFI. As a result, 151 of the units will be rent and income restricted at 50% of AMFI, and the remaining 150 units will be rent and income restricted at 60% of AMFI by the Bond LURA. All units will be rent and income restricted to 50% AMFI by the HTC LURA. These restrictions comply with the underlying restrictions currently imposed by the existing 4% HTC LURA. Moreover, existing households that were income eligible under the initial allocation of credits are considered eligible under the new allocation of credits. Existing households with incomes above 50% remain qualified for the new allocation of credits and bonds. The existing HTC and Bond LURAs will be amended to reflect the new unit mix and unit count, as applicable.

*Organizational Structure and Previous Participation:* The Borrower is Murdeaux Rehab Development, 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:* In light of COVID-19 and the inability for an in-person TEFRA hearing to be held, staff conducted a telephonic hearing, in accordance with IRS guidance, for the proposed development on November 30, 2020. Representatives from the Department and the Developer were present on the call, and no public comment was made. A copy of the hearing transcript is included herein. The Department has received no letters of support or opposition or the proposed development.

### **Summary of Financial Structure**

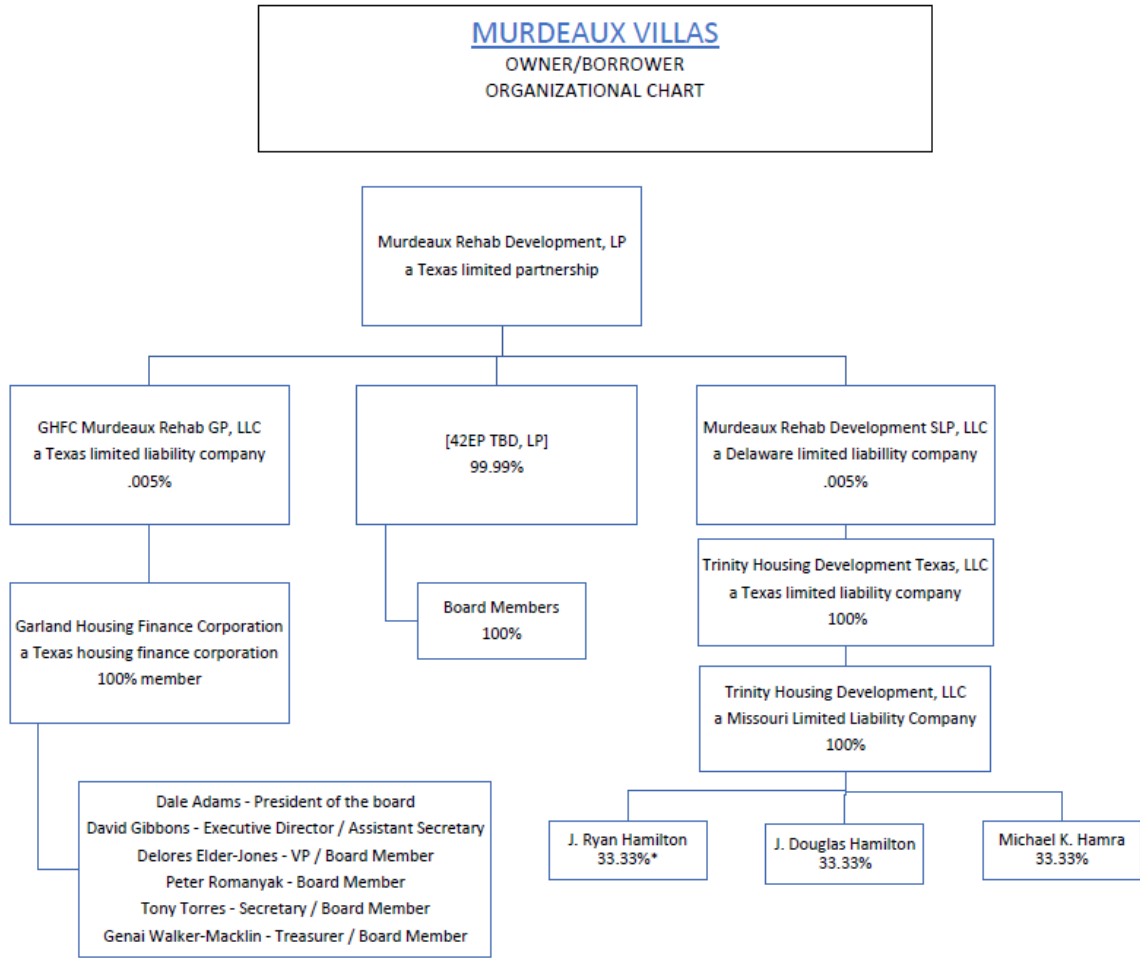
Under the proposed structure, the Department will issue an unrated tax-exempt variable rate note in the amount of \$35,000,000 that will be purchased by IBC Bank, the construction lender. IBC Bank will acquire the loan and the Department's related multifamily note at closing which will be used to fund a tax-exempt, interim construction loan of up to \$35,000,000 that will carry an interest rate equal to the

greater of either 4.75%, or the sum of the rate of interest announced by JP Morgan Chase & Co. as its prime rate on the date of calculation, plus 1.5%.

Once the conditions to conversion to the permanent loan have been met, Bellwether Enterprise Real Estate Capital, LLC will purchase the loan from IBC Bank under Freddie Mac's Delegated Underwriting for Targeted Affordable Housing program. In accordance with Freddie Mac's underwriting, it is anticipated that the Bellwether permanent loan will be downsized from the original note principal amount of \$35,000,000 to approximately \$27,500,000 to ensure feasibility. Shortly thereafter, Freddie Mac will acquire the loan and the note from Bellwether, where it is expected to be securitized with other loans. Bellwether will remain as the servicer of the loan for Freddie Mac, who will be the permanent lender and noteholder. The multifamily note will carry an interest rate of approximately 4.43%, which will be fixed prior to closing in accordance with the note resolution included herein. The term of the note will be 17 years with a 40 year amortization, and a final maturity date of November 1, 2040.

A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 21-024 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. 21-024

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY NOTE (MURDEAUX VILLAS), SERIES 2021; 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 Note designated Texas Department of Housing and Community Affairs Multifamily Note (Murdeaux Villas), Series 2021 (the "Governmental Note") pursuant to and in accordance with the terms of a Funding Loan Agreement (the "Funding Loan Agreement") among the Department, Wilmington Trust, National Association, as fiscal agent (the "Fiscal Agent"), and International Bank of Commerce, a Texas state banking corporation, as initial funding lender (the "Initial Funding Lender"), for the purpose of providing funds in connection with the financing 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 Governmental Note to fund a mortgage loan to Murdeaux Rehab Development, LP, a Texas limited partnership (the

“Borrower”), in connection with the cost of acquisition, rehabilitation and equipping of a qualified residential rental development 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 June 25, 2020, 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, the Borrower and the Fiscal Agent will execute and deliver a Project Loan Agreement (the “Project Loan Agreement”) pursuant to which (i) the Department will agree to make a mortgage loan funded with the proceeds of the Governmental Note (the “Project Loan”) to the Borrower to enable the Borrower to finance the acquisition, rehabilitation and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a project note (the “Project Note”) in an original principal amount equal to the original aggregate principal amount of the Governmental Note, and providing for payment of interest on such principal amount equal to the interest on the Governmental Note and to pay other costs described in the Project Loan Agreement; and

WHEREAS, it is anticipated that the Project Note will be secured by a Leasehold Multifamily Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the “Security Instrument”) from the Borrower for the benefit of the Department and assigned to the Fiscal Agent; and

WHEREAS, the Department’s rights (except for certain unassigned rights) under the Project Loan Agreement, the Project Note and the Security Instrument will be assigned to the Fiscal Agent pursuant to an Assignment of Security Instrument (the “Assignment”) from the Department to the Fiscal Agent; 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 Fiscal Agent and the Borrower will execute a Tax Exemption Certificate and Agreement (the “Tax Exemption Agreement”), in connection with the Governmental Note, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Governmental Note as exempt from gross income for federal income tax purposes; and

WHEREAS, the Board has determined that the Department, the Fiscal Agent, Garland Housing Finance Corporation, a Texas housing finance corporation, as fee owner (the “Fee Owner”), 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 Dallas County, Texas; and

WHEREAS, the Board has further determined that the Initial Funding Lender will purchase the Governmental Note from the Department; and

WHEREAS, upon completion of certain conditions it is expected that the Federal Home Loan Mortgage Corporation (“Freddie Mac”) and its seller/servicer will facilitate the financing of the Development in the permanent phase by acquiring the Governmental Note and in connection with the conversion to the permanent phase the Borrower will execute and deliver the Amended and Restated Project Note (the “Amended Project Note”); and

WHEREAS, the Department has previously issued its Multifamily Housing Revenue Bonds (GNMA Collateralized Mortgage Loan-Sphinx at Murdeaux) Series 2003A and Multifamily Housing Revenue Bonds (GNMA Collateralized Mortgage Loan-Sphinx at Murdeaux) Taxable Series 2003B (collectively, the “Prior Bonds”) pursuant to that certain Trust Indenture dated as of December 1, 2003, between the Department and Wells Fargo Bank Texas, N.A., as trustee (the “Prior Trustee”); and

WHEREAS, in connection with the issuance of the Prior Bonds, the Department, Murdeaux Villas, L.P., a Texas limited partnership, as owner (the “Prior Owner”) and the Prior Trustee entered into that certain Regulatory and Land Use Restriction Agreement dated as of May 1, 2003, relating to the Development and recorded in the Official Public Records of Real Property of Dallas County, Texas, under document number 2332054 (the “Prior LURA”); and

WHEREAS, the Prior Bonds have previously been paid in full and are no longer outstanding; and

WHEREAS, pursuant to Section 10 of the Prior LURA, the Borrower’s acquisition of the Development requires the prior written consent of the Department; and

WHEREAS, the Department has determined to execute an Assignment, Assumption, Consent and Modification Agreement (the “Assumption Agreement”) with the Prior Owner, the Fee Owner and the Borrower, pursuant to which, subject to the Borrower’s agreement to assume and perform the obligations of the Prior Owner under the Prior LURA, the Department will (a) consent to the Borrower’s acquisition of the Development and (b) agree to modify certain of the restrictions in the Prior LURA, including but not limited to the unit mix; and

WHEREAS, the Board has examined proposed forms of (a) the Funding Loan Agreement, the Project Loan Agreement, the Regulatory Agreement, the Assignment, the Tax Exemption Agreement and the Assumption Agreement (collectively, the “Issuer Documents”), all of which are attached to and comprise a part of this Resolution and (b) the Security Instrument, the Project 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 Governmental Note, the execution and delivery of the Issuer Documents, the acceptance of the Security Instrument and the Project 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 GOVERNMENTAL NOTE; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Governmental Note. That the issuance of the Governmental Note is hereby authorized pursuant to the Act, including particularly Section 2306.353 thereof, all under and in accordance with the conditions set forth herein and in the Funding Loan Agreement, and that, upon execution and delivery of the Funding Loan Agreement, 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 Governmental Note and to deliver the Governmental Note to the Attorney General of the State (the "Attorney General") for approval, the Comptroller of Public Accounts of the State for registration and the Fiscal Agent for authentication (to the extent required in the Funding Loan Agreement), and thereafter to deliver the Governmental Note to or upon the order of the Initial Funding Lender.

Section 1.2 Interest Rate, Principal Amount, Maturity and Price. That (a) the Governmental Note shall bear interest during the Construction Phase at the Construction Phase Interest Rate (each term as defined in the Funding Loan Agreement) and during the Permanent Phase at a Permanent Phase Interest Rate (each term as defined in the Funding Loan Agreement) of a fixed rate per annum, which rate shall be determined at least six (6) business days prior to the delivery of the Governmental Note, and shall be equal to the sum of (i) 2.82% and (ii) the greater of (A) the 10-year US Treasury Security on the date of determination, or (B) 0.83%, subject to adjustment as provided in the Funding Loan Agreement; provided that, in no event shall the interest rate (including any default rate) on the Governmental Note exceed the maximum interest rate permitted by applicable law; (b) the aggregate principal amount of the Governmental Note shall be \$35,000,000; (c) the final maturity of the Governmental Note shall occur on November 1, 2040; and (d) the price at which the Governmental Note is sold to the Purchaser shall be the principal amount thereof.

Section 1.3 Approval, Execution and Delivery of the Funding Loan Agreement. That the form and substance of the Funding Loan Agreement are hereby approved, and that the Authorized Representatives are each hereby authorized to execute the Funding Loan Agreement, and to deliver the Funding Loan Agreement to the Fiscal Agent and the Initial Funding Lender.

Section 1.4 Approval, Execution and Delivery of the Project Loan Agreement. That the form and substance of the Project Loan Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Project Loan Agreement, and to deliver the Project Loan Agreement to the Borrower and the Fiscal Agent.

Section 1.5 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 are each hereby authorized to execute the Tax Exemption Agreement and to deliver the Tax Exemption Agreement to the Borrower and the Fiscal Agent.

Section 1.6 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 the Regulatory Agreement, and to deliver the Regulatory Agreement to the Borrower, the Fee Owner and the Fiscal Agent and to cause the Regulatory Agreement to be filed of record in the real property records of Dallas County, Texas.

Section 1.7 Approval, Execution and Delivery of the Assumption Agreement. That the form and substance of the Assumption Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Assumption Agreement, and to deliver the Assumption Agreement to the Borrower, the Fee Owner and the Prior Owner and to cause the Assumption Agreement to be filed of record in the real property records of Dallas County, Texas.

Section 1.8 Sale of the Governmental Note. That the sale of the Governmental Note to the Initial Funding Lender is hereby authorized and approved.

Section 1.9 Acceptance of the Project Note, the Amended Project Note, and the Security Instrument. That the form and substance of the Project Note, the Amended Project Note, and the Security Instrument are hereby accepted by the Department and that the Authorized Representatives each are hereby authorized to endorse and deliver the Project Note to the order of the Fiscal Agent without recourse.

Section 1.10 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 Fiscal Agent and to cause the Assignment to be filed of record in the real property records of Dallas County, Texas.

Section 1.11 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 1.12 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 1.13 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 - Funding Loan Agreement
- Exhibit C - Project Loan Agreement
- Exhibit D - Regulatory Agreement
- Exhibit E - Project Note
- Exhibit F - Security Instrument
- Exhibit G - Amended Project Note
- Exhibit H - Assignment
- Exhibit I - Tax Exemption Agreement
- Exhibit J - Assumption Agreement

Section 1.14 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 Governmental Note 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 Governmental Note.

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 Governmental Note and all other Department activities.

Section 2.4 Authority to Invest Proceeds. That the Department is authorized to invest and reinvest the proceeds of the Governmental Note and the fees and revenues to be received in connection with the financing of the Development in accordance with the Funding Loan Agreement and to enter into any agreements relating thereto only to the extent permitted by the Funding Loan Agreement.

Section 2.5 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 requirements of Bond Counsel, provided such engagement is done in accordance with applicable law of the State.

Section 2.6 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 Governmental Note 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 by the Department, 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 Project 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 Project Loan Agreement, the Regulatory Agreement and the Tax Exemption Agreement, which require, among other things, that 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 Governmental Note to finance 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 the 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

Project Loan established pursuant to the Project 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 Governmental Note and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Governmental Note.

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 Governmental Note in the secondary open market for municipal securities.

#### ARTICLE 4

##### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Governmental Note and the interest thereon shall be special limited obligations of the Department payable solely from the trust estate created under the Funding Loan Agreement, including the revenues and funds of the Department pledged under the Funding Loan Agreement to secure payment of the Governmental Note, and under no circumstances shall the Governmental Note be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Governmental Note 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. The Governmental 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 §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 8th day of April, 2021.

**EXHIBIT A**

**Description of Development**

Borrower: Murdeaux Rehab Development, LP, a Texas limited partnership

Development: The Development is a 301-unit affordable multifamily community known as Murdeaux Villas, to be located at 125 S Murdeaux Ln, Dallas, Dallas County, Texas 75217. It consists of fourteen (14) residential apartment buildings and a clubhouse with approximately 273,024 net rentable square feet. The unit mix will consist of:

40	studio units
82	one-bedroom/one-bath units
65	two-bedroom/two-bath units
87 *	three-bedroom/two-bath units
27	four-bedroom/two-bath units
<hr/>	
301	Total Units

Unit sizes will range from approximately 508 square feet to approximately 1,300 square feet.

\*One of the existing 3BR/2BA units will not be reconfigured, but will be designated as a two-bedroom unit and will be offered at the two-bedroom rent to households with a need for an accessible two-bedroom unit.

# 21614 Murdeaux Villas - Application Summary

REAL ESTATE ANALYSIS DIVISION  
March 31, 2021

PROPERTY IDENTIFICATION	
Application #	21614
Development	Murdeaux Villas
City / County	Dallas / Dallas
Region/Area	3 / Urban
Population	General
Set-Aside	General
Activity	Acquisition/Rehab (Built in 2004)

RECOMMENDATION					
TDHCA Program	Request	Recommended			
LIHTC (4% Credit)	\$2,238,085	\$2,218,728	\$7,371/Unit	\$0.85	
Private Activity Bonds	\$35,000,000	4.55%	40	17	

KEY PRINCIPALS / SPONSOR		
Trinity Housing Development J Ryan Hamilton Douglas Hamilton		
Garland Housing Finance Corp		
Related Parties	Contractor - Yes	Seller - No

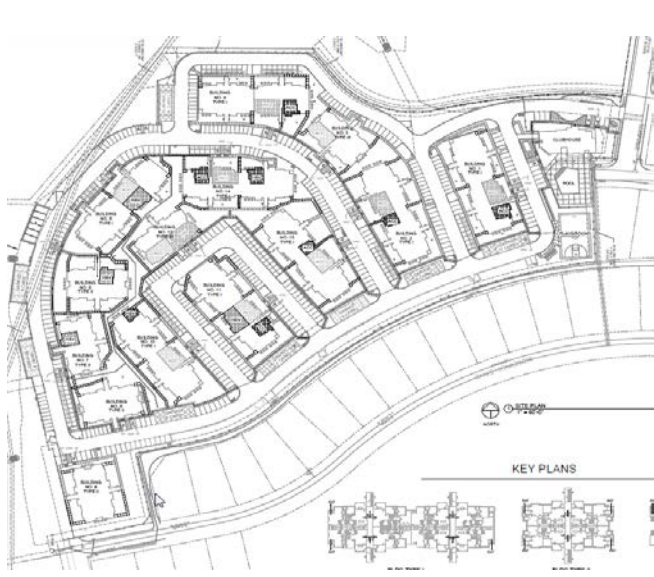
## TYPICAL BUILDING ELEVATION/PHOTO



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	40	13%	30%	-	0%
1	82	27%	40%	-	0%
2	65	22%	50%	301	100%
3	87	29%	60%	-	0%
4	27	9%	MR	-	0%
<b>TOTAL</b>	<b>301</b>	<b>100%</b>	<b>TOTAL</b>	<b>301</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS					
Pro Forma Underwritten			Applicant's Pro Forma		
Debt Coverage	1.15	Expense Ratio	42.5%		
Breakeven Occ.	85.4%	Breakeven Rent	\$823		
Average Rent	\$892	B/E Rent Margin	\$70		
Property Taxes	Exempt	Exemption/PILOT	100%		
Total Expense	\$4,300/unit	Controllable	\$2,943/unit		

## SITE PLAN



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)	6.65%		
Highest Unit Capture Rate	42%	1 BR/50%	82
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on SCR	
Avg. Unit Size	907 SF	Density	16.7/acre
Acquisition	\$59K/unit	Building Cost	\$17,620K
Building Cost	\$52.14/SF	Hard Cost	\$14,235K
Hard Cost	\$60K/unit	Total Cost	\$17,974K
Total Cost	\$171K/unit	Developer Fee	\$51,409K
Developer Fee	\$6,094K (77% Deferred)	Contractor Fee	Paid Year: 13
Contractor Fee	\$2,501K	30% Boost	Yes

REHABILITATION COSTS / UNIT					
Site Work	\$4K	6%	Finishes/Fixtures	\$17K	28%
Building Shell	\$24K	41%	Amenities	\$3K	6%
HVAC	\$3K	6%	Total Exterior	\$31K	58%
Appliances	\$3K	5%	Total Interior	\$23K	42%



DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Bellweather Enterprise	17/40	4.55%	\$27,500,000	1.15	Cash flow from Occupied units	0/0	0.00%	\$350,000	1.15	42 Equity Partners	\$18,860,229
										Hamilton Development Corporation	\$4,699,052
<b>TOTAL DEBT (Must Pay)</b>			<b>\$27,500,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$350,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$23,559,281</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$27,850,000</b>
										<b>TOTAL CAPITALIZATION</b>	<b>\$51,409,281</b>

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
  - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as recommended.
- 2 Receipt and acceptance by Cost Certification:
  - a: Certification that an ongoing Mold and Moisture Minimization Plan has been implemented.

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

BOND RESERVATION / ISSUER		AERIAL PHOTOGRAPH(S)
Issuer	TDHCA	
Expiration Date	7/27/2021	
Bond Amount	\$35,000,000	
BRB Priority	1A	
Bond Structure	Freddie Mac Tax-Exempt Loan	
% Financed with Tax-Exempt Bonds	82.1%	
RISK PROFILE		
STRENGTHS/MITIGATING FACTORS		
<ul style="list-style-type: none"> <li>▫ Overall Feasibility Indicators</li> <li>▫ Low gross capture rate of new unit mix.</li> <li>▫ 10% Contingency</li> <li>▫ Developer Experience</li> </ul>		
WEAKNESSES/RISKS		
<ul style="list-style-type: none"> <li>▫ Feasibility dependent on tax exemption</li> <li>▫ Low historical occupancy of large units</li> </ul>		



**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 21614 Program(s): TDHCA Bonds/4% HTC

Murdeaux Villas

Address/Location: 125 S Murdeaux Ln

City: Dallas County: Dallas Zip: 75217

Population: General Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Garden (Up to 4-story) Region: 3

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	\$35,000,000	4.55%	35	17	\$35,000,000	4.55%	40	17	0
LIHTC (4% Credit)	\$2,238,085				\$2,218,728				

Staff recommends Board approval of a waiver of the following rule:

- a) 11.304(a)(2) - requiring Appraisals to be reviewed in accordance with USPAP Standard 3 and Standard 4, by a review appraiser as selected by the Department from an approved list of review appraisers.

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
    - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as recommended.
  - 2 Receipt and acceptance by Cost Certification:
    - a: Certification that an ongoing Mold and Moisture Minimization Plan has been implemented.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	50% of AMI	301

## DEVELOPMENT SUMMARY

Murdeaux Villas Apartments is an existing affordable housing development in year 16 of the HTC LURA, and is an attempted workout of a troubled asset in jeopardy of being foreclosed by the current lender.

The proposed amendment is tied to a purchase and sale agreement to be financed with an allocation of 4% credits and tax exempt bonds. NRA SF will remain the same, but the unit count will increase. Three and four-bedroom units with a history of low occupancy will be converted to one bedroom and studio units. The number of affordable units will increase from the current 240 units to 301 units. The building footprints will not change consistent with a rehabilitation.

The existing LURA restricts rents at 50% AMI and incomes at 60% AMI. The new HTC LURA will restrict all units at 50% AMI rent and income. The bond priority for the proposed transaction requires the new bond LURA to restrict half the units at 50% AMI rent and income, and half the units at 60% AMI rent and income. For the HTC program, existing households that were income eligible under the initial allocation of credits, are considered eligible under the new allocation of credits.

## RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Overall Feasibility Indicators
▫	Low gross capture rate of new unit mix.
▫	10% Contingency
▫	Developer Experience

WEAKNESSES/RISKS	
▫	Feasibility dependent on tax exemption
▫	Low historical occupancy of large units
▫	
▫	

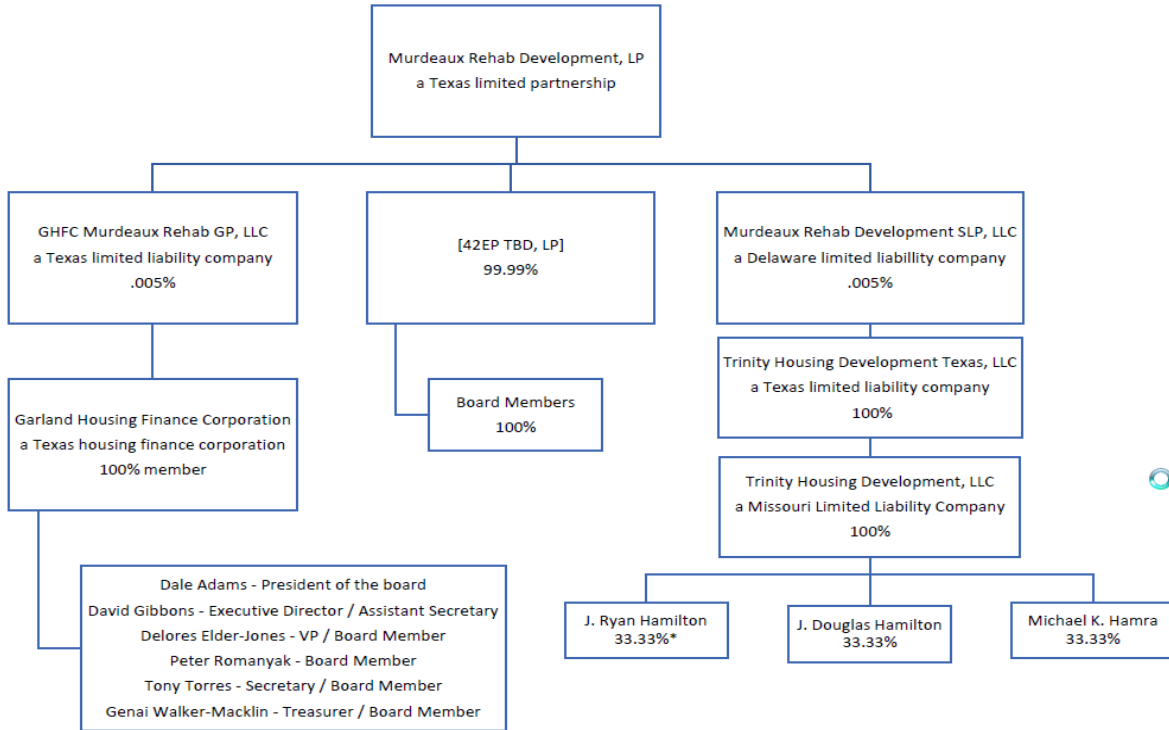
**DEVELOPMENT TEAM**

**PRIMARY CONTACTS**

Name: J. Ryan Hamilton  
 Phone: (417) 882-1701  
 Relationship: Principle

Name: Douglas Hamilton  
 Phone: -  
 Relationship: Principle

**OWNERSHIP STRUCTURE**

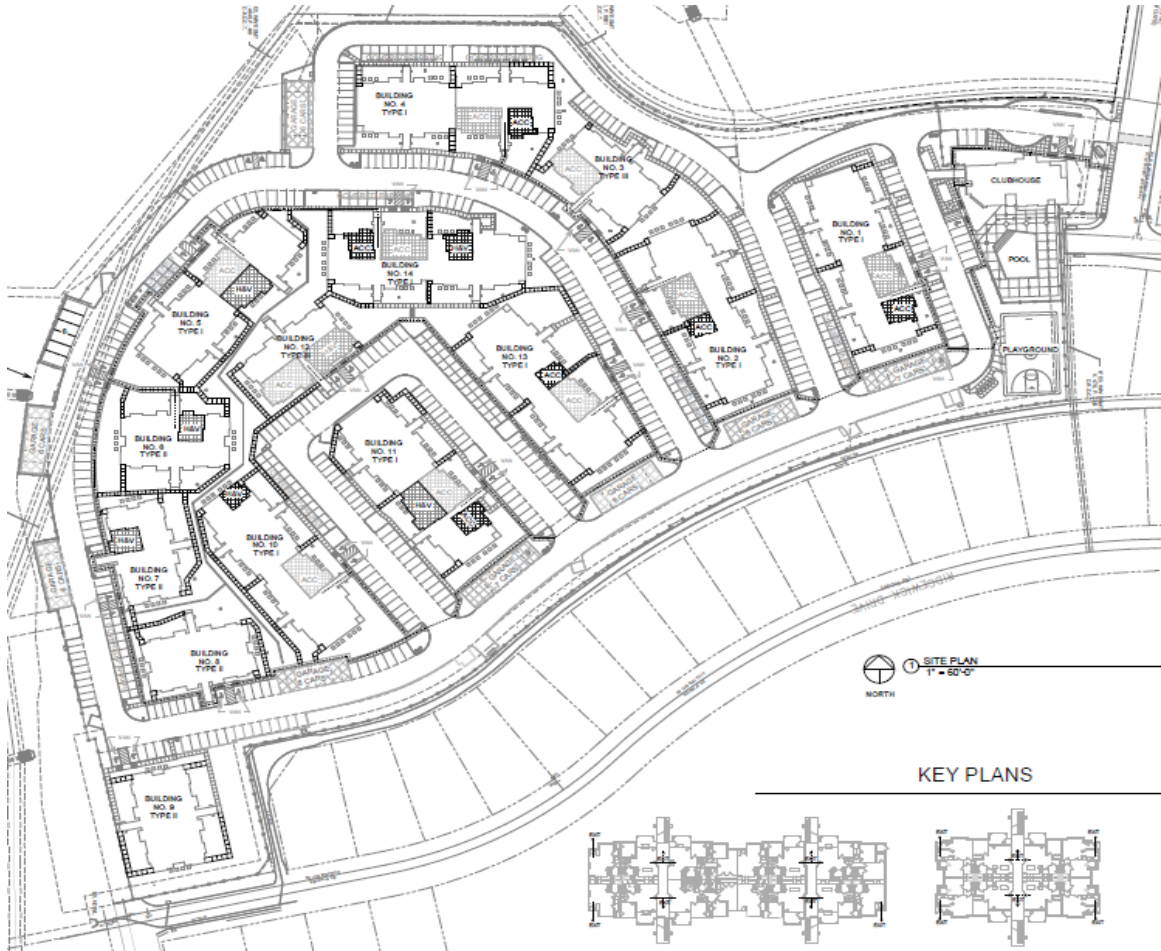


- Garland Housing Finance Corp is the Sole Member of the GP. GHFC participation will facilitate a 100% property tax exemption.

Trinity Housing Development Texas, LLC, a subsidiary of Hamilton Development Corp., has completed or is in the process of developing 12 Texas HTC properties over the past 6 years.

# DEVELOPMENT SUMMARY

## SITE PLAN

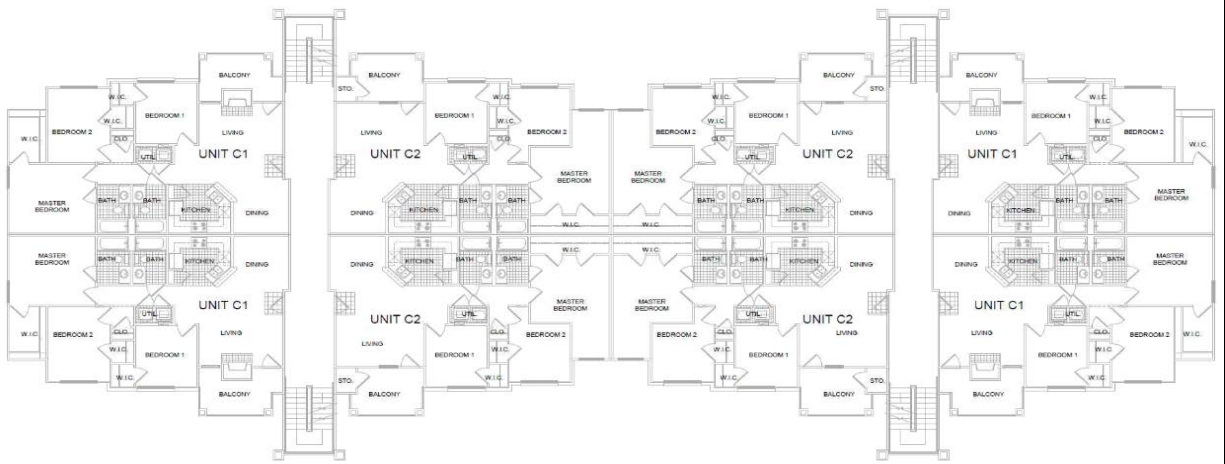


### Comments:

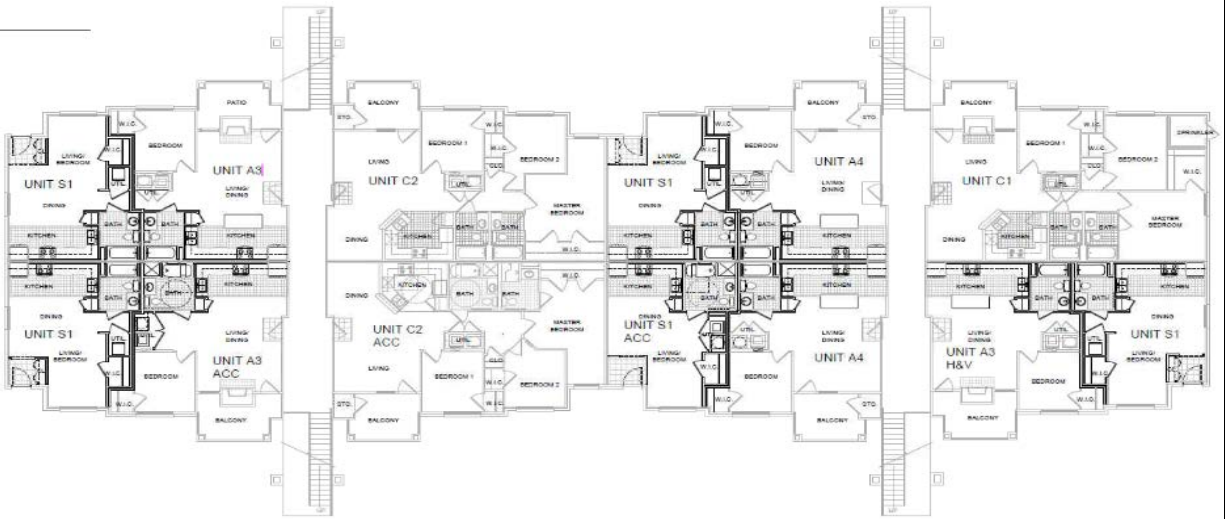
Existing 468 parking spaces consist of 324 standard spaces, 32 van accessible spaces, 62 carports and 50 garage spaces. The Applicant reports that the City has determined the development is compliant with the 460 spaces originally approved for Murdeaux because no space is being added to or subtracted from any buildings. The City has approved the plan submitted and the development is permit ready.

The OAP requires that the minimum parking required by local code must be available free of charge to the tenants. Since City approval is based on 460 spaces, no more than eight of the garages or carports can be rented for a fee.

### BUILDING PLAN (Existing)



### BUILDING PLAN (Post-Rehab)



#### Comments:

The existing unit mix does not include any efficiency or one-bedroom units. Forty existing 3-bedroom units and twenty-one existing 4-bedroom units will be reconfigured into forty efficiency units and eighty-two one-bedroom units. One existing accessible three-bedroom unit will not be reconfigured, but will be designated as a two-bedroom unit and will be offered at the two-bedroom rent to households with a need for an accessible two-bedroom unit.

**BUILDING ELEVATION**



**Comments:**

Two- and three-story, walk-up garden style buildings. Two(2), three (3) and four (4) bedroom units are all non-rectangular. Re-configuration of units will be accomplished within the existing building footprint maintaining significant building articulation. Exteriors are masonry, stucco, and fiber cement. Ceiling height is 8 feet typical of this era construction.

**BUILDING CONFIGURATION**

Building Type	TYPE I	TYPE II	TYPE II											Total Buildings
Floors/Stories	3	2	2											14
Number of Bldgs	8	4	2											14
Units per Bldg	29	12	11											
<b>Total Units</b>	<b>231</b>	<b>48</b>	<b>22</b>											<b>301</b>
<b>Avg. Unit Size (SF)</b>	<b>907 sf</b>			<b>Total NRA (SF)</b>		<b>273,024</b>		<b>Common Area (SF)*</b>			<b>4,718</b>			

\*Common Area Square Footage as specified on Architect Certification

**SITE CONTROL INFO**

**Site Acreage:** Development Site: 18.04 acres      Density: 16.7 units/acre  
**Site Control:** 18.04      **Site Plan:** 18.04      **Appraisal:** 18.04      **ESA:** 18.04

Control Type: Purchase Agreement      Contract Expiration: 5/1/2021

Tract 1: 18.038 acres      Seller: Murdeaux Villas, LP  
 Tract 2: 3.678 acres      Seller: Murdeaux Villas, LP

Total Acquisition: 21.72 acres      Cost: \$17,750,000  
 Development Site: 18.04 acres      Cost: \$17,470,000      \$58,040 per unit

Seller: Murdeaux Villas, LP  
 Buyer: Trinity Housing Development, LLC

Related-Party Seller/Identity of Interest: No

**Comments:**

The existing Development Site is 18.038 acres. The Purchase Agreement also includes an adjacent 3.68-acre unimproved tract that will not be included as part of the post-rehabilitation Development Site. The Acquisition Cost for the proposed transaction is adjusted by the appraised value of the additional tract.

**APPRAISED VALUE**

Appraiser: <u>BBG, Inc.</u>	Date: <u>11/11/2020</u>	
Land as Vacant: 18.04 acres	\$1,200,000	Per Unit: \$3,987
Existing Buildings: (as-is)	\$16,500,000	Per Unit: \$54,817
<b>Total Development: (as-is)</b>	<b>\$17,700,000</b>	Per Unit: <b>\$58,804</b>

Comments:

The 2021 QAP requires the appraisal to be reviewed in accordance with USPAP Standards. Staff is recommending a waiver of this rule. At the time of this underwriting, the process to implement this requirement is not yet in place. Until a process is established and a list of approved review appraisers has been identified, REA Staff will continue to review application appraisals to insure compliance with the QAP.

**SITE INFORMATION**

Flood Zone: <u>X / AE</u>	Scattered Site? <u>No</u>
Zoning: <u>MF-1(A)</u>	Within 100-yr floodplain? <u>No</u>
Re-Zoning Required? <u>No</u>	Utilities at Site? <u>Yes</u>
Year Constructed: <u>2004</u>	Title Issues? <u>No</u>

Current Uses of Subject Site:

Subject development

Surrounding Uses:

North: Vacant land / multifamily / single family residential  
 East: single family residential / retail / church  
 South: Vacant land / single family residential  
 West: Vacant land / multifamily / SFR

Other Observations:

All improvements are located outside the floodplain. An undeveloped portion on the west side and northwest corner of the site is located in floodzone AE.

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: <u>Partner Engineering and Science, Inc.</u>	Date: <u>2/14/2020</u>
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Recognized Environmental Conditions (RECs) and Other Concerns:

- None.

Comments:

Property management reported four down apartment units at the time of the site reconnaissance. The down units were in various stages of construction with large areas of water damage including deteriorated/missing drywall, damaged/missing flooring, etc. evident in each unit. Areas of minor suspect microbial growth were noted in the four down apartment units. Partner recommends, that a Mold, Moisture & Minimization Plan be implemented at the subject property.



**MARKET ANALYSIS**

Provider: Affordable Housing Analysts Date: 7/27/2020  
 Contact: Bob Coe Phone: 281-387-7552

Market Analyst calculates a Gross Capture Rate of 6.65%, which is below the 10% maximum. Underwriter reviewed the market study for compliance.  
 Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. Since the subject renovations will be a rolling rehab, occupancy will remain at, or close to, stabilized and absorption will not take place in the traditional sense.

**OPERATING PRO FORMA**

**SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)**

NOI:	\$1,754,323	Avg. Rent:	\$892	Expense Ratio:	42.5%
Debt Service:	\$1,521,680	B/E Rent:	\$823	Controllable Expenses:	\$2,943
Net Cash Flow:	\$232,643	UW Occupancy:	92.5%	Property Taxes/Unit:	\$0
Aggregate DCR:	1.15	B/E Occupancy:	85.4%	Program Rent Year:	2020

All units underwritten at maximum HTC 50% Rents.

Underwriter's estimates for operating expenses primarily based on the actual expenses.

Applicant anticipates a full property tax exemption facilitated by ground lease of the site from the GP, an affiliate of the Garland Housing Finance Corp. Without the tax exemption, debt coverage would drop to 0.87 times and the development would be infeasible.

Applicant's \$1,800 franchise tax expense excluded by Underwriter because it is treated as a partnership expense rather than an operating expense of the property.

Annual deposit for Replacement Reserve \$350 per unit as specified by equity provider.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule: 6

Revisions to Annual Operating Expenses: 6

**DEVELOPMENT COST EVALUATION**

**SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)**

Acquisition	\$66,526/ac	\$58,538/unit	\$17,620,000	Contractor Fee	\$2,500,806
Off-site + Site Work		\$7,027/unit	\$2,115,150	Soft Cost + Financing	\$6,371,250
Building Cost	\$52.14/sf	\$47,291/unit	\$14,234,675	Developer Fee	\$6,093,500
Contingency	9.93%	\$5,395/unit	\$1,623,900	Reserves	\$850,000
<b>Total Development Cost</b>	\$170,795/unit	<b>\$51,409,281</b>		<b>Rehabilitation Cost</b>	<b>\$54,318/unit</b>

<b>Qualified for 30% Basis Boost?</b>	Located in OCT with < 20% HTC units/HH
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**Acquisition:**

Total Purchase Price is \$17,750,000 for the subject and an additional 3.678-acre adjacent site. Cost stated in the Development Cost Schedule excludes the \$280,000 appraised value for the additional tract.

\$1,200,000 is allocated to the subject site land, and \$16,270,000 allocated to eligible building cost.

**Site Work:**

Underwriter's Site Work costs from applicant's Scope and Cost Review.

**Building Cost:**

Report costs full replacement of most systems as determined by the SCR provider and the project architect.

42% of Hard Cost budgeted for unit interior improvements will directly impact resident experience.

**REHABILITATION COSTS / UNIT - % HARD COST**

Site Work	\$1,062,250	\$3,529/unit	6%	Finishes/Fixtures	\$4,979,000	\$16,542/unit	28%
Building Shell	\$7,352,475	\$24,427/unit	41%	HVAC	\$997,200	\$3,313/unit	6%
Amenities	\$1,052,900	\$3,498/unit	6%	Appliances	\$906,000	\$3,010/unit	5%
<b>Total Exterior</b>	<b>\$9,467,625</b>	<b>\$31,454/unit</b>	<b>58%</b>	<b>Total Interior</b>	<b>\$6,882,200</b>	<b>\$22,864/unit</b>	<b>42%</b>

**SCOPE & COST REVIEW**

Provider: Dan Burbine and Associates Date: 10/15/2020

**Contingency:**

Eligible Contingency Cost is limited to 10% of eligible Hard Cost. The Applicant overstated eligible contingency by \$30,000.

**Contractor Fee:**

Eligible Contractor Fees are limited to 14% of eligible Hard Cost plus Contingency. The Applicant overstated eligible contractor fees by \$46,200.

**Soft Costs:**

\$1,010/unit toward Architecture & Engineering, along with \$911/unit for Building Permits / Impact Fees.

\$500K set aside for temporary relocation of tenants during the rehabilitation.

**Developer Fee:**

Applicant included \$6.1M Total Developer Fee with rehabilitation cost. Underwriter re-allocated \$2.4M as acquisition cost. The acquisition portion does not receive the 30% basis boost, reducing the credit recommendation.

**Comments:**

All TDHCA Costs were provided by the independent Scope and Cost Review.

**Credit Allocation Supported by Costs:**

<b>Total Development Cost</b>	<b>Adjusted Eligible Cost</b>	<b>Credit Allocation Supported by Eligible Basis</b>
\$51,409,281	\$46,984,582	\$2,218,728

Related-Party Contractor: Yes

Related-Party Cost Estimator: Yes

Revisions to Development Cost Schedule: 3

## UNDERWRITTEN CAPITALIZATION

### BOND RESERVATION

Issuer	Amount	Reservation Date	Priority
Texas Dept of Housing and Community Affairs	\$35,000,000	1/28/2021	1A
Closing Deadline		Bond Structure	
7/27/2021		Freddie Mac Tax-Exempt Loan	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>82.1%</b>
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**Comments:**

TDHCA will issue a \$35,000,000 of Tax Exempt Bonds and will impose a 0.10% annual Bond Issuer Fee on the outstanding balance throughout the 40-year term.

Tax exempt bonds will finance 82% of the aggregate basis of the project, exceeding the 50% required to qualify for 4% housing tax credits.

### INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
IBC Bank	Tax Exempt Loan	\$35,000,000	4.75%	68%
42 Equity Partners	HTC	\$10,843,520	\$0.85	21%
Hamilton Development Corporation	Deferred Developer Fee	\$4,564,936		9%
Cash flow from Occupied units	Continuing Operations	\$190,000		0%
		<b>\$51,298,456</b>	<b>Total Sources</b>	

**Comments:**

IBC Bank will provide \$35,000,000 interim construction loan at 4.75% interest. At conversion to permanent financing, \$7,500,000 of the bonds will be redeemed, leaving \$27,500,000 in permanent debt.

### PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Bellwether Enterprise	\$27,500,000	4.43%	40	17	\$27,500,000	4.55%	40	17	53%
Cash flow from Occupied units	\$350,000				\$350,000				1%
<b>Total</b>	<b>\$27,850,000</b>				<b>\$27,850,000</b>				

**Comments:**

Bellwether Enterprise has provided a conditional commitment for a \$27,500,000 Forward Freddie Mac Tax Exempt Loan.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
42 Equity Partners	\$19,023,720	\$0.85		\$18,860,229	\$0.85	37%	
Hamilton Development Corporation	\$4,424,736		73%	\$4,699,052		9%	77%
<b>Total</b>	<b>\$23,448,456</b>			<b>\$23,559,281</b>			
				<b>\$51,409,281</b>	<b>Total Sources</b>		

#### Credit Price Sensivity based on current capital structure

<b>\$1.053</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.784</b>	Minimum Credit Price below which the Development would be characterized as infeasible

**Comments:**

42 Equity Partners will provide tax credit equity at \$0.85 per credit.

As underwritten, the Developer will defer 77% of the Developer Fee.

Revisions to Sources Schedule:	6
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## CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$51,409,281
Permanent Sources (debt + non-HTC equity)	\$27,850,000
<b>Gap in Permanent Financing</b>	<b>\$23,559,281</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$18,860,229	\$2,218,728
Needed to Balance Sources & Uses	\$23,559,281	\$2,771,527
Requested by Applicant	\$19,024,770	\$2,238,085

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
<b>Tax Credit Allocation</b>	<b>\$18,860,229</b>	<b>\$2,218,728</b>

Deferred Developer Fee	\$4,699,052	(77% deferred)
Repayable in	13 years	

**Comments:**

Tax Credit recommendation is \$2,218,728 as determined by eligible basis.

The Applicant's request for credits was revised to reflect the 4.00% applicable percentage set by federal legislation passed at the end of 2020.

Underwriter:	<u>Greg Stoll</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Murdeaux Villas, Dallas, TDHCA Bonds/4% HTC #21614**

LOCATION DATA	
CITY:	Dallas
COUNTY:	Dallas
Area Median Income	\$83,100
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	40	13.3%	0	0
1	82	27.2%	0	0
2	65	21.6%	1	0
3	87	28.9%	2	0
4	27	9.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>301</b>	<b>100.0%</b>	<b>3</b>	<b>-</b>

50%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	-	0.0%
40%	-	0.0%
50%	301	100.0%
60%	-	0.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>301</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	907 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 50%	\$755	20	0	1	508	\$755	\$49	\$706	\$0	\$1.39	\$706	\$14,120	\$14,120	\$706	\$1.39	\$0	\$810	\$1.59	\$810
TC 50%	\$808	41	1	1	650	\$808	\$59	\$749	\$0	\$1.15	\$749	\$30,709	\$30,709	\$749	\$1.15	\$0	\$1,075	\$1.65	\$1,075
TC 50%	\$970	16	2	2	960	\$970	\$75	\$895	\$0	\$0.93	\$895	\$14,320	\$14,320	\$895	\$0.93	\$0	\$1,320	\$1.38	\$1,320
TC 50%	\$970	16	2	2	990	\$970	\$75	\$895	\$0	\$0.90	\$895	\$14,320	\$14,320	\$895	\$0.90	\$0	\$1,350	\$1.36	\$1,350
TC 50%	\$1,120	42	3	2	1,158	\$1,120	\$87	\$1,033	\$0	\$0.89	\$1,033	\$43,386	\$43,386	\$1,033	\$0.89	\$0	\$1,575	\$1.36	\$1,575
TC 50%	\$1,250	13	4	2	1,300	\$1,250	\$105	\$1,145	\$0	\$0.88	\$1,145	\$14,885	\$14,885	\$1,145	\$0.88	\$0	\$1,750	\$1.35	\$1,750
TC 50%	\$1,120	2	3	2	1,158	\$1,120	\$87	\$1,033	\$0	\$0.89	\$1,033	\$2,066	\$2,066	\$1,033	\$0.89	\$0	\$1,350	\$1.17	\$1,350
TC 50%	\$755	20	0	1	508	\$755	\$49	\$706	\$0	\$1.39	\$706	\$14,120	\$14,120	\$706	\$1.39	\$0	\$810	\$1.59	\$810
TC 50%	\$808	41	1	1	650	\$808	\$59	\$749	\$0	\$1.15	\$749	\$30,709	\$30,709	\$749	\$1.15	\$0	\$1,075	\$1.65	\$1,075
TC 50%	\$970	16	2	2	960	\$970	\$75	\$895	\$0	\$0.93	\$895	\$14,320	\$14,320	\$895	\$0.93	\$0	\$1,320	\$1.38	\$1,320
TC 50%	\$970	16	2	2	990	\$970	\$75	\$895	\$0	\$0.90	\$895	\$14,320	\$14,320	\$895	\$0.90	\$0	\$1,350	\$1.36	\$1,350
TC 50%	\$1,120	43	3	2	1,158	\$1,120	\$87	\$1,033	\$0	\$0.89	\$1,033	\$44,419	\$44,419	\$1,033	\$0.89	\$0	\$1,575	\$1.36	\$1,575
TC 50%	\$1,250	14	4	2	1,300	\$1,250	\$105	\$1,145	\$0	\$0.88	\$1,145	\$16,030	\$16,030	\$1,145	\$0.88	\$0	\$1,750	\$1.35	\$1,750
TC 50%	\$970	1	2	2	1,158	\$970	\$75	\$895	\$0	\$0.77	\$895	\$895	\$895	\$895	\$0.77	\$0	\$1,350	\$1.17	\$1,350
<b>TOTALS/AVERAGES:</b>		<b>301</b>			<b>273,024</b>				<b>\$0</b>	<b>\$0.98</b>	<b>\$892</b>	<b>\$268,619</b>	<b>\$268,619</b>	<b>\$892</b>	<b>\$0.98</b>	<b>\$0</b>	<b>\$1,300</b>	<b>\$1.43</b>	<b>\$1,300</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$3,223,428</b>	<b>\$3,223,428</b>
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
**Murdeaux Villas, Dallas, TDHCA Bonds/4% HTC #21614**

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
Bellweather Enterprise	0.10%	1.12	1.16	1,518,786	4.43%	40	17	\$27,500,000	\$27,500,000	17	40	4.55%	\$1,521,680	1.15	53.5%
<b>CASH FLOW DEBT / GRANTS</b>															
Cash flow from Occupied units		1.12	1.16		0.00%	0	0	\$350,000	\$350,000	0	0	0.00%		1.15	0.7%
				<b>\$1,518,786</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$27,850,000</b>	<b>\$27,850,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$1,521,680</b>	<b>1.15</b>	<b>54.2%</b>
<b>NET CASH FLOW</b>		\$175,990	\$235,537					<b>APPLICANT NET OPERATING INCOME</b>				\$1,754,323	\$232,643	<b>NET CASH FLOW</b>	

EQUITY SOURCES													
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
												42 Equity Partners	LIHTC Equity
Hamilton Development Corporation	Deferred Developer Fees	8.6%	(73% Deferred)		\$4,424,736	\$4,699,052	(77% Deferred)		9.1%		<b>Total Developer Fee: \$6,093,500</b>		
Additional (Excess) Funds Req'd		0.0%				\$0			0.0%				
<b>TOTAL EQUITY SOURCES</b>		<b>45.6%</b>			<b>\$23,448,456</b>	<b>\$23,559,281</b>			<b>45.8%</b>				
<b>TOTAL CAPITALIZATION</b>						<b>\$51,298,456</b>	<b>\$51,409,281</b>					15-Yr Cash Flow after Deferred Fee:	<b>\$1,315,740</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs		Total Costs	Eligible Basis				%	\$		
	Acquisition	New Const. Rehab				New Const. Rehab	Acquisition						
Land Acquisition			\$3,987 / Unit	\$1,200,000	\$1,200,000	\$3,987 / Unit				0.0%	\$0		
Building Acquisition	\$16,270,000		\$54,053 / Unit	\$16,270,000	\$16,270,000	\$54,053 / Unit		\$16,270,000		0.0%	\$0		
Closing costs & acq. legal fees				\$150,000	\$150,000						\$0		
Site Work		\$515,000	\$2,708 / Unit	\$815,000	\$1,062,250	\$3,529 / Unit	\$867,250			-23.3%	(\$247,250)		
Site Amenities		\$945,000	\$3,140 / Unit	\$945,000	\$1,052,900	\$3,498 / Unit	\$1,052,900			-10.2%	(\$107,900)		
Building Cost		\$14,479,000	\$53.03 /sf	\$48,103/Unit	\$14,479,000	\$47,291/Unit	\$52.14 /sf	\$14,234,675		1.7%	\$244,325		
Contingency		\$1,623,900	10.19%	10.00%	\$1,623,900	\$1,623,900	9.93%	10.00%	\$1,615,483	0.0%	\$0		
Contractor Fees		\$2,500,806	14.24%	14.00%	\$2,500,806	\$2,500,806	13.91%	14.00%	\$2,487,843	0.0%	\$0		
Soft Costs	0	\$1,202,500		\$6,071 / Unit	\$1,827,500	\$6,071 / Unit		\$1,202,500	\$0	0.0%	\$0		
Financing	0	\$3,165,000		\$15,096 / Unit	\$4,543,750	\$4,543,750	\$15,096 / Unit	\$3,165,000	\$0	0.0%	\$0		
Developer Fee	\$0	\$6,093,500	14.97%	14.86%	\$6,093,500	\$6,093,500	14.83%	14.89%	\$3,653,100	\$2,435,831	0.0%	\$0	
Reserves				4 Months	\$850,000	\$850,000	4 Months			0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$16,270,000</b>	<b>\$30,524,706</b>	\$170,427 / Unit	<b>\$51,298,456</b>	<b>\$51,409,281</b>	\$170,795 / Unit	<b>\$28,278,751</b>	<b>\$18,705,831</b>	<b>-0.2%</b>	<b>(\$110,825)</b>		
Acquisition Cost	\$0				\$0								
Contingency		(\$30,000)			\$0								
Contractor's Fee		(\$46,200)			\$0								
Financing Cost		\$0			\$0								
Developer Fee	\$2,435,831	(\$2,440,400)			\$0								
Reserves					\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$18,705,831</b>	<b>\$28,008,106</b>	\$170,427/unit	<b>\$51,298,456</b>	<b>\$51,409,281</b>	\$170,795/unit	<b>\$28,278,751</b>	<b>\$18,705,831</b>	<b>-0.2%</b>	<b>(\$110,825)</b>		
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>					<b>\$51,409,281</b>								

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**  
**Murdeaux Villas, Dallas, TDHCA Bonds/4% HTC #21614**

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$18,705,831	\$28,008,106	\$18,705,831	\$28,278,751
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$18,705,831	\$28,008,106	\$18,705,831	\$28,278,751
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$18,705,831	\$36,410,538	\$18,705,831	\$36,762,376
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$18,705,831	\$36,410,538	\$18,705,831	\$36,762,376
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$748,233	\$1,456,422	\$748,233	\$1,470,495
<b>CREDITS ON QUALIFIED BASIS</b>	\$2,204,655		\$2,218,728	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8500	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,218,728	\$18,860,229	<b>\$2,218,728</b>	<b>(\$19,357)</b>	<b>(\$164,541)</b>
<b>Needed to Fill Gap</b>	\$2,771,527	\$23,559,281	----	----	----
<b>Applicant Request</b>	\$2,238,085	\$19,024,770	----	----	----

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$35,000,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		82.3%	82.1%
Land Cost	\$1,200,000	\$1,200,000			
Depreciable Bldg Cost	\$41,326,206	\$41,437,031			
<b>Aggregate Basis for 50% Test</b>	<b>\$42,526,206</b>	<b>\$42,637,031</b>			
			amount aggregate basis can increase before 50% test fails	\$27,473,794 64.6%	\$27,362,969 64.2%



## Long-Term Pro Forma

*Murdeaux Villas, Dallas, TDHCA Bonds/4% HTC #21614*

	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%	\$3,048,493	\$3,109,463	\$3,171,652	\$3,235,085	\$3,299,787	\$3,643,231	\$4,022,422	\$4,441,079	\$4,903,310	\$5,413,650	\$5,977,107	\$6,599,209
TOTAL EXPENSES	3.00%	\$1,294,170	\$1,331,776	\$1,370,485	\$1,410,331	\$1,451,347	\$1,675,224	\$1,934,000	\$2,233,156	\$2,579,035	\$2,978,983	\$3,441,506	\$3,976,453
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$1,754,323</b>	<b>\$1,777,687</b>	<b>\$1,801,167</b>	<b>\$1,824,754</b>	<b>\$1,848,440</b>	<b>\$1,968,007</b>	<b>\$2,088,421</b>	<b>\$2,207,923</b>	<b>\$2,324,274</b>	<b>\$2,434,667</b>	<b>\$2,535,601</b>	<b>\$2,622,756</b>
EXPENSE/INCOME RATIO		42.5%	42.8%	43.2%	43.6%	44.0%	46.0%	48.1%	50.3%	52.6%	55.0%	57.6%	60.3%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$1,521,680	\$1,521,432	\$1,521,173	\$1,520,901	\$1,520,617	\$1,518,985	\$1,516,936	\$1,514,366	\$1,511,140	\$1,507,093	\$1,502,013	\$1,495,638
DEBT COVERAGE RATIO		1.15	1.17	1.18	1.20	1.22	1.30	1.38	1.46	1.54	1.62	1.69	1.75
<b>ANNUAL CASH FLOW</b>		<b>\$232,643</b>	<b>\$256,255</b>	<b>\$279,994</b>	<b>\$303,853</b>	<b>\$327,823</b>	<b>\$449,023</b>	<b>\$571,485</b>	<b>\$693,556</b>	<b>\$813,134</b>	<b>\$927,574</b>	<b>\$1,033,588</b>	<b>\$1,127,118</b>
Deferred Developer Fee Balance		\$4,466,409	\$4,210,155	\$3,930,160	\$3,626,307	\$3,298,484	\$1,296,556	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,315,740</b>	<b>\$4,539,920</b>	<b>\$8,367,918</b>	<b>\$12,779,568</b>	<b>\$17,739,600</b>	<b>\$23,194,044</b>



## Final Transcript

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS:  
Murdeaux Villas Public Hearing**

November 30, 2020/3:30 p.m. CST

### **SPEAKERS**

Teresa Morales

### **PRESENTATION**

Teresa                      Good afternoon. This is Teresa Morales with the Texas Department of Housing and Community Affairs. The purpose of this call is to conduct a public hearing with respect to the Murdeaux Villas and to give folks on the line some idea as to how we will proceed, first, there is a speech that the department is required to read for purposes of meeting the Internal Revenue Code requirements. It'll be at the conclusion of that speech when I will open the line up for public comment. If there are any individuals on the line who wish to make public comment, it'll be at that time when you can do so.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**November 30, 2020/3:30 p.m. CST**

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To begin, again, my name is Teresa Morales, and I would like to proceed with a public hearing. Let the record show that it is 3:32 p.m. on Monday, November 30, 2020. We are conducting a public hearing on behalf of the Texas Department of Housing and Community Affairs with respect to an issue of tax exempt multifamily revenue bonds for a residential rental community. The hearing is required by the Internal Revenue Code.

The sole purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue. No decisions regarding the development will be made at this hearing. The department's board is scheduled to meet to consider the transaction on January 14, 2021. In addition to providing your comments at this hearing, the public is also invited to provide comment directly to the board at any of their meetings.

The bonds will be issued as tax exempt multifamily revenue bonds, and the aggregate principal amount not to exceed \$35 million in taxable bonds if necessary in an amount to be determined and issued in one or more series by the Texas Department of Housing and Community Affairs, the issuer.

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**Host: Teresa Morales**

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The proceeds of the bonds will be loaned to Murdeaux Rehab Development, LP or a related person or affiliate entity thereof to finance a portion of the cost of acquiring, rehabbing, and equipping a multifamily rental, high-end community described as follows: a 302-unit, multifamily, residential rental development to be located on approximately 18.04 acres of land located at 125 Murdeaux Lane, Dallas, Dallas County, Texas 75217.

The proposed multifamily rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof. I would now like to open the floor up for public comment, and we'll be unmuting the lines in the event that there are interested individuals who would like to make any public comments.

Operator Broadcast mode is now off. All participants are now in interactive talk mode.

Teresa So, the lines have been opened. If there are any individuals who would like to make any public comments with respect to the proposed Murdeaux Villas, now would be an opportunity to do so. I would ask that before you

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**November 30, 2020/3:30 p.m. CST**

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get started that you state your name for the record. Are there any individuals who would like to express public comment?

Again, I just want to ask if there are any interested individuals who would like to express public comment, this would be your opportunity to do so.

Okay, hearing no responses, let the record show that there are no attendees, and therefore, the public hearing for the Murdeaux Villas is now adjourned, and the time is 3:36 p.m. Thank you.

M Thank you.

M Thank you.

5b

**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**APRIL 8, 2021**

Presentation, discussion, and possible action on Inducement Resolution No. 21-025 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

**RECOMMENDED ACTION**

**WHEREAS**, a bond pre-application, as further detailed below, was submitted to the Department for consideration of an inducement resolution;

**WHEREAS**, Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

**WHEREAS**, approval of the inducement will allow staff to submit an application to the Bond Review Board (BRB) for the issuance of a Certificate of Reservation associated with the Development;

**NOW, therefore, it is hereby**

**RESOLVED**, that based on the foregoing, Inducement Resolution No. 21-025 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for the pre-application listed herein, is hereby approved in the form presented to this meeting.

**BACKGROUND**

**General Information:** The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 180 days to close on the private activity bonds.

During the 180-day process, the Department will review the complete application for compliance with the Department's Rules, including, but not limited to, site eligibility and threshold as well as previous participation as it relates to developments previously funded through the Department. During the review of the full application, staff will also underwrite the transaction and determine financial feasibility in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be

presented to the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development. This inducement resolution would reserve approximately \$36M in private activity bond volume cap. Staff notes that the Department's set-aside for the 2021 program year is \$169,558,383. Reservations for those applications that participated in the 2021 Private Activity Bond Lottery total \$158,000,000, reducing the Department's available set-aside to \$11,558,383. The pre-application listed below will be placed on the Department's waiting list to receive a Reservation, bringing the total of pre-applications on the waiting list to approximately \$205M.

**21618 – Providence on the Park**

The acquisition and rehabilitation of 280 units is proposed for this multifamily development to be located at 8501 Old Hickory Trail in Dallas, Dallas County. This transaction is proposed to be Priority 3, and will serve the general population. All 280 of the units will be rent and income restricted at 60% of Area Median Family Income. The development is located within the attendance zone of an elementary, middle, or high school that has a TEA rating of D for the most recent year available prior to application submission and an IR rating for the most recent year preceding, which would typically require a Neighborhood Risk Factors Report and mitigation. However, pursuant to §11.101(a)(3)(C) of the QAP, no mitigation is required for 2021 applications because this particular Neighborhood Risk Factor was waived for 2021. The Department has received no letters of support or opposition for the proposed development.

Bond Inducement Amount: \$36,000,000



## RESOLUTION NO. 21-025

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS OR NOTES WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENTS; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

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

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the “State”) intended to be occupied by persons and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds or 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 or notes; 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 or notes; and

WHEREAS, it is proposed that the Department issue its revenue bonds or notes in one or more series for the purpose of providing financing for the multifamily residential rental developments (the “Developments”) more fully described in Exhibit A attached hereto. The ownership of the Developments as more fully described in Exhibit A will consist of the applicable ownership entity and its principals or a related person (the “Owners”) within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the Owners have made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the Developments and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Developments from the proceeds of tax-exempt and taxable, as applicable, obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owners have indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Developments will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owners for some or all of the costs associated with the Developments listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable, as applicable, obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owners, the Department reasonably expects to incur debt in the form of tax-exempt and taxable, as applicable, obligations for purposes of paying the costs of the Developments described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Developments one or more Applications for Allocation of Private Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owners to finance the Developments on the terms and conditions hereinafter set forth; NOW, THEREFORE,

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

## ARTICLE 1

### OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owners to provide financing for the respective Developments in an aggregate principal amount not to exceed those amounts, corresponding to the Developments, set forth in Exhibit A; (b) fund a reserve fund with respect

to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the "Attorney General"); (v) satisfaction of the Board that the respective Development meets the Department's public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds or notes in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3. Reimbursement. The Department reasonably expects to reimburse the Owners for all or a portion of the costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction, reconstruction or renovation, as applicable, of its Development and listed on Exhibit A attached hereto ("Costs of the Developments") from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation and equipping of its Development, including reimbursing the applicable Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Developments; (b) to fund certain reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4. Principal Amount. Based on representations of the Owners, the Department reasonably expects that the maximum aggregate principal amount of debt issued to reimburse the Owners for the Costs of the Developments will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5. Limited Obligations. The Owners may commence with the acquisition and construction or rehabilitation of the Developments, which Developments will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment

payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6. The Developments. Substantially all of the proceeds of the Bonds shall be used to finance the Developments, which are to be occupied entirely by Eligible Tenants, as determined by the Department, and which are to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owners for costs of its Development.

Section 1.8. Costs of Developments. The Costs of the Developments may include any cost of acquiring, constructing, rehabilitating, or reconstructing, as applicable, improving, equipping, installing and expanding the Developments. Without limiting the generality of the foregoing, the Costs of the Developments shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Developments, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Developments, the placing of the Developments in operation and that satisfy the Code and the Act. The Owners shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9. No Commitment to Issue Bonds. Neither the Owners nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with

or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owners nor any one claiming by, through or under the Owners shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owners and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds or notes); (b) the receipt of an opinion from Bracewell LLP or other nationally recognized bond counsel acceptable to the Department (“Bond Counsel”), substantially to the effect that the interest on the tax-exempt Bonds is excludable from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Developments’ necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12. Related Persons. The Department acknowledges that financing of all or any part of the Developments may be undertaken by any company or partnership that is a “related person” to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owners.

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department’s official intent for expenditures on Costs of the Developments which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Developments may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications,

certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.15. Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, the Director of Multifamily Bonds, 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

### CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Developments and Owners. The Board finds that:

- (a) the Developments are necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owners will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owners are financially responsible;
- (d) the financing of the Developments is a public purpose and will provide a public benefit; and
- (e) the Developments will be undertaken within the authority granted by the Act to the Department and the Owners.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or

governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Developments will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

### ARTICLE 3

#### GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the 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.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 8<sup>th</sup> day of April, 2021.

**EXHIBIT "A"**

Descriptions of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
Providence on the Park Apartments	Providence on the Park, LP, a to be formed Texas limited partnership	General Partner/Member: Providence on the Park GP, LLC, a to be formed Texas limited liability company	\$36,000,000
Costs: Acquisition/rehabilitation of a 280-unit affordable, multifamily housing development to be known as Providence on the Park Apartments, located at 8501 Old Hickory Trail, Dallas, Dallas County, Texas 75237			



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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**APRIL 8, 2021**

Presentation, discussion and possible action on Resolution No. 21-026 regarding a Modification Agreement relating to Multifamily Housing Revenue Bonds Series 2019 for McMullen Square Apartments.

**RECOMMENDED ACTION**

**WHEREAS**, the private activity bonds for McMullen Square Apartments were originally issued by the Department on June 20, 2019;

**WHEREAS**, as part of the financing, the Department entered into an Indenture of Trust (Indenture), dated June 1, 2019, with Wilmington Trust, National Association, as trustee;

**WHEREAS**, the Indenture provides for a description by which the interest rate shall be determined which for McMullen Square, was based on the London Inter-Bank Offered Rate (LIBOR);

**WHEREAS**, the U.K. Financial Conduct Authority previously announced that, after the end of 2021, the LIBOR Rate may no longer be available or deemed an appropriate reference rate; and

**WHEREAS**, in conjunction with the conversion of the loan from the construction phase to the permanent phase on December 23, 2020, the Indenture is being amended to allow for an alternative rate index to be used as further discussed herein;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Modification Agreement relating to Multifamily Housing Revenue Bonds Series 2019 for McMullen Square Apartments, is hereby approved in the form presented to this meeting.

**BACKGROUND**

The unrated tax-exempt bonds in the amount of \$10,000,000 for McMullen Square Apartments were originally issued through TDHCA in June 2019. The bonds were issued as fixed rate for 18 months (during construction). There was a forward starting swap in place at closing that was to commence once the property reached stabilization, or approximately January 2021, and terminate 15 years later, in January 2036. The borrower will pay a fixed interest rate to the swap counterparty and the counterparty will pay a variable rate in return. While the Department is not a party to the swap

agreement, the swap payments will flow through the indenture to the trustee. The interest rate on the bonds is based on LIBOR, and is defined as such in the Indenture. The loan converted from the construction to permanent phase on December 23, 2020, and as part of the conversion, Cedar Rapids Bank and Trust (CRBT), as bondholder, requested that the LIBOR language in the Indenture be modified to reflect an alternative index, given the planned future elimination of LIBOR.

The CRBT has requested an amendment to the language as reflected in the Modification Agreement attached hereto, specifically, to incorporate the International Swaps and Derivatives Association, Inc. (ISDA) for purposes of implementing an alternative rate index under the Swap Documents (i.e. the ISDA Fallback Protocol) as the new index rate.

## RESOLUTION NO. 21-026

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF MODIFICATION AGREEMENT IN CONNECTION WITH MULTIFAMILY HOUSING REVENUE BONDS (MCMULLEN SQUARE) SERIES 2019; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

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

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

WHEREAS, the Department has previously issued its Multifamily Housing Revenue Bonds (McMullen Square), Series 2019 in the original principal amount of \$10,000,000 (the “Bonds”) pursuant to the terms and provisions of that certain Indenture of Trust dated as of June 1, 2019, (the “Indenture”), between the Department and Wilmington Trust, National Association, as trustee (the “Trustee”); and

WHEREAS, the proceeds of the Bonds were loaned to TCD MCM, LP, a limited partnership organized and existing under the laws of the State of Texas (the “Borrower”) for the purpose of financing a portion of the costs of a multifamily housing development known as McMullen Square Apartments, pursuant to that certain Loan Agreement dated as of June 1, 2019 (the “Loan Agreement”) by and among the Department, the Borrower and Cedar Rapids Bank and Trust Company (as successor interest to JPMorgan Chase Bank, N.A.), as bondowner representative (the “Bondowner Representative”); and

WHEREAS, pursuant to the Indenture and the Loan Agreement, the Borrower and the Bondowner Representative have requested that the Department enter into a Modification

Agreement (the “Modification Agreement”) among the Department, the Borrower, the Bondowner Representative and the Trustee to make certain modifications to the terms of the Bonds and conforming changes to the Indenture; and

WHEREAS, the Department now desires to take certain actions with respect to the Modification Agreement; and

WHEREAS, the Board has examined the proposed form of the Modification Agreement (which is attached to and comprises a part of this Resolution); has found the form and substance of such document 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 execution and delivery of the Modification Agreement 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 THAT:

## ARTICLE 1

### APPROVAL OF DOCUMENTS AND CERTAIN ACTIONS

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

Section 1.2 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 1.3 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, 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 1.4 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 A - Modification Agreement

Section 1.5 Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director 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.

Section 1.6 Ratifying Other Actions. That all other actions taken by the Executive Director or Acting Director of the Department and the Department staff in connection with the execution of the Modification Agreement and the redemption and defeasance of the Bonds are hereby ratified and confirmed.

## ARTICLE 2

### GENERAL PROVISIONS

Section 2.1 Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 2.2 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 Bonds and all other Department activities.

Section 2.3 Notice of Meeting. This Resolution was considered and adopted at a meeting of the Governing Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, 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.

Section 2.4 Effective Date. This resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 8th day of April, 2021.

## MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (this “Modification”) is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2021, by and among TCD MCM, LP, a Texas limited partnership (“Borrower”), TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, a public and official agency of the State of Texas (“Issuer”), WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association (“Trustee”) and CEDAR RAPIDS BANK AND TRUST COMPANY, an Iowa state-chartered banking corporation (“Bondowner Representative”).

### WITNESSETH:

WHEREAS, Issuer and Trustee entered into that certain Indenture of Trust dated as of June 1, 2019 (the “Indenture”), concerning the issuance, by Issuer, of its Multifamily Revenue Bonds (McMullen Square), Series 2019, dated as of June 17, 2019, in the original principal amount of \$10,000,000 (the “Bonds”); and

WHEREAS, the parties hereto have agreed to amend the definition of LIBO Rate in the Indenture as set forth herein, and

WHEREAS, in accordance with Section 11.01 of the Indenture, this Modification requires the consent of Bondowner Representative, which consent is evidenced by the Bondowner Representative’s execution of this Modification; and

WHEREAS, given the nature of this Modification, the Issuer and the Trustee have agreed to waive the opinions required to amend the Indenture pursuant to Section 11.03 and Section 11.04 of the Indenture;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein but not otherwise defined herein shall have the meaning given such term in the Indenture.
2. Modification to Indenture. The Indenture is hereby amended as follows:
  - a) The definition of LIBOR found in Article I of the Indenture is hereby deleted and replaced with the following new definition of LIBOR:

“LIBO Rate” means the London Inter-Bank Offered Rate for United States Dollars for a term of one month which appears on Reuters Screen LIBOR01 Page (or any generally recognized successor method or means of publication) as of 11:00 a.m. London time, two (2) London business days prior to the eighth (8<sup>th</sup>) day of each month. Lender’s internal records of applicable interest rates shall be determinative in the absence of manifest error, provided that in no event shall LIBOR be less than zero percent (0.0%). The LIBOR Rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct

Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration for purposes of setting the LIBOR Rate. As a result, it is possible that commencing in 2022, the LIBOR Rate may no longer be available or deemed an appropriate reference rate. Upon the Borrower and Lender, as counterparty under the Swap Documents, adopting the fallback protocol to be published by the International Swaps and Derivatives Association, Inc. (“ISDA”) for purposes of implementing an alternative rate index under the Swap Documents (the “ISDA Fallback Protocol”), the index and the calculation period set forth in the ISDA Fallback Protocol shall be the replacement interest rate hereunder (the “New Index”), and Lender may adjust the margin applicable to the New Index, if required by the ISDA Fallback Protocol. The New Index is not necessarily the lowest rate charged by Lender on its loans. If the New Index becomes unavailable during the term of the Loan, Lender may designate a substitute index, and potentially adjust the margin applicable to such substitute index, after notifying Borrower, Trustee and Issuer. In any event, the adoption of a New Index or any other substitute index will be conditioned upon the receipt of a Favorable Opinion of Bond Counsel (as defined in the Tax Exemption Agreement), which Favorable Opinion of Bond Counsel shall be at Borrower’s expense. Lender shall notify Borrower, Trustee and Issuer of the current index rate upon Borrower's request.

3. Original Terms. Except as expressly amended herein, the Indenture shall be and remain in full force and effect in accordance with its original terms.
4. Counterparts. This Modification may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Modification by signing any such counterpart.
5. Governing Law. This Modification shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to the choice of law provisions thereof.
6. Headings. The descriptive headings for the several sections of this Modification are inserted for convenience only and not to define or limit any of the terms or provisions hereof.
7. Successors and Assigns. This Modification shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
8. Compliance with Texas Government Code. Each of the Borrower, the Bondowner Representative, and the Trustee hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Modification. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in



Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Each of the Borrower, the Bondowner Representative, and the Trustee understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with such entity and exists to make a profit.

Each of the Borrower, the Bondowner Representative, and the Trustee represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes any of the Borrower, the Bondowner Representative, and the Trustee and each of such entity's parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Each of the Borrower, the Bondowner Representative, and the Trustee understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with such entity and exists to make a profit.

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IN WITNESS WHEREOF, the parties hereto have made and entered into this Modification as of the day and year first above written.

**BORROWER:**

TCD MCM, LP, a Texas limited partnership

By: TCD McMullen GP, LLC, a Texas  
limited liability company, its General  
Partner

By: Triton Community Development, LLC,  
a California limited liability company,  
its Managing Member

By: \_\_\_\_\_  
William E. Rice  
Managing Member

**ISSUER:**

TEXAS DEPARTMENT OF HOUSING  
AND COMMUNITY AFFAIRS, a public  
and official agency of the State of Texas

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TRUSTEE:**

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, a national banking  
association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**BONDOWNER REPRESENTATIVE:**

CEDAR RAPIDS BANK AND TRUST  
COMPANY, an Iowa state-chartered  
banking corporation

By: \_\_\_\_\_  
Michael J. Goerd  
Vice President

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**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**April 8, 2021**

Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Corona Del Valle Apartments) Series 2021 Resolution No. 21-027, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for the Corona Del Valle Apartments at the Board meeting of October 8, 2020;

**WHEREAS**, an application for Corona Del Valle Apartments requesting 4% Housing Tax Credits, sponsored by CDV 34 SLM, LLC, and the Center for Latino Jewish Relations, was submitted to the Department on December 7, 2020;

**WHEREAS**, a Certificate of Reservation was issued in the amount of \$8,500,000 on January 11, 2021, with a bond delivery deadline of July 10, 2021;

**WHEREAS**, in accordance with 10 TAC §1.301(f), the compliance history is designated as a Category 2 and was deemed acceptable without further review or discussion by the Executive Award and Review Advisory Committee (EARAC) as stated herein; and

**WHEREAS**, EARAC recommends approval of the issuance of Multifamily Housing Revenue Bonds (Series 2021) for Corona Del Valle Apartments and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of tax-exempt Multifamily Housing Revenue Bonds (Corona Del Valle Apartments) Series 2021 in an amount not to exceed \$8,500,000, Resolution No. 21-027, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$760,792 in 4% Housing Tax Credits for the Corona Del Valle Apartments, 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 Bonds will be issued in accordance with Tex. Gov't Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds 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:* The Corona Del Valle Apartments are located at 5453 Ridge Street in El Paso, El Paso County, and proposes the acquisition and rehabilitation of 101 units that will continue to serve the general population. The property was originally built in 1997, and received an award of 9% Housing Tax Credits in 1994. The property also received an award of HOME loan funds in 1998. The HOME loan was subsequently paid off in 2012, but the HOME LURA will remain until October 29, 2023. There is an existing Section 8 project-based Housing Assistance Payment (HAP) contract covering 80 of the units that is expected to be renewed at closing for an additional 20-year term. The Certificate of Reservation from the Bond Review Board was issued under the Priority 1A designation, which requires that 50% of the units within the development have rents restricted to 50% of Area Median Family Income (AMFI), and 50% of the units have rents restricted to 60% of AMFI. The application submitted to the Department indicates that 51 of the units will be rent and income restricted at 50% of AMFI, while the remaining 50 units will be rent and income restricted at 60% of AMFI. Rehabilitation cost, which includes building costs and site work, is approximately \$52k per unit. Any household currently residing at the Development will not be considered over-income and will be allowed to renew their tenancy, as long as the household met the 60% AMFI income requirements at initial occupancy.

*Organizational Structure and Previous Participation:* The Borrower is CDV 34, LLC, and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 2 and was deemed acceptable, without further review or discussion, by EARAC.

*Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing/Public Comment:* In light of COVID-19 and the inability for an in-person TEFRA hearing to be held, staff conducted a telephonic hearing, in accordance with IRS guidance, for the proposed development on March 11, 2021. Representatives from the Department and the Developer were present, and no public comment was made. A copy of the hearing transcript is included herein. The Department has received three letters of support for the proposed development from State Senator for District 29, José Rodriguez (while Sen. César Blanco is the current state senator for District 29, Sen. Rodriguez held the office at the time this application was submitted), State Representative for District 78, Joe Moody, and City Councilman for District 1, Peter Svarzbein. The Department has received no letters of opposition for the proposed development.

### **Summary of Financial Structure**

This transaction involves an FHA 221(d)(4) loan originated and underwritten by Lument. Under the proposed structure, the Department will issue short-term tax-exempt fixed rate bonds in an amount



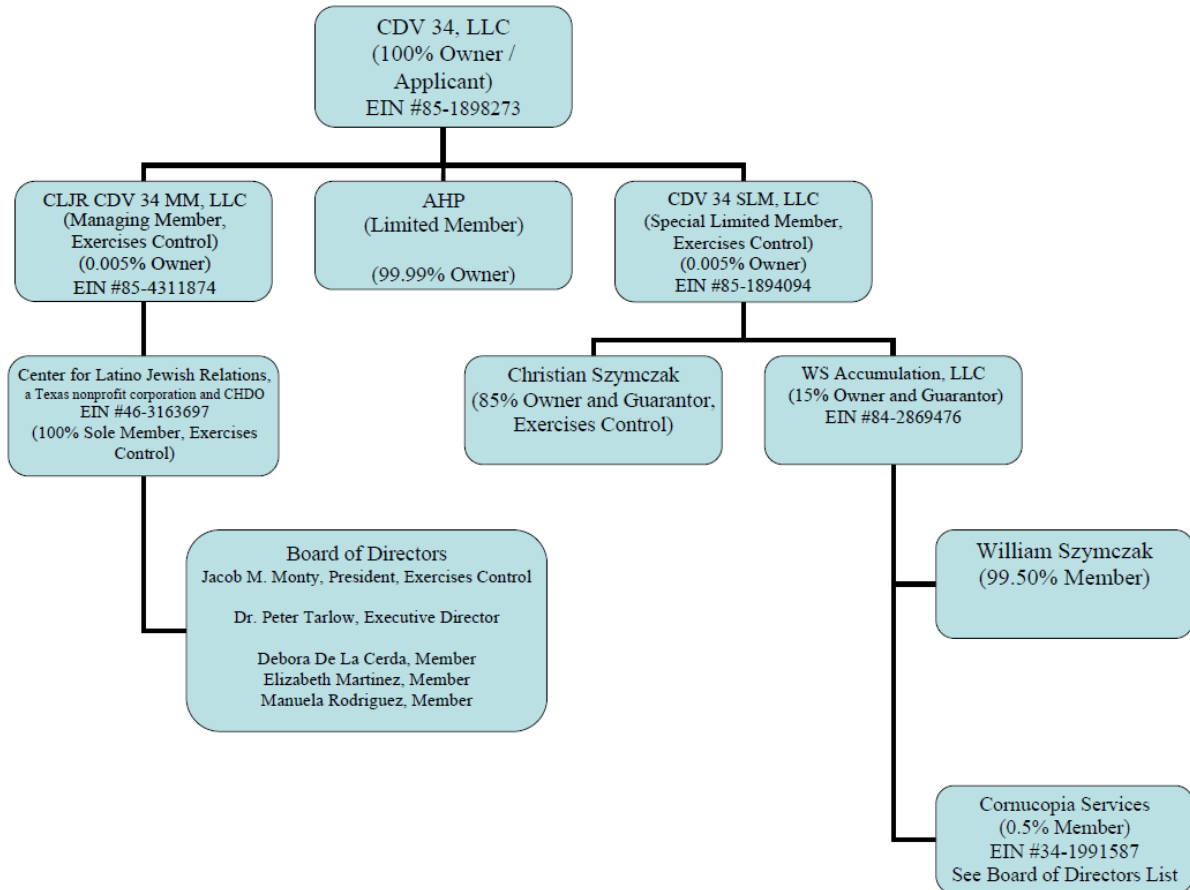
not to exceed \$8,500,000 that will be initially publically offered. As bond proceeds are drawn down, the proceeds from the FHA loan will simultaneously be drawn and placed in the Collateral Fund such that the bonds will be fully cash-collateralized throughout the construction period.

The bond mortgage will be subordinate in lien position to the FHA mortgage, but as previously indicated, the bond proceeds will also be cash collateralized as long as the bonds are outstanding. The bonds will remain outstanding through the rehabilitation period, estimated to be between 10-12 months, and upon completion, will then be redeemed in full using the funds on deposit in the Collateral Fund. The bonds will carry an interest rate not to exceed 5% and an initial mandatory tender date of August 1, 2023, at which time the bonds can be redeemed or remarketed until the final maturity date of August 1, 2025. Upon redemption of the bonds, the FHA mortgage loan will remain and carry an interest rate of approximately 3.25% with a 40-year term and amortization.

A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 21-027 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

EXHIBIT A

Corona Del Valle – Buyer Organizational Chart



## RESOLUTION NO. 21-027

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (CORONA DEL VALLE), SERIES 2021; 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 Bonds (Corona Del Valle), Series 2021 (the "Bonds") 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 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 Bonds to fund a mortgage loan to CDV 34, LLC, a Texas limited liability company (the "Borrower"), in connection with the acquisition, rehabilitation and equipping of a qualified residential rental development 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 October 8, 2020, 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 Bonds (the "Loan") to the Borrower to enable the Borrower to finance the acquisition, rehabilitation and equipping of the Development and related costs, and (ii) the Borrower will execute and deliver to the Department a promissory note (the "Borrower Note") in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds 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 "Bond 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 Bond Mortgage will be assigned to the Trustee pursuant to an Assignment of Deed of Trust Documents (the "Assignment") from the Department to the Trustee; and

WHEREAS, the Borrower will obtain a first lien mortgage loan from ORIX Real Estate Capital, LLC, a Delaware limited liability company (the "HUD Lender"), and the Board has determined that the Department will execute and deliver a Bond Funding and Loan Disbursement Procedures Agreement (the "Disbursement Agreement"), with the HUD Lender, the Borrower, the Secretary of Housing and Urban Development and the Trustee, pursuant to which the HUD Lender will deposit from time to time the proceeds of the first-lien mortgage loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, with respect to the Bonds, 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 El Paso 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 Bonds, pursuant to which the Department and the Borrower will make certifications, representations and covenants relating to the treatment of the interest on the Bonds as exempt from gross income for federal income tax purposes; 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 Bonds 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 Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Purchase Contract (the "Purchase Agreement") with OREC Securities, LLC (the "Underwriter") and the Borrower, setting forth certain terms and conditions upon which the Underwriter will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriter; 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, the Loan Agreement, the Regulatory Agreement, the Funding Agreement, the Disbursement Agreement, the Assignment, the Tax Exemption 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 Bond Mortgage and the Borrower 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 Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Bond 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 BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds 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 Bonds and to deliver the Bonds 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 Bonds 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 Bonds, 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 Bonds 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 Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Bonds shall not exceed 5.0%; (ii) the aggregate principal amount of the Bonds shall not exceed \$8,500,000; (iii) the final maturity of the Bonds shall occur not later than August 1, 2025; and (iv) the price at which the Bonds 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 El Paso 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 Bonds 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 Funding Agreement. That the form and substance of the Funding Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Funding Agreement, and to deliver the Funding Agreement to the HUD Lender, the Trustee and the Borrower.

Section 1.9 Approval, Execution and Delivery of the Disbursement Agreement. That the form and substance of the Disbursement Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Disbursement Agreement, and to deliver the Disbursement Agreement to the HUD Lender, the Trustee, the Borrower, and the other parties thereto.

Section 1.10 Acceptance of the Borrower Note and the Bond Mortgage. That the form and substance of the Borrower Note and the Bond 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, 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 Bonds; 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 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 1.14 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 1.15 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 - Bond Mortgage
- Exhibit G - Assignment
- Exhibit H - Purchase Agreement
- Exhibit I - Official Statement
- Exhibit J - Tax Exemption Agreement
- Exhibit K - Disbursement Agreement

Section 1.16 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 Bonds 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 Bonds.

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 Bonds 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 Bonds 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 Bonds will be OREC Securities, 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 Bonds 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 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 Bonds 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 Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

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 Bonds in the secondary open market for municipal securities.

#### ARTICLE 4

##### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds 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 Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do 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 8th day of April, 2021.

**EXHIBIT A**

**Description of Development**

**Borrower:** CDV 34, LLC, a Texas limited liability company

**Development:** The Development is a 101-unit affordable, multifamily housing development known as Corona Del Valle, located at 5453 Ridge Street, El Paso, El Paso County, TX 79932. It consists of fifteen (15) residential apartment buildings with approximately 82,366 net rentable square feet. The unit mix will consist of:

50	two-bedroom/one-bath units
40	three-bedroom/one-bath units
11	four-bedroom/one-bath units
<hr/>	
101	Total Units

Unit sizes will range from approximately 713 square feet to approximately 1,451 square feet.

# 21600 Corona Del Valle - Application Summary

PROPERTY IDENTIFICATION		RECOMMENDATION					
Application #	21600	TDHCA Program	Request	Recommended			
Development	Corona Del Valle	LIHTC (4% Credit)	\$766,973	\$760,792	\$7,533/Unit	\$0.80	
City / County	El Paso / El Paso						
Region/Area	13 / Urban						
Population	General						
Set-Aside	General						
Activity	Acquisition/Rehab (Built in 1997)	Private Activity Bonds	\$8,500,000	3.50%	40	8,500,000	1

KEY PRINCIPALS / SPONSOR		
<ul style="list-style-type: none"> <li>• Christian Szymczak</li> <li>• William Szymczak</li> <li>• Center for Latino Jewish Relations</li> </ul>		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	-	0%	30%	-	0%
2	50	50%	40%	-	0%
3	40	40%	50%	51	50%
4	11	11%	60%	50	50%
<b>TOTAL</b>	<b>101</b>	<b>100%</b>	<b>TOTAL</b>	<b>101</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.17	Expense Ratio	49.2%
Breakeven Occ.	85.7%	Breakeven Rent	\$973
Average Rent	\$1,050	B/E Rent Margin	\$78
Property Taxes	\$817/unit	Exemption/PILOT	50%
Total Expense	\$5,781/unit	Controllable	\$3,545/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (10% Maximum)			1.5%
Highest Unit Capture Rate	NA	NA	NA
Dominant Unit Cap. Rate	NA	NA	NA
Premiums (↑60% Rents)	NA		NA
Rent Assisted Units	80		79% Total Units

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on SCR	
Avg. Unit Size	816 SF	Density	10.2/acre
Acquisition	\$60K/unit		\$6,100K
Building Cost	\$57.72/SF	\$47K/unit	\$4,755K
Hard Cost		\$65K/unit	\$6,583K
Total Cost		\$186K/unit	\$18,835K
Developer Fee	\$2,071K	(63% Deferred)	Paid Year: 11
Contractor Fee	\$838K	30% Boost	Yes

REHABILITATION COSTS / UNIT				
Site Work	\$4K	6%	Finishes/Fixture	\$16K 24%
Building Shell	\$30K	47%	Amenities	\$8K 13%
HVAC	\$1K	1%	Total Exterior	\$43K 72%
Appliances	\$K	0%	Total Interior	\$17K 28%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Lument - FHA 221(d)(4)	40	3.25%	\$10,929,000	1.17						Affordable Housing Partners, Inc.	\$6,086,337
										Think Housing Development LP	\$1,295,374
										<b>TOTAL EQUITY SOURCES</b>	<b>\$7,381,712</b>
					Net Operating Income	NA	0.00%	\$524,186	NA	<b>TOTAL DEBT SOURCES</b>	<b>\$11,977,372</b>
<b>TOTAL DEBT (Must Pay)</b>			<b>\$10,929,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$1,048,372</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$19,359,084</b>

**CONDITIONS**

- 1 Receipt and acceptance before Determination Notice:
  - a: Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as recommended.
  - b: Documentation of approval of the proposed HAP Rents.
- 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: Architect certification that mitigation measures for HUD ASD guidelines with respect to the above ground storage tanks located on the eastern adjacent site were implemented in the completion of the Development.

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		AERIAL PHOTOGRAPH(S)	
Issuer	TDHCA		
Expiration Date	7/10/2021		
Bond Amount	\$8,500,000		
BRB Priority	1A		
Bond Structure	FHA 221(d)(4) - Cash Collateralized		
% Financed with Tax-Exempt Bonds	55.0%		
<b>RISK PROFILE</b>			
STRENGTHS/MITIGATING FACTORS			
<ul style="list-style-type: none"> <li>▫ 80% of units supported by HAP Rental Assistance</li> <li>▫ Overall feasibility indicators</li> <li>▫ Developer Experience</li> </ul>			
WEAKNESSES/RISKS			
<ul style="list-style-type: none"> <li>▫ Feasibility dependent on tax exemption</li> <li>▫ All units have only one bathroom</li> </ul>			
<b>AREA MAP</b>			



**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: **21600** Program(s): **TDHCA Bonds/4% HTC**

**Corona Del Valle**

Address/Location: 5453 Ridge St.

City: El Paso County: El Paso Zip: 79932

Population: General Program Set-Aside: General Area: Urban

Activity: Acquisition/Rehab Building Type: Townhome Region: 13

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	\$8,500,000	3.50%	40	40	\$8,500,000	3.50%	40	8,500,000	1
LIHTC (4% Credit)	\$766,973				\$760,792				

Staff recommends Board approval of a waiver of the following rule:

- a) 11.304(a)(2) - requiring Appraisals to be reviewed in accordance with USPAP Standard 3 and Standard 4, by a review appraiser as selected by the Department from an approved list of review appraisers.

**CONDITIONS**

- Receipt and acceptance before Determination Notice:
    - Approval of the Recommended Credit Allocation requires Board approval of the requested waiver as
    - Documentation of approval of the proposed HAP Rents.
  - Receipt and acceptance by Cost Certification:
    - Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.
    - Architect certification that mitigation measures for HUD ASD guidelines with respect to the above ground storage tanks located on the eastern adjacent site were implemented in the completion of the Development.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

**SET-ASIDES**

TDHCA SET-ASIDES for HTC LURA		
Income Limit	Rent Limit	Number of Units
50% of AMI	50% of AMI	51
60% of AMI	60% of AMI	50



## PROJECT SUMMARY

Corona Del Valle is a 100 unit, existing family HTC project originally constructed in 1997. The project is currently encumbered by a TDHCA LURA that restricts 100% of the units to low income families. The project is also subject to a 90 day ROFR. Current owner plans to amend the ROFR to 180 days, which will allow the sale of the project to a tax credit partnership that contains a CHDO as 100% general partner. Target closing date is 6/30/2021 for the acquisition and rehabilitation to begin 7/2021.

## RISK PROFILE

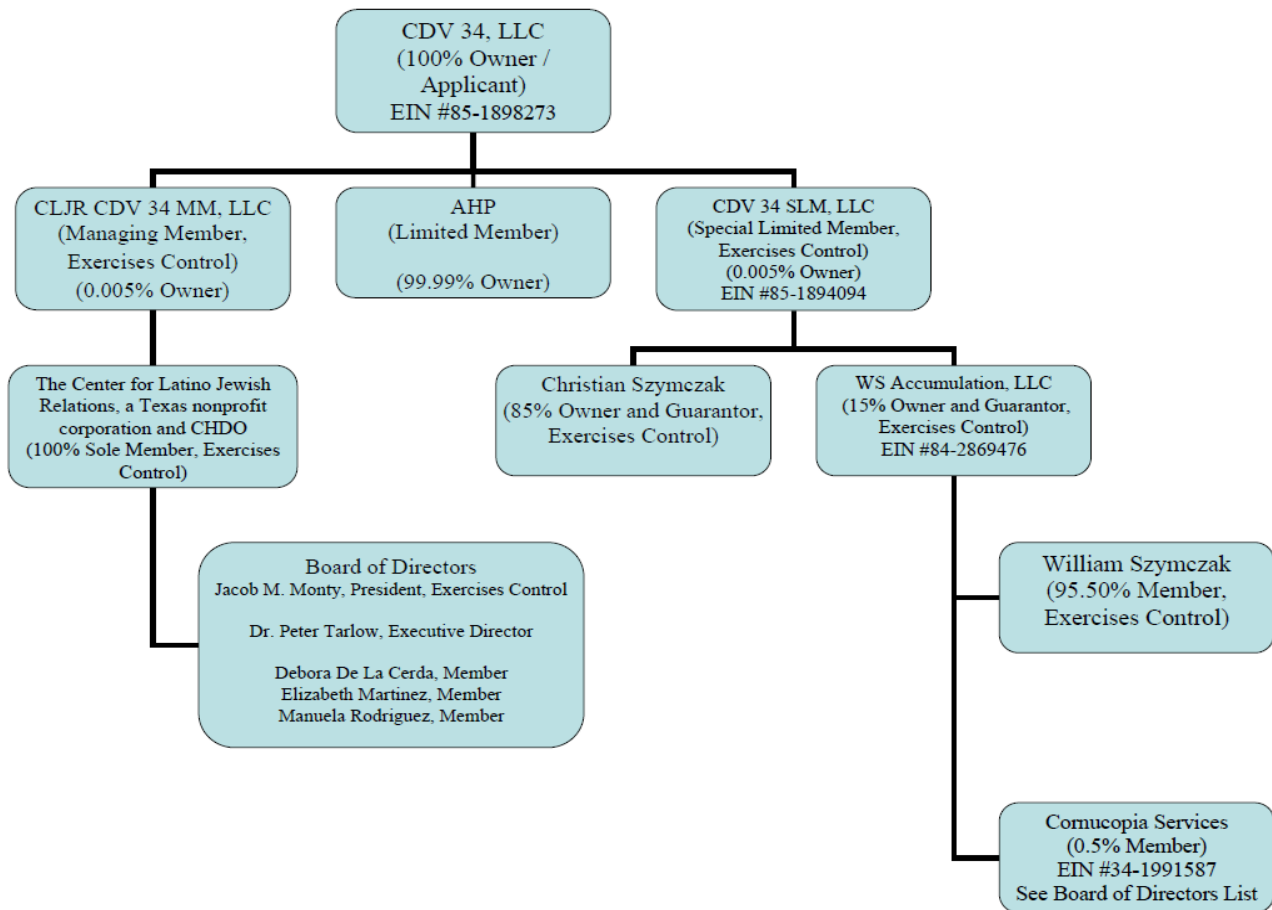
STRENGTHS/MITIGATING FACTORS	WEAKNESSES/RISKS
<ul style="list-style-type: none"> <li>▫ 80% of units supported by HAP Rental Assistance</li> <li>▫ Overall feasibility indicators</li> <li>▫ Developer Experience</li> </ul>	<ul style="list-style-type: none"> <li>▫ Feasibility dependent on tax exemption</li> <li>▫ All units have only one bathroom</li> <li>▫</li> </ul>

## DEVELOPMENT TEAM

### PRIMARY CONTACTS

Name: <u>Christian Szymczak</u> Phone: <u>510-931-9684</u> Relationship: <u>Applicant/Co-Developer</u>	Name: <u>Jacob Monty</u> Phone: <u>281-493-5529</u> Relationship: <u>Applicant/Co-Developer</u>
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## OWNERSHIP STRUCTURE



- Christian Szymczak and William Szymczak have been principals in the rehabilitation of four HTC developments in Texas since 2015.
- The Center for Latino Jewish Relations is a Texas non-profit CHDO that participated in the development of 17 affordable properties in Texas between 1997 and 2003.

# DEVELOPMENT SUMMARY

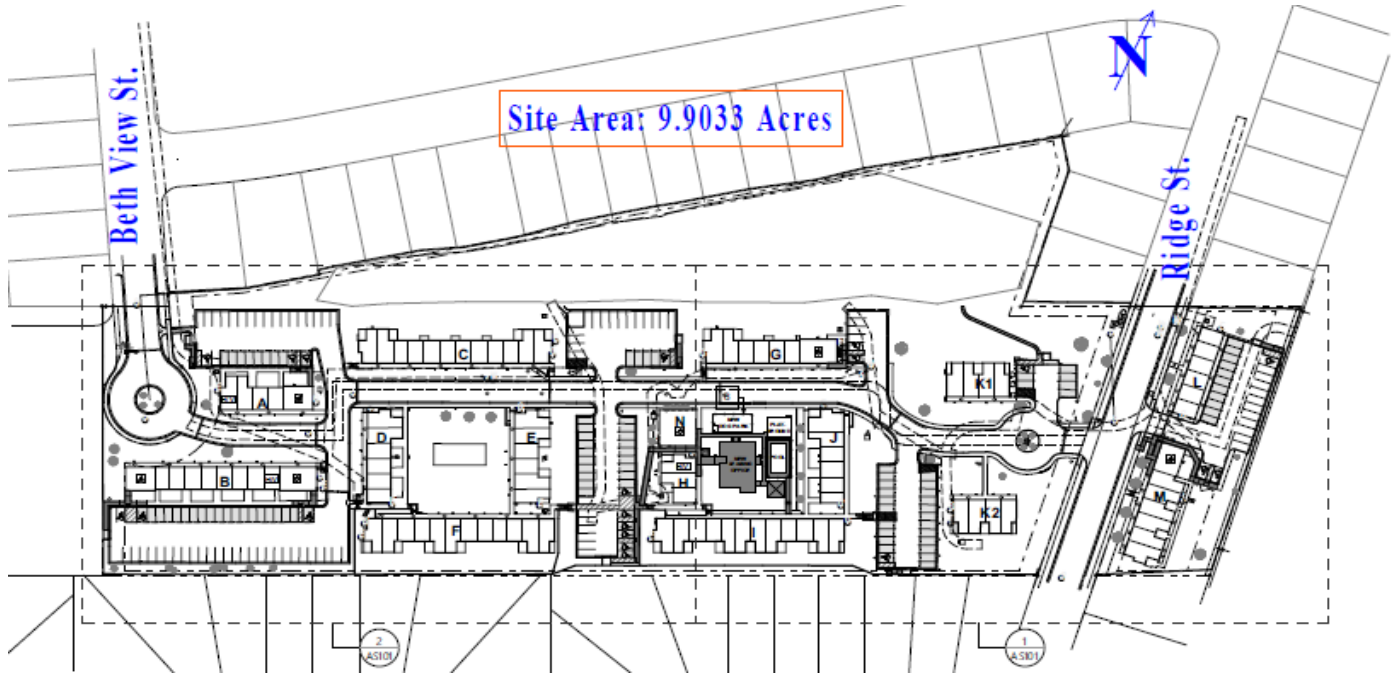
## AERIAL



## SITE PLAN - AERIAL



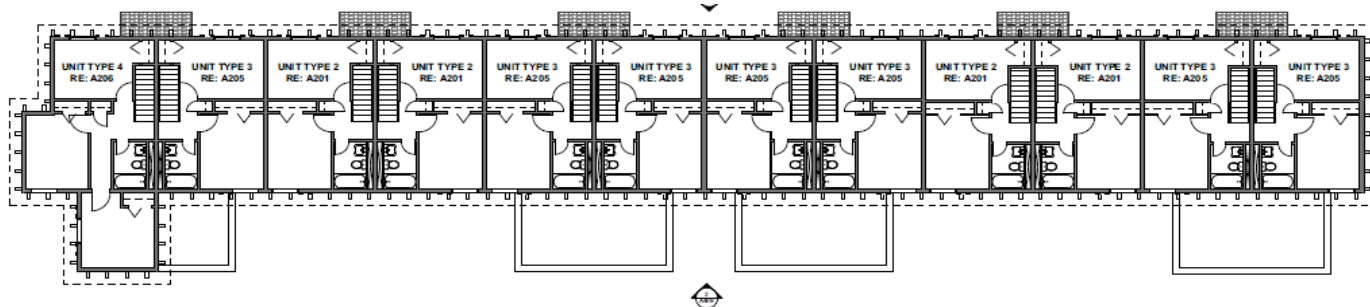
SITE PLAN SCHEMATIC



Comments:

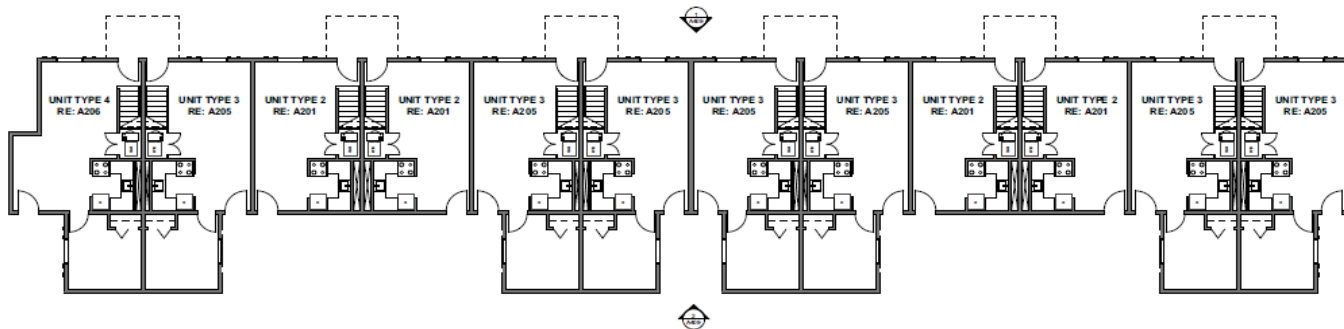
Location is in a residential area with easy access to Interstate 10. Majority of buildings located on one tract with two points of access from Beth View Street and Ridge Street. Two buildings located on a separate tract across Ridge Street.  
The topographic map indicates that elevation of the subject property is approximately 3780-3850 feet above mean seal level (MSL) and lies on hilly land. floors are concrete slabs-on-grade and the foundation walls are reinforced concrete.

BUILDING PLAN (Typical)



BUILDING TYPE I 2ND FLOOR PLAN

SCALE: 1/8" = 1'-0"



BUILDING TYPE I 1ST FLOOR PLAN

Comments:

Buildings consist of linear layout of predominantly two-story townhome units. The building has a load-bearing masonry block frame with metal roof decking. Exterior cladding consists of concrete block masonry covered by exterior insulating finishing system (EIFS). The main entrance doors are insulated metal/wood doors. Roof system consists of synthetically reinforced membrane sheets manufactured with modified bitumen.

All units contain only one bathroom. All units will feature laundry connections.

Parking	No Fee		Tenant-Paid		Total	
	Count	Ratio	Count	Ratio	Count	Ratio
Open Surface	101	1.0/unit	0	--	101	1.0/unit
Carport	100	1.0/unit	0	--	100	1.0/unit
<b>Total Parking</b>	<b>201</b>	<b>2.0/unit</b>	<b>0</b>	<b>--</b>	<b>201</b>	<b>2.0/unit</b>

Comments:

Site provides a generous parking ratio of 2.0 spaces per unit. Post-rehabilitation 100 spaces (one per unit) will feature carports available to tenants free of charge.

BUILDING ELEVATION



RELOCATION PLAN

The rehabilitation activities for this project will necessitate the temporary relocation of all on-site tenants for a period not to exceed 30 days. The temporary relocation will be scheduled in phases as designated by the rehabilitation plan. Upon completion, all residents will be allowed to reoccupy their original units.

The Developer has budgeted \$250,000 (\$2,475 per unit) for relocation.

BUILDING CONFIGURATION

Building Type	A+B	C+D	E+F	G+H	I+J	K	L	M+N					Total Buildings
Floors/Stories	2	2	2	2	2	2	2	2					15
Number of Bldgs	2	2	2	2	2	2	1	2					15
Total Units	15	18	18	10	18	8	6	8				Total Units	101
Avg. Unit Size (SF)		816 sf		Total NRA (SF)		82,366		Common Area (SF)*				1,910	

\*Common Area Square Footage as specified on Architect Certification

SITE CONTROL INFO

Site Acreage: Development Site: 9.90 acres Density: 10.2 units/acre  
 Site Control: **9.9** Site Plan: **9.9** Appraisal: **9.903** ESA: **0**

Control Type: Real Estate Purchase and Sale Agreement Contract Expiration: 6/30/2021

Development Site: 9.90 acres Cost: \$6,100,000 \$60,396 per unit

Seller: Corona Del Valle Limited Partnership

Buyer: Cornucopia Services, Inc.

Assignee: CDV 34, LLC

Related-Party Seller/Identity of Interest: No

**APPRAISED VALUE**

Appraiser: CBRE Date: 7/24/2020

Land as Vacant: 9.90 acres	<u>\$1,400,000</u>	Per Unit:	<u>\$13,861</u>
Existing Buildings: (as-is)	<u>\$5,200,000</u>	Per Unit:	<u>\$51,485</u>
<b>Total Development: (as-is)</b>	<b><u>\$6,600,000</u></b>	Per Unit:	<b><u>\$65,347</u></b>

Comments:

The 2021 QAP requires the appraisal to be reviewed in accordance with USPAP Standards. Staff is recommending a waiver of this rule. At the time of this underwriting, the process to implement this requirement is not yet in place. Until a process is established and a list of approved review appraisers has been identified, REA Staff will continue to review application appraisals to insure compliance with the QAP.

**SITE INFORMATION**

Flood Zone:	<u>X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>R-4 / A-2/SC</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>yes</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1997</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:

The parcel is split zoned for both R-4 residential and A-2/SC for apartments. Per the zoning report, the more restrictive zoning designation governs, in this case R-4. The property is non-conforming because its current use is not allowed under the R-4 zoning designation.

The development has been granted a Legal Non-Conforming Registration by the City of El Paso.

Surrounding Uses:

Single family residential to the north and south. Car dealership to the east that faces Interstate 10. Undeveloped tract to the west that faces Doniphan Drive.

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: Phase Engineering Date: 1/24/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- One of the calculated noise values fall within the range of 65-75 dB, and considered "Normally Unacceptable" based on the HUD guidelines. The results of the assessment found the greatest contributor of noise to the subject property is Interstate Highway 10, located just to the east. Noise mitigation will be required to establish a noise environment below 65 dB in proposed noise sensitive locations of the new development.
- A 2,500-gallon gasoline aboveground storage tank (AST) and a 3,000 gallon diesel AST were found on the east adjacent property occupied by an Rudolph Chevrolet, approximately 190 feet from the eastern property boundary. The potential blast zone for these tanks contains the two easternmost residential buildings. Therefore, the current site plan is not sufficient mitigation for the explosive hazard.

## MARKET ANALYSIS

Provider: Novogradac Date: 12/16/2020

### Demand Analysis:

Market Analyst calculated a Gross Capture Rate (GCR) of 1.5%, which is well below the 10% maximum threshold. The GCR calculation is based only on the 21 HTC units since the other 80 units are covered by project based vouchers (PBV). In any event, Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants.

As of 10/31/20, subject was 100% occupied.

Revisions to Market Study:	0
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## OPERATING PRO FORMA

### SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)

NOI:	\$603,067	Avg. Rent:	\$1,050	Expense Ratio:	49.2%
Debt Service:	\$515,903	B/E Rent:	\$973	Controllable Expenses:	\$3,545
Net Cash Flow:	\$87,164	UW Occupancy:	92.5%	Property Taxes/Unit:	\$817
Aggregate DCR:	1.17	B/E Occupancy:	85.7%	Program Rent Year:	2020

Eighty units (out of 101 total) are supported by Section 8 HAP Rental Assistance. Owner has submitted the request for new HAP contract with increased rents to the HUD Contract administrator. HUD will formally approve the new contract prior to closing

Proposed HAP Contract Rents are determined by a rental comparability study completed by the project appraiser. Proposed rents represent increases of 45%-69% over currently approved rents. This rent determination will be set by HUD in a new 20-year HAP contract effective on the day of sale closing.

Unit Type	Current Net HAP Rent	Proposed Net HAP Rent	Increase	Variance
2BR	\$608	\$1,015	\$407	67%
3BR	\$700	\$1,185	\$485	69%
4BR	\$894	\$1,295	\$401	45%

Twenty 2-bedroom units and one 4-bedroom unit are not supported by the HAP, and are underwritten at the maximum HTC 60% AMI rent.

Applicant anticipates a 50% property tax exemption based on the CHDO status of the Center for Latino Jewish Relations, the Managing Member of the LLC Owner. Without the exemption debt coverage would fall to 1.09 and the development would be considered infeasible.

Reserves for Replacement are budgeted at \$350 per unit per year as specified by the equity provider.

Related-Party Property Management Company: 0

Revisions to Rent Schedule:	0
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Revisions to Annual Operating Expenses:	0
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## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)

Acquisition	\$141,367/ac	\$60,396/unit	\$6,100,000	Contractor Fee	\$837,781
Off-site + Site Work		\$12,175/unit	\$1,229,629	Soft Cost + Financing	\$2,689,363
Building Cost	\$57.72/sf	\$47,075/unit	\$4,754,528	Developer Fee	\$2,071,034
Contingency	10.00%	\$5,925/unit	\$598,416	Reserves	\$554,147
<b>Total Development Cost</b>	\$186,484/unit		<b>\$18,834,898</b>	<b>Rehabilitation Cost</b>	<b>\$59,249/unit</b>

<b>Qualified for 30% Basis Boost?</b>	Located in QCT with < 20% HTC units/HH
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**Site Work:**

Site work scope of work includes: remove and replace existing flatwork, installation of carports, new playground, gazebo, dog park, and landscaping.

**Building Cost:**

Rehabilitation scope of work includes conversion of six standard units to fully accessible dwelling units; install insulation and new TPO roofing; new fiber cement siding; new office building slab; new windows ills; crown molding; tub surrounds; new doors, windows, and blinds; vinyl plank flooring; new bathroom hardware; new appliances; new kitchen plumbing and fixtures.

28% of hard cost budgeted for interior improvements with direct impact to residents.

#### REHABILITATION COSTS / UNIT / % HARD COST

Site Work	\$379,300	\$3,755/unit	6%	Finishes/Fixtures	\$1,598,590	\$15,828/unit	24%
Building Shell	\$3,077,813	\$30,473/unit	47%	HVAC	\$78,125	\$774/unit	1%
Amenities	\$850,329	\$8,419/unit	13%	Appliances	\$0	\$/unit	0%
<b>Total Exterior</b>	<b>\$4,307,442</b>	<b>\$42,648/unit</b>	<b>72%</b>	<b>Total Interior</b>	<b>\$1,676,715</b>	<b>\$16,601/unit</b>	<b>28%</b>

**SCOPE & COST REVIEW**

Provider: Phase Engineering Date: 1/27/2020

**Contingency:**

Contingency is limited to 10% of Hard Cost. Applicant overstated contingency by \$103,361. Underwriter adjusted contingency to meet the limit.

**Ineligible Costs:**

\$250,000 budgeted for relocation is excluded from eligible basis.

**Developer Fee:**

Developer Fee is overstated by \$15K as a result of the adjustment to contingency.

**Reserves:**

Capitalized reserves equal six months operating expenses and debt service.

**Credit Allocation Supported by Costs:**

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
<b>\$18,834,898</b>	<b>\$15,877,927</b>	<b>\$760,792</b>

Related-Party Contractor: 0

Related-Party Cost Estimator: 0

Revisions to Development Cost Schedule:	2
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## UNDERWRITTEN CAPITALIZATION

### BOND RESERVATION

Issuer	Amount	Reservation Date	Priority
TDHCA	\$8,500,000	1/11/2021	1A
Closing Deadline		Bond Structure	
7/10/2021		FHA 221(d)(4) - Cash Collateralized	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>55.0%</b>
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**Comments:**

TDHCA will issue \$8,500,000 in short-term bonds which will be cash collateralized by an FHA 221(d)(4) loan.

Tax exempt bonds will finance 55% of the aggregate basis of the project, exceeding the 50% required to qualify for 4% housing tax credits.

### INTERIM SOURCES

Funding Source	Description	Amount	Rate	LTC
Lument - FHA 221(d)(4)	FHA Loan	\$10,929,000	3.25%	58%
Affordable Housing Partners, Inc.	HTC Equity	\$5,414,039	\$0.80	29%
Think Housing Development LP	deferred fee	\$2,086,538		11%
Net Operating Income		\$524,186		3%
		<b>\$18,953,763</b>	<b>Total Sources</b>	

**Comments:**

ORIX Real Estate Capital, LLC, dba Lument Capital ("OREC" or "Lender"), provided a conditional commitment letter for construction and permanent financing through an FHA 221(d)(4) loan.

### PERMANENT SOURCES

Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Lument - FHA 221(d)(4)	\$10,929,000	3.25%	40	40	\$10,929,000	3.25%	40	40	58%
Net Operating Income	\$524,186				\$524,186				3%
<b>Total</b>	<b>\$11,453,186</b>				<b>\$11,453,186</b>				

**Comments:**

Lument will provide a \$10,929,000 loan with 40-year amortization and term at 3.25% interest plus 0.25% MIP.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Affordable Housing Partners, Inc.	\$6,135,172	\$0.80		\$6,086,337	\$0.80	32%	
Think Housing Development LP	\$1,365,405		66%	\$1,295,374		7%	63%
<b>Total</b>	<b>\$7,500,577</b>			<b>\$7,381,712</b>			
				<b>\$18,834,898</b>	<b>Total Sources</b>		

#### Credit Price Sensitivity based on current capital structure

<b>\$0.962</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.703</b>	Minimum Credit Price below which the Development would be characterized as infeasible

**Comments:**

Affordable Housing Partners will provide tax credit equity at \$0.80 per credit.

Revisions to Sources Schedule:	0
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## CONCLUSIONS

### Recommended Financing Structure:

Gap Analysis:	
Total Development Cost	\$18,834,898
Permanent Sources (debt + non-HTC equity)	\$11,453,186
<b>Gap in Permanent Financing</b>	<b>\$7,381,712</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$6,086,337	\$760,792
Needed to Balance Sources & Uses	\$7,381,712	\$922,714
Requested by Applicant	\$6,135,784	\$766,973

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
<b>Tax Credit Allocation</b>	<b>\$6,086,337</b>	<b>\$760,792</b>

	Amount	Interest Rate	Amort	Term	Lien
<b>TDHCA-Issued Bonds</b>	<b>\$8,500,000</b>	3.25%	40	40	1

<b>Deferred Developer Fee</b>	<b>\$1,295,374</b>	( 63% deferred)
<b>Repayable in</b>	<b>11 years</b>	

### Comments:

The credit recommendation is \$760,792 as determined by eligible basis.

The Applicant's request for credits was revised to reflect the 4.00% applicable percentage set by federal legislation passed at the end of 2020.

Underwriter:	<u>Gregg Kazak</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**  
**Corona Del Valle, El Paso, TDHCA Bonds/4% HTC #21600**

LOCATION DATA	
CITY:	El Paso
COUNTY:	El Paso
Area Median Income	\$52,500
PROGRAM REGION:	13
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	-	0.0%	0	0
2	50	49.5%	30	0
3	40	39.6%	40	0
4	11	10.9%	10	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>101</b>	<b>100.0%</b>	<b>80</b>	<b>-</b>

55%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	-	0.0%
40%	-	0.0%
50%	51	50.5%
60%	50	49.5%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>101</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	816 sf

UNIT MIX / MONTHLY RENT SCHEDULE																						
HTC		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS			
Type	Gross Rent	Type	Gross Rent	# Units	# Beds	# Baths	NRA	Gross Rent	Utility Allow	Max Net Program Rent	Delta to Max	Rent psf	Net Rent per Unit	Total Monthly Rent	Total Monthly Rent	Rent per Unit	Rent psf	Delta to Max	Underwritten	Mkt Analyst		
TC 50%	\$663	Section 8	\$1,092	20	2	1	713	\$1,092	\$77	\$1,015	\$0	\$1.42	\$1,015	\$20,300	\$20,300	\$1,015	\$1.42	\$0	\$1,092	\$1.53		
TC 50%	\$766	Section 8	\$1,100	25	3	1	861	\$1,270	\$85	\$1,185	\$0	\$1.38	\$1,185	\$29,625	\$29,625	\$1,185	\$1.38	\$0	\$1,270	\$1.48		
TC 50%	\$855	Section 8	\$1,121	6	4	1	1,051	\$1,401	\$106	\$1,295	\$0	\$1.23	\$1,295	\$7,770	\$7,770	\$1,295	\$1.23	\$0	\$1,401	\$1.33		
TC 60%	\$796	Section 8	\$1,092	7	2	1	713	\$1,092	\$77	\$1,015	\$0	\$1.42	\$1,015	\$7,105	\$7,105	\$1,015	\$1.42	\$0	\$1,092	\$1.53		
TC 60%	\$919	Section 8	\$1,100	13	3	1	861	\$1,270	\$85	\$1,185	\$0	\$1.38	\$1,185	\$15,405	\$15,405	\$1,185	\$1.38	\$0	\$1,270	\$1.48		
TC 60%	\$1,026	Section 8	\$1,121	4	4	1	1,051	\$1,401	\$106	\$1,295	\$0	\$1.23	\$1,295	\$5,180	\$5,180	\$1,295	\$1.23	\$0	\$1,401	\$1.33		
TC 60%	\$796	Section 8	\$1,092	3	2	1	754	\$1,092	\$77	\$1,015	\$0	\$1.35	\$1,015	\$3,045	\$3,045	\$1,015	\$1.35	\$0	\$1,092	\$1.45		
TC 60%	\$919	Section 8	\$1,100	2	3	1	957	\$1,270	\$85	\$1,185	\$0	\$1.24	\$1,185	\$2,370	\$2,370	\$1,185	\$1.24	\$0	\$1,270	\$1.33		
TC 60%	\$796			20	2	1	713	\$796	\$77	\$719	\$0	\$1.01	\$719	\$14,380	\$14,380	\$719	\$1.01	\$0	\$1,005	\$1.41		
TC 60%	\$1,026			1	4	1	1,451	\$1,026	\$106	\$920	\$0	\$0.63	\$920	\$920	\$920	\$920	\$0.63	\$0	\$1,230	\$0.85		
<b>TOTALS/AVERAGES:</b>				<b>101</b>			<b>82,366</b>				<b>\$0</b>	<b>\$1.29</b>	<b>\$1,050</b>	<b>\$106,100</b>	<b>\$106,100</b>	<b>\$1,050</b>	<b>\$1.29</b>	<b>\$0</b>	<b>\$1,177</b>	<b>\$1.44</b>	<b>\$211</b>	

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$1,273,200</b>	<b>\$1,273,200</b>
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**STABILIZED PRO FORMA**

*Corona Del Valle, El Paso, TDHCA Bonds/4% HTC #21600*

**STABILIZED FIRST YEAR PRO FORMA**

	COMPARABLES		APPLICANT				TDHCA				VARIANCE		
	Database	Expense Comps	Rolling 12 Mos. 9/25/19 to 9/25/20	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>												0.0%	\$0
Late Fees, Damages						\$8.25	\$10,000						
Total Secondary Income						\$8.25		\$10,000	\$8.25			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>							\$1,283,200	\$1,283,200				0.0%	\$0
Vacancy & Collection Loss						7.5% PGI	(96,240)	(96,240)	7.5% PGI			0.0%	-
Rental Concessions							-	-				0.0%	-
<b>EFFECTIVE GROSS INCOME</b>							\$1,186,960	\$1,186,960				0.0%	\$0

General & Administrative	\$36,220	\$359/Unit	\$27,745	\$275/Unit	\$41,577	\$412/Unit	3.28%	\$0.47	\$385	\$38,900	\$41,577	\$412	\$0.50	3.50%	-6.4%	(2,677)
Management	\$34,718	4.7% EGI	\$35,987	3.0% EGI	\$32,975	2.8% EGI	4.00%	\$0.58	\$470	\$47,478	\$47,478	\$470	\$0.58	4.00%	0.0%	-
Payroll & Payroll Tax	\$125,098	\$1,239/Unit	\$124,712	\$1,235/Unit	\$184,871	\$1,830/Unit	15.08%	\$2.17	\$1,772	\$179,000	\$184,871	\$1,830	\$2.24	15.58%	-3.2%	(5,871)
Repairs & Maintenance	\$48,103	\$476/Unit	\$43,204	\$428/Unit	\$36,345	\$360/Unit	5.77%	\$0.83	\$678	\$68,500	\$65,650	\$650	\$0.80	5.53%	4.3%	2,850
Electric/Gas	\$23,453	\$232/Unit	\$13,796	\$137/Unit	\$7,549	\$75/Unit	0.60%	\$0.09	\$70	\$7,100	\$7,549	\$75	\$0.09	0.64%	-5.9%	(449)
Water, Sewer, & Trash	\$42,463	\$420/Unit	\$65,937	\$653/Unit	\$76,622	\$759/Unit	5.43%	\$0.78	\$639	\$64,500	\$76,622	\$759	\$0.93	6.46%	-15.8%	(12,122)
Property Insurance	\$29,604	\$0.36 /sf	\$28,230	\$0.34 /sf	\$33,003	\$0.40 /sf	3.79%	\$0.55	\$446	\$45,000	\$33,003	\$327	\$0.40	2.78%	36.4%	11,997
Property Tax (@ 50%) 3.122254	\$56,565	\$560/Unit	\$58,213	\$576/Unit	\$76,681	\$759/Unit	6.95%	\$1.00	\$817	\$82,500	\$57,511	\$569	\$0.70	4.85%	43.5%	24,989
Reserve for Replacements							2.98%	\$0.43	\$350	\$35,350	\$35,350	\$350	\$0.43	2.98%	0.0%	-
Supportive Services							0.42%	\$0.06	\$50	\$5,000	\$5,000	\$50	\$0.06	0.42%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)							0.34%	\$0.05	\$40	\$4,040	\$4,040	\$40	\$0.05	0.34%	0.0%	-
TDHCA Bond Compliance Fee							0.21%	\$0.03	\$25	\$2,525	\$2,525	\$25	\$0.03	0.21%	0.0%	-
Bond Trustee Fees							0.34%	\$0.05	\$40	\$4,000	\$4,000	\$40	\$0.05	0.34%	0.0%	-
<b>TOTAL EXPENSES</b>							<b>49.19%</b>	<b>\$7.09</b>	<b>\$5,781</b>	<b>\$ 583,893</b>	<b>\$565,176</b>	<b>\$5,596</b>	<b>\$6.86</b>	<b>47.62%</b>	<b>3.3%</b>	<b>\$ 18,718</b>
<b>NET OPERATING INCOME ("NOI")</b>							<b>50.81%</b>	<b>\$7.32</b>	<b>\$5,971</b>	<b>\$603,067</b>	<b>\$621,784</b>	<b>\$6,156</b>	<b>\$7.55</b>	<b>52.38%</b>	<b>-3.0%</b>	<b>\$ (18,718)</b>

<b>CONTROLLABLE EXPENSES</b>									\$3,545/Unit				\$3,725/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Corona Del Valle, El Paso, TDHCA Bonds/4% HTC #21600*

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
Lument - FHA 221(d)(4)	0.25%	1.21	1.17	\$515,904	3.25%	40	40	\$10,929,000	\$10,929,000	40	40	3.25%	\$515,903	1.17	58.0%
<b>CASH FLOW DEBT / GRANTS</b>															
Net Operating Income		1.21	1.17		0.00%	0	0	\$524,186	\$524,186	0	0	0.00%		1.17	2.8%
				<b>\$515,904</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$11,453,186</b>	<b>\$11,453,186</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$515,903</b>	<b>1.17</b>	<b>60.8%</b>
<b>NET CASH FLOW</b>		\$105,880	\$87,163					<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>			\$603,067	\$87,164	<b>NET CASH FLOW</b>	

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Affordable Housing Partners, Inc.	LIHTC Equity	32.6%	\$766,973	0.80	\$6,135,172	\$6,086,337	\$0.80	\$760,792	32.3%	\$7,533	Eligible Basis
Think Housing Development LP	Deferred Developer Fees	7.2%	(65% Deferred)		\$1,365,405	\$1,295,374	(63% Deferred)		6.9%		<b>Total Developer Fee: \$2,071,034</b>
Additional (Excess) Funds Req'd		0.0%			\$0				0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>39.8%</b>			<b>\$7,500,577</b>	<b>\$7,381,712</b>			<b>39.2%</b>		
<b>TOTAL CAPITALIZATION</b>						<b>\$18,953,763</b>	<b>\$18,834,898</b>				15-Yr Cash Flow after Deferred Fee: <b>\$694,876</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs			Total Costs			Eligible Basis		%	\$	
	Acquisition	New Const. Rehab							New Const. Rehab	Acquisition			
Land Acquisition			\$13,861 / Unit	\$1,400,000	\$1,400,000	\$13,861 / Unit					0.0%	\$0	
Building Acquisition	\$4,700,000		\$46,535 / Unit	\$4,700,000	\$4,700,000	\$46,535 / Unit			\$4,700,000		0.0%	\$0	
Site Work		\$379,300	\$3,755 / Unit	\$379,300	\$379,300	\$3,755 / Unit		\$379,300			0.0%	\$0	
Site Amenities		\$850,329	\$8,419 / Unit	\$850,329	\$850,329	\$8,419 / Unit		\$850,329			0.0%	(\$1)	
Building Cost	\$4,754,529		\$57.72 /sf	\$47,075/Unit	\$4,754,529	\$4,754,528	\$47,075/Unit	\$57.72 /sf	\$4,754,528		0.0%	\$1	
Contingency		\$701,777	11.73%	11.73%	\$701,777	\$598,416	10.00%	10.00%	\$598,416		17.3%	\$103,361	
Contractor Fees		\$837,781	12.53%	12.53%	\$837,781	\$837,781	12.73%	12.73%	\$837,781		0.0%	\$0	
Soft Costs	0	\$989,095	\$12,268 / Unit	\$1,239,095	\$1,239,095	\$12,268 / Unit		\$989,095	\$0		0.0%	\$0	
Financing	0	\$697,444	\$14,359 / Unit	\$1,450,268	\$1,450,268	\$14,359 / Unit		\$697,444	\$0		0.0%	\$0	
Developer Fee	\$705,000	\$1,381,538	15.00%	15.00%	\$2,086,538	\$2,071,034	15.00%	15.00%	\$1,366,034	\$705,000	0.7%	\$15,504	
Reserves			6 Months	\$554,147	\$554,147	6 Months					0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$5,405,000</b>	<b>\$10,591,793</b>	\$187,661 / Unit	<b>\$18,953,764</b>	<b>\$18,834,898</b>	\$186,484 / Unit	<b>\$10,472,927</b>	<b>\$5,405,000</b>	<b>0.6%</b>	<b>\$118,866</b>		
Acquisition Cost	\$0				\$0								
Contingency		(\$103,361)			(\$103,361)								
Contractor's Fee		\$0			\$0								
Financing Cost		\$0			\$0								
Developer Fee	(\$0)	(\$15,504)			(\$15,504)								
Reserves					\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$5,405,000</b>	<b>\$10,472,928</b>	\$186,484/unit	<b>\$18,834,898</b>	<b>\$18,834,898</b>	\$186,484/unit	<b>\$10,472,927</b>	<b>\$5,405,000</b>	<b>0.0%</b>	<b>\$1</b>		
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>					<b>\$18,834,898</b>								

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

*Corona Del Valle, El Paso, TDHCA Bonds/4% HTC #21600*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$5,405,000	\$10,472,928	\$5,405,000	\$10,472,927
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$5,405,000	\$10,472,928	\$5,405,000	\$10,472,927
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$5,405,000	\$13,614,806	\$5,405,000	\$13,614,804
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$5,405,000	\$13,614,806	\$5,405,000	\$13,614,804
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$216,200	\$544,592	\$216,200	\$544,592
<b>CREDITS ON QUALIFIED BASIS</b>	\$760,792		\$760,792	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8000	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$760,792	\$6,086,337	<b>\$760,792</b>	<b>(\$6,181)</b>	<b>(\$49,447)</b>
<b>Needed to Fill Gap</b>	\$922,714	\$7,381,712	----	----	----
<b>Applicant Request</b>	\$766,973	\$6,135,784	----	----	----

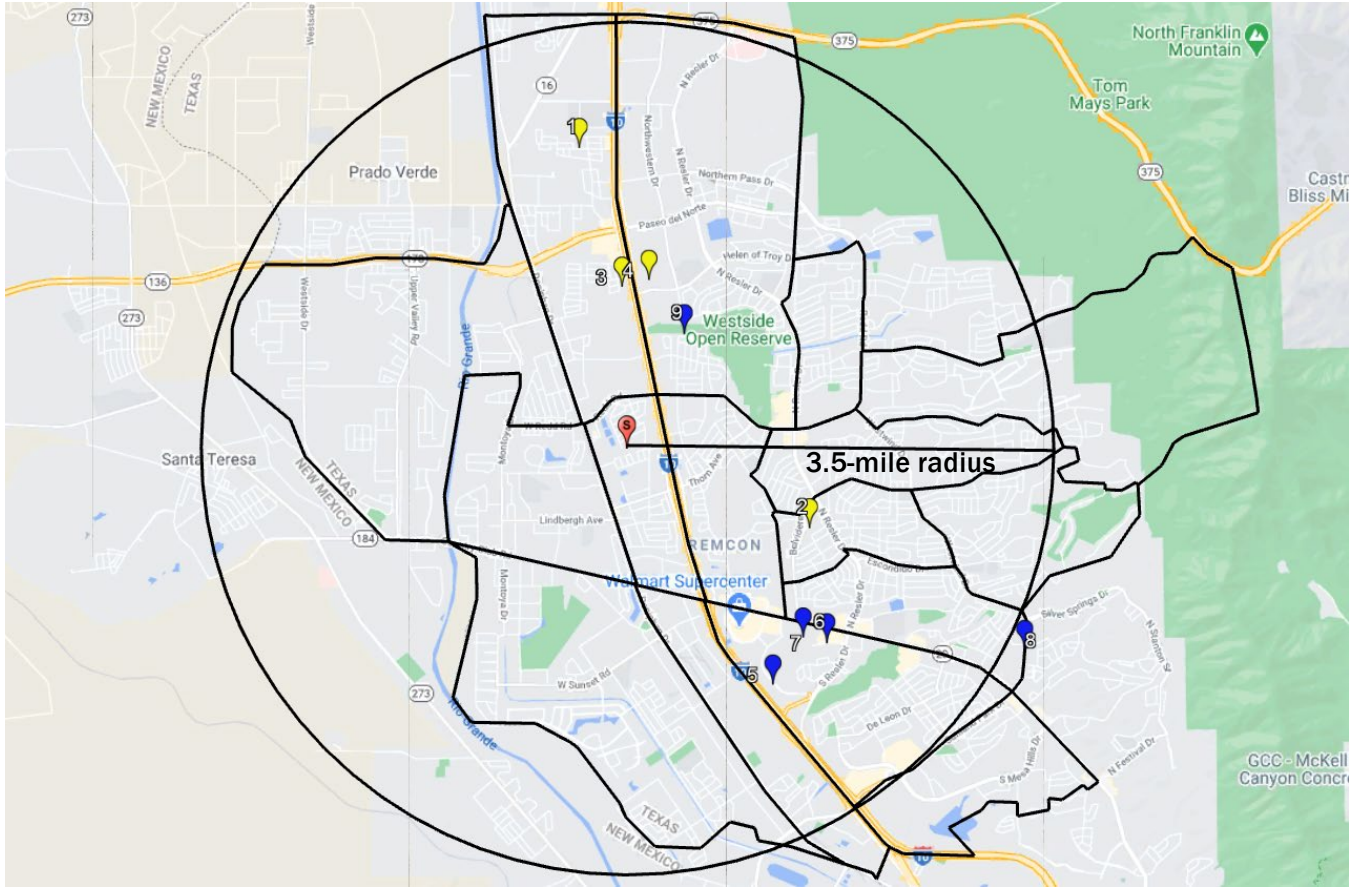
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$8,500,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		54.6%	55.0%
Land Cost	\$1,400,000	\$1,400,000	amount aggregate basis can increase before 50% test fails	\$1,439,745	\$1,543,107
Depreciable Bldg Cost	\$14,160,255	\$14,056,893			
<b>Aggregate Basis for 50% Test</b>	<b>\$15,560,255</b>	<b>\$15,456,893</b>			

## Long-Term Pro Forma

*Corona Del Valle, El Paso, TDHCA Bonds/4% HTC #21600*

	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%	\$1,186,960	\$1,210,699	\$1,234,913	\$1,259,611	\$1,284,804	\$1,418,527	\$1,566,169	\$1,729,177	\$1,909,151	\$2,107,857	\$2,327,244	\$2,569,465
TOTAL EXPENSES	3.00%	\$583,893	\$600,935	\$618,479	\$636,540	\$655,132	\$756,641	\$874,023	\$1,009,774	\$1,166,787	\$1,348,411	\$1,558,525	\$1,801,619
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$603,067</b>	<b>\$609,764</b>	<b>\$616,434</b>	<b>\$623,072</b>	<b>\$629,672</b>	<b>\$661,886</b>	<b>\$692,146</b>	<b>\$719,403</b>	<b>\$742,363</b>	<b>\$759,445</b>	<b>\$768,719</b>	<b>\$767,846</b>
EXPENSE/INCOME RATIO		49.2%	49.6%	50.1%	50.5%	51.0%	53.3%	55.8%	58.4%	61.1%	64.0%	67.0%	70.1%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903	\$515,903
DEBT COVERAGE RATIO		1.17	1.18	1.19	1.21	1.22	1.28	1.34	1.39	1.44	1.47	1.49	1.49
<b>ANNUAL CASH FLOW</b>													
<b>ANNUAL CASH FLOW</b>		<b>\$87,164</b>	<b>\$93,861</b>	<b>\$100,531</b>	<b>\$107,169</b>	<b>\$113,769</b>	<b>\$145,983</b>	<b>\$176,243</b>	<b>\$203,500</b>	<b>\$226,461</b>	<b>\$243,542</b>	<b>\$252,816</b>	<b>\$251,943</b>
Deferred Developer Fee Balance		\$1,208,211	\$1,114,350	\$1,013,819	\$906,650	\$792,881	\$126,794	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$694,876</b>	<b>\$1,659,302</b>	<b>\$2,747,695</b>	<b>\$3,933,953</b>	<b>\$5,183,045</b>	<b>\$6,449,092</b>

**PMA Map –Subject and Comparables**



Source: Google Earth, December 2020

**COMPARABLE PROPERTIES**

#	Comparable Property	City	Rent Structure	Tenancy	Distance to Subject
<b>S</b>	<b>Corona Del Valle - As Renovated</b>	<b>El Paso</b>	<b>LIHTC/ Section 8</b>	<b>Family</b>	<b>-</b>
1	Canutillo Palms	El Paso	LIHTC	Family	2.6 miles
2	Franklin Place Townhomes	El Paso	LIHTC	Family	1.5 miles
3	Sunset Palms Apartments	El Paso	LIHTC	Family	1.4 miles
4	Villas At West Mountain	El Paso	LIHTC/ Market	Family	1.5 miles
5	Avalon West	El Paso	Market	Family	2.1 miles
6	Colores Del Sol Apartments	El Paso	Market	Family	2.2 miles
7	Mesa Village Apartments	El Paso	Market	Family	2.0 miles
8	The Crest Apartments	El Paso	Market	Family	3.5 miles
9	Villas At Helen Of Troy	El Paso	Market	Family	1.1 miles





## Final Transcript

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS:  
Multi-Family Bond Hearing**

March 11, 2021/1:00 p.m. CST

### **SPEAKERS**

Teresa Morales  
Christian Shimshack

### **PRESENTATION**

Teresa                      This is Teresa Morales with the Texas Department of Housing & Community Affairs. The purpose of this call is to conduct a public hearing with respect to the proposed Corona Del Valle Apartments. To give folks an idea as to how we're going to proceed with this hearing, there is going to be a brief speech that I have to read for purposes of meeting the Internal Revenue Code, and then it will be at the conclusion of that speech where I will open up the lines and unmute them for any individuals who wish to make public comment with respect to this particular property. So if there are any individuals on the line who would

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**March 11, 2021/1:00 p.m. CST**

**Page 2**

like to make public comment, it will be at the conclusion of that speech when you will be allowed to do so. With that being said, I will go ahead and start the speech.

Good afternoon. My name is Teresa Morales, and I would like to proceed with the public hearing. Let the record show that it is 1:08 p.m., March 11, 2021, and we are conducting a public hearing on behalf of the Texas Department of Housing & Community Affairs with respect to an issue of tax exempt multi-family revenue bonds for a residential rental community.

This hearing is required by the Internal Revenue Code. The sole purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue. No decisions regarding the development will be made at this hearing. The Department's Board is scheduled to meet to consider the transaction on April 8, 2021.

In addition to providing your comments at this hearing, the public is also invited to provide comment directly to the Board at any of their meetings. The bonds will be issued as tax-exempt multi-family revenue bonds and the aggregate principle amount not to exceed \$8,500,000 and taxable

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**March 11, 2021/1:00 p.m. CST**

**Page 3**

bonds, if necessary, in an amount to be determined and issued in one or more series by the Texas Department of Housing & Community Affairs, the issuer. The proceeds of the bonds will be loaned to CDV 34, LLC or a related person or affiliate entity thereof to finance a portion of the costs of acquiring, rehabilitating and equipping a multi-family rental housing community described as follows.

A 101-unit multi-family residential rental development to be located at 5453 Ridge Street, El Paso, El Paso County, Texas 79932. The proposed multi-family rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof.

This concludes the speech that I need to read, and so now I'm going to open up all of the lines.

Moderator

All participants are now in interactive talk mode.

Teresa

The lines have been opened. If there are any individuals who would like to make public comment and express their views regarding the proposed improvements that are to be made to the Corona Del Valle Apartments, now would be an opportunity to do so. Are there any individuals on the

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**March 11, 2021/1:00 p.m. CST**

**Page 4**

line who would like to make public comment with respect to this proposed transaction? If there are any individuals on the line who would like to make public comment, this would be an opportunity for you to do so.

Christian This is Christian Shimshack [ph]. I would like to make a comment.

Teresa Okay. Go ahead.

Christian I have no comment actually. I thought it was just you and me on the line.  
Is that the case?

Teresa No. I've unmuted all of the lines. And so if there are any individuals who would like to make a public comment on the transaction, this would be an opportunity for them to do so.

Okay. Let the record show that there are no individuals on the line who would like to make public comment on the proposed improvements to the Corona Del Valle Apartments transaction, and therefore the meeting is now adjourned. The time is now 1:12 p.m. Thank you.



**JOSÉ RODRÍGUEZ**

STATE SENATOR

SENATE DISTRICT 29

EL PASO, CULBERSON, HUDSPETH, PRESIDIO & JEFF DAVIS COUNTIES

September 28, 2020

Marni Holloway  
Multifamily Finance Director, Texas Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> St.  
Austin, TX 78701

**Re: TDHCA No. 21600 — Corona Del Valle Apts.**

Dear Ms. Holloway:

Please let this letter serve to acknowledge that I am aware of and support the rehabilitation of Corona Del Valle Apartments, an at-risk affordable rental housing community, located at 5453 Ridge. St. in El Paso.

If you desire any additional information, please feel free to contact us.

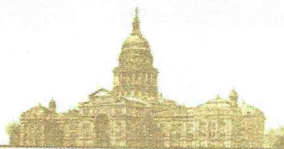
A handwritten signature in black ink that reads "José Rodríguez".

José Rodríguez

CAPITOL OFFICE  
ROOM 3E.18  
P.O. BOX 12068  
AUSTIN, TEXAS 78711  
(512) 463-0129  
(512) 463-7100 FAX

EL PASO OFFICE  
100 N. OCHOA ST., SUITE A  
EL PASO, TEXAS 79901  
(915) 351-3500  
(915) 351-3579 FAX

MARFA OFFICE  
300 W. COLUMBIA, ROOM 102  
ELEMENTARY BLDG.  
P.O. BOX 1105  
MARFA, TEXAS 79843  
(432) 729-4800  
(432) 729-4803 FAX



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# TEXAS HOUSE *of* REPRESENTATIVES

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**Joe Moody**

STATE REPRESENTATIVE  
DISTRICT 78 • EL PASO COUNTY

October 1, 2020

Marni Holloway  
Multifamily Finance Director, TX Department of Housing and Community Affairs  
221 E. 11<sup>th</sup> St.  
Austin, TX 78701

**Re: TDHCA No. 21600 — Corona Del Valle Apts.**

Dear Ms. Holloway:

Please let this letter serve to acknowledge that I support the rehabilitation of Corona Del Valle Apartments, an at-risk affordable rental housing community, located at 5453 Ridge. St. in El Paso, TX.

If you desire any additional information, please feel free to contact us.

Sincerely,

Joe Moody  
State Representative | District 78



## Representative Peter Svarzbein, District 1

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### **MAYOR**

Dee Margo

10/1/2020

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### **CITY COUNCIL**

#### **District 1**

Peter Svarzbein

Marni Holloway

Multifamily Finance Director, TX Department of Housing and Community Affairs

221 E. 11<sup>th</sup> St.

Austin, TX 78701

#### **District 2**

Alexsandra Anello

#### **District 3**

Cassandra Hernandez

**Re: TDHCA No. 21600 — Corona Del Valle Apts.**

#### **District 4**

Dr. Sam Morgan

Dear Ms. Holloway:

#### **District 5**

Isabel Salcido

Please let this letter serve to acknowledge that I, City Representative for El Paso District 1, Peter Svarzbein, am aware of and support the rehabilitation of Corona Del Valle Apartments, an at-risk affordable rental housing community, located at 5453 Ridge. St. in El Paso, TX.

#### **District 6**

Claudia L. Rodriguez

If you desire any additional information, please feel free to contact us.

#### **District 7**

Henry Rivera

Sincerely,

#### **District 8**

Cissy Lizarraga

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### **CITY MANAGER**

Tommy Gonzalez

Representative Peter Svarzbein  
City of El Paso, Texas- District1

Rep. Peter Svarzbein – District 1  
City 1 | 300 N. Campbell St. | El Paso, Texas 79912 | (915) 212-1002



DELIVERING **EXCEPTIONAL** SERVICES

5e



**BOARD ACTION REQUEST**

**BOND FINANCE DIVISION**

**APRIL 8, 2021**

Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (Palladium Simpson Stuart Apartments) Series 2021 Resolution No. 21-028, and a Determination Notice of Housing Tax Credits

**RECOMMENDED ACTION**

**WHEREAS**, the Board adopted an inducement resolution for the Palladium Simpson Stuart Apartments at the Board meeting of September 3, 2020;

**WHEREAS**, an application for Palladium Simpson Stuart Apartments requesting 4% Housing Tax Credits, sponsored by Palladium USA, Inc. was submitted to the Department on December 9, 2020;

**WHEREAS**, a Certificate of Reservation was issued in the amount of \$25,750,000 on January 11, 2021, with a bond delivery deadline of July 10, 2021;

**WHEREAS**, the applicant disclosed the presence of a neighborhood risk factor relating to the underperformance of Kennedy-Curry Middle School;

**WHEREAS**, pursuant to §11.101(a)(3)(C) of the 2021 QAP, no mitigation is required for 2021 applications because this particular Neighborhood Risk Factor was waived for the 2021 program year; and

**WHEREAS**, EARAC recommends approval of the issuance of Multifamily Housing Revenue Bonds (Series 2021) for Palladium Simpson Stuart Apartments and the issuance of a Determination Notice;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of tax-exempt Multifamily Housing Revenue Bonds (Palladium Simpson Stuart Apartments) Series 2021 in an amount not to exceed \$25,750,000, Resolution No. 21-028, is hereby approved in the form presented to this meeting;

**FURTHER RESOLVED**, the issuance of a Determination Notice of \$2,135,593 in 4% Housing Tax Credits for the Palladium Simpson Stuart Apartments, 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 Bonds will be issued in accordance with Tex. Gov't Code §2306.353 *et seq.*, which authorizes the Department to issue revenue bonds 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:* The Palladium Simpson Stuart Apartments are to be located at 3380 Simpson Stuart Road in Dallas, Dallas County, and proposes the new construction of 270 units that will serve the general population. The Certificate of Reservation from the Bond Review Board was issued under the Priority 2 designation, which requires 80% of the units within the development have rents restricted to 60% of Area Median Family Income (AMFI). This application proposes to implement the Income Averaging set-aside where five of the units will be rent and income restricted at 40% of AMFI, thirty of the units will be rent and income restricted at 50% of AMFI, 181 of the units will be rent and income restricted at 60% of AMFI, fourteen of the units will be rent and income restricted at 70% of AMFI, thirteen of the units will be rent and income restricted at 80% of AMFI, and the remaining 27 units will be market rate.

*Organizational Structure and Previous Participation:* The Borrower is Palladium Simpson Stuart, Ltd., and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and was deemed acceptable, without further review or discussion, by EARAC.

*Tax Equity and Fiscal Responsibility Act (TEFRA) Public Hearing/Public Comment:* In light of COVID-19 and the inability for an in-person TEFRA hearing to be held, staff conducted a telephonic hearing, in accordance with IRS guidance, for the proposed development on March 12, 2021. Representatives from the Department and the Developer were present, and no public comment was made. A copy of the hearing transcript is included herein. The Department has received a letter of support for the proposed development from State Representative for District 110, Toni Rose, which is included herein.

### **Summary of Financial Structure**

This transaction involves an FHA 221(d)(4) loan originated and underwritten by PNC Bank. Under the proposed structure, the Department will issue short-term tax-exempt fixed rate bonds in an amount not to exceed \$25,750,000 that will be initially publically offered. As bond proceeds are drawn down, the proceeds from the FHA loan will simultaneously be drawn and placed in the Collateral Fund such that the bonds will be fully cash-collateralized throughout the construction period. PNC Bank will also

provide a construction bridge loan of approximately \$12,175,631 that will carry an interest rate equal to the Daily LIBOR rate plus 200 bps. The bridge loan will be interest-only, have a maximum term of 60 months, and be completely paid down upon construction completion.

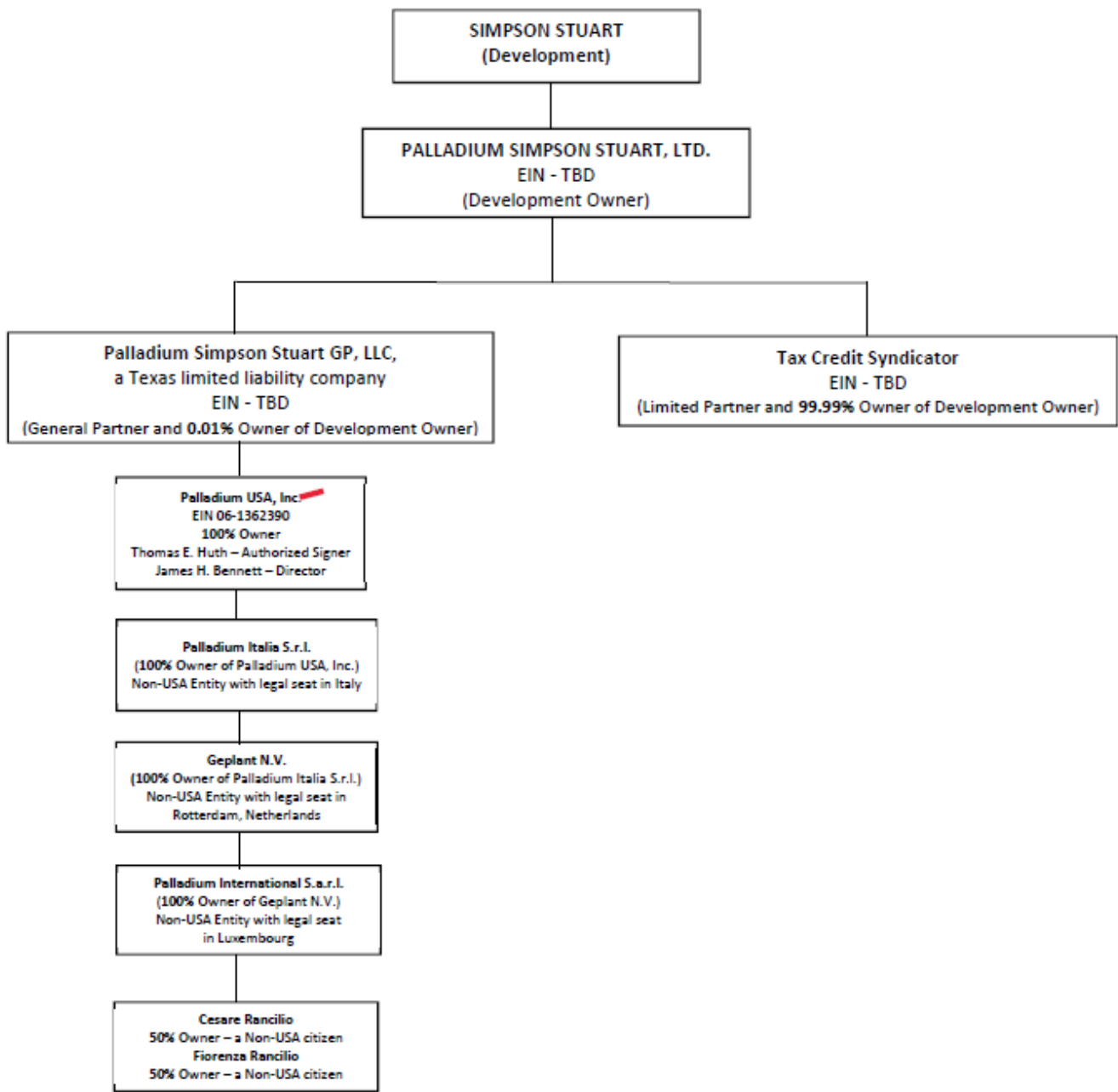
The bond mortgage will be subordinate in lien position to the FHA mortgage, but as previously indicated, the bond proceeds will also be cash collateralized as long as the bonds are outstanding. The bonds will remain outstanding through the construction period, and upon completion, will then be redeemed in full using the funds on deposit in the Collateral Fund. The bonds will carry an interest rate not to exceed 3.0% and an initial mandatory tender date of December 1, 2023, at which time the bonds can be redeemed or remarketed until the final maturity date of December 1, 2024. Upon redemption of the bonds, the FHA mortgage loan will remain and carry an interest rate of approximately 3.25% with a 40-year term and amortization.

A copy of the Exhibits recommended to be approved by the Board as referenced in Resolution No. 21-025 can be found online at TDHCA's Board Meeting Information Center website at <http://www.tdhca.state.tx.us/board/meetings.htm>.

EXHIBIT A

**Thomas E. Huth  
Ability to Exercise Control**

**PALLADIUM SIMPSON STUART  
4% Tax Credit – 2021 Program  
OWNERSHIP STRUCTURE**



Palladium Simpson Stuart  
Organizational Chart

## RESOLUTION NO. 21-028

RESOLUTION AUTHORIZING AND APPROVING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MULTIFAMILY HOUSING REVENUE BONDS (PALLADIUM SIMPSON STUART APARTMENTS) SERIES 2021; 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, 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 Bonds (Palladium Simpson Stuart Apartments) Series 2021 (the "Bonds") 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 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 Bonds to fund a mortgage loan to Palladium Simpson Stuart, Ltd., a Texas limited partnership (the "Borrower"), in connection with the acquisition, construction and equipping of a qualified residential rental development 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 3, 2020, 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 Bonds (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 promissory note (the "Borrower Note") in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds 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 "Bond 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 Bond Mortgage will be assigned to the Trustee pursuant to an Assignment of Deed of Trust Documents (the "Assignment") from the Department to the Trustee; and

WHEREAS, the Borrower will obtain a first lien mortgage loan from PNC Bank, National Association (the "HUD Lender"), and the Board has determined that the Department will execute and deliver a Funding Agreement (the "Funding Agreement") with the HUD Lender, the Trustee and the Borrower, pursuant to which the HUD Lender will deposit from time to time the proceeds of the first lien mortgage loan with the Trustee, to be held by the Trustee as security for the Bonds in accordance with the Indenture; and

WHEREAS, with respect to the Bonds, 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 Dallas 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 Bonds, pursuant to which the Department and the Borrower will make

certifications, representations and covenants relating to the treatment of the interest on the Bonds as exempt from gross income for federal income tax purposes; 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 Bonds 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 Bonds; and

WHEREAS, the Board has further determined that the Department will enter into a Bond 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 Bonds from the Department and the Department will sell the Bonds to the Underwriter; 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, the Loan Agreement, the Regulatory Agreement, the Funding Agreement, the Assignment, the Tax Exemption 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 Bond Mortgage and the Borrower 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 Bonds, the execution and delivery of the Issuer Documents, the acceptance of the Bond 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 BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of the Bonds 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 Bonds and to deliver the Bonds 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 Bonds 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 Bonds, 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 Bonds 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 Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law; and provided further that the initial interest rate on the Bonds shall not exceed 3.00%; (ii) the aggregate principal amount of the Bonds shall not exceed \$25,750,000; (iii) the final maturity of the Bonds shall occur not later than June 1, 2025; and (iv) the price at which the Bonds 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 Dallas 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 Bonds 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 Funding Agreement. That the form and substance of the Funding Agreement are hereby approved, and that the Authorized Representatives each are hereby authorized to execute the Funding Agreement, and to deliver the Funding Agreement to the HUD Lender, the Trustee and the Borrower.

Section 1.9 [Reserved].

Section 1.10 Acceptance of the Borrower Note and the Bond Mortgage. That the form and substance of the Borrower Note and the Bond 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, 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 Bonds; 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 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 1.14 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 1.15 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 - Bond Mortgage
- Exhibit G - Assignment
- Exhibit H - Purchase Agreement
- Exhibit I - Official Statement
- Exhibit J - Tax Exemption Agreement
- Exhibit K - Funding Agreement

Section 1.16 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 Bonds 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 Bonds.

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 Bonds 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 Bonds 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 Bonds 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 Bonds 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 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 Bonds 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 Bonds and the Development and enable the Department to meet its covenants with and responsibilities to the holders of the Bonds.

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 Bonds in the secondary open market for municipal securities.

#### ARTICLE 4

#### GENERAL PROVISIONS

Section 4.1 Limited Obligations. That the Bonds 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 Bonds, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do 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 Bond 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.

*[The remainder of this left intentionally blank.]*

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 8th day of April, 2021.

**EXHIBIT A**

**Description of Development**

Borrower: Palladium Simpson Stuart, Ltd., a Texas limited partnership

Development: The Development is a 270-unit affordable, multifamily housing development known as Palladium Simpson Stuart Apartments, located at 3440 Simpson Stuart Road, Dallas, Dallas County, Texas 75241. It consists of nine (9) residential apartment buildings with approximately 257,040 net rentable square feet. The unit mix will consist of:

81	one-bedroom/one-bath units
135	two-bedroom/two-bath units
54	three-bedroom/two-bath units
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270	Total Units

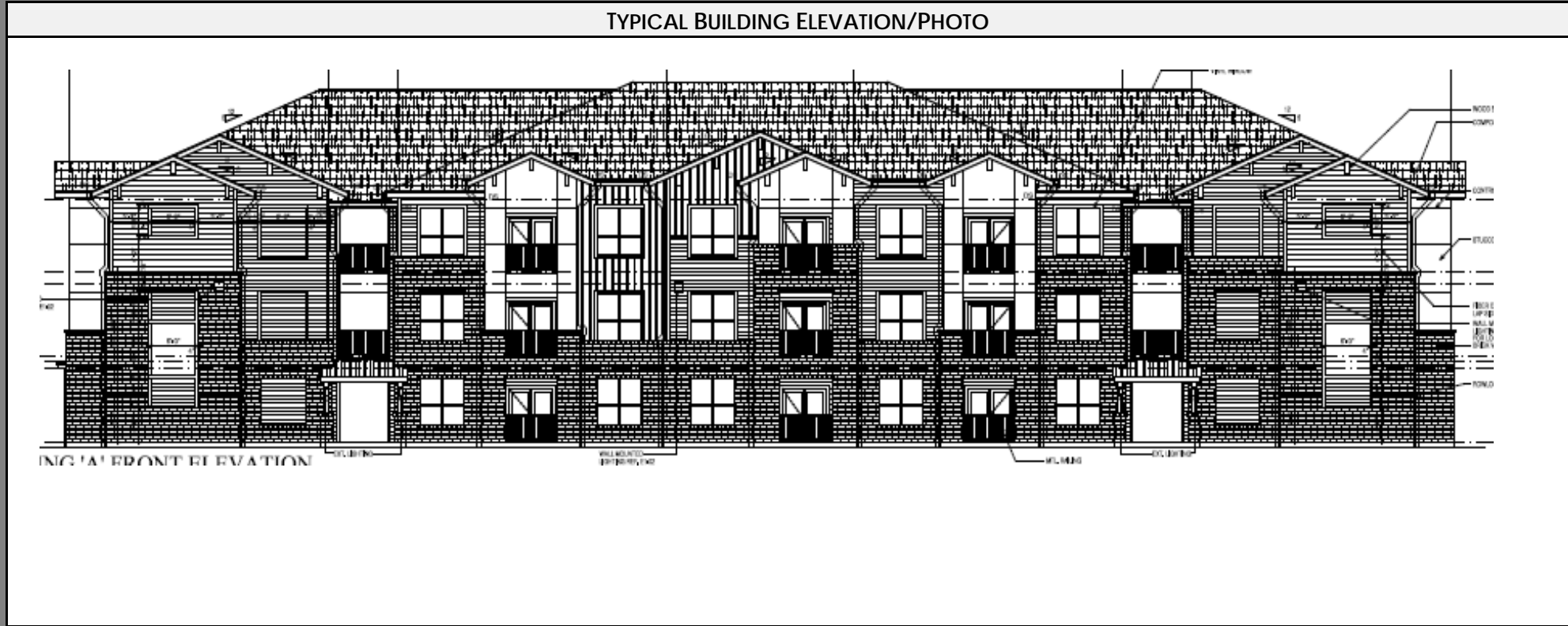
Unit sizes will range from approximately 725 square feet to approximately 1,160 square feet.

# 21605 Palladium Simpson Stuart - Application Summary

REAL ESTATE ANALYSIS DIVISION  
March 30, 2021

PROPERTY IDENTIFICATION		RECOMMENDATION				
Application #	21605	TDHCA Program	Request	Recommended		
Development	Palladium Simpson Stuart	LIHTC (4% Credit)	\$2,135,593	\$2,135,593	\$7,910/Unit	\$0.88
City / County	Dallas / Dallas					
Region/Area	3 / Urban					
Population	General					
Set-Aside	General					
Activity	New Construction	Private Activity Bonds	\$25,750,000	\$25,750,000	3.25%	40/40 1

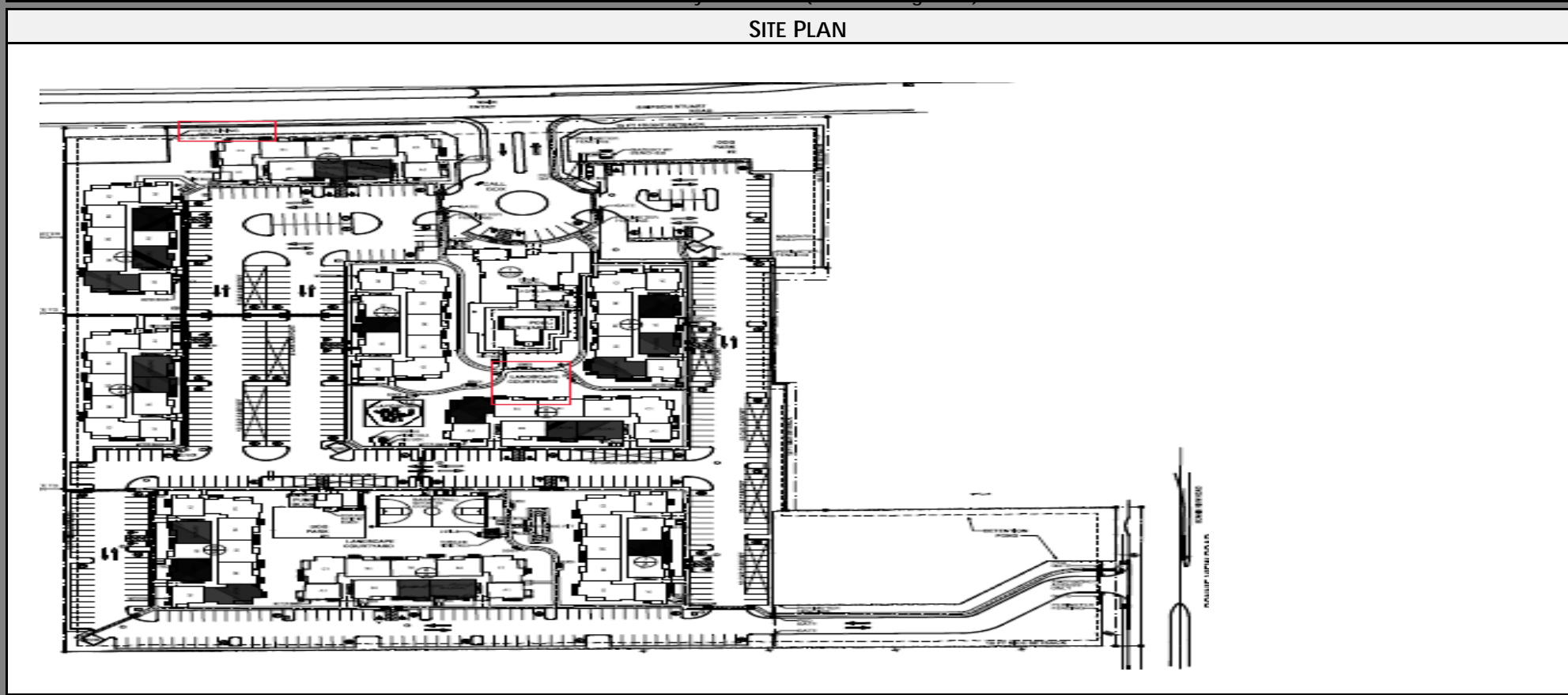
KEY PRINCIPALS / SPONSOR			
Palladium USA 100% developer/guarantor .01% owner			
Related Parties	Contractor -	Yes	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	81	30%	30%	-	0%
2	135	50%	40%	5	2%
3	54	20%	50%	30	11%
4	-	0%	60%	181	67%
			70%	14	5%
			80%	13	5%
			MR	27	10%
<b>TOTAL</b>	<b>270</b>	<b>100%</b>	<b>TOTAL</b>	<b>270</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS

Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.19	Expense Ratio	44.5%
Breakeven Occ.	84.5%	Breakeven Rent	\$991
Average Rent	\$1,087	B/E Rent Margin	\$96
Property Taxes	\$1,178/unit	Exemption/PILOT	0%
Total Expense	\$5,473/unit	Controllable	\$2,844/unit



MARKET FEASIBILITY INDICATORS

Gross Capture Rate (10% Maximum)	7.5%
Highest Unit Capture Rate	32% 2 BR/60% 106
Dominant Unit Cap. Rate	32% 2 BR/60% 106
Premiums (↑60% Rents)	Yes \$246/Avg.
Rent Assisted Units	N/A

DEVELOPMENT COST SUMMARY

Costs Underwritten		Applicant's Costs	
Avg. Unit Size	952 SF	Density	20.7/acre
Acquisition	\$03K/unit		\$800K
Building Cost	\$89.65/SF	\$85K/unit	\$23,042K
Hard Cost		\$115K/unit	\$30,998K
Total Cost		\$192K/unit	\$51,944K
Developer Fee	\$5,955K	(5% Deferred)	Paid Year: 2
Contractor Fee	\$4,176K	30% Boost	Yes

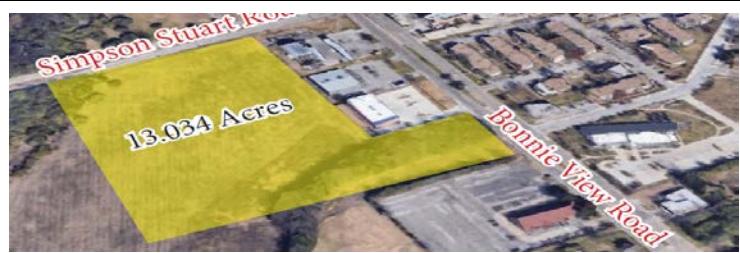


DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES		
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount	
PNC--221 (d) 4 Loan	40/40	3.25%	\$32,859,941	1.19						PNC	\$18,791,342	
										Palladium USA	\$292,324	
										<b>TOTAL EQUITY SOURCES</b>	<b>\$19,083,666</b>	
										<b>TOTAL DEBT SOURCES</b>	<b>\$32,859,941</b>	
<b>TOTAL DEBT (Must Pay)</b>			<b>\$32,859,941</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>		<b>\$51,943,607</b>

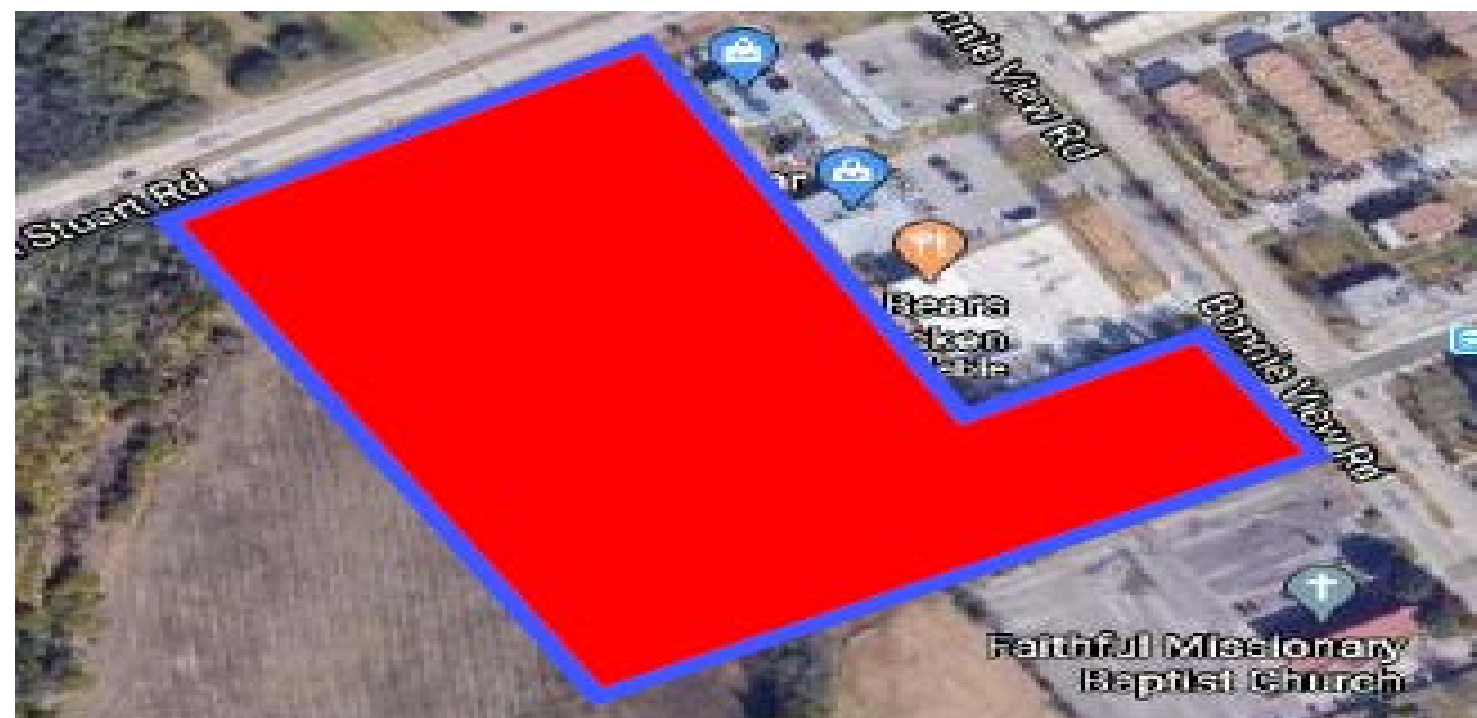
**CONDITIONS**

- Receipt and acceptance by Cost Certification:
  - 1 If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.
  - 2 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	7/10/2021
Bond Amount	\$25,750,000
BRB Priority	Priority 2
Bond Structure	Short Term Tax Exempt Bonds
% Financed with Tax-Exempt Bonds	63.1%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
▫	Developer and Management experience
▫	Long term 40 year 221d4 permanent financing at low rate
▫	Appealing features i.e. open floor plan, island kitchen.
WEAKNESSES/RISKS	
▫	Surrounding uses of older apartment complex, vacant land, and auto body shop.
▫	Does not assume full 80% AMI rents
AREA MAP	
	

**AERIAL PHOTOGRAPH(S)**





**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 21605 Program(s): TDHCA Bonds/4% HTC

**Palladium Simpson Stuart**

Address/Location: 3380 Simpson Stuart Road

City: Dallas County: Dallas Zip: 75241

Population: General Program Set-Aside: General Area: Urban

Activity: New Construction Building Type: Garden (Up to 4-story) Region: 3

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	\$25,750,000	3.25%	40	40	\$25,750,000	3.25%	40	40	1
LIHTC (4% Credit)	\$2,135,593				\$2,135,593				

**CONDITIONS**

- Receipt and acceptance by Cost Certification:
    - 1 If any portion of the site is determined to be a wetland area, certification that compliance with all federal, state and local wetland mitigation requirements has been met.
    - 2 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
40% of AMI	40% of AMI	5
50% of AMI	50% of AMI	30
60% of AMI	60% of AMI	181
70% of AMI	70% of AMI	14
80% of AMI	80% of AMI	13

## DEVELOPMENT SUMMARY

Palladium Simpson Stuart will be a 270-unit new construction development that will target the general population located on the south side of Dallas. The development is set on 13 acres and will comprise of 1, 2 and 3 bedroom units with three story buildings. Palladium Simpson Stuart will target renters with incomes between 40% and 80% of the area median income and have 10% of the units unrestricted. The property will be developed and owned by Palladium Affordable Housing and managed by an experienced affiliate. Construction will be financed with TDHCA bonds and paid off with a 221 (d)(4) loan. The HUD loan as well as the equity will be provided by PNC.

## RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Developer and Management experience
▫	Long term 40 year 221d4 permanent financing at low rate
▫	Appealing features i.e. open floor plan, island kitchen.

WEAKNESSES/RISKS	
▫	Surrounding uses of older apartment complex, vacant land, and auto body shop.
▫	Does not assume full 80% AMI rents
▫	

**DEVELOPMENT TEAM**

PRIMARY CONTACTS

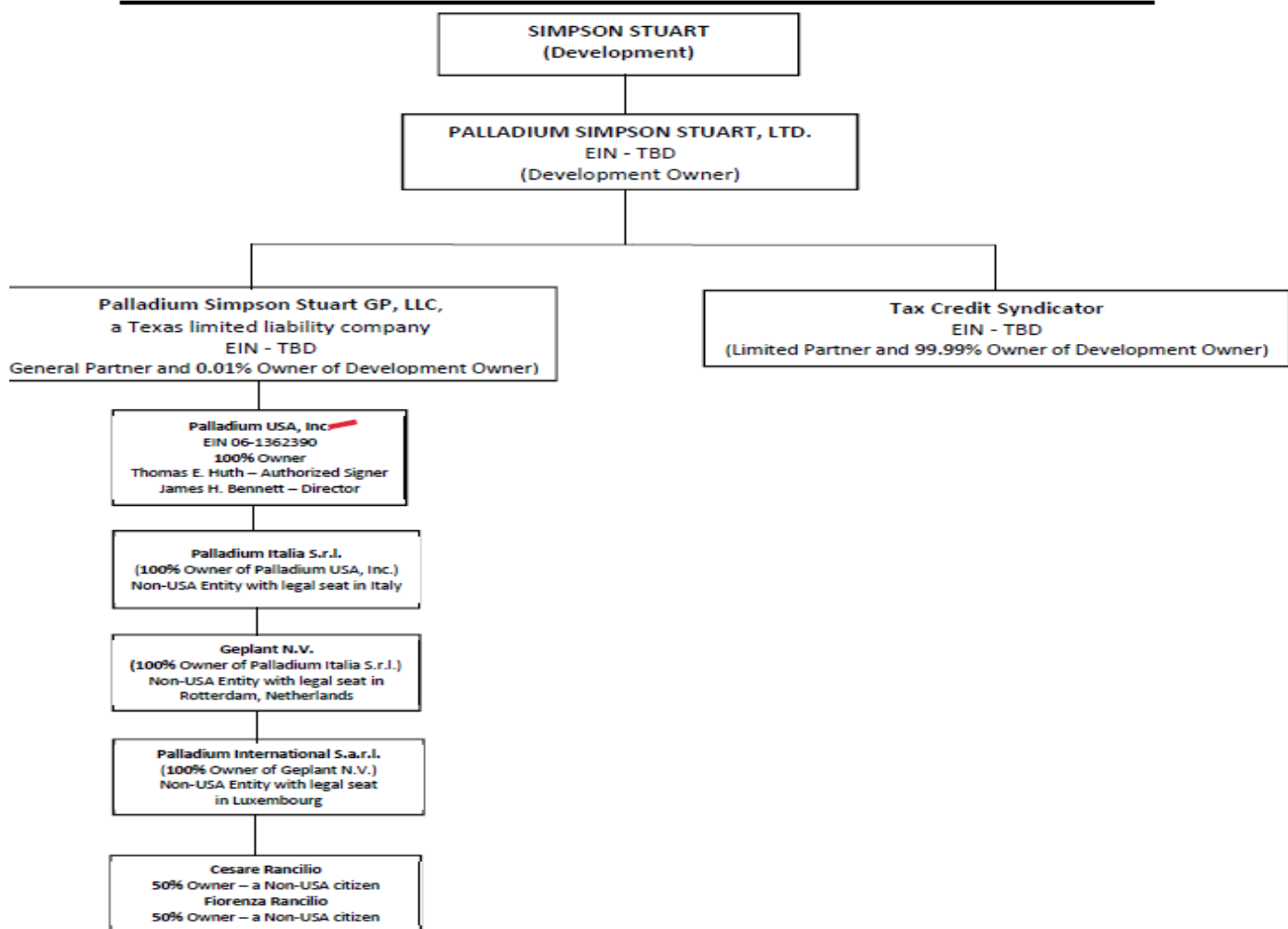
Name: Tom Huth  
 Phone: 972-774-4400  
 Relationship: Developer

Name: Sara Reidy  
 Phone: (214) 941-0089  
 Relationship: Consultant

OWNERSHIP STRUCTURE

**Thomas E. Huth**  
 Ability to Exercise Control

**PALLADIUM SIMPSON STUART**  
 4% Tax Credit – 2021 Program  
 OWNERSHIP STRUCTURE

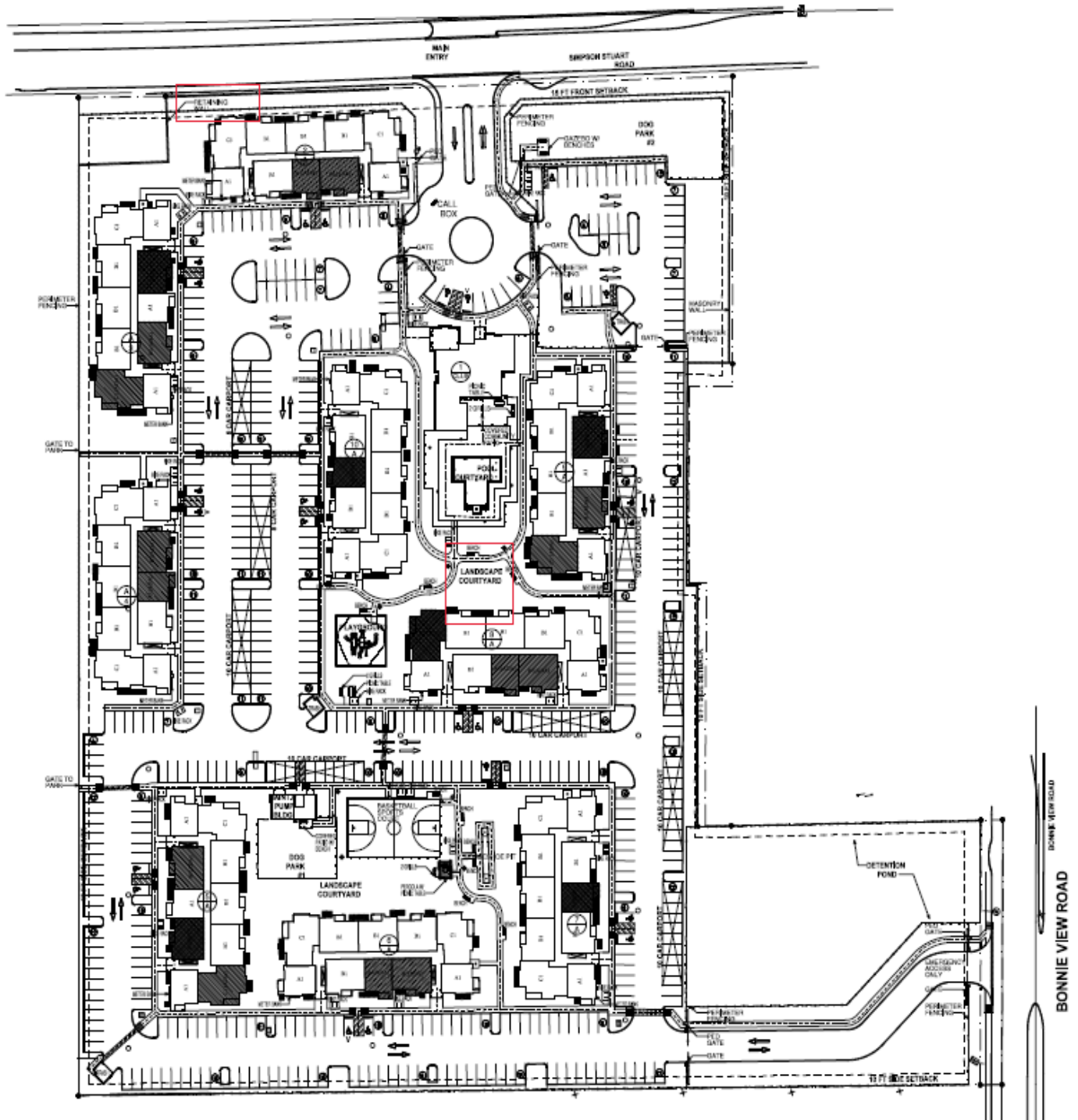


Palladium Simpson Stuart  
Organizational Chart

- Palladium has experience in multifamily real estate development including 13 LIHTC properties in Texas. <http://www.palladiumusa.com/us/> Affiliates of the Applicant are also Affiliates of the Developer, Cost Estimator, Guarantor and Property Manager.

# DEVELOPMENT SUMMARY

## SITE PLAN



### Comments:

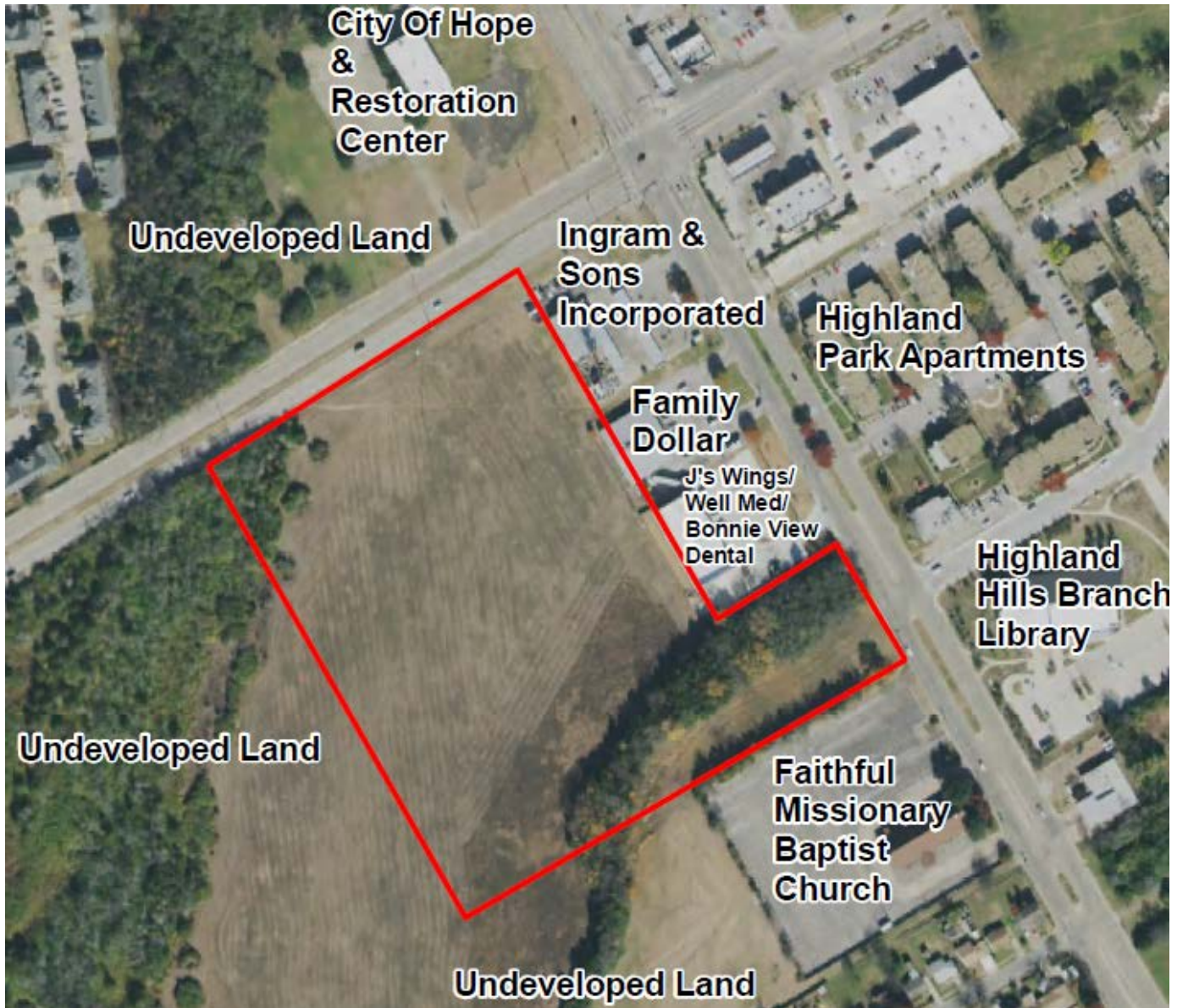
There are retaining walls located on-site in order to accommodate the grade change across the site. In addition, there is a masonry screen wall located along the northeast property line in order to provide thermal radiation protection from an existing generator located on an adjoining property.

Parking	No Fee		Tenant-Paid		Total	
	Count	Rate	Count	Rate	Count	Rate
Open Surface	447	1.7/unit	0	--	447	1.7/unit
Carport	86	0.3/unit	0	--	86	0.3/unit
<b>Total Parking</b>	<b>533</b>	<b>2.0/unit</b>	<b>0</b>	<b>--</b>	<b>533</b>	<b>2.0/unit</b>

Comments:

There are 535 parking spaces including 86 unassigned carport spaces. No additional fee will be charged.

BUILDING PLAN (Typical)



Comments:

Units feature outdoor patios with storage, 9 foot ceilings, island kitchens, natural stone countertops, refrigerators with icemakers and full size washer/dryer hookups. All kitchens have island sinks and 2 and 3 bedroom apartments have dual vanities in the master bath which will increase plumbing expenses. Common area amenities include a furnished fitness center, children's playroom, business center, coffee bar, swimming pool, dog park, children's playscape and gated entry.



SITE INFORMATION

Flood Zone:	<u>X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>MF-2(A)</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>yes</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>0</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:

Undeveloped land

Surrounding Uses:

Automotive Repair Shop, Family Dollar, Apartments (NE), Undeveloped Land (NW, SW) Church (SE)

Other Observations:

Site is located near the intersection of two busy streets. Zoning change was approved on January 27, 2021

HIGHLIGHTS of ENVIRONMENTAL REPORTS

Provider: Phase Engineering Date: 8/27/2020

Recognized Environmental Conditions (RECs) and Other Concerns:

- Wetland determination is recommended. A review of the NWI map indicates a riverine feature traversing the subject property. The riverine feature identified traversing the subject property appears to be draining upland areas.
- Noise mitigation measures required in buildings next to Simpson Stuart.



## MARKET ANALYSIS

Provider: Affordable Housing Analysts

Date: 1/25/2021

Primary Market Area (PMA): 74 sq. miles      5 mile equivalent radius

ELIGIBLE HOUSEHOLDS BY INCOME								
Dallas County Income Limits								
HH Size		1	2	3	4	5	6	7+
40% AMGI	Min	\$23,280	\$23,280	\$23,280	\$23,280	\$26,880	\$26,880	---
	Max	\$24,160	\$27,600	\$31,040	\$34,480	\$37,240	\$40,000	---
50% AMGI	Min	\$24,240	\$24,240	\$29,100	\$29,100	\$33,600	\$33,600	---
	Max	\$30,200	\$34,500	\$38,800	\$43,100	\$46,550	\$50,000	---
60% AMGI	Min	\$29,100	\$29,100	\$34,920	\$34,920	\$40,320	\$40,320	---
	Max	\$36,240	\$41,400	\$46,560	\$51,720	\$55,860	\$60,000	---
70% AMGI	Min	\$33,960	\$33,960	\$40,740	\$40,740	\$47,040	\$47,040	---
	Max	\$42,280	\$48,300	\$54,320	\$60,340	\$65,170	\$70,000	---
80% AMGI	Min	\$38,820	\$38,820	\$46,560	\$46,560	\$53,790	\$53,790	---
	Max	\$48,320	\$55,200	\$62,080	\$68,960	\$74,480	\$80,000	---

AFFORDABLE HOUSING INVENTORY						
Competitive Supply (Proposed, Under Construction, and Unstabilized)						
File #	Development	In PMA?	Type	Target Population	Comp Units	Total Units
20493	Ridge at Lancaster	Y	New	General	248	300
Other Affordable Developments in PMA since 2016						
16602	Gateway at Hutchins		New	General	n/a	336
Stabilized Affordable Developments in PMA					Total Units	3,495
					Total Developments	17
					Average Occupancy	96%

Proposed, Under Construction, and Unstabilized Competitive Supply:

#20454 South Terrace Apartments (250 units) is in PMA but is an Acquisition/Rehab project. #21615 The Terrace at Southern Oaks is a 300 unit bond deal just outside PMA that has a later bond reservation date and four bedroom apartments.

OVERALL DEMAND ANALYSIS				
	Market Analyst			
	HTC	Assisted		
Total Households in the Primary Market Area	30,780			
Potential Demand from the Primary Market Area	5,961			
10% External Demand	596			
Potential Demand from Other Sources	0			
<b>GROSS DEMAND</b>	<b>6,557</b>			
Subject Affordable Units	243			
Unstabilized Competitive Units	248			
<b>RELEVANT SUPPLY</b>	<b>491</b>			
<b>Relevant Supply ÷ Gross Demand = GROSS CAPTURE RATE</b>	<b>7.5%</b>			

Population:	<b>General</b>	Market Area:	<b>Urban</b>	Maximum Gross Capture Rate:	<b>10%</b>
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UNDERWRITING ANALYSIS of PMA DEMAND by AMGI BAND						
AMGI Band	Market Analyst					AMGI Band Capture Rate
	Demand	10% Ext	Subject Units	Comp Units	AMGI Band Capture Rate	
40% AMGI	167	17	4	0	2%	
50% AMGI	845	85	30	0	3%	
60% AMGI	3,886	389	181	248	10%	
70% AMGI	592	59	14	0	2%	
80% AMGI	471	47	13	0	3%	

**Demand Analysis:**

Overall GCR and AMGI Band Capture Rates are under 10%; 60% AMGI Band capture rate is at 10%. However, this project is located in the Dallas MSA with surrounding high occupancy and could qualify for the 15% GCR per §11.302(i)(1).

**UNDERWRITING ANALYSIS of PMA DEMAND by UNIT TYPE**

Unit Type	Market Analyst									
	Demand	10% Ext	Subject Units	Comp Units	Unit Capture Rate					
1 BR/50%	240	24	14		5.3%					
1 BR/60%	410	41	46	44	20.0%					
1 BR/70%	280	28	8		2.6%					
1 BR/80%	152	15	5		3.0%					
2 BR/40%	256	26	2		0.7%					
2 BR/50%	250	25	8		2.9%					
2 BR/60%	613	61	106	108	31.7%					
2 BR/70%	190	19	1		0.5%					
2 BR/80%	125	13	5		3.6%					
3 BR/40%	506	51	3		0.5%					
3 BR/50%	523	52	8		1.4%					
3 BR/60%	836	84	29	96	13.6%					
3 BR/70%	293	29	5		1.6%					
3 BR/80%	249	25	3		1.1%					

**Market Analyst Comments:**

The Market Analyst was unable to locate any new Family affordable market-rate developments which have been completed and stabilized within the past 12 months within the subject PMA. The Developer completed a 270-unit community (Palladium Glenn Heights) just outside the PMA in October 2018 and was stabilized in six months (absorption of 39 units per month) Market Analyst concludes that due to the high occupancy levels of the existing properties and recent strong absorption history that the applicant will have minimal sustained negative impact on apartment market. (p 14)

Revisions to Market Study:	0
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## OPERATING PRO FORMA

### SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)

NOI:	\$1,839,604	Avg. Rent:	\$1,087	Expense Ratio:	44.5%
Debt Service:	\$1,551,152	B/E Rent:	\$991	Controllable Expenses:	\$2,844
Net Cash Flow:	\$288,452	UW Occupancy:	92.5%	Property Taxes/Unit:	\$1,178
Aggregate DCR:	1.19	B/E Occupancy:	84.5%	Program Rent Year:	2020

Applicant elected income averaging with units ranging from 40% to 80%. Development AMFI Average is 60%. Applicant's pro forma assumes full 2020 programs rents except for the 70% 2B's and all 80% units; these rents are assumed at 7-12% below max net program rents. Market rents are projected to collect the same rent as 80% units.

If we assume gross 60% rents for the 70%, 80% and market units, DCR would decrease to 1.12x and debt would need to be decreased. Expense ratio is 44.5%. Applicant has established that its General and Administrative costs are under \$298 per unit with similar deals in the past. Landlord pays all WST at the property.

Project is underwritten at 20 vacant and break even is 42 vacants. Deferred fee is anticipated to be paid off in Year 2 and proforma residual cash flow over 15 years is \$6,664,474. The FHA 221(d)(4) loan is underwritten at a 3.25% interest rate; it is likely given the current market, that the interest rate could increase which would increase annual debt service, and impact debt coverage. If the rate increases to 3.5%, DCR would decrease to 1.14x, and loan proceeds would need to be reduced by \$200,000 to maintain feasibility at 1.15x DCR. Deferred fee would go up by \$200k, but would still be paid off in Year 2. Even higher rate increases would impact feasibility greater resulting in more deferred developer fee and less residual cash flow over 15 years but not enough to deem the entire project infeasible.

Related-Party Property Management Company:                     Yes                    

Revisions to Rent Schedule:	3
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Revisions to Annual Operating Expenses:	2
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## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (Applicant's Costs)

Acquisition	\$59,460/ac	\$2,963/unit	\$800,000	Contractor Fee	\$4,176,134
Off-site + Site Work		\$25,137/unit	\$6,787,080	Soft Cost + Financing	\$7,109,693
Building Cost	\$89.65/sf	\$85,342/unit	\$23,042,445	Developer Fee	\$5,955,159
Contingency	3.92%	\$4,326/unit	\$1,168,084	Reserves	\$2,905,012
<b>Total Development Cost</b>		\$192,384/unit	<b>\$51,943,607</b>	<b>Rehabilitation Cost</b>	<b>N/A</b>
<b>Qualified for 30% Basis Boost?</b>		Located in OCT with < 20% HTC units/HH			

**Acquisition:**

Land acquisition price of \$775k and broker fee of \$25k.

**Site Work:**

Applicant's site work is greater than \$15,000/unit; Applicant's site work costs have been certified by a civil engineer and they have provided a CPA letter allocating the costs that should be included in eligible basis. Underwriter utilized the HUD lender cost review amount of \$16,957/unit. Rough grading and utilities exceed \$1 million. The estimated construction costs for the screenwall and retaining walls is approximately \$130,000.

Site amenity costs in Applicant's proforma are \$9,445/unit and lender cost review amount is \$5,152/unit. The combined site work, building costs and site amenities costs are similar, therefore costs may be allocated differently among these items by Applicant and lender cost reviewer. Site amenities include: pool, basketball court, a playground, and dog parks.

**Building Cost:**

Applicant's building cost is \$89.65/ft. or \$85,342/unit and M&S estimates are \$86.94/ft. and \$86,094/unit. Underwriter utilized the HUD lender cost review building cost of \$98.35/ft or \$93,630/unit. Costs include island kitchens, 9' foot ceilings, stone countertops, and dual vanity sinks.

**Contingency:**

Underwriter moved \$125,000 soft cost contingency to contingency. Contingency percentage is 3.9% which is below the maximum allowable amount of 7%. Contingency is understated at 3.9%, but capitalized reserves includes \$1.4M FHA-required working capital which provides additional contingency.

**Reserves:**

Twelve months operating expenses and debt service. Amount includes FHA-required working capital.

**Credit Allocation Supported by Costs:**

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$51,943,607	\$45,656,216	\$2,135,593

**Related-Party Contractor:**

No

**Related-Party Cost Estimator:**

Yes

<b>Revisions to Development Cost Schedule:</b>	3
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## UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
TDHCA	\$25,750,000	1/11/2021	Priority 2
Closing Deadline		Bond Structure	
7/10/2021		Short Term Tax Exempt Bonds	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>63.1%</b>
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Comments:

PNC will payoff TDHCA issued bonds of \$25,750,000 at conversion from interim financing, and replace it with long term FHA 221 (d) (4) with a term of 40 years at 3.25%.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
TDHCA	Bond	\$25,750,000	3.25%	50%
PNC--221 (d) 4 Loan	Conventional/FHA	\$7,109,941	3.25%	14%
PNC	Equity Bridge Loan	\$12,175,631	4.64%	23%
PNC	HTC	\$3,283,368	\$0.88	6%
Palladium USA	Deferred Fee	\$3,123,741	0.00%	6%
Post Construction Costs		\$500,926	0.00%	1%
		<b>\$51,943,607</b>	<b>Total Sources</b>	

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
PNC--221 (d) 4 Loan	\$32,859,941	3.25%	40	40	\$32,859,941	3.25%	40	40	63%
<b>Total</b>	<b>\$32,859,941</b>				<b>\$32,859,941</b>				

Comments:

The FHA 221(d)(4) is underwritten at a 3.25% interest rate with an additional 0.25% MIP. It is likely given the current market, that the loan will close at a higher rate.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
PNC	\$18,791,342	\$0.88		\$18,791,342	\$0.88	36%	
Palladium USA	\$292,324		5%	\$292,324		1%	5%
<b>Total</b>	<b>\$19,083,666</b>			<b>\$19,083,666</b>			
				<b>\$51,943,607</b>	<b>Total Sources</b>		

Credit Price Sensitivity based on current capital structure	
<b>\$0.894</b>	Maximum Credit Price before the Development is over sourced and allocation is limited
<b>\$0.615</b>	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	1
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## CONCLUSIONS

**Recommended Financing Structure:**

<b>Gap Analysis:</b>	
Total Development Cost	\$51,943,607
Permanent Sources (debt + non-HTC equity)	\$32,859,941
<b>Gap in Permanent Financing</b>	<b>\$19,083,666</b>

<b>Possible Tax Credit Allocations:</b>	<b>Equity Proceeds</b>	<b>Annual Credits</b>
Determined by Eligible Basis	\$18,791,344	\$2,135,593
Needed to Balance Sources & Uses	\$19,083,666	\$2,168,815
Requested by Applicant	\$18,791,342	\$2,135,593

	<b>RECOMMENDATION</b>	
	<b>Equity Proceeds</b>	<b>Annual Credits</b>
<b>Tax Credit Allocation</b>	<b>\$18,791,342</b>	<b>\$2,135,593</b>

	<b>Amount</b>	<b>Interest Rate</b>	<b>Amort</b>	<b>Term</b>	<b>Lien</b>
<b>TDHCA-Issued Bonds</b>	<b>\$25,750,000</b>	<b>3.25%</b>	<b>40</b>	<b>40</b>	<b>1</b>

<b>Deferred Developer Fee</b>	<b>\$292,324</b>	(5% deferred)
<b>Repayable in</b>	<b>2 years</b>	

**Comments:**

Underwriter recommends the annual credit amount of \$2,135,593 as requested by Applicant.

Underwriter:	<u>Eric Weiner</u>
Manager of Real Estate Analysis:	<u>Jeanna Adams</u>
Director of Real Estate Analysis:	<u>Thomas Cavanagh</u>

**UNIT MIX/RENT SCHEDULE**

**Palladium Simpson Stuart, Dallas, TDHCA Bonds/4% HTC #21605**

LOCATION DATA	
CITY:	Dallas
COUNTY:	Dallas
Area Median Income	\$86,200
PROGRAM REGION:	3
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	81	30.0%	0	0
2	135	50.0%	0	0
3	54	20.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>270</b>	<b>100.0%</b>	<b>-</b>	<b>-</b>

60.00% Average Income		
Income	# Units	% Total
20%	-	0.0%
30%	-	0.0%
40%	5	1.9%
50%	30	11.1%
60%	181	67.0%
70%	14	5.2%
80%	13	4.8%
MR	27	10.0%
<b>TOTAL</b>		
	<b>270</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	89.95%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	952 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 50%	\$808	14	1	1	725	\$808	\$53	\$755	(\$0)	\$1.04	\$755	\$10,570	\$10,571	\$755	\$1.04	\$0	\$1,151	\$1.59	\$1,200
TC 60%	\$970	46	1	1	725	\$970	\$53	\$917	(\$0)	\$1.26	\$917	\$42,182	\$42,184	\$917	\$1.26	\$0	\$1,151	\$1.59	\$1,200
TC 70%	\$1,132	8	1	1	725	\$1,132	\$53	\$1,079	(\$0)	\$1.49	\$1,079	\$8,632	\$8,632	\$1,079	\$1.49	\$0	\$1,151	\$1.59	\$1,200
TC 80%	\$1,294	5	1	1	725	\$1,294	\$53	\$1,241	(\$161)	\$1.49	\$1,080	\$5,400	\$5,755	\$1,151	\$1.59	(\$90)	\$1,151	\$1.59	\$1,200
MR		8	1	1	725	\$0	\$53		NA	\$1.59	\$1,151	\$9,208	\$9,208	\$1,151	\$1.59	NA	\$1,151	\$1.59	\$1,200
TC 40%	\$776	2	2	2	1,005	\$776	\$70	\$706	(\$1)	\$0.70	\$705	\$1,410	\$1,412	\$706	\$0.70	\$0	\$1,348	\$1.34	\$1,400
TC 50%	\$970	8	2	2	1,005	\$970	\$70	\$900	(\$1)	\$0.89	\$899	\$7,192	\$7,199	\$900	\$0.90	\$0	\$1,348	\$1.34	\$1,400
TC 60%	\$1,164	106	2	2	1,005	\$1,164	\$70	\$1,094	(\$1)	\$1.09	\$1,093	\$115,858	\$115,948	\$1,094	\$1.09	\$0	\$1,348	\$1.34	\$1,400
TC 70%	\$1,358	1	2	2	1,005	\$1,358	\$70	\$1,288	(\$195)	\$1.09	\$1,093	\$1,093	\$1,288	\$1,288	\$1.28	\$0	\$1,348	\$1.34	\$1,400
TC 80%	\$1,552	5	2	2	1,005	\$1,552	\$70	\$1,482	(\$222)	\$1.25	\$1,260	\$6,300	\$6,740	\$1,348	\$1.34	(\$134)	\$1,348	\$1.34	\$1,400
MR		13	2	2	1,005	\$0	\$70		NA	\$1.34	\$1,348	\$17,524	\$17,524	\$1,348	\$1.34	NA	\$1,348	\$1.34	\$1,400
TC 40%	\$896	3	3	2	1,160	\$896	\$87	\$809	(\$1)	\$0.70	\$808	\$2,424	\$2,426	\$809	\$0.70	\$0	\$1,508	\$1.30	\$1,675
TC 50%	\$1,120	8	3	2	1,160	\$1,120	\$87	\$1,033	(\$1)	\$0.89	\$1,032	\$8,256	\$8,261	\$1,033	\$0.89	\$0	\$1,508	\$1.30	\$1,675
TC 60%	\$1,344	29	3	2	1,160	\$1,344	\$87	\$1,257	(\$1)	\$1.08	\$1,256	\$36,424	\$36,443	\$1,257	\$1.08	\$0	\$1,508	\$1.30	\$1,675
TC 70%	\$1,568	5	3	2	1,160	\$1,568	\$87	\$1,481	(\$1)	\$1.28	\$1,480	\$7,400	\$7,403	\$1,481	\$1.28	\$0	\$1,508	\$1.30	\$1,675
TC 80%	\$1,793	3	3	2	1,160	\$1,793	\$87	\$1,706	(\$198)	\$1.30	\$1,508	\$4,524	\$4,524	\$1,508	\$1.30	(\$198)	\$1,508	\$1.30	\$1,675
MR		6	3	2	1,160	\$0	\$87		NA	\$1.30	\$1,508	\$9,048	\$9,048	\$1,508	\$1.30	NA	\$1,508	\$1.30	\$1,675
<b>TOTALS/AVERAGES</b>		<b>270</b>			<b>257,040</b>				<b>(\$10)</b>	<b>\$1.14</b>	<b>\$1,087</b>	<b>\$293,445</b>	<b>\$294,566</b>	<b>\$1,091</b>	<b>\$1.15</b>	<b>(\$6)</b>	<b>\$1,321</b>	<b>\$1.39</b>	<b>\$1,395</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$3,521,340</b>	<b>\$3,534,793</b>
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## STABILIZED PRO FORMA

*Palladium Simpson Stuart, Dallas, TDHCA Bonds/4% HTC #21605*

### STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	Local Comps	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
	<b>POTENTIAL GROSS RENT</b>				\$1.14	\$1,087	\$3,521,340	\$3,534,793	\$1,091	\$1.15		-0.4%
Application, Pet, Late and NSF Fees					\$17.57	\$56,940						
Laundry, Vending, Cable					\$2.50	\$8,100						
Total Secondary Income					\$20.07		\$64,800	\$20.00			0.4%	\$240
<b>POTENTIAL GROSS INCOME</b>						\$3,586,380	\$3,599,593				-0.4%	(\$13,213)
Vacancy & Collection Loss					7.5% PGI	(268,979)	(269,969)	7.5% PGI			-0.4%	991
<b>EFFECTIVE GROSS INCOME</b>						\$3,317,402	\$3,329,624				-0.4%	(\$12,222)

General & Administrative	\$120,616	\$447/Unit	\$123,486	\$457	2.43%	\$0.31	\$298	\$80,522	\$80,522	\$298	\$0.31	2.42%	0.0%	-
Management	\$119,969	4.2% EGI	\$119,721	\$443	5.00%	\$0.65	\$614	\$165,870	\$166,481	\$617	\$0.65	5.00%	-0.4%	(611)
Payroll & Payroll Tax	\$348,256	\$1,290/Unit	\$325,980	\$1,207	9.87%	\$1.27	\$1,213	\$327,498	\$327,498	\$1,213	\$1.27	9.84%	0.0%	-
Repairs & Maintenance	\$195,796	\$725/Unit	\$130,006	\$482	4.84%	\$0.62	\$595	\$160,547	\$175,500	\$650	\$0.68	5.27%	-8.5%	(14,953)
Electric/Gas	\$68,454	\$254/Unit	\$34,149	\$126	1.69%	\$0.22	\$207	\$56,017	\$55,428	\$205	\$0.22	1.66%	1.1%	589
Water, Sewer, & Trash	\$198,894	\$737/Unit	\$132,937	\$492	4.32%	\$0.56	\$531	\$143,417	\$143,417	\$531	\$0.56	4.31%	0.0%	-
Property Insurance	\$83,867	\$0.33 /sf	\$75,083	\$278	4.07%	\$0.53	\$500	\$135,000	\$135,000	\$500	\$0.53	4.05%	0.0%	-
Property Tax (@ 100%) 2.7129	\$243,853	\$903/Unit	\$272,629	\$1,010	9.59%	\$1.24	\$1,178	\$318,060	\$318,060	\$1,178	\$1.24	9.55%	0.0%	-
Reserve for Replacements				\$0	2.03%	\$0.26	\$250	\$67,500	\$67,500	\$250	\$0.26	2.03%	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	0.29%	\$0.04	\$36	\$9,720	\$9,720	\$36	\$0.04	0.29%	0.0%	-
TDHCA Bond Compliance Fee				\$0	0.18%	\$0.02	\$23	\$6,075	\$6,075	\$23	\$0.02	0.18%	0.0%	-
Franchise Tax				\$0	0.23%	\$0.03	\$28	\$7,572	\$7,572	\$28	\$0.03	0.23%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>44.55%</b>	<b>\$5.75</b>	<b>\$5,473</b>	<b>\$ 1,477,798</b>	<b>\$1,492,773</b>	<b>\$5,529</b>	<b>\$5.81</b>	<b>44.83%</b>	<b>-1.0%</b>	<b>\$ (14,975)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>55.45%</b>	<b>\$7.16</b>	<b>\$6,813</b>	<b>\$1,839,604</b>	<b>\$1,836,850</b>	<b>\$6,803</b>	<b>\$7.15</b>	<b>55.17%</b>	<b>0.1%</b>	<b>\$ 2,753</b>

CONTROLLABLE EXPENSES							\$2,844/Unit							\$2,898/Unit
-----------------------	--	--	--	--	--	--	--------------	--	--	--	--	--	--	--------------

**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Palladium Simpson Stuart, Dallas, TDHCA Bonds/4% HTC #21605*

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
PNC--221 (d) 4 Loan	0.25%	1.18	1.19	1,551,152	3.25%	40	40	\$32,859,941	\$32,859,941	40	40	3.25%	\$1,551,152	1.19	63.3%
				<b>\$1,551,152</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$32,859,941</b>	<b>\$32,859,941</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$1,551,152</b>	<b>1.19</b>	<b>63.3%</b>
<b>NET CASH FLOW</b>		\$285,698	\$288,452					<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$1,839,604	\$288,452	<b>NET CASH FLOW</b>			

EQUITY SOURCES												
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE						
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method	
PNC	LIHTC Equity	36.2%	\$2,135,593	0.88	\$18,791,342	\$18,791,342	\$0.88	\$2,135,593	36.2%	\$7,910	Applicant Request	
Palladium USA	Deferred Developer Fees	0.6%	(5% Deferred)		\$292,324	\$292,324	(5% Deferred)		0.6%	<b>Total Developer Fee:</b>	<b>\$5,955,159</b>	
<b>TOTAL EQUITY SOURCES</b>		<b>36.7%</b>			<b>\$19,083,666</b>	<b>\$19,083,666</b>			<b>36.7%</b>			
<b>TOTAL CAPITALIZATION</b>					<b>\$51,943,607</b>	<b>\$51,943,607</b>					15-Yr Cash Flow after Deferred Fee:	<b>\$6,664,474</b>

DEVELOPMENT COST / ITEMIZED BASIS											
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE	
	Eligible Basis		Total Costs		Total Costs	Eligible Basis					
	Acquisition	New Const. Rehab				New Const. Rehab	Acquisition				%
Land Acquisition			\$2,870 / Unit	\$775,000	\$775,000	\$2,870 / Unit			0.0%	\$0	
Broker Fee				\$25,000	\$25,000					\$0	
Off-Sites			\$ / Unit	\$0	\$0	\$ / Unit			0.0%	\$0	
Site Work		\$4,236,999	\$15,693 / Unit	\$4,236,999	\$4,578,352	\$16,957 / Unit	\$4,578,352		-7.5%	(\$341,353)	
Site Amenities		\$2,550,081	\$9,445 / Unit	\$2,550,081	\$1,390,993	\$5,152 / Unit	\$1,390,993		83.3%	\$1,159,088	
Building Cost		\$23,042,445	\$89.65 /sf	\$85,342/Unit	\$23,042,445	\$93,630/Unit	\$98.35 /sf	\$25,279,972	-8.9%	(\$2,237,527)	
Contingency		\$1,043,084	3.50%	3.92%	\$1,168,084	\$1,168,084	3.74%	3.34%	0.0%	\$0	
Contractor Fees		\$4,176,134	13.53%	13.47%	\$4,176,134	\$4,176,134	12.88%	12.93%	0.0%	\$0	
Soft Costs	0	\$2,338,860		\$9,510 / Unit	\$2,567,610	\$2,567,610	\$9,510 / Unit		0.0%	\$0	
Financing	0	\$2,313,454		\$16,823 / Unit	\$4,542,083	\$4,542,083	\$16,823 / Unit		0.0%	\$0	
Developer Fee	\$0	\$5,955,159	15.00%	14.95%	\$5,955,159	\$5,955,159	14.44%	14.48%	0.0%	\$0	
Reserves				12 Months	\$2,905,012	\$2,905,012	11 Months		0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>				\$192,384 / Unit	<b>\$51,943,607</b>	<b>\$53,363,399</b>	\$197,642 / Unit	<b>\$47,076,008</b>	<b>\$0</b>	<b>-2.7%</b>	<b>(\$1,419,792)</b>
Acquisition Cost	\$0				\$0						
Contingency		\$0			\$0						
Contractor's Fee		\$0			\$0						
Financing Cost		\$0			\$0						
Developer Fee	\$0	(\$0)			\$0						
Reserves					\$0						
<b>ADJUSTED BASIS / COST</b>				\$192,384/unit	<b>\$51,943,607</b>	<b>\$53,363,399</b>	\$197,642/unit	<b>\$47,076,008</b>	<b>\$0</b>	<b>-2.7%</b>	<b>(\$1,419,792)</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS (Applicant's Uses are within 5% of TDHCA Estimate):</b>					<b>\$51,943,607</b>						

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

*Palladium Simpson Stuart, Dallas, TDHCA Bonds/4% HTC #21605*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$0	\$45,656,216	\$0	\$47,076,008
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$0	\$45,656,216	\$0	\$47,076,008
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$0	\$59,353,080	\$0	\$61,198,810
Applicable Fraction	89.95%	89.95%	89.95%	89.95%
<b>TOTAL QUALIFIED BASIS</b>	\$0	\$53,389,832	\$0	\$55,050,120
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$0	\$2,135,593	\$0	\$2,202,005
<b>CREDITS ON QUALIFIED BASIS</b>	\$2,135,593		\$2,202,005	

Method	ANNUAL CREDIT CALCULATION BASED ON APPLICANT BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8799	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$2,135,593	\$18,791,344	----	----	----
<b>Needed to Fill Gap</b>	\$2,168,815	\$19,083,666	----	----	----
<b>Applicant Request</b>	\$2,135,593	\$18,791,342	<b>\$2,135,593</b>	<b>\$0</b>	<b>\$0</b>

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$25,750,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		63.1%	60.9%
Land Cost	\$775,000	\$775,000			
Depreciable Bldg Cost	\$40,054,807	\$41,474,599			
<b>Aggregate Basis for 50% Test</b>	<b>\$40,829,807</b>	<b>\$42,249,599</b>			
			amount aggregate basis can increase before 50% test fails	\$10,670,193	\$9,250,401
				26.1%	21.9%

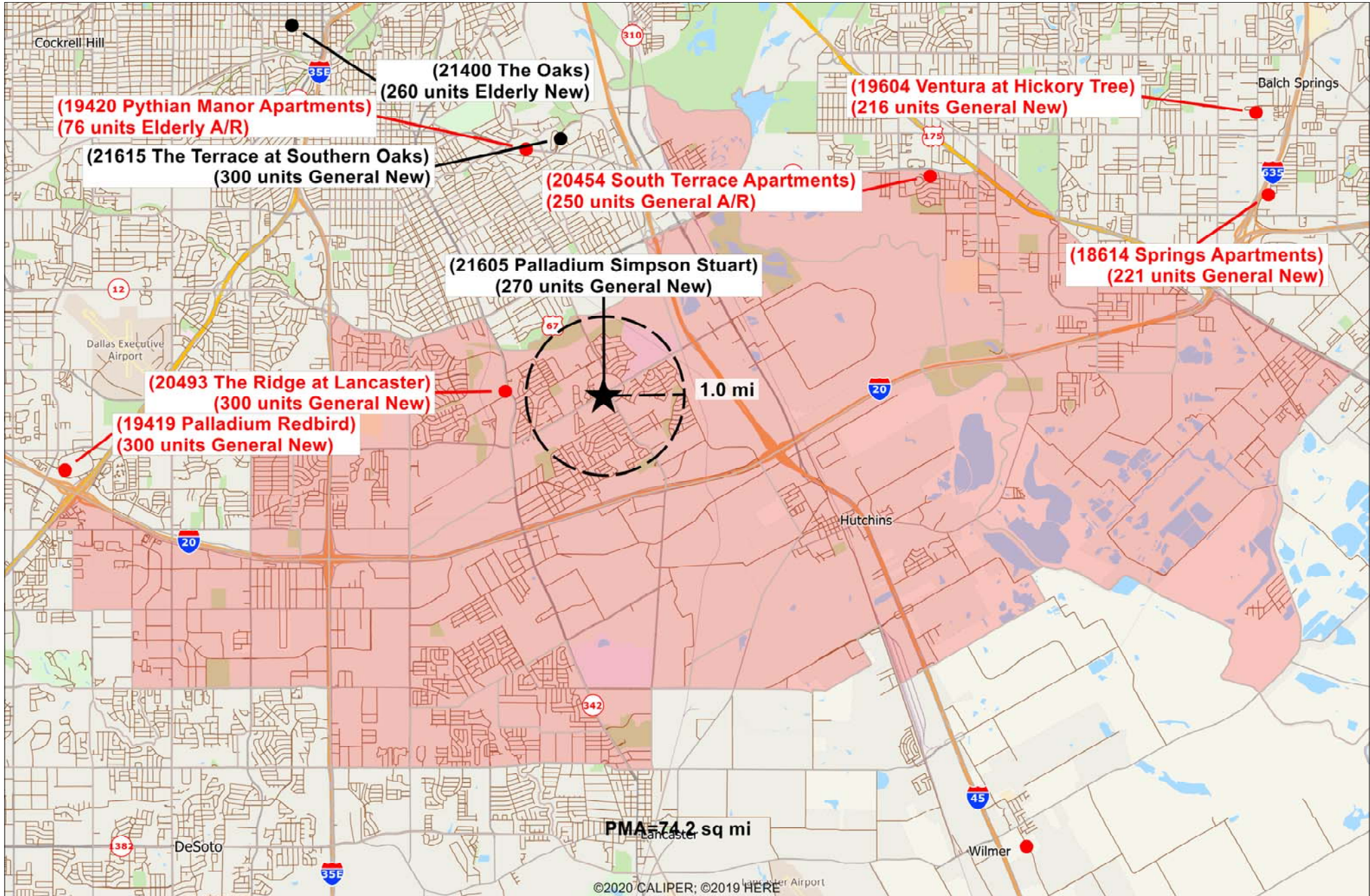
BUILDING COST ESTIMATE				
CATEGORY	FACTOR	UNITS/SF	PER SF	
Base Cost:	Garden (Up to 4-story)	257,040 SF	\$92.20	23,698,403
Adjustments				
Exterior Wall Finish	4.40%		4.06	\$1,042,730
Elderly	0.00%		0.00	0
9-Ft. Ceilings	3.55%		3.27	841,293
Roof Adjustment(s)			0.00	0
Subfloor			(0.16)	(41,126)
Floor Cover			2.56	658,022
Breezeways	\$30.22	30,807	3.62	931,090
Balconies	\$29.99	19,506	2.28	584,969
Plumbing Fixtures	\$1,080	567	2.38	612,360
Rough-ins	\$530	540	1.11	286,200
Built-In Appliances	\$1,830	270	1.92	494,100
Exterior Stairs	\$2,460	36	0.34	88,560
Heating/Cooling			2.34	601,474
Storage Space	\$30.22	0	0.00	0
Carports	\$12.25	13,932	0.66	170,667
Garages		0	0.00	0
Common/Support Area	\$125.34	5,050	2.46	632,952
Elevators		0	0.00	0
<b>Other:</b>			0.00	0
Fire Sprinklers	\$2.59	292,897	2.95	758,603
<b>SUBTOTAL</b>			<b>122.01</b>	<b>31,360,296</b>
Current Cost Multiplier	1.00		0.00	0
Local Multiplier	0.87		(15.86)	(4,076,838)
Reserved				0
<b>TOTAL BUILDING COSTS</b>			<b>106.14</b>	<b>\$27,283,458</b>
Plans, specs, survey, bldg permits	3.30%		(3.50)	(900,354)
Contractor's OH & Profit	11.50%		(12.21)	(3,137,598)
<b>NET BUILDING COSTS</b>		\$86,094/unit	\$90.44/sf	\$23,245,506

## Long Term Pro Forma

*Palladium Simpson Stuart, Dallas, TDHCA Bonds/4% HTC #21605*

	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%	\$3,317,402	\$3,383,750	\$3,451,425	\$3,520,453	\$3,590,862	\$3,964,602	\$4,377,241	\$4,832,828	\$5,335,832	\$5,891,190	\$6,504,350	\$7,181,328
TOTAL EXPENSES	3.00%	\$1,477,798	\$1,520,473	\$1,564,396	\$1,609,602	\$1,656,130	\$1,909,998	\$2,203,271	\$2,542,115	\$2,933,671	\$3,386,204	\$3,909,280	\$4,513,978
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$1,839,604</b>	<b>\$1,863,276</b>	<b>\$1,887,029</b>	<b>\$1,910,851</b>	<b>\$1,934,733</b>	<b>\$2,054,603</b>	<b>\$2,173,970</b>	<b>\$2,290,713</b>	<b>\$2,402,161</b>	<b>\$2,504,986</b>	<b>\$2,595,069</b>	<b>\$2,667,350</b>
EXPENSE/INCOME RATIO		44.5%	44.9%	45.3%	45.7%	46.1%	48.2%	50.3%	52.6%	55.0%	57.5%	60.1%	62.9%
<b>MUST -PAY DEBT SERVICE</b>													
TOTAL DEBT SERVICE		\$1,551,152	\$1,550,134	\$1,549,083	\$1,547,997	\$1,546,875	\$1,540,686	\$1,533,407	\$1,524,845	\$1,514,774	\$1,502,929	\$1,488,997	\$1,472,611
DEBT COVERAGE RATIO		1.19	1.20	1.22	1.23	1.25	1.33	1.42	1.50	1.59	1.67	1.74	1.81
<b>ANNUAL CASH FLOW</b>		<b>\$288,452</b>	<b>\$313,142</b>	<b>\$337,946</b>	<b>\$362,854</b>	<b>\$387,857</b>	<b>\$513,917</b>	<b>\$640,563</b>	<b>\$765,868</b>	<b>\$887,387</b>	<b>\$1,002,057</b>	<b>\$1,106,072</b>	<b>\$1,194,739</b>
Deferred Developer Fee Balance		\$3,872	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$309,270</b>	<b>\$647,216</b>	<b>\$1,010,070</b>	<b>\$1,397,928</b>	<b>\$3,714,832</b>	<b>\$6,664,474</b>	<b>\$10,244,189</b>	<b>\$14,440,164</b>	<b>\$19,224,551</b>	<b>\$24,552,011</b>	<b>\$30,355,577</b>

# 21605 Palladium Simpson Stuart PMA Map



Disclaimer: This map is not a survey. Boundaries, distance and scale are approximate only.



## Final Transcript

### **TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS: Multi-Family Bond Hearing**

March 12, 2021/1:00 p.m. CST

#### **SPEAKERS**

Teresa Morales

#### **PRESENTATION**

Moderator All participants are now in listen-only mode.

Teresa Good afternoon. This is Teresa Morales with the Texas Department of Housing & Community Affairs, and the purpose of this call is to conduct a public hearing with respect to the Palladium Simpson Stuart Apartments proposed multi-family transaction. To give folks an idea as to how we're going to proceed with this hearing, first there is a brief speech that I need to read for purposes of meeting the requirements of the Internal Revenue Code, and then it will be at the conclusion of that speech where I will unmute the lines and open them up for public comment.

So, if there are any individuals on the line who wish to make public comment with respect to this proposed transaction that will be your opportunity to do so. With that, I will go ahead and get started with the speech.

Good afternoon. My name is Teresa Morales, and I would like to proceed with the public hearing. Let the record show that it is 1:03 p.m. on Friday, March 12, 2021, and we are conducting a public hearing on behalf of the Texas Department of Housing and Community Affairs with respect to an

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**March 12, 2021/1:00 p.m. CST**

**Page 2**

issue of tax exempt multi-family revenue bonds for a residential rental community. This hearing is required by the Internal Revenue Code.

The sole purpose of this hearing is to provide a reasonable opportunity for interested individuals to express their views regarding the development and the proposed bond issue. No decisions regarding the development will be made at this hearing. The department's board is scheduled to meet to consider the transaction on April 8, 2021. In addition to providing your comments at this hearing, the public is also invited to provide comment directly to the board at any of their meetings.

The bonds will be issued as tax exempt multi-family revenue bonds in the aggregate principal amount not to exceed \$25,750,000 and taxable bonds, if necessary, in an amount to be determined and issued in one or more series by the Texas Department of Housing & Community Affairs, the issuer.

The proceeds of the bond will be loaned to Palladium Simpson Stuart, Ltd. or a related person or affiliate entity thereof to finance a portion of the cost of acquiring and constructing a multi-family rental housing community described as follows: a 270-unit multi-family residential rental development to be located on approximately 13.49 acres of land located at 3380 Simpson Stuart Road, Dallas, Dallas County, Texas 75241. The proposed multi-family rental housing community will be initially owned and operated by the borrower or a related person or affiliate thereof.

That is the conclusion of the speech. I will now open the lines up for public comment.

Moderator

All participants are now in interactive talk mode.

Teresa

If there are any individuals on the line who wish to express public comment and their views regarding the proposed Palladium, Simpson, Stuart multi-family transaction, this would be your opportunity to do so.

Avis

Hi, Teresa. This is Avis Chaisson with Palladium USA. I'm just here to speak in support and to answer any questions on behalf of the developer.

Teresa

Okay, thank you, Avis. Again, if there are any individuals who wish to make public comment, this would be your opportunity to do so.

**TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS**

**Host: Teresa Morales**

**March 12, 2021/1:00 p.m. CST**

**Page 3**

Okay, let the record show that there are no individuals on the line who wish to express public comment, and therefore the public hearing is now adjourned, and the time is 1:06 p.m. Thank you.





# TONI ROSE



STATE REPRESENTATIVE • DISTRICT 110

October 1, 2020

Ms. Teresa Morales  
Director of Multifamily Bonds and Administrator of 4% Housing Tax Credits  
Texas Department of Housing and Community Affairs (TDHCA)  
P.O. Box 13941  
Austin, Texas 78711-3941

RE: TDHCA Application Number 20627 - Proposed Palladium Simpson Stuart Development

Director Morales,

It is my pleasure to provide a letter of support for the Palladium Simpson Stuart Development, TDHCA Application Number 20627 for the application submission for a TDCHA Tax-Exempt Bond.

Palladium Simpson Stuart will be located at 3380 Simpson Stuart Road, Dallas, Texas 75241, right in the heart of District 110. This proposed 270-unit affordable apartment community is a much needed development to my district where the median household income is less than \$35,000 a year. Palladium Simpson Stuart will allow families in District 110 to attain comfortable and high-quality living at a reasonable rate. In addition, to the high-quality community living by Palladium USA, the company is also actively engaged in the community in which it plans to serve. Palladium USA participated in a school supply drive at J.N. Ervin Elementary by donating 100 backpacks, have connected with community leaders and organizations, and participate in local community meetings such as the town halls for The Judge Charles Rose, Sr. Park which will be developed adjacent to Palladium Simpson Stuart.

It is without hesitation that I provide this formal support for Palladium Simpson Stuart. TDHCA Application Number 20627. Please feel free to reach out to me at [toni.rose@house.texas.gov](mailto:toni.rose@house.texas.gov) or 214-371-3300 if you have any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Toni Rose".

Toni Rose  
State Representative  
District 110

6a

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action on a Determination Notice for 4% Housing Tax Credits and an Award of Direct Loan Funds (#21443, Trinity Oaks, Sulphur Springs)

**RECOMMENDED ACTION**

**WHEREAS**, an application for Trinity Oaks, sponsored by LPM Housing LP and Lakewood Property Management LLC, requesting 4% Housing Tax Credits (HTC) and HOME Direct Loan funds under the General set-aside of the 2020-1 Multifamily Direct Loan Notice of Funding Availability (2020-1 NOFA), was submitted to the Department on April 6, 2020;

**WHEREAS**, Trinity Oaks previously received Board approval on November 5, 2020, for the issuance of a Determination Notice along with an award of Direct Loan funds in the amount of \$925,000;

**WHEREAS**, after Board approval staff became aware of changes to the application originally underwritten that necessitated a re-evaluation by staff, in addition to recent federal legislation that fixed the 4% applicable percentage that the applicant wanted factored into the Department's determination of a recommended credit amount;

**WHEREAS**, application exhibits were revised to reflect the 4% applicable percentage, along with a reduction in the Direct Loan amount, and staff believes the application warrants re-evaluation and consideration by the Board;

**WHEREAS**, the current Certification of Reservation from the Texas Bond Review Board was issued on March 3, 2021, and will expire on August 30, 2021;

**WHEREAS**, the proposed issuer of the bonds is the Texas State Affordable Housing Corporation;

**WHEREAS**, staff recommends that the 2021 10 TAC Chapter 13 requirements apply to the Development, although this continues to be an award from the 2020-1 Multifamily Direct Loan Notice of Funding Availability;

**WHEREAS**, staff recommends that no penalty be imposed on the Applicant or Affiliates pursuant to 10 TAC §13.11(b) and 10 TAC§11.9(f)(2), due to the partial return of the HOME award because of the change in federal legislation and because the Department's commitment deadline to HUD for these funds is currently suspended; and

**WHEREAS**, EARAC recommends \$300,000 in HOME Direct Loan funds for Trinity Oaks and the issuance of a Determination Notice.

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$188,836 in 4% HTC, and \$300,000 in HOME Direct Loan funds, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Trinity Oaks is hereby approved as presented to this meeting.

**FURTHER RESOLVED**, that no penalty will be imposed on the Applicant or Affiliates under 10 TAC §13.11(b) and 10 TAC§11.9(f)(2), due to the partial return of the HOME award.

### **BACKGROUND**

*General Information:* Trinity Oaks involves the acquisition and rehabilitation of 48 units and is located at 600 and 610 Woodlawn Street in Sulphur Springs, Hopkins County. The multifamily development consists of two contiguous phases. Phase one was constructed in 1982, consists of 24 units, and serves the elderly population. Phase two consists of 24 units and was built in 1990 after receiving an award of non-competitive HTC in 1989 (06626). Phase two initially served the general population and is considered an inactive development with regard to the Compliance Period. The applicant states that it currently serves the elderly population, with the exception of four disabled tenants under the age of 55. Several HTC applications have been submitted for Trinity Oaks in the past, however, an inability to receive approvals from the USDA-Rural Development State Office resulted in recaptured competitive HTC in one instance and the termination of a subsequent application. The current application proposes to serve the elderly population and the financing will be utilized to pay off the existing 15 units with rental assistance from the USDA. The Section 8 project based contract is expected to continue for 24 of the units. The development proposes 16 units rent and income restricted at 30% of AMFI and 32 units rent and income restricted at 60% of AMFI. Layered among the HTC units will be 12 Direct Loan HOME units and 1 HOME Match unit. It is a condition of the award that the applicant provide an executed written agreement from HUD regarding the elderly designation in the new HAP agreements and that such agreement be provided before the Department enters into a Contract for the HOME funds.

The application was originally submitted to the Department on April 6, 2020, and Board approval was received on November 5, 2020; however, the financing was reconfigured by the Applicant to take advantage of recent federal legislation that established a minimum 4% applicable percentage for 4% HTC developments. Moreover, there were other changes the applicant disclosed to staff such that staff believed it prudent to re-evaluate and present this matter to the Board. Some of the changes since the original Board approval includes changes to the amount of HTC requested, a different syndicator, and a reduced Direct Loan amount. The Real Estate Analysis underwriting report attached hereto goes into greater detail on these changes. Staff recommends the approval of the re-issuance of

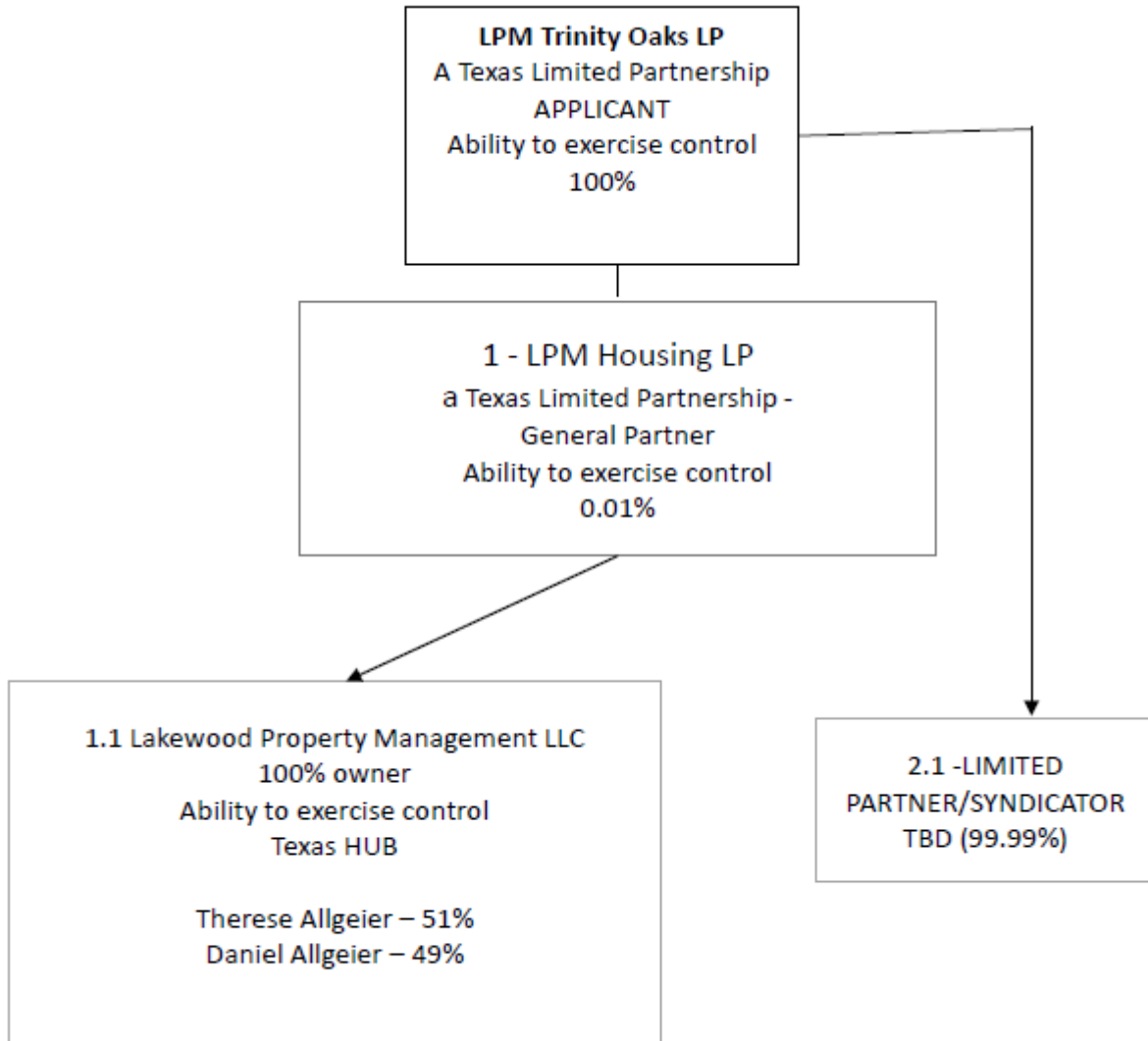
the Determination Notice in the amount as noted herein as well as the reduced requested Direct Loan amount.

Due to the impact of a change in federal regulation after the Direct Loan award was made, staff recommends that no penalty be imposed on the Applicant or Affiliates under 10 TAC §13.11(b) and 10 TAC§11.9(f)(2). The Applicant could not have known that this change would happen and the Department's commitment deadline to HUD for these funds is currently suspended. Thus, the Department is not recommending a penalty

*Organizational Structure:* The Borrower is LPM Trinity Oaks LP and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC without further review or discussion.

*Public Comment:* There were no letters of support or opposition received by the Department.

**EXHIBIT A**





**Addendum to Underwriting Report**

TDHCA Application #: **21443-20463** Program(s): **4% HTC/MDL**

**Trinity Oaks I and II**

Address/Location: 600 Woodlawn

City: Sulphur Springs County: Hopkins Zip: 75482

APPLICATION HISTORY	
Report Date	PURPOSE
04/01/21	Reduce Direct Loan Amount / Revised Financing
10/28/20	Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	\$925,000	2.50%	35	2	\$300,000	2.50%	30	18	2
LIHTC (4% Credit)	\$155,956				\$188,836				

\* Multifamily Direct Loan Terms:

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

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

**CONDITIONS STATUS**

- 1 Receipt and acceptance before Direct Loan Contract Execution:
  - a: HUD approval of revised Section 8 Contract with revised utility allowance that reflects landlord-paid water/sewer, and specifying the target population.
  - b: Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
  - c: All required URA documentation

**Status: 1(a-c) Pending**

- 2 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 minimum 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.

**Status: 2(a-e) Pending**

3 Receipt and acceptance before Determination Notice:

- CPA detailed analysis and a legal opinion from the Equity Investor demonstrating the Development satisfies the 50% Test for Tax Exempt Bond Financing in order to qualify for 4% Housing Tax Credits.

**Status: Satisfied**

4 Receipt and acceptance by Cost Certification:

- Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

**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	12
60% of AMI	60% of AMI	36

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	12
80% of AMFI	High HOME	1

**ANALYSIS**

Trinity Oaks previously received Board approval on November 5, 2020, for the issuance of a Determination Notice along with an award of Direct Loan funds in the amount of \$925,000.

The application has been revised to reflect the architect's final construction plans and changes in the financing structure including a reduction in the requested Direct Loan amount to \$300,000.

**Operating Pro Forma**

The previously approved Direct Loan required 16 units with HOME income and rent restrictions at 30% AMI. With the Direct Loan reduced to \$300,000, the number of units required at 30% AMI decreases to 12, plus one HOME Match Unit with restrictions at High HOME Rent and 80% AMI. Rental income is unchanged because the units are supported by a Section 8 HAP Contract.

Underwritten Net Operating Income has increased slightly, from \$158,086 to \$159,603, as a result of minor adjustments to operating expenses.

**Development Cost**

Original underwriting was based on the costs presented in the Scope and Cost Review. The current estimate for rehabilitation costs is based on the Contractor's revised construction budget. Hard Cost has decreased from \$1,754,084 to \$1,611,907.

Total Development Cost decreased from \$4,453,454 to \$4,419,573.



**Sources of Funds**

Tax Exempt Bonds issued by TSAHC increased from \$1,800,000 to \$2,200,000, which will finance an estimated 60% of the aggregate basis of the project, exceeding the 50% required to qualify for 4% Housing Tax Credits.

Senior Permanent Debt from Churchill Stateside was previously \$1,600,000 at 4.00% with 35-year amortization and term. With the increased bond financing the permanent debt has increased to \$2,200,000. The term has been reduced to 18 years.

WNC will replace Churchill as the tax credit equity provider. The applicable percentage used to calculate tax credit eligible basis has increased based on federal legislation to lock the percentage at 4.00%. As a result, equity proceeds have increased from \$1,356,680 to \$1,571,344.

With the increased senior debt and equity, the Applicant's request for HOME Direct Loan funds has decreased to \$300,000. The necessary match funds will be provided in the form of donated construction materials and labor.

Deferred developer fee has decreased from \$501,774 to \$325,729.

The recommended credit allocation is \$188,836 as determined by Eligible Basis.

Underwriter recommends approval of a 2nd-lien Multifamily Direct Loan in the amount of \$300,000 at 2.50% interest amortized over 30 years with an 18-year term (to match the senior debt).

Director of Real Estate Analysis: Thomas Cavanagh

**UNIT MIX/RENT SCHEDULE**  
*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #21443-20463*

LOCATION DATA	
CITY:	Sulphur Springs
COUNTY:	Hopkins
Area Median Income	\$58,400
PROGRAM REGION:	4
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	48	100.0%	24	13
2	-	0.0%	0	0
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>48</b>	<b>100.0%</b>	<b>24</b>	<b>13</b>

53%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	12	25.0%
40%	-	0.0%
50%	-	0.0%
60%	36	75.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>		
	<b>48</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	602 sf

UNIT MIX / MONTHLY RENT SCHEDULE																									
HTC		TDHCA Direct Loan Program		RENT ASSISTED UNIT						UNIT MIX			APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS	
Type	Gross Rent	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%	\$342	30%/30%	\$330	S8	\$677	12	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$7,200	\$7,200	\$600	\$0.99	\$0	\$775	\$1.27	\$775		
TC 60%	\$684	HH/80%	\$586	S8	\$677	1	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$600	\$600	\$600	\$0.99	\$0	\$775	\$1.27	\$775		
TC 60%	\$684			S8		3	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$1,800	\$1,800	\$600	\$0.99	\$0	\$775	\$1.27	\$775		
TC 60%	\$684			S8		8	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$4,800	\$4,800	\$600	\$0.99	\$0	\$775	\$1.27	\$775		
TC 60%	\$684			0		24	1	1	595	\$684	\$77	\$607	\$0	\$1.02	\$607	\$14,568	\$14,568	\$607	\$1.02	\$0	\$775	\$1.30	\$775		
<b>TOTALS/AVERAGES:</b>						<b>48</b>			<b>28,872</b>				<b>\$0</b>	<b>\$1.00</b>	<b>\$604</b>	<b>\$28,968</b>	<b>\$28,968</b>	<b>\$604</b>	<b>\$1.00</b>	<b>\$0</b>	<b>\$775</b>	<b>\$1.29</b>	<b>\$775</b>		

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$347,616</b>	<b>\$347,616</b>
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## STABILIZED PRO FORMA

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #21443-20463*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	2019 Profit & Loss		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.00	\$604	\$347,616	\$347,616	\$347,616	\$347,616	\$604	\$1.00		0.0%	\$0
Non Rental Income					\$20.00	\$11,520	11,520							
Total Secondary Income					\$20.00			11,520	\$11,520	\$20.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$359,136	\$359,136	\$359,136	\$359,136				0.0%	\$0
Vacancy & Collection Loss					6.0% PGI	(21,548)	(21,548)	(21,548)	(21,548)	6.0% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$337,588	\$337,588	\$337,588	\$337,588				0.0%	\$0

General & Administrative	\$17,720	\$369/Unit	\$9,189	\$191	2.95%	\$0.35	\$208	\$9,975	\$10,425	\$9,189	\$9,189	\$191	\$0.32	2.72%	8.6%	786
Management	\$23,175	8.0% EGI	\$0	\$405	6.00%	\$0.70	\$422	\$20,250	\$20,375	\$20,375	\$20,250	\$422	\$0.70	6.00%	0.0%	-
Payroll & Payroll Tax	\$48,443	\$1,009/Unit	\$25,746	\$536	7.70%	\$0.90	\$542	\$26,000	\$25,750	\$25,746	\$25,746	\$536	\$0.89	7.63%	1.0%	254
Repairs & Maintenance	\$33,834	\$705/Unit	\$30,369	\$633	8.04%	\$0.94	\$566	\$27,150	\$27,150	\$31,200	\$31,200	\$650	\$1.08	9.24%	-13.0%	(4,050)
Electric/Gas	\$6,192	\$129/Unit	\$12,259	\$255	2.96%	\$0.35	\$208	\$10,000	\$10,000	\$10,000	\$10,000	\$208	\$0.35	2.96%	0.0%	-
Water, Sewer, & Trash	\$21,715	\$452/Unit	\$19,430	\$405	5.33%	\$0.62	\$375	\$18,000	\$19,000	\$19,430	\$19,430	\$405	\$0.67	5.76%	-7.4%	(1,430)
Property Insurance	\$13,486	\$0.47 /sf	\$21,000	\$438	7.11%	\$0.83	\$500	\$24,000	\$21,000	\$21,000	\$21,000	\$438	\$0.73	6.22%	14.3%	3,000
Property Tax (@ 100%) 2.5663	\$15,135	\$315/Unit	\$18,650	\$389	5.33%	\$0.62	\$375	\$18,000	\$18,700	\$18,650	\$18,650	\$389	\$0.65	5.52%	-3.5%	(650)
Reserve for Replacements			\$0		4.27%	\$0.50	\$300	\$14,400	\$14,400	\$14,400	\$14,400	\$300	\$0.50	4.27%	0.0%	-
Cable TV			\$4,193	\$87	0.71%	\$0.08	\$50	\$2,400	\$0	\$4,193	\$2,400	\$50	\$0.08	0.71%	0.0%	-
Supportive Services			\$0		0.00%	\$0.00	\$0	\$0	\$2,400	\$2,400	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0		0.57%	\$0.07	\$40	\$1,920	\$1,920	\$1,920	\$1,920	\$40	\$0.07	0.57%	0.0%	-
TDHCA MDL Compliance (\$34/MDL unit)			\$0		0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
TDHCA Bond Compliance Fee			\$0		0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Bond Trustee Fees			\$0		1.13%	\$0.13	\$79	\$3,800	\$1,000	\$1,000	\$3,800	\$79	\$0.13	1.13%	0.0%	-
Security			\$0		0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
0			\$0		0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
0			\$0		0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>52.10%</b>	<b>\$6.09</b>	<b>\$3,664</b>	<b>\$ 175,895</b>	\$172,120	\$179,502	<b>\$177,985</b>	<b>\$3,708</b>	<b>\$6.16</b>	<b>52.72%</b>	<b>-1.2%</b>	<b>\$ (2,090)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>47.90%</b>	<b>\$5.60</b>	<b>\$3,369</b>	<b>\$161,693</b>	\$165,468	\$158,086	<b>\$159,603</b>	<b>\$3,325</b>	<b>\$5.53</b>	<b>47.28%</b>	<b>1.3%</b>	<b>\$ 2,090</b>

CONTROLLABLE EXPENSES	\$1,898/Unit	
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #21443-20463*

**DEBT / GRANT SOURCES**

		DEBT / GRANT SOURCES																
		APPLICANT'S PROPOSED DEBT/GRANT STRUCTURE							Prior Underwriting		AS UNDERWRITTEN DEBT/GRANT STRUCTURE							
		Cumulative DCR		Pmt	Rate	Amort	Term	Principal	Applicant	TDHCA	Principal	Term	Amort	Rate	Pmt	Cumulative		
DEBT (Must Pay)	Fee	UW	App													Original UW Report	DCR	LTC
Churchill Stateside Group, LLC	0.10%	1.22	1.23	131,117	4.00%	35	18	\$2,200,000	\$1,600,000	\$1,600,000	\$2,200,000	18	35	4.00%	\$119,093	1.36	49.8%	
TDHCA - MFDL		1.22	1.23		2.50%	30	35	\$300,000	\$925,000	\$925,000	\$300,000	18	30	2.50%	\$14,224	1.21	6.8%	
<b>CASH FLOW DEBT / GRANTS</b>																		
donated labor, materials		1.22	1.23		0.00%	0	0	\$22,500	\$70,000	\$70,000	\$22,500	0	0	0.00%		1.21	0.5%	
				<b>\$131,117</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$2,522,500</b>	\$2,595,000	\$2,595,000	<b>\$2,522,500</b>	<b>TOTAL DEBT SERVICE</b>				<b>\$133,317</b>	<b>1.21</b>	<b>57.1%</b>
<b>NET CASH FLOW</b>		\$28,486	\$30,576	<b>APPLICANT NET OPERATING INCOME</b>										\$161,693	\$28,376	<b>NET CASH FLOW</b>		

**EQUITY SOURCES**

		APPLICANT'S PROPOSED EQUITY STRUCTURE										AS UNDERWRITTEN EQUITY STRUCTURE				
							Prior Underwriting									
		DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Applicant	TDHCA	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method		
EQUITY / DEFERRED FEES																
WNC		LIHTC Equity	36.1%	\$190,087	0.84	\$1,595,134	\$1,388,842	\$1,356,680	\$1,571,344	\$0.83	\$188,836	35.6%	\$3,934	Eligible Basis		
Lakewood Property Management		Deferred Developer Fees	7.5%	(65% Deferred)		\$331,847	\$469,130	\$501,774	\$325,729	(65% Deferred)		7.4%	Total Developer Fee:	\$502,954		
Additional (Excess) Funds Req'd			0.0%						\$0			0.0%				
<b>TOTAL EQUITY SOURCES</b>			43.6%			\$1,926,981	\$1,857,972	\$1,858,454	\$1,897,073			42.9%				
<b>TOTAL CAPITALIZATION</b>						<b>\$4,449,481</b>	\$4,452,972	\$4,453,454	<b>\$4,419,573</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>				<b>\$271,254</b>		

**DEVELOPMENT COST / ITEMIZED BASIS**

		DEVELOPMENT COST / ITEMIZED BASIS													
		APPLICANT COST / BASIS ITEMS					Prior Underwriting		TDHCA COST / BASIS ITEMS					COST VARIANCE	
		Eligible Basis					Applicant	TDHCA				Eligible Basis		%	\$
		Acquisition	New Const. Rehab	Total Costs		Total Costs			New Const. Rehab	Acquisition					
Land Acquisition				\$6,250 / Unit	\$300,000	\$186,300	\$300,000	\$300,000	\$6,250 / Unit					0.0%	\$0
Building Acquisition	\$800,000			\$16,667 / Unit	\$800,000	\$913,700	\$800,000	\$800,000	\$16,667 / Unit		\$800,000			0.0%	\$0
					\$0	\$10,000	\$10,000	\$0							\$0
Site Work		\$154,900		\$3,227 / Unit	\$154,900	\$168,096	\$125,500	\$119,500	\$2,490 / Unit	\$119,500				29.6%	\$35,400
Site Amenities		\$17,544		\$522 / Unit	\$25,044	\$16,320	\$23,000	\$21,200	\$442 / Unit	\$21,200				18.1%	\$3,844
Building Cost		\$1,431,963	\$49.60 /sf	\$29,833/Unit	\$1,431,963	\$1,569,186	\$1,605,584	\$1,471,207	\$30,650/Unit	\$50.96 /sf	\$1,471,207			-2.7%	(\$39,244)
Contingency		\$186,117	11.60%	11.55%	\$186,117	\$156,520	\$156,520	\$161,191	10.00%	10.00%	\$161,191			15.5%	\$24,926
Contractor Fees		\$248,222	13.86%	13.81%	\$248,222	\$263,918	\$263,918	\$248,222	14.00%	14.00%	\$248,222			0.0%	\$0
Soft Costs	0	\$172,000		\$5,073 / Unit	\$243,520	\$227,000	\$227,000	\$243,520	\$5,073 / Unit		\$172,000	\$0		0.0%	\$0
Financing	0	\$321,450		\$8,294 / Unit	\$398,120	\$275,150	\$275,150	\$398,120	\$8,294 / Unit		\$321,450	\$0		0.0%	\$0
Developer Fee	\$0	\$507,936	20.06%	20.00%	\$507,936	\$508,782	\$508,782	\$502,954	20.00%	19.93%	\$501,304	\$0		1.0%	\$4,982
Reserves				6 Months	\$153,659	\$158,000	\$158,000	\$153,659	6 Months					0.0%	\$0
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$800,000</b>	<b>\$3,040,132</b>	\$92,698 / Unit	<b>\$4,449,481</b>	\$4,452,972	\$4,453,454	<b>\$4,419,573</b>	\$92,074 / Unit	<b>\$3,016,074</b>	<b>\$800,000</b>	<b>0.7%</b>	<b>\$29,908</b>		
Acquisition Cost	\$0				\$0										
Contingency			(\$25,676)		(\$24,926)										
Contractor's Fee			\$0		\$0										
Financing Cost			\$0												
Developer Fee	\$0		(\$6,632)		(\$4,982)										
Reserves					\$0										
<b>ADJUSTED BASIS / COST</b>		<b>\$800,000</b>	<b>\$3,007,824</b>	\$92,074/unit	<b>\$4,419,573</b>	\$4,452,972	\$4,453,454	<b>\$4,419,573</b>	\$92,074/unit	<b>\$3,016,074</b>	<b>\$800,000</b>	<b>0.0%</b>	<b>\$0</b>		
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>						<b>\$4,419,573</b>									

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

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #21443-20463*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$800,000	\$3,007,824	\$800,000	\$3,016,074
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$800,000	\$3,007,824	\$800,000	\$3,016,074
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$800,000	\$3,910,171	\$800,000	\$3,920,896
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$800,000	\$3,910,171	\$800,000	\$3,920,896
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$32,000	\$156,407	\$32,000	\$156,836
<b>CREDITS ON QUALIFIED BASIS</b>	\$188,407		\$188,836	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8321	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$188,836	\$1,571,344	<b>\$188,836</b>	<b>(\$1,251)</b>	<b>(\$10,411)</b>
<b>Needed to Fill Gap</b>	\$227,980	\$1,897,073	----	----	----
<b>Applicant Request</b>	\$190,087	\$1,581,755	----	----	----

50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$2,200,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		60.4%	60.8%
Land Cost	\$300,000	\$300,000	amount aggregate basis can increase before 50% test fails	\$755,304	\$780,230
Depreciable Bldg Cost	\$3,344,696	\$3,319,770			
<b>Aggregate Basis for 50% Test</b>	<b>\$3,644,696</b>	<b>\$3,619,770</b>			

## Long-Term Pro Forma

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #21443-20463*

	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%	\$337,588	\$344,340	\$351,226	\$358,251	\$365,416	\$403,449	\$445,440	\$491,802	\$542,989	\$599,504	\$661,900
TOTAL EXPENSES	3.00%	\$175,895	\$180,969	\$186,192	\$191,567	\$197,099	\$227,282	\$262,146	\$302,425	\$348,965	\$402,748	\$464,911
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$161,693</b>	<b>\$163,370</b>	<b>\$165,035</b>	<b>\$166,684</b>	<b>\$168,317</b>	<b>\$176,167</b>	<b>\$183,294</b>	<b>\$189,377</b>	<b>\$194,024</b>	<b>\$196,755</b>	<b>\$196,989</b>
EXPENSE/INCOME RATIO		52.1%	52.6%	53.0%	53.5%	53.9%	56.3%	58.9%	61.5%	64.3%	67.2%	70.2%
<b>MUST -PAY DEBT SERVICE</b>												
Churchill Stateside Group, LLC		\$119,093	\$119,063	\$119,032	\$119,001	\$118,967	\$118,780	\$118,551	\$118,272	\$117,931	\$117,515	\$117,007
TDHCA - MFDL		\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224	\$14,224
<b>TOTAL DEBT SERVICE</b>		<b>\$133,317</b>	<b>\$133,287</b>	<b>\$133,257</b>	<b>\$133,225</b>	<b>\$133,192</b>	<b>\$133,005</b>	<b>\$132,776</b>	<b>\$132,497</b>	<b>\$132,156</b>	<b>\$131,740</b>	<b>\$131,231</b>
DEBT COVERAGE RATIO		1.21	1.23	1.24	1.25	1.26	1.32	1.38	1.43	1.47	1.49	1.50
<b>ANNUAL CASH FLOW</b>												
		<b>\$28,376</b>	<b>\$30,083</b>	<b>\$31,778</b>	<b>\$33,459</b>	<b>\$35,125</b>	<b>\$43,162</b>	<b>\$50,518</b>	<b>\$56,880</b>	<b>\$61,868</b>	<b>\$65,016</b>	<b>\$65,758</b>
Deferred Developer Fee												
balance		\$325,729	\$297,353	\$267,270	\$235,492	\$202,033	\$10,116	\$0	\$0	\$0	\$0	\$0
annual interest		0	0	0	0	0	0	0	0	0	0	0
payment		28,376	30,083	31,778	33,459	35,125	10,116	0	0	0	0	0
Deferred Developer Fee Balance		\$297,353	\$267,270	\$235,492	\$202,033	\$166,908	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$33,047</b>	<b>\$271,254</b>	<b>\$543,398</b>	<b>\$843,399</b>	<b>\$1,163,023</b>	<b>\$1,491,417</b>

# 20463 Trinity Oaks I and II - Application Summary

REAL ESTATE ANALYSIS DIVISION  
October 28, 2020

PROPERTY IDENTIFICATION	
Application #	20463
Development	Trinity Oaks I and II
City / County	Sulphur Springs / Hopkins
Region/Area	4 / Rural
Population	Elderly Preference
Set-Aside	General
Activity	Acquisition/Rehab (Built in 1985)

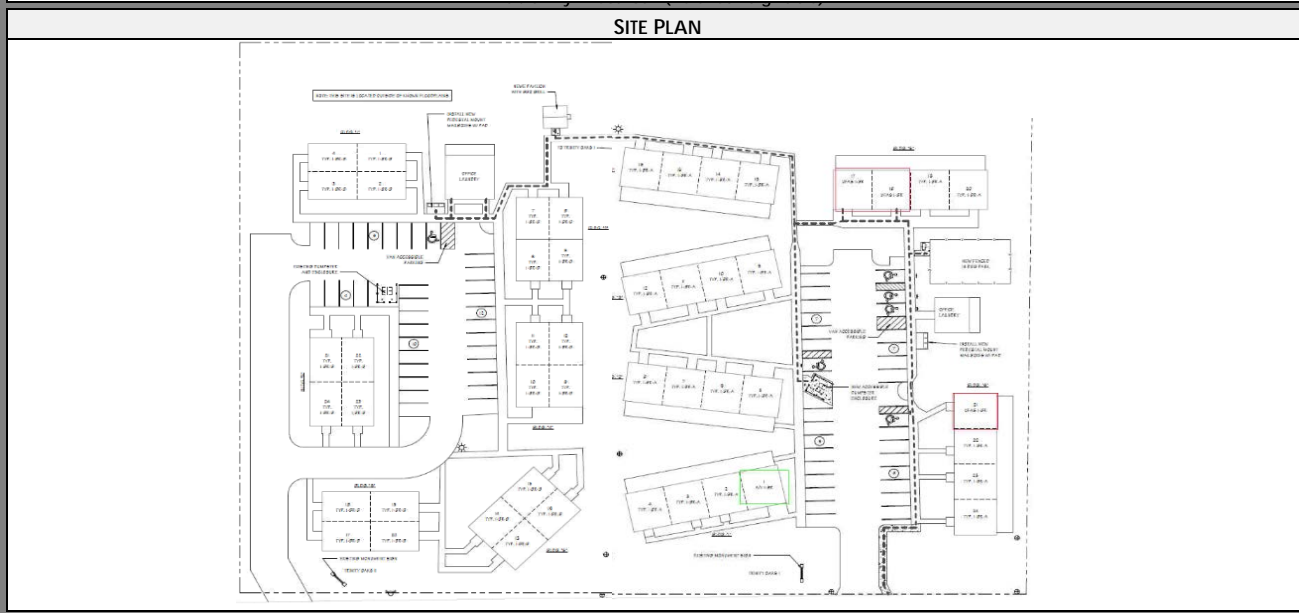
RECOMMENDATION						
TDHCA Program	Request	Recommended				
LIHTC (4% Credit)	\$159,653	\$155,956	\$3,249/Unit	\$0.87		
	Amount	Rate	Amort	Term	Lien	
MF Direct Loan Const. to Perm. (Repayable)	\$925,000	2.50%	30	35	2	

KEY PRINCIPALS / SPONSOR		
Dan & Therese Allgeier of Lakewood Property Management, Inc.		
Related Parties	Contractor - No	Seller - Yes



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	30%	16	33%
1	48	100%	40%	-	0%
2	-	0%	50%	-	0%
3	-	0%	60%	32	67%
4	-	0%	MR	-	0%
<b>TOTAL</b>	<b>48</b>	<b>100%</b>	<b>TOTAL</b>	<b>48</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	✓ 1.27	Expense Ratio	✓ 51.0%
Breakeven Occ.	✓ 84.3%	Breakeven Rent	\$539
Average Rent	\$604	B/E Rent Margin	✓ \$65
Property Taxes	\$390/unit	Exemption/PILOT	0%
Total Expense	\$3,586/unit	Controllable	\$1,923/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (0% Maximum)			✗ 1.8%
Highest Unit Capture Rate	N/A	N/A	N/A
Dominant Unit Cap. Rate	1 BR/50%		47
Premiums (↑60% Rents)	N/A		N/A
Rent Assisted Units	24	50% Total Units	

DEVELOPMENT COST SUMMARY			
Costs Underwritten		TDHCA's Costs - Based on PCA	
Avg. Unit Size	602 SF	Density	5.7/acre
Acquisition	\$23K/unit	\$1,110K	
Building Cost	\$55.61/SF	\$33K/unit	
Hard Cost	\$40K/unit		
Total Cost	\$93K/unit		
Developer Fee	\$509K (99% Deferred)	Paid Year: 12	
Contractor Fee	\$264K	30% Boost Yes	
REHABILITATION COSTS / UNIT			
Site Work	\$3K 7%	Finishes/Fixtures	\$6K 14%
Building Shell	\$24K 61%	Amenities	\$K 1%
HVAC	\$2K 5%	Total Exterior	\$28K 75%
Appliances	\$1K 3%	Total Interior	\$9K 25%

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES	
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount
Churchill Stateside Group, LLC	35/35	4.00%	\$1,600,000	1.91	donated labor, materials	0/0	0.00%	\$70,000	1.27	Churchill Stateside	\$1,356,680
TDHCA - MFDL	35/30	2.50%	\$925,000	1.27						Lakewood Property Management	\$501,774
<b>TOTAL DEBT (Must Pay)</b>			<b>\$2,525,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$70,000</b>		<b>TOTAL EQUITY SOURCES</b>	<b>\$1,858,454</b>
<b>TOTAL DEBT SOURCES</b>											<b>\$2,595,000</b>
<b>TOTAL CAPITALIZATION</b>											<b>\$4,453,454</b>

**CONDITIONS**

- 1 Receipt and acceptance before Direct Loan Contract Execution:
    - a: HUD approval of revised Section 8 Contract with revised utility allowance that reflects landlord-paid water/sewer, and specifying the target population.
    - b: Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
    - c: All required URA documentation
  - 2 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 minimum 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.
  - 3 Receipt and acceptance before Determination Notice:
    - a: CPA detailed analysis and a legal opinion from the Equity Investor demonstrating the Development satisfies the 50% Test for Tax Exempt Bond Financing in order to qualify for 4% Housing Tax Credits.
  - 4 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.
- Should any terms of the proposed capital structure change or if there are material changes to the overall development plan or costs, the analysis must be re-evaluated and adjustment to the credit allocation and/or terms of other TDHCA funds may be warranted.

BOND RESERVATION / ISSUER	
Issuer	TSAHC
Expiration Date	2/13/2021
Bond Amount	\$2,200,000
BRB Priority	Priority 3
Bond Structure	Tax-Exempt Loan
% Financed with Tax-Exempt Bonds	49.3%
RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<ul style="list-style-type: none"> <li>• Ongoing HAP Contract supporting 50% of units</li> </ul>	
WEAKNESSES/RISKS	
<ul style="list-style-type: none"> <li>• Risk of failing the 50% Test to qualify for 4% tax credits</li> <li>• Low visibility</li> </ul>	
AREA MAP	







**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 20463 Program(s): 4% HTC/MDL

Trinity Oaks I and II

Address/Location: 600 Woodlawn

City: Sulphur Springs County: Hopkins Zip: 75482

Population: Elderly Preference Program Set-Aside: General Area: Rural

Activity: Acquisition/Rehab Building Type: Fourplex Region: 4

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	\$925,000	2.50%	30	18	\$925,000	2.50%	30	35	2
LIHTC (4% Credit)	\$159,653				\$155,956				

\* Multifamily Direct Loan Terms:

\* 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**

- 1 Receipt and acceptance before Direct Loan Contract Execution:
  - a: HUD approval of revised Section 8 Contract with revised utility allowance that reflects landlord-paid water/sewer, and specifying the target population.
  - b: Documentation that a noise study has been completed, and Architect certification that all recommendations from the noise study are incorporated into the development plans.
  - c: All required URA documentation
- 2 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 minimum 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.

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  - a: CPA detailed analysis and a legal opinion from the Equity Investor demonstrating the Development satisfies the 50% Test for Tax Exempt Bond Financing in order to qualify for 4% Housing Tax Credits.
- 4 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.

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	16
60% of AMI	60% of AMI	32

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	16

**DEVELOPMENT SUMMARY**

Acquisition and renovation of 48 one bedroom units of apartments, an office, clubhouse and laundry facilities originally constructed in 2 phases with USDA RD funding. Phase one was constructed in 1982 and has 24 units in 6 single story buildings, an office, maintenance facility and laundry. Phase 2 was constructed in 1990 and has 24 units in 6 single story buildings, a community room with kitchen and laundry. The project consists of only one bedroom, one bath units. It is planned to eliminate the gas service to units and make them all electric as that saves the residents energy costs and is safer. The units will be updated and made more energy efficient. The site will be brought to ADA and Fair Housing standards.

The USDA loans will be paid off and project acquisition and renovation financed with tax exempt bonds, direct loan funds and equity from housing tax credits. There is an existing project based Section 8 contract for 24 of the units (phase one) which will be retained. The existing 15 units of rental assistance from USDA will no longer be available but the existing residents receiving these subsidies will receive vouchers. Tenant-based vouchers, if available will be provided as well. The projects are on adjacent tracts and share management personnel.

**RISK PROFILE**

STRENGTHS/MITIGATING FACTORS	
▫	Ongoing HAP Contract supporting 50% of units
▫	

WEAKNESSES/RISKS	
▫	Risk of failing the 50% Test to qualify for 4% tax credits
▫	Low visibility

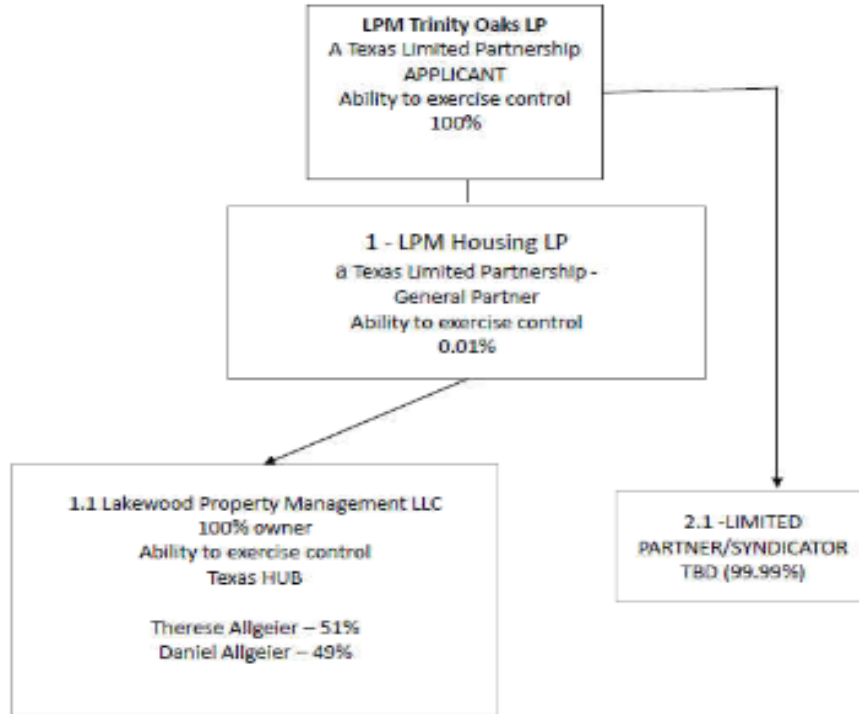
## DEVELOPMENT TEAM

### PRIMARY CONTACTS

Name: Dan Allgeier  
Phone: (214) 277-4839  
Relationship: Co-Principal

Name: Therese Allgeier  
Phone: (972) 489-8096  
Relationship: Co-Principal

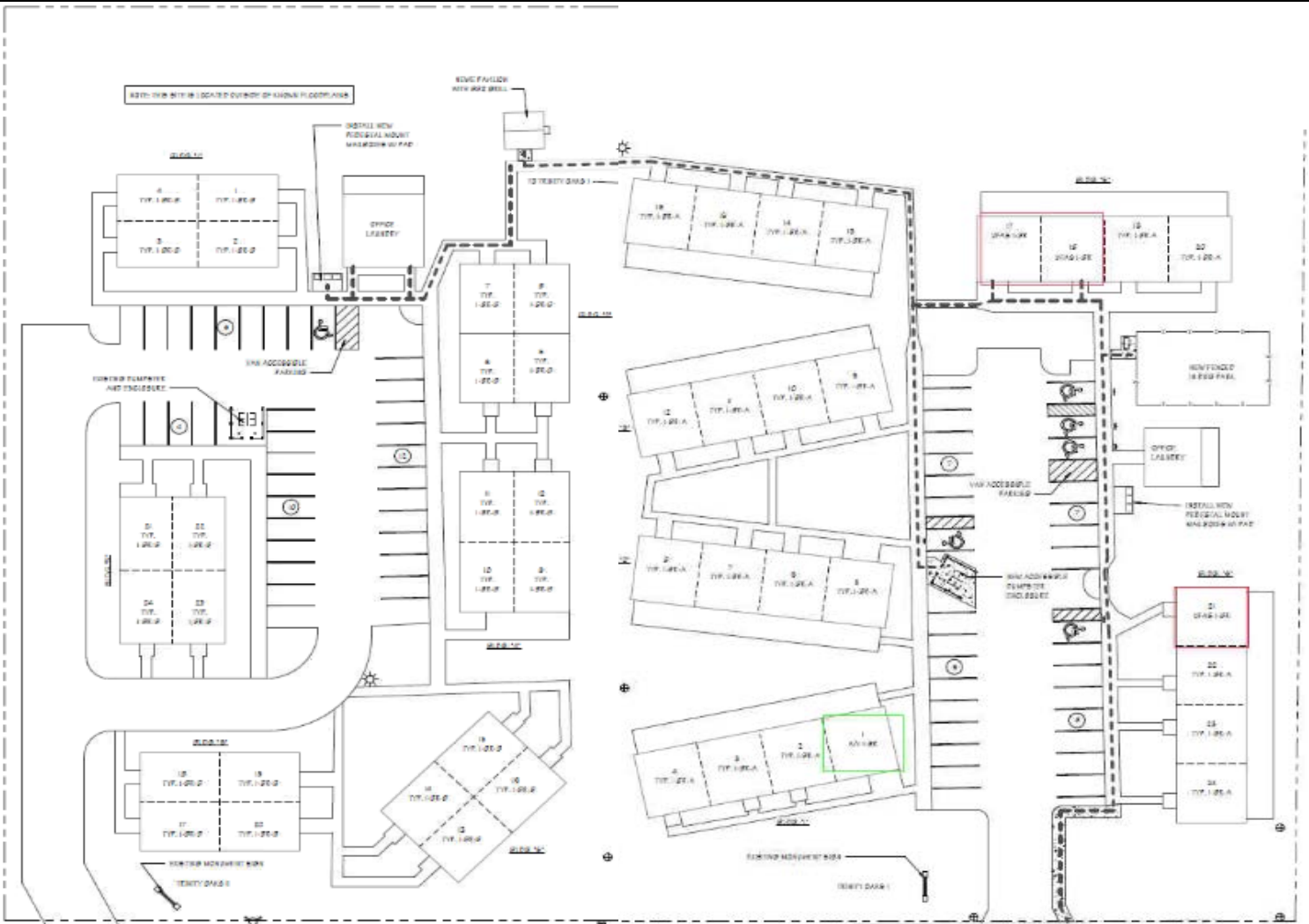
### OWNERSHIP STRUCTURE



- Dan Allgeier has over 40 years of multifamily development and civil engineering experience as a Professional Engineer. Dan is the current owner and principal of Lakewood Property Management, LLC, participating in the development, management, or maintenance of 11 TDHCA HTC properties since 1997.

# DEVELOPMENT SUMMARY

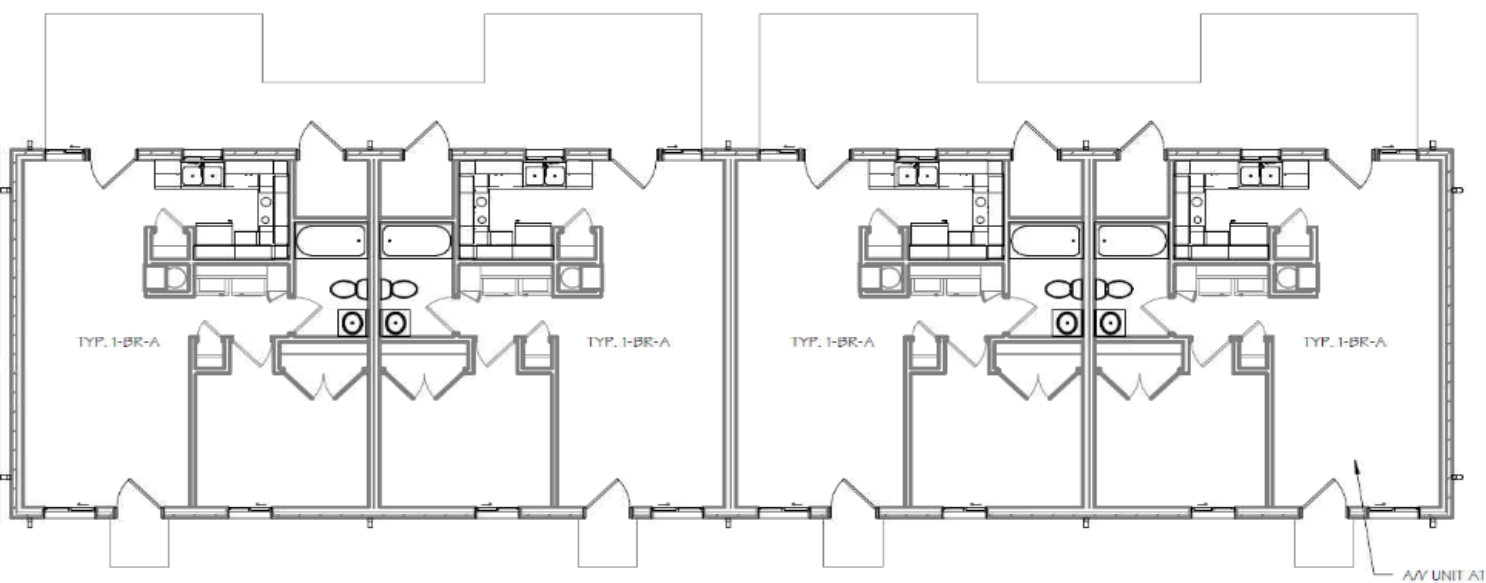
## SITE PLAN



**Comments:**

Twelve single-story fourplexes. Trinity Oaks I (right) was developed first in 1982, followed by Trinity Oaks II (left) in 1990.

## BUILDING PLAN (Typical)





**SITE CONTROL INFO**

**Site Acreage:** Development Site: 8.35 acres Density: 5.7 units/acre  
**Site Control:** 8.34 **Site Plan:** 8.34 **Appraisal:** 8.14 **ESA:** 8.34

Control Type: Contract for Sale Contract Expiration: 1/31/2021  
 Phase 1: 2.029 acres Cost: \$650,000 Seller: Housing Associates of Sulphur Springs Ltd  
 Phase 2: 6.319 acres Cost: \$450,000 Seller: Housing Associates of Sulphur Springs II, Ltd

Development Site: 8.35 acres Cost: \$1,100,000 \$22,917 per unit  
 Seller: Housing Associates of Sulphur Springs Ltd  
 Buyer: Lakewood Property Management, LLC  
 Assignee: LPM Trinity Oaks, LP

Related-Party Seller/Identity of Interest: Yes

Comments:  
 The appraiser didn't include tract 3 in his acreage. The original deeds of trust apparently don't include this tract but it is being transferred to the new owner.

**APPRAISED VALUE**

Appraiser: Gill Group Date: 11/5/2019  
 Land as Vacant: 8.14 acres \$300,000 Per Unit: \$6,250  
 Existing Buildings: (as-is) \$1,220,000 Per Unit: \$25,417  
**Total Development: (as-is)** \$1,520,000 Per Unit: \$31,667

Comments:  
 Values represent the combined appraisals of Trinity Oaks Phase I (\$765,000) & Phase II (\$755,000).

**SITE INFORMATION**

Flood Zone:	<u>X</u>	Scattered Site?	<u>No</u>
Zoning:	<u>MF</u>	Within 100-yr floodplain?	<u>No</u>
Re-Zoning Required?	<u>No</u>	Utilities at Site?	<u>Yes</u>
Year Constructed:	<u>1985</u>	Title Issues?	<u>No</u>

Current Uses of Subject Site:  
 Consistent with proposed development.

Surrounding Uses:  
 North: Greenspace & railroad.  
 East / South / West: Single family residential.

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: GIBCO Environmental, LLC Date: 11/14/2019

Recognized Environmental Conditions (RECs) and Other Concerns:

- Noise study is required for the property under HUD Noise Assessment Guidelines. The site is less than 3000 feet from an active railroad.

**MARKET ANALYSIS**

Provider: Gibson Consulting, LLC Date: 11/15/2019  
 Contact: Jim Howell Phone: 901-409-3415

Market Analyst calculates a Gross Capture Rate of 1.8% (1.5% for assisted units), which is below the 10% maximum. Underwriter reviewed the market study for compliance. Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. The subject currently reports 100% occupancy.

**OPERATING PRO FORMA**

**SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)**

NOI:	\$165,468	Avg. Rent:	\$604	Expense Ratio:	51.0%
Debt Service:	\$130,471	B/E Rent:	\$539	Controllable Expenses:	\$1,923
Net Cash Flow:	\$34,997	UW Occupancy:	94.0%	Property Taxes/Unit:	\$390
Aggregate DCR:	1.27	B/E Occupancy:	84.3%	Program Rent Year:	2020

All units will have HTC restrictions (32 at 60% AMI and 29 at 30% AMI). Sixteen units will also be restricted at 30% AMI under the Multifamily Direct Loan Program.

Twenty-four units (50% of the total, and including all the 30% AMI units) are supported by a project-based Section 8 HAP Contract.

Vacancy underwritten at 6% to reflect the shared HAP and HTC unit mix.

Underwriter's expense estimates based on actual operating expenses of the property.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule:	2	Revisions to Annual Operating Expenses:	2
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**DEVELOPMENT COST EVALUATION**

**SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)**

Acquisition	\$35,937/ac	\$23,125/unit	\$1,110,000	Contractor Fee	\$263,918
Off-site + Site Work		\$3,094/unit	\$148,500	Soft Cost + Financing	\$502,150
Building Cost	\$55.61/sf	\$33,450/unit	\$1,605,584	Developer Fee	\$508,782
Contingency	8.92%	\$3,261/unit	\$156,520	Reserves	\$158,000
<b>Total Development Cost</b>	\$92,780/unit	<b>\$4,453,454</b>	<b>Rehabilitation Cost</b>	<b>\$36,543/unit</b>	

**Qualified for 30% Basis Boost?** Located in a Small Area Difficult Development Area (SADDA)

Acquisition:

Total acquisition cost is \$1,100,000. Applicant's cost schedule includes \$186,300 allocated to land and \$913,700 as eligible building cost. Land value has been adjusted to \$300,000 as reported by the Appraiser, reducing eligible building cost to \$800,000.

Site Work:

Some costs identified by the SCR Provider as Site Work were allocated as Building Costs by the Applicant.

Building Cost:

\$9,000 per unit (25% of proposed rehab costs) allocated to upgrades and improvements to unit interiors.

\$28,000 per unit (75% of proposed rehab costs) allocated to building exteriors and site work.

Underwritten hard costs based on Third Party Scope and Cost Review.

REHABILITATION COSTS / UNIT / % HARD COST							
Site Work	\$125,500	\$2,615/unit	7%	Finishes/Fixtures	\$271,000	\$5,646/unit	14%
Building Shell	\$1,173,584	\$24,450/unit	61%	HVAC	\$96,000	\$2,000/unit	5%
Amenities	\$23,000	\$479/unit	1%	Appliances	\$65,000	\$1,354/unit	3%
<b>Total Exterior</b>	<b>\$1,322,084</b>	<b>\$27,543/unit</b>	<b>75%</b>	<b>Total Interior</b>	<b>\$432,000</b>	<b>\$9,000/unit</b>	<b>25%</b>

SCOPE & COST REVIEW

Provider: GIBCO Environmental, LLC

Date: 11/15/2019

Soft Costs:

\$50K budgeted for tenant relocation, includes temporary residences for tenants of 3 buildings at a time.

Financing Cost:

Soft Cost Contingency moved from Other Financing Costs to overall Contingency

Developer Fee:

Developer Fee allowed to be 20% when fewer than 50 units.

Credit Allocation Supported by Costs:

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$4,453,454	\$3,853,302	\$155,956

Related-Party Contractor:

Yes

Related-Party Cost Estimator:

Yes

Revisions to Development Cost Schedule:	1
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UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
TSAHC	\$2,200,000	8/17/2020	Priority 3
Closing Deadline		Bond Structure	
2/13/2021		Tax-Exempt Loan	

Percent of Cost Financed by Tax-Exempt Bonds	49.3%
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Comments:

Underwriter estimates only 49% of land cost plus depreciable building cost paid for with tax exempt bond funds. If less than 50% of the relevant cost is financed with tax exempt bond funds, the development will not qualify for 4% HTC credits.

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
TDHCA - MFDL	Const. to Permanent	\$925,000	0.00%	22%
Churchill	Conventional Loan	\$1,800,000	4.00%	43%
Churchill Stateside	HTC	\$972,190	\$0.87	23%
Lakewood Property Management	Deferred Developer Fee	\$457,302		11%
donated labor, materials	Direct Loan Match	\$70,000		2%
		<b>\$4,224,492</b>	<b>Total Sources</b>	

Comments:

The Direct Loan Match will be donated labor and materials from Green Companies (General Contractor).

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Churchill Stateside Group, LLC	\$1,600,000	4.00%	35	35	\$1,600,000	4.00%	35	35	36%
TDHCA - MFDL	\$925,000	2.50%	30	18	\$925,000	2.50%	30	35	21%
donated labor, materials	\$70,000				\$70,000				2%
<b>Total</b>	<b>\$2,595,000</b>				<b>\$2,595,000</b>				

Comments:

Churchill Stateside Group, LLC will provide construction and permanent financing through a forward commitment Tax Exempt Loan. The rate will be locked at construction loan closing and is currently estimated at 4.75%.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Churchill Stateside	\$1,388,842	\$0.87		\$1,356,680	\$0.87	30%	
Lakewood Property Management	\$469,130		92%	\$501,774		11%	99%
<b>Total</b>	<b>\$1,857,972</b>			<b>\$1,858,454</b>			
				<b>\$4,453,454</b>	<b>Total Sources</b>		

Credit Price Sensitivity based on current capital structure	
<b>\$1.164</b>	Maximum Credit Price before the Development is oversourced and allocation is limited
<b>\$0.845</b>	Minimum Credit Price below which the Development would be characterized as infeasible

Revisions to Sources Schedule:	0
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## CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$4,453,454
Permanent Sources (debt + non-HTC equity)	\$2,595,000
<b>Gap in Permanent Financing</b>	<b>\$1,858,454</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$1,356,680	\$155,956
Needed to Balance Sources & Uses	\$1,858,454	\$213,637
Requested by Applicant	\$1,388,842	\$159,653

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
<b>Tax Credit Allocation</b>	<b>\$1,356,680</b>	<b>\$155,956</b>

	Amount	Interest Rate	Amort	Term	Lien
<b>TDHCA Multifamily Direct Loan</b>	<b>\$925,000</b>	<b>2.50%</b>	<b>30</b>	<b>35</b>	<b>2</b>

<b>Deferred Developer Fee</b>	<b>\$501,774</b>	( 99% deferred)
<b>Repayable in</b>	<b>12 years</b>	

**Comments:**

The recommended credit allocation is \$155,956 as determined by Eligible Basis.

Underwriter recommends approval of a 2nd-lien Multifamily Direct loan in the amount of \$925,000 at 2.50% interest amortized over 30 years with a 35-year term (to match the senior debt).

As underwritten Developer Fee is 99% deferred. If the Direct Loan funds are not awarded, the development would be infeasible since there is insufficient fee to defer to absorb the gap in sources.

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

**UNIT MIX/RENT SCHEDULE**  
*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #20463*

LOCATION DATA	
CITY:	Sulphur Springs
COUNTY:	Hopkins
Area Median Income	\$58,400
PROGRAM REGION:	4
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	48	100.0%	24	16
2	-	0.0%	0	0
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>48</b>	<b>100.0%</b>	<b>24</b>	<b>16</b>

50%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	16	33.3%
40%	-	0.0%
50%	-	0.0%
60%	32	66.7%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>48</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.27%
APP % Construction	3.27%
Average Unit Size	602 sf

UNIT MIX / MONTHLY RENT SCHEDULE																								
HTC		TDHCA Direct Loan Program		RENT ASSISTED UNIT						APPLICABLE PROGRAM RENT				APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	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%	\$342	30%/30%	\$330	S8	\$677	16	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$9,600	\$9,600	\$600	\$0.99	\$0	\$775	\$1.27	\$775	
TC 60%	\$684			S8	\$677	8	1	1	608	\$677	\$77	\$600	\$0	\$0.99	\$600	\$4,800	\$4,800	\$600	\$0.99	\$0	\$775	\$1.27	\$775	
TC 60%	\$684			0		24	1	1	595	\$684	\$77	\$607	\$0	\$1.02	\$607	\$14,568	\$14,568	\$607	\$1.02	\$0	\$775	\$1.30	\$775	
<b>TOTALS/AVERAGES:</b>						<b>48</b>			<b>28,872</b>				<b>\$0</b>	<b>\$1.00</b>	<b>\$604</b>	<b>\$28,968</b>	<b>\$28,968</b>	<b>\$604</b>	<b>\$1.00</b>	<b>\$0</b>	<b>\$775</b>	<b>\$1.29</b>	<b>\$775</b>	

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$347,616</b>	<b>\$347,616</b>
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## STABILIZED PRO FORMA

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #20463*

### STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	2019 Profit & Loss	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$1.00	\$604	\$347,616	\$347,616	\$604	\$1.00		0.0%	\$0
0					\$20.00	\$11,520						
Total Secondary Income					\$20.00		\$11,520	\$20.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$359,136	\$359,136				0.0%	\$0
Vacancy & Collection Loss				6.0% PGI		(21,548)	(21,548)	6.0% PGI			0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$337,588	\$337,588				0.0%	\$0

General & Administrative	\$17,720	\$369/Unit	\$9,189	\$191	3.09%	\$0.36	\$217	\$10,425	\$9,189	\$191	\$0.32	2.72%	13.5%	1,236
Management	\$23,175	8.0% EGI	\$0	\$405	6.04%	\$0.71	\$424	\$20,375	\$20,375	\$424	\$0.71	6.04%	0.0%	-
Payroll & Payroll Tax	\$48,443	\$1,009/Unit	\$25,746	\$536	7.63%	\$0.89	\$536	\$25,750	\$25,746	\$536	\$0.89	7.63%	0.0%	4
Repairs & Maintenance	\$33,834	\$705/Unit	\$30,369	\$633	8.04%	\$0.94	\$566	\$27,150	\$31,200	\$650	\$1.08	9.24%	-13.0%	(4,050)
Electric/Gas	\$6,192	\$129/Unit	\$12,259	\$255	2.96%	\$0.35	\$208	\$10,000	\$10,000	\$208	\$0.35	2.96%	0.0%	-
Water, Sewer, & Trash	\$21,715	\$452/Unit	\$19,430	\$405	5.63%	\$0.66	\$396	\$19,000	\$19,430	\$405	\$0.67	5.76%	-2.2%	(430)
Property Insurance	\$13,486	\$0.47 /sf	\$21,000	\$438	6.22%	\$0.73	\$438	\$21,000	\$21,000	\$438	\$0.73	6.22%	0.0%	-
Property Tax (@ 100%) 2.5663	\$15,135	\$315/Unit	\$18,650	\$389	5.54%	\$0.65	\$390	\$18,700	\$18,650	\$389	\$0.65	5.52%	0.3%	50
Reserve for Replacements			\$0	\$0	4.27%	\$0.50	\$300	\$14,400	\$14,400	\$300	\$0.50	4.27%	0.0%	-
Cable TV			\$4,193	\$87	0.00%	\$0.00	\$0	\$0	\$4,193	\$87	\$0.15	1.24%	-100.0%	(4,193)
Supportive Services			\$0	\$0	0.71%	\$0.08	\$50	\$2,400	\$2,400	\$50	\$0.08	0.71%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)			\$0	\$0	0.57%	\$0.07	\$40	\$1,920	\$1,920	\$40	\$0.07	0.57%	0.0%	-
Bond Trustee Fees			\$0	\$0	0.30%	\$0.03	\$21	\$1,000	\$1,000	\$21	\$0.03	0.30%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>50.99%</b>	<b>\$5.96</b>	<b>\$3,586</b>	<b>\$ 172,120</b>	<b>\$179,502</b>	<b>\$3,740</b>	<b>\$6.22</b>	<b>53.17%</b>	<b>-4.1%</b>	<b>\$ (7,382)</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>49.01%</b>	<b>\$5.73</b>	<b>\$3,447</b>	<b>\$165,468</b>	<b>\$158,086</b>	<b>\$3,293</b>	<b>\$5.48</b>	<b>46.83%</b>	<b>4.7%</b>	<b>\$ 7,382</b>

CONTROLLABLE EXPENSES							\$1,923/Unit				\$1,991/Unit			
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**  
*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #20463*

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	
Churchill Stateside Group, LLC	0.10%	1.23	1.28	128,871	4.00%	35	35	\$1,600,000	\$1,600,000	35	35	4.00%	\$86,613	1.91	35.9%	
TDHCA - MFDL		1.23	1.28		2.50%	30	18	\$925,000	\$925,000	35	30	2.50%	\$43,858	1.27	20.8%	
<b>CASH FLOW DEBT / GRANTS</b>																
donated labor, materials		1.23	1.28		0.00%	0	0	\$70,000	\$70,000	0	0	0.00%		1.27	1.6%	
				<b>\$128,871</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$2,595,000</b>	<b>\$2,595,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$130,471</b>	<b>1.27</b>	<b>58.3%</b>	
<b>NET CASH FLOW</b>		\$29,215	\$36,597	<b>APPLICANT NET OPERATING INCOME</b>						\$165,468	\$34,997	<b>NET CASH FLOW</b>				

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Churchill Stateside	LIHTC Equity	31.2%	\$159,653	0.87	\$1,388,842	\$1,356,680	\$0.87	\$155,956	30.5%	\$3,249	Eligible Basis
Lakewood Property Management	Deferred Developer Fees	10.5%	(92% Deferred)		\$469,130	\$501,774	(99% Deferred)		11.3%	<b>Total Developer Fee:</b>	<b>\$508,782</b>
Additional (Excess) Funds Req'd		0.0%				\$0			0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>41.7%</b>			<b>\$1,857,972</b>	<b>\$1,858,454</b>			<b>41.7%</b>		
<b>TOTAL CAPITALIZATION</b>						<b>\$4,452,972</b>	<b>\$4,453,454</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>			<b>\$207,257</b>

DEVELOPMENT COST / ITEMIZED BASIS													
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE	
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		%	\$					
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition							
Land Acquisition			\$3,881 / Unit	\$186,300	\$300,000	\$6,250 / Unit		-37.9%	(\$113,700)				
Building Acquisition	\$913,700		\$19,035 / Unit	\$913,700	\$800,000	\$16,667 / Unit	\$800,000	14.2%	\$113,700				
Closing costs & acq. legal fees				\$10,000	\$10,000				\$0				
Site Work		\$168,096	\$3,502 / Unit	\$168,096	\$125,500	\$2,615 / Unit	\$168,096	33.9%	\$42,596				
Site Amenities		\$16,320	\$340 / Unit	\$16,320	\$23,000	\$479 / Unit	\$16,320	-29.0%	(\$6,680)				
Building Cost		\$1,569,186	\$54.35 /sf	\$32,691/Unit	\$1,569,186	\$33,450/Unit	\$55.61 /sf	\$1,569,186	-2.3%	(\$36,398)			
Contingency		\$156,520	8.93%	8.93%	\$156,520	\$156,520	8.92%	8.93%	\$156,520	0.0%	\$0		
Contractor Fees		\$263,918	13.82%	13.82%	\$263,918	\$263,918	13.81%	13.82%	\$263,918	0.0%	\$0		
Soft Costs	0	\$172,000		\$4,729 / Unit	\$227,000	\$227,000	\$4,729 / Unit	\$172,000	\$0	0.0%	\$0		
Financing	0	\$198,480		\$5,732 / Unit	\$275,150	\$275,150	\$5,732 / Unit	\$198,480	\$0	0.0%	\$0		
Developer Fee	\$0	\$508,782	20.00%	20.00%	\$508,782	\$508,782	19.99%	15.21%	\$508,782	\$0	0.0%	\$0	
Reserves			6 Months	\$158,000	\$158,000	6 Months			\$0	0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>		<b>\$913,700</b>	<b>\$3,053,302</b>		<b>\$92,770 / Unit</b>	<b>\$4,452,972</b>	<b>\$4,453,454</b>	<b>\$92,780 / Unit</b>	<b>\$3,053,302</b>	<b>\$800,000</b>	<b>0.0%</b>	<b>(\$482)</b>	
Acquisition Cost		(\$113,700)			\$0								
Contingency		\$0			\$0								
Contractor's Fee		\$0			\$0								
Financing Cost		\$0			\$0								
Developer Fee	\$0	\$0			\$0								
Reserves		\$0			\$0								
<b>ADJUSTED BASIS / COST</b>		<b>\$800,000</b>	<b>\$3,053,302</b>		<b>\$92,770/unit</b>	<b>\$4,452,972</b>	<b>\$4,453,454</b>	<b>\$92,780/unit</b>	<b>\$3,053,302</b>	<b>\$800,000</b>	<b>0.0%</b>	<b>(\$482)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>						<b>\$4,453,454</b>							

**CAPITALIZATION / DEVELOPMENT COST BUDGET / ITEMIZED BASIS ITEMS**  
*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #20463*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$800,000	\$3,053,302	\$800,000	\$3,053,302
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$800,000	\$3,053,302	\$800,000	\$3,053,302
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$800,000	\$3,969,293	\$800,000	\$3,969,293
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$800,000	\$3,969,293	\$800,000	\$3,969,293
Applicable Percentage	3.27%	3.27%	3.27%	3.27%
<b>ANNUAL CREDIT ON BASIS</b>	\$26,160	\$129,796	\$26,160	\$129,796
<b>CREDITS ON QUALIFIED BASIS</b>	\$155,956		\$155,956	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8699	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$155,956	\$1,356,680	<b>\$155,956</b>	<b>(\$3,697)</b>	<b>(\$32,162)</b>
<b>Needed to Fill Gap</b>	\$213,637	\$1,858,454	----	----	----
<b>Applicant Request</b>	\$159,653	\$1,388,842	----	----	----

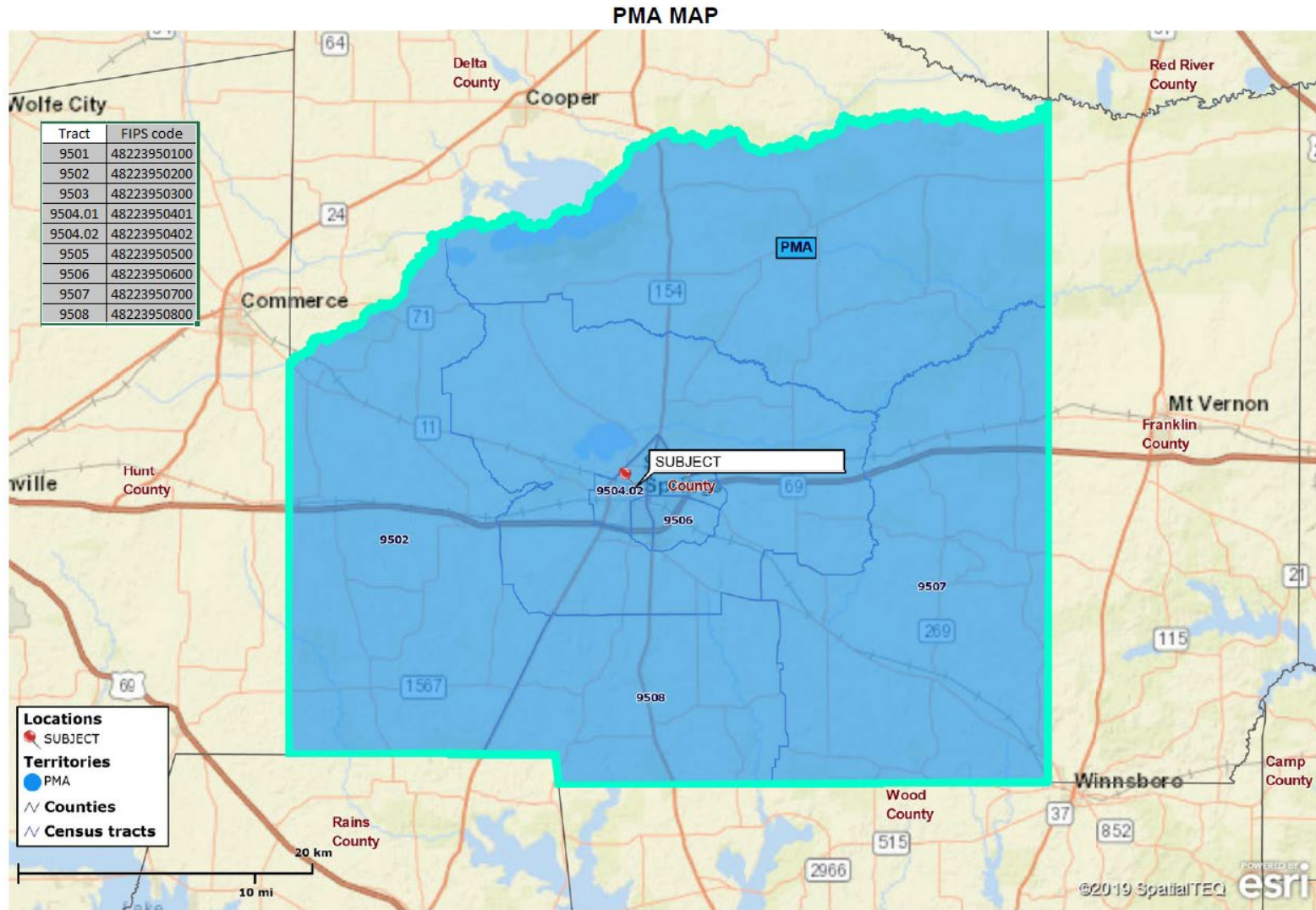
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$1,800,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		49.3%	49.3%
Land Cost	\$186,300	\$300,000	amount aggregate basis can increase before 50% test fails	\$0	\$0
Depreciable Bldg Cost	\$3,463,220	\$3,350,002			
<b>Aggregate Basis for 50% Test</b>	<b>\$3,649,520</b>	<b>\$3,650,002</b>			

## Long-Term Pro Forma

*Trinity Oaks I and II, Sulphur Springs, 4% HTC/MDL #20463*

	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%	\$337,588	\$344,340	\$351,226	\$358,251	\$365,416	\$403,449	\$445,440	\$491,802	\$542,989	\$599,504	\$661,900
TOTAL EXPENSES	3.00%	\$172,120	\$177,080	\$182,184	\$187,438	\$192,845	\$222,343	\$256,412	\$295,768	\$341,238	\$393,780	\$454,502
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$165,468</b>	<b>\$167,260</b>	<b>\$169,042</b>	<b>\$170,813</b>	<b>\$172,571</b>	<b>\$181,106</b>	<b>\$189,028</b>	<b>\$196,033</b>	<b>\$201,751</b>	<b>\$205,724</b>	<b>\$207,399</b>
EXPENSE/INCOME RATIO		51.0%	51.4%	51.9%	52.3%	52.8%	55.1%	57.6%	60.1%	62.8%	65.7%	68.7%
<b>MUST -PAY DEBT SERVICE</b>												
Churchill Stateside Group, LLC		\$86,613	\$86,591	\$86,569	\$86,546	\$86,522	\$86,386	\$86,219	\$86,016	\$85,768	\$85,466	\$85,096
TDHCA - MFDL		\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858	\$43,858
<b>TOTAL DEBT SERVICE</b>		<b>\$130,471</b>	<b>\$130,450</b>	<b>\$130,427</b>	<b>\$130,404</b>	<b>\$130,380</b>	<b>\$130,244</b>	<b>\$130,078</b>	<b>\$129,875</b>	<b>\$129,627</b>	<b>\$129,324</b>	<b>\$128,954</b>
DEBT COVERAGE RATIO		1.27	1.28	1.30	1.31	1.32	1.39	1.45	1.51	1.56	1.59	1.61
<b>ANNUAL CASH FLOW</b>												
		<b>\$34,997</b>	<b>\$36,810</b>	<b>\$38,614</b>	<b>\$40,409</b>	<b>\$42,191</b>	<b>\$50,862</b>	<b>\$58,950</b>	<b>\$66,159</b>	<b>\$72,124</b>	<b>\$76,400</b>	<b>\$78,444</b>
Deferred Developer Fee												
balance		\$501,774	\$466,777	\$429,967	\$391,353	\$350,944	\$122,466	\$0	\$0	\$0	\$0	\$0
annual interest		0	0	0	0	0	0	0	0	0	0	0
payment		34,997	36,810	38,614	40,409	42,191	50,862	0	0	0	0	0
Deferred Developer Fee Balance		\$466,777	\$429,967	\$391,353	\$350,944	\$308,753	\$71,604	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$207,257</b>	<b>\$524,053</b>	<b>\$873,322</b>	<b>\$1,247,546</b>	<b>\$1,636,693</b>

Primary Market Area Map-Exhibit 5



The PMA contains approximately 736 square miles and the farthest boundary is approximately 22 miles from the site.



6b

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action on a Determination Notice for 4% Housing Tax Credits (#21444, Pine Terrace, Mount Pleasant)

**RECOMMENDED ACTION**

**WHEREAS**, an application for Pine Terrace, sponsored by LPM East Texas Housing, LLC, and the Mount Pleasant Public Facility Corporation, requesting 4% Housing Tax Credits (HTC), was originally submitted to the Department on April 6, 2020;

**WHEREAS**, Pine Terrace previously received Board approval on November 5, 2020, for the issuance of a Determination Notice along with an award of Direct Loan funds in the amount of \$1,000,000;

**WHEREAS**, after Board approval staff became aware of changes to the application originally underwritten that necessitated a re-evaluation by staff, in addition to recent federal legislation that fixed the 4% applicable percentage that the applicant wanted factored into the Department's determination of a recommended credit amount;

**WHEREAS**, among the changes was a withdrawal of the Direct Loan award;

**WHEREAS**, staff recommends that no penalty be imposed on the Applicant or Affiliates pursuant to 10 TAC §13.11(b) and 10 TAC§11.9(f)(2), due to the return of the HOME award because of the change in federal legislation and because the Department's HOME commitment deadline is currently suspended;

**WHEREAS**, the current Certification of Reservation from the Texas Bond Review Board was issued on March 3, 2021, and will expire on August 30, 2021; and

**WHEREAS**, the proposed issuer of the bonds is the Texas State Affordable Housing Corporation;

**NOW, therefore, it is hereby**

**RESOLVED**, that the issuance of a Determination Notice of \$259,570 in 4% HTC, subject to program and underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Pine Terrace is hereby approved as presented to this meeting; and

**FURTHER RESOLVED**, that no penalty will be imposed on the Applicant or Affiliates under 10 TAC §13.11(b) and 10 TAC§11.9(f)(2), due to the return of the HOME award.

### **BACKGROUND**

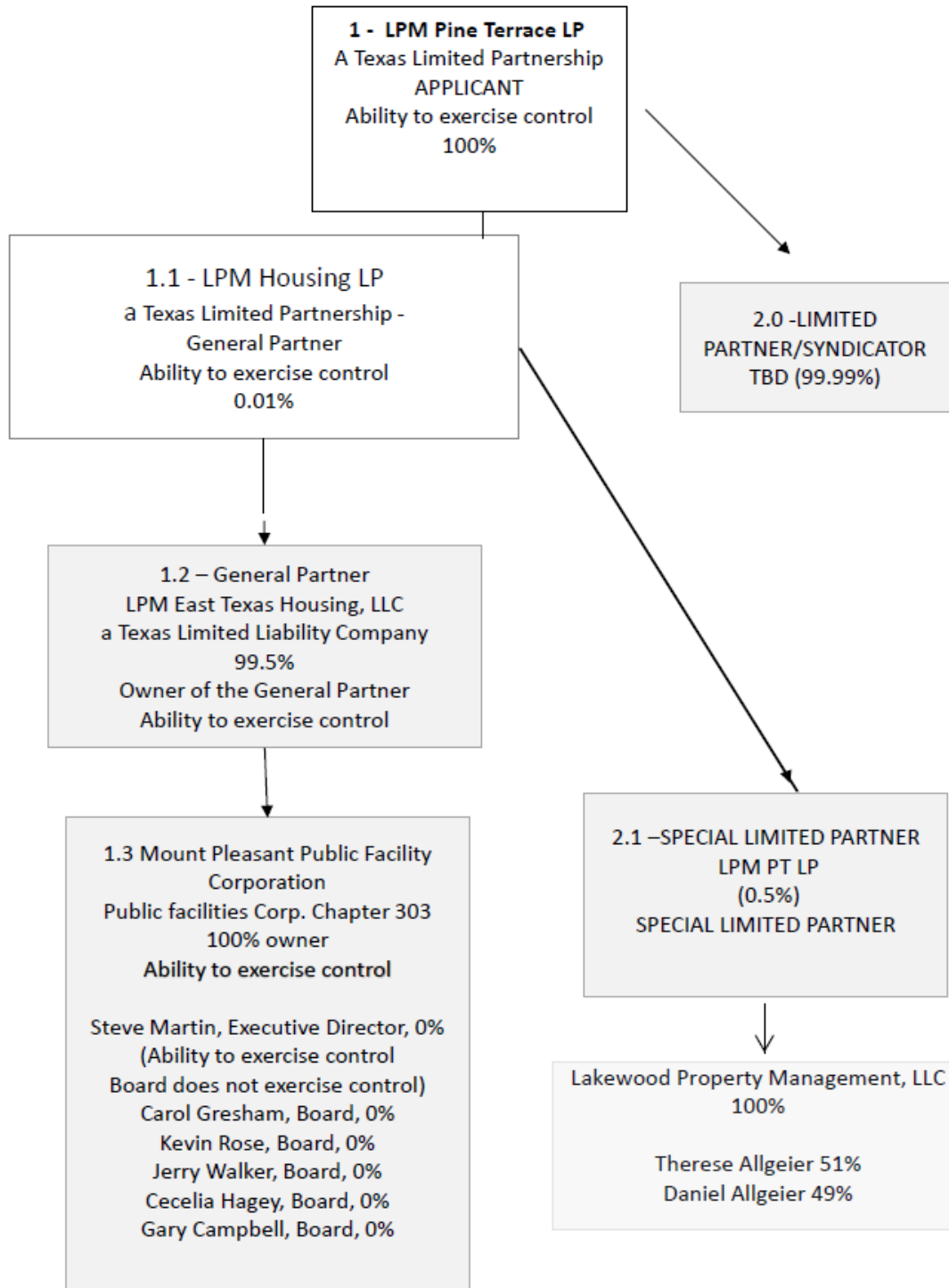
*General Information:* Pine Terrace involves the acquisition and rehabilitation of two adjacent phases of a multifamily development containing a total of 76 units, located at 1612 Amy Drive in Mount Pleasant, Titus County. Phase one consists of 52 units, and was constructed in 1979. Phase two was constructed in 1982, and consists of 24 units. Several HTC applications have been submitted for the development in the past, however, an inability to receive approvals from the USDA-Rural Development State Office resulted in recaptured competitive HTC in one instance and the termination of a subsequent application. The current application proposes to serve the elderly population and the financing will be utilized to pay off the existing five units with rental assistance from the USDA. According to the applicant, the existing residents will receive vouchers once the USDA rental assistance is no longer available and the Section 8 project based contract is expected to continue for 52 of the units. The tenant based vouchers will be provided by the Mount Pleasant Public Finance Corporation. The development proposes to include 29 units rent and income restricted at 30% of AMFI and 47 units rent and income restricted at 60% of AMFI.

The application was originally submitted to the Department on April 6, 2020, and Board approval was received on November 5, 2020; however, the financing was reconfigured by the Applicant to take advantage of recent federal legislation that established a minimum 4% applicable percentage for 4% Housing Tax Credit developments. Moreover, there were other changes the applicant disclosed to staff such that staff believed it prudent to re-evaluate and present this matter to the Board. Some of the changes since the original Board approval include: the removal of the Direct Loan request, an increase in the amount of HTC requested, a different syndicator, and changes to the senior debt amount. The Real Estate Analysis underwriting report attached hereto goes into greater detail on these changes. Staff recommends the approval of the re-issuance of the Determination Notice in the amount as noted herein.

*Organizational Structure:* The Borrower is LPM Pine Terrace LP and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC without further review or discussion.

*Public Comment:* There were no letters of support or opposition received by the Department.

**EXHIBIT A**





**Addendum to Underwriting Report**

TDHCA Application #: 21444 Program(s): 4% HTC/MDL

Pine Terrace

Address/Location: 1612 Amy Drive

City: Mt. Pleasant County: Titus Zip: 75455

APPLICATION HISTORY	
Report Date	PURPOSE
04/01/21	Revised Financing
12/03/20	Initial Underwriting

**ALLOCATION**

TDHCA Program	Previous Allocation				RECOMMENDATION				
	Amount	Rate	Amort	Term	Amount	Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	\$1,000,000	2.50%	30	18	\$0				
LIHTC (0% Credit)	\$193,440				\$259,570				

**CONDITIONS STATUS**

- 1 Receipt and acceptance before TDHCA LURA Execution:
  - a: Revised HAP Contract with Utility Allowance that reflects landlord-paid water/sewer expense and specifies that the target population is Elderly Only.  
 Status: Due date for Condition 1(a) has been revised to Before TDHCA LURA Execution.
  - b: All required URA documentation  
 Status: No longer applicable
- 2 Conditions 2(a-e) (due before Direct Loan Contract Execution and Closing) are no longer applicable.
- 3 Receipt and acceptance before Determination Notice:
  - a: Revised term sheet from Senior Lender that does not impose any restriction on cash available to service Subordinate Debt.  
 Status: No longer applicable
  - b: Formal approval for \$300,000 grant from FHLP-AHP clearly stating all terms and conditions.  
 Status: Satisfied

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
60% of AMI	60% of AMI	76

**ANALYSIS**

Pine Terrace previously received Board approval on December 10, 2020, for the issuance of a Determination Notice along with an award of Direct Loan funds in the amount of \$1,000,000.

The current application reflects development cost as previously underwritten by TDHCA. With increased third party debt and increased equity, the request for Multifamily Direct Loan funds has been withdrawn.

**Operating Pro Forma**

Fifty-two units are supported by a Section 8 HAP Contract.  
Twenty-four units are limited at HTC 60% AMI Program Rent.  
Underwritten rental income is unchanged.

Underwritten Net Operating Income has decreased slightly, from \$230,181 to \$226,681, as a result of minor adjustments to operating expenses.

**Development Cost**

The Applicant's hard cost for rehabilitation matches the cost previously underwritten, which was based on the cost presented in the third party Scope and Cost Review.

Total Development Cost increased from \$5,928,596 to \$6,113,068.

**Sources of Funds**

Tax Exempt Bonds issued by TSAHC increased from \$2,750,000 to \$3,300,000, which will finance an estimated 63% of the aggregate basis of the project, exceeding the 50% required to qualify for 4% Housing Tax Credits.

Senior Permanent Debt from Churchill Stateside was previously \$2,750,000 at 4.00% with 40-year amortization and 18-year term. With the increased bond financing the permanent debt has increased to \$3,300,000 with 35-year amortization.

WNC will replace Churchill as the tax credit equity provider. The applicable percentage used to calculate tax credit eligible basis has increased based on federal legislation to lock the percentage at 4.00%. As a result, equity proceeds have increased from \$1,624,734 to \$2,180,171.

The request for HOME Direct Loan funds has been withdrawn.

Deferred developer fee has increased from \$178,862 to \$332,897.

The recommended credit allocation is \$259,570 as determined by Eligible Basis.

Director of Real Estate Analysis: Thomas Cavanagh

**UNIT MIX/RENT SCHEDULE**  
**Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464**

LOCATION DATA	
CITY:	Mt. Pleasant
COUNTY:	Titus
Area Median Income	\$52,300
PROGRAM REGION:	4
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	76	100.0%	52	0
2	-	0.0%	0	0
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>	<b>76</b>	<b>100.0%</b>	<b>52</b>	<b>-</b>

60%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	-	0.0%
40%	-	0.0%
50%	-	0.0%
60%	76	100.0%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>	<b>76</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	4.00%
APP % Construction	4.00%
Average Unit Size	608 sf

UNIT MIX / MONTHLY RENT SCHEDULE																					
HTC		RENT ASSISTED UNIT		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 60%	\$663	S8	\$611	29	1	1	608	\$611	\$77	\$534	\$0	\$0.88	\$534	\$15,486	\$15,486	\$534	\$0.88	\$0	\$775	\$1.27	\$775
TC 60%	\$663	S8	\$611	23	1	1	608	\$611	\$77	\$534	\$0	\$0.88	\$534	\$12,282	\$12,282	\$534	\$0.88	\$0	\$775	\$1.27	\$775
TC 60%	\$663	0		24	1	1	608	\$663	\$77	\$586	\$0	\$0.96	\$586	\$14,064	\$14,064	\$586	\$0.96	\$0	\$775	\$1.27	\$775
<b>TOTALS/AVERAGES:</b>				<b>76</b>			<b>46,208</b>				<b>\$0</b>	<b>\$0.91</b>	<b>\$550</b>	<b>\$41,832</b>	<b>\$41,832</b>	<b>\$550</b>	<b>\$0.91</b>	<b>\$0</b>	<b>\$775</b>	<b>\$1.27</b>	<b>\$775</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$501,984</b>	<b>\$501,984</b>
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## STABILIZED PRO FORMA

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

STABILIZED FIRST YEAR PRO FORMA														
COMPARABLES			APPLICANT				PRIOR REPORT		TDHCA				VARIANCE	
Database	2019 Actual Expenses		% EGI	Per SF	Per Unit	Amount	Applicant	TDHCA	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.91	\$550	\$501,984	\$501,984	\$502,234	\$501,984	\$550	\$0.91		0.0%	\$0
Misc Income						\$10.00	9,120							
Total Secondary Income						\$10.00		9,120	\$9,120	\$10.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$511,104	\$511,104	\$511,354	\$511,104				0.0%	\$0
Vacancy & Collection Loss						6.0% PGI	(30,666)	(30,666)	(30,681)	(30,666)	6.0% PGI		0.0%	-
<b>EFFECTIVE GROSS INCOME</b>						\$480,438	\$480,438	\$480,672	\$480,438				0.0%	\$0

General & Administrative	\$23,960	\$315/Unit	\$16,121	\$212	2.53%	\$0.26	\$160	\$12,150	\$12,150	\$16,121	\$16,121	\$212	\$0.35	3.36%	-24.6%	(3,971)
Management	\$29,735	6.3% EGI	\$0	\$0	6.09%	\$0.63	\$385	\$29,267	\$29,267	\$29,281	\$29,267	\$385	\$0.63	6.09%	0.0%	-
Payroll & Payroll Tax	\$80,761	\$1,063/Unit	\$49,397	\$650	11.03%	\$1.15	\$697	\$53,000	\$53,000	\$53,000	\$53,000	\$697	\$1.15	11.03%	0.0%	-
Repairs & Maintenance	\$51,328	\$675/Unit	\$89,357	\$1,176	13.53%	\$1.41	\$855	\$65,000	\$65,000	\$57,000	\$57,000	\$750	\$1.23	11.86%	14.0%	8,000
Electric/Gas	\$11,666	\$154/Unit	\$14,705	\$193	2.71%	\$0.28	\$171	\$13,000	\$13,000	\$14,705	\$14,705	\$193	\$0.32	3.06%	-11.6%	(1,705)
Water, Sewer, & Trash	\$36,532	\$481/Unit	\$14,052	\$185	4.58%	\$0.48	\$289	\$22,000	\$22,000	\$14,052	\$14,052	\$185	\$0.30	2.92%	56.6%	7,948
Property Insurance	\$22,793	\$0.49 /sf	\$25,594	\$337	5.41%	\$0.56	\$342	\$26,000	\$26,000	\$25,594	\$25,594	\$337	\$0.55	5.33%	1.6%	406
Property Tax (@ 0%)	\$26,660	\$351/Unit	\$17,909	\$236	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements				\$0	4.75%	\$0.49	\$300	\$22,800	\$22,800	\$22,800	\$22,800	\$300	\$0.49	4.75%	0.0%	-
internet/cable/phone			\$1,220	\$16	0.10%	\$0.01	\$7	\$500	\$600	\$1,220	\$1,220	\$16	\$0.03	0.25%	-59.0%	(720)
Supportive Services				\$0	1.25%	\$0.13	\$79	\$6,000	\$2,400	\$2,400	\$6,000	\$79	\$0.13	1.25%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.63%	\$0.07	\$40	\$3,040	\$3,040	\$3,040	\$3,040	\$40	\$0.07	0.63%	0.0%	-
Bond Trustee Fees				\$0	0.21%	\$0.02	\$13	\$1,000	\$1,000	\$1,000	\$1,000	\$13	\$0.02	0.21%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>52.82%</b>	<b>\$5.49</b>	<b>\$3,339</b>	<b>\$ 253,757</b>	\$250,257	\$240,212	<b>\$243,798</b>	<b>\$3,208</b>	<b>\$5.28</b>	<b>50.74%</b>	<b>4.1%</b>	<b>\$ 9,959</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>47.18%</b>	<b>\$4.91</b>	<b>\$2,983</b>	<b>\$226,681</b>	\$230,181	\$240,460	<b>\$236,640</b>	<b>\$3,114</b>	<b>\$5.12</b>	<b>49.26%</b>	<b>-4.2%</b>	<b>\$ (9,959)</b>

CONTROLLABLE EXPENSES		\$2,173/Unit			\$2,038/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

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
Churchill Stateside	0.10%	1.35	1.29	175,339	4.00%	35	18	\$3,300,000	\$2,750,000	\$2,750,000	\$3,300,000	18	35	4.00%	\$178,639	1.27	54.0%
TDHCA		1.35	1.29		2.50%	30	18	\$0	\$1,000,000	\$1,000,000	\$0	18	30	2.50%		1.27	0.0%
<b>CASH FLOW DEBT / GRANTS</b>																	
FHLB-AHP Grant		1.35	1.29		0.00%	0	0	\$300,000	\$300,000	\$300,000	\$300,000	0	0	0.00%		1.27	4.9%
GC provided services/materials		1.35	1.29		0.00%	0	0	\$0	\$75,000	\$75,000	\$0	0	0	0.00%		1.27	0.0%
				<b>175,339</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$3,600,000</b>	\$4,125,000	\$4,125,000	<b>\$3,600,000</b>	<b>TOTAL DEBT SERVICE</b>			<b>\$178,639</b>	<b>1.27</b>	<b>58.9%</b>
<b>NET CASH FLOW</b>		\$61,301	\$51,342											<b>APPLICANT NET OPERATING INCOME</b>	\$226,681	\$48,042	<b>NET CASH FLOW</b>

EQUITY SOURCES													
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE							
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Prior Underwriting		Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
						Applicant	TDHCA						
WNC	LIHTC Equity	35.9%	\$261,333	0.84	\$2,194,978	\$1,620,719	\$1,624,734	\$2,180,171	\$0.84	\$259,570	35.7%	\$3,415	Eligible Basis
LPM Pine Terrace LP	Deferred Developer Fees	5.6%	(61% Deferred)		\$341,215	\$19,063	\$178,862	\$332,897	(60% Deferred)		5.4%		<b>Total Developer Fee:</b>
Additional (Excess) Funds Req'd		0.0%				\$0	\$0	\$0			0.0%		<b>\$554,072</b>
<b>TOTAL EQUITY SOURCES</b>					41.5%	\$2,536,193	\$1,639,782	\$1,803,596	\$2,513,068		41.1%		
<b>TOTAL CAPITALIZATION</b>						<b>\$6,136,193</b>	\$5,764,782	\$5,928,596	<b>\$6,113,068</b>	<b>15-Yr Cash Flow after Deferred Fee:</b>			<b>\$620,098</b>

DEVELOPMENT COST / ITEMIZED BASIS															
APPLICANT COST / BASIS ITEMS						TDHCA COST / BASIS ITEMS						COST VARIANCE			
	Eligible Basis		Total Costs		Prior Underwriting		Total Costs	Eligible Basis							
	Acquisition	New Const. Rehab			Applicant	TDHCA		New Const. Rehab	Acquisition					%	\$
Land Acquisition			\$5,842 / Unit	\$444,000	\$444,000	\$458,000	\$458,000	\$6,026 / Unit				-3.1%	(\$14,000)		
Building Acquisition	\$981,000		\$12,908 / Unit	\$981,000	\$981,000	\$967,000	\$967,000	\$12,724 / Unit		\$967,000		1.4%	\$14,000		
				\$0	\$10,000	\$10,000	\$0						\$0		
Site Work		\$91,650	\$1,206 / Unit	\$91,650	\$77,234	\$91,650	\$91,650	\$1,206 / Unit		\$91,650		0.0%	\$0		
Site Amenities		\$78,000	\$1,026 / Unit	\$78,000	\$70,400	\$78,000	\$78,000	\$1,026 / Unit		\$78,000		0.0%	\$0		
Building Cost		\$2,284,500	\$49.44 /sf	\$30,059/Unit	\$2,284,500	\$2,134,777	\$2,284,500	\$30,059/Unit	\$49.44 /sf	\$2,284,500		0.0%	\$0		
Contingency		\$265,412	10.81%	10.81%	\$265,412	\$191,180	\$191,180	\$245,415	10.00%	\$245,415		8.1%	\$19,997		
Contractor Fees		\$378,000	13.90%	13.90%	\$378,000	\$343,502	\$343,502	\$378,000	14.00%	\$378,000		0.0%	\$0		
Soft Costs	0	\$264,000		\$4,526 / Unit	\$344,000	\$344,000	\$344,000	\$4,526 / Unit		\$264,000	\$0	0.0%	\$0		
Financing	0	\$352,250		\$6,427 / Unit	\$488,431	\$443,256	\$443,256	\$488,431	\$6,427 / Unit	\$352,250	\$0	0.0%	\$0		
Developer Fee	\$0	\$557,200	15.00%	15.00%	\$557,200	\$493,508	\$493,508	\$554,072	15.00%	\$554,072	\$0	0.6%	\$3,128		
Reserves				6 Months	\$224,000	\$224,000	\$224,000	6 Months				0.0%	\$0		
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>				<b>\$981,000</b>	<b>\$4,271,012</b>	\$80,739 / Unit	<b>\$6,136,193</b>	\$5,756,857	\$5,928,596	<b>\$6,113,068</b>	\$80,435 / Unit	<b>\$4,247,887</b>	<b>\$967,000</b>	<b>0.4%</b>	<b>\$23,125</b>
Acquisition Cost		(\$14,000)			\$0	\$0									
Contingency					(\$19,997)	\$0									
Contractor's Fee					\$0	\$0									
Financing Cost					\$0	\$0									
Developer Fee		\$0			(\$3,128)	\$0									
Reserves					\$0	\$0									
<b>ADJUSTED BASIS / COST</b>				<b>\$967,000</b>	<b>\$4,247,887</b>	\$80,435/unit	<b>\$6,113,068</b>	\$5,756,857	\$5,928,596	<b>\$6,113,068</b>	\$80,435/unit	<b>\$4,247,887</b>	<b>\$967,000</b>	<b>0.0%</b>	<b>\$0</b>
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>							<b>\$6,113,068</b>								

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

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

**CREDIT CALCULATION ON QUALIFIED BASIS**

	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$967,000	\$4,247,887	\$967,000	\$4,247,887
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$967,000	\$4,247,887	\$967,000	\$4,247,887
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$967,000	\$5,522,253	\$967,000	\$5,522,253
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$967,000	\$5,522,253	\$967,000	\$5,522,253
Applicable Percentage	4.00%	4.00%	4.00%	4.00%
<b>ANNUAL CREDIT ON BASIS</b>	\$38,680	\$220,890	\$38,680	\$220,890
<b>CREDITS ON QUALIFIED BASIS</b>	\$259,570		\$259,570	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8399	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$259,570	\$2,180,171	<b>\$259,570</b>	<b>(\$1,763)</b>	<b>(\$14,807)</b>
<b>Needed to Fill Gap</b>	\$299,205	\$2,513,068	----	----	----
<b>Applicant Request</b>	\$261,333	\$2,194,978	----	----	----

**50% Test for Bond Financing for 4% Tax Credits**

Tax-Exempt Bond Amount	\$3,300,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA			
Land Cost	\$444,000	\$458,000	amount aggregate basis can increase before 50% test fails	63.23%	63.5%
Depreciable Bldg Cost	\$4,774,812	\$4,740,815			
<b>Aggregate Basis for 50% Test</b>	<b>\$5,218,812</b>	<b>\$5,198,815</b>			
				26.5%	27.0%


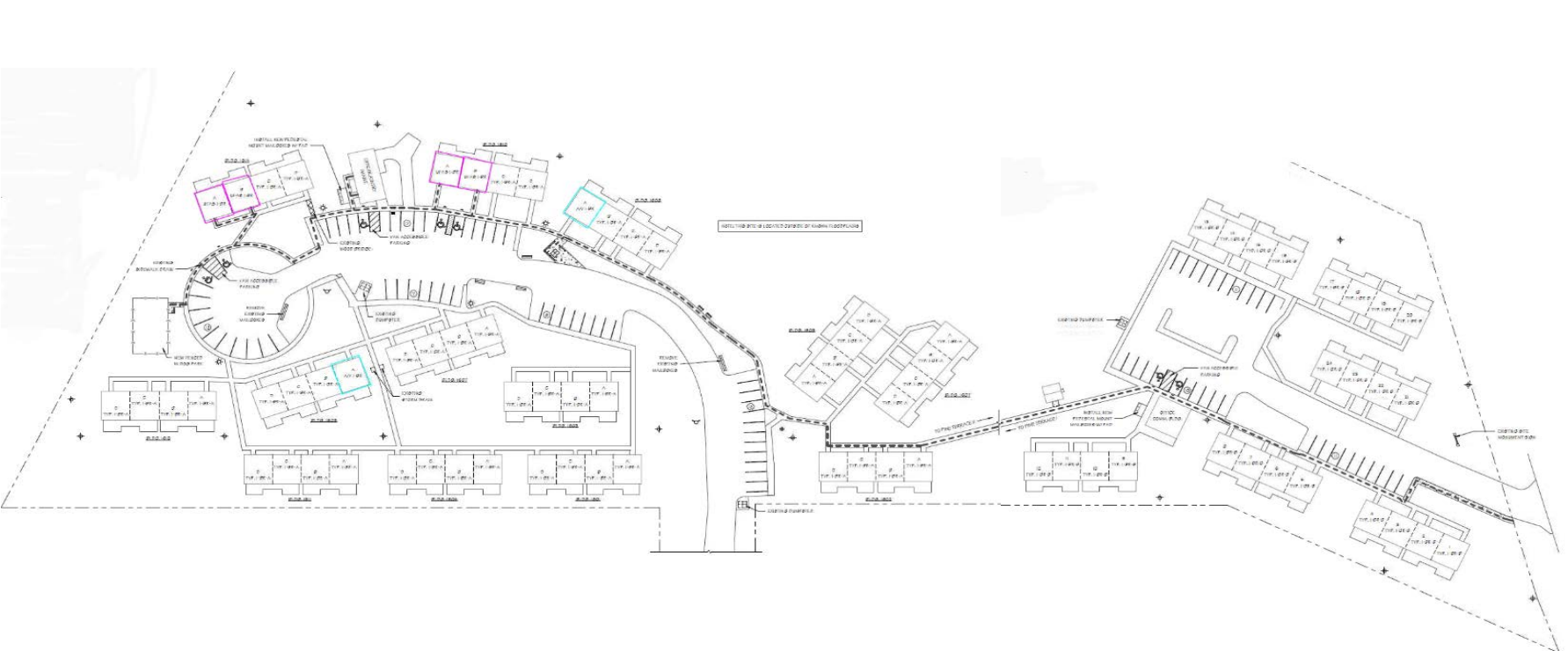
## Long-Term Pro Forma

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

	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%	\$480,438	\$490,047	\$499,847	\$509,844	\$520,041	\$574,168	\$633,927	\$699,907	\$772,754	\$853,183	\$941,983
TOTAL EXPENSES	3.00%	\$253,757	\$261,077	\$268,611	\$276,365	\$284,345	\$327,885	\$378,178	\$436,281	\$503,416	\$580,999	\$670,669
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$226,681</b>	<b>\$228,969</b>	<b>\$231,237</b>	<b>\$233,480</b>	<b>\$235,696</b>	<b>\$246,282</b>	<b>\$255,749</b>	<b>\$263,626</b>	<b>\$269,338</b>	<b>\$272,184</b>	<b>\$271,314</b>
EXPENSE/INCOME RATIO		52.8%	53.3%	53.7%	54.2%	54.7%	57.1%	59.7%	62.3%	65.1%	68.1%	71.2%
<b>MUST -PAY DEBT SERVICE</b>												
Churchill Stateside		\$178,639	\$178,595	\$178,549	\$178,501	\$178,451	\$178,170	\$177,827	\$177,408	\$176,897	\$176,273	\$175,510
TDHCA												
<b>TOTAL DEBT SERVICE</b>		<b>\$178,639</b>	<b>\$178,595</b>	<b>\$178,549</b>	<b>\$178,501</b>	<b>\$178,451</b>	<b>\$178,170</b>	<b>\$177,827</b>	<b>\$177,408</b>	<b>\$176,897</b>	<b>\$176,273</b>	<b>\$175,510</b>
DEBT COVERAGE RATIO		1.27	1.28	1.30	1.31	1.32	1.38	1.44	1.49	1.52	1.54	1.55
<b>ANNUAL CASH FLOW</b>												
		<b>\$48,042</b>	<b>\$50,375</b>	<b>\$52,688</b>	<b>\$54,979</b>	<b>\$57,245</b>	<b>\$68,112</b>	<b>\$77,922</b>	<b>\$86,218</b>	<b>\$92,441</b>	<b>\$95,911</b>	<b>\$95,804</b>
Deferred Developer Fee Balance		\$284,855	\$234,480	\$181,792	\$126,813	\$69,568	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$249,601</b>	<b>\$620,098</b>	<b>\$1,035,303</b>	<b>\$1,486,016</b>	<b>\$1,959,886</b>	<b>\$2,440,736</b>

# 20464 Pine Terrace - Application Summary

REAL ESTATE ANALYSIS DIVISION  
December 3, 2020

PROPERTY IDENTIFICATION		RECOMMENDATION						KEY PRINCIPALS / SPONSOR			
Application #	20464	TDHCA Program		Request	Recommended			Dan & Therese Allgeier Lakewood Property Management & Steve Martin, Executive Director Mount Pleasant Public Facility Corp.			
Development	Pine Terrace	LIHTC (4% Credit)		\$193,440	\$193,440	\$2,545/Unit	\$0.84				
City / County	Mt. Pleasant / Titus			Amount	Rate	Amort	Term				Lien
Region/Area	4 / Rural	MF Direct Loan Const. to Perm. (Repay)		\$1,000,000	2.50%	30	18				2
Population	Elderly Preference										
Set-Aside	General										
Activity	Acquisition/Rehab (Built in 1980)										
Related Parties    Contractor - No    Seller - Yes											
TYPICAL BUILDING ELEVATION/PHOTO											
											
PRO FORMA FEASIBILITY INDICATORS											
UNIT DISTRIBUTION					INCOME DISTRIBUTION						
# Beds	# Units	% Total	Income	# Units	% Total						
Eff	-	0%	30%	29	38%						
1	76	100%	40%	-	0%						
2	-	0%	50%	-	0%						
3	-	0%	60%	47	62%						
4	-	0%	MR	-	✓						
TOTAL	76	100%	TOTAL	76	100%						
Pro Forma Underwritten    Applicant's Pro Forma											
Debt Coverage	✓ 1.22	Expense Ratio	✓ 52.1%								
Breakeven Occ.	✓ 85.8%	Breakeven Rent	\$501								
Average Rent	\$550	B/E Rent Margin	✓ \$49								
Property Taxes	Exempt	Exemption/PILOT	100%								
Total Expense	\$3,293/unit	Controllable	\$2,173/unit								
MARKET FEASIBILITY INDICATORS											
Gross Capture Rate (30% Maximum)					N/A						
Highest Unit Capture Rate	N/A	N/A	N/A								
Dominant Unit Cap. Rate	N/A	1 BR/60%	47								
Premiums (↑60% Rents)	N/A	N/A									
Rent Assisted Units	52	68% Total Units									
DEVELOPMENT COST SUMMARY											
Costs Underwritten					TDHCA's Costs - Based on PCA						
Avg. Unit Size	608 SF	Density	6.2/acre								
Acquisition	\$19K/unit	\$1,435K									
Building Cost	\$49.44/SF	\$30K/unit	\$2,285K								
Hard Cost	\$35K/unit	\$2,645K									
Total Cost	\$78K/unit	\$5,929K									
Developer Fee	\$494K (36% Deferred)	Paid Year: 4									
Contractor Fee	\$344K	30% Boost	Yes								
REHABILITATION COSTS / UNIT											
Site Work	\$1K	3%	Finishes/Fixtures	\$4K	12%						
Building Shell	\$23K	65%	Amenities	\$1K	3%						
HVAC	\$2K	6%	Total Exterior	\$25K	77%						
Appliances	\$1K	3%	Total Interior	\$7K	23%						
SITE PLAN											
											

DEBT (Must Pay)					CASH FLOW DEBT / GRANT FUNDS					EQUITY / DEFERRED FEES			
Source	Term	Rate	Amount	DCR	Source	Term	Rate	Amount	DCR	Source	Amount		
Churchill Mortgage Investment, L	18/40	4.00%	\$2,750,000	1.64	FHLB-AHP Grant	0/0	0.00%	\$300,000	1.22	Churchill Stateside Group	\$1,624,734		
TDHCA	18/30	2.50%	\$1,000,000	1.22	GC provided services/materials	0/0	0.00%	\$75,000	1.22	LPM Pine Terrace LP	\$178,862		
<b>TOTAL DEBT (Must Pay)</b>			<b>\$3,750,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$375,000</b>		<b>TOTAL EQUITY SOURCES</b>		<b>\$1,803,596</b>	
											<b>TOTAL DEBT SOURCES</b>	<b>\$4,125,000</b>	
											<b>TOTAL CAPITALIZATION</b>		<b>\$5,928,596</b>

**CONDITIONS**

1 Receipt and acceptance before Direct Loan Contract Execution:  
a: Revised HAP Contract with Utility Allowance that reflects landlord-paid water/sewer expense and specifies that the target population is Elderly Only.  
b: All required URA documentation

2 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.

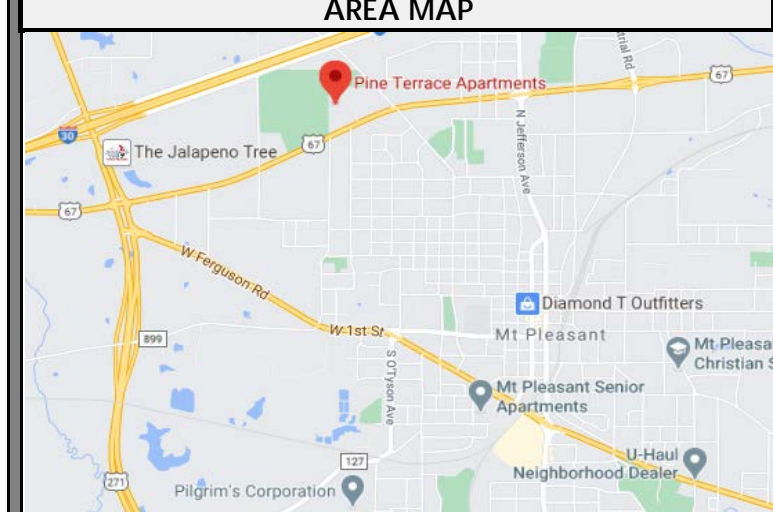
3 Receipt and acceptance before Determination Notice:  
a: Revised term sheet from Senior Lender that does not impose any restriction on cash available to service Subordinate Debt.  
b: Formal approval for \$300,000 grant from FHLB-AHP clearly stating all terms and conditions.

4 Receipt and acceptance by Cost Certification:  
- Certification from Appraisal District that the property qualifies for property tax exemption.

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	Texas State Affordable Housing Corp.
Expiration Date	2/13/2021
Bond Amount	\$3,300,000
BRB Priority	
Bond Structure	Private Activity Bonds
% Financed with Tax-Exempt Bonds	55.2%

RISK PROFILE	
STRENGTHS/MITIGATING FACTORS	
<input type="checkbox"/>	Ongoing Section 8 Contract on more than 2/3 of the units.
<input type="checkbox"/>	Proposed property tax exemption
<input type="checkbox"/>	Efforts toward energy efficiency for tenant utilities.
WEAKNESSES/RISKS	
<input type="checkbox"/>	Risk of failing the 50% Test to qualify for 4% tax credits
<input type="checkbox"/>	Low visibility





**DEVELOPMENT IDENTIFICATION**

TDHCA Application #: 20464 Program(s): 4% HTC/MDL

Pine Terrace

Address/Location: 1612 Amy Drive

City: Mt. Pleasant County: Titus Zip: 75455

Population: Elderly Preference Program Set-Aside: General Area: Rural

Activity: Acquisition/Rehab Building Type: Fourplex Region: 4

Analysis Purpose: New Application - Initial Underwriting

**ALLOCATION**

TDHCA Program	REQUEST				RECOMMENDATION				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	Lien
MF Direct Loan Const. to Perm. (Repayable)	\$1,000,000	2.500%	30	35	\$1,000,000	2.50%	30	18	2
LIHTC (4% Credit)	\$193,440				\$193,440				

\* Multifamily Direct Loan Terms:  
 \* 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**

- 1 Receipt and acceptance before Direct Loan Contract Execution:
  - a: Revised HAP Contract with Utility Allowance that reflects landlord-paid water/sewer expense and specifies that the target population is Elderly Only.
  - b: All required URA documentation
- 2 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.

- 3 Receipt and acceptance before Determination Notice:
  - a: Revised term sheet from Senior Lender that does not impose any restriction on cash available to service Subordinate Debt.
  - b: Formal approval for \$300,000 grant from FHLP-AHP clearly stating all terms and conditions.
- 4 Receipt and acceptance by Cost Certification:
  - Certification from Appraisal District that the property qualifies for property tax exemption.

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	29
60% of AMI	60% of AMI	47

TDHCA SET-ASIDES for DIRECT LOAN LURA		
Income Limit	Rent Limit	Number of Units
30% of AMFI	30% of AMFI	29

### DEVELOPMENT SUMMARY

Acquisition and renovation of 76 one bedroom units of apartments for elderly and disabled residents, an office, clubhouse and laundry facilities originally constructed in 2 phases with USDA RD funding. Phase one was constructed in 1979 and has 52 units in 13 single story buildings, an office, maintenance facility and laundry. Phase 2 was constructed in 1982 and has 24 units in 6 single story buildings, a community room with kitchen and laundry. The project consists of only one bedroom, one bath units. It is planned to eliminate the gas service to units and make them all electric as that saves the residents energy costs and is safer. The units will be updated and made more energy efficient. The site will be brought to ADA and Fair Housing standards.

The USDA loans will be paid off and project acquisition and renovation financed with tax exempt bonds, direct loan funds and equity from housing tax credits. There is an existing project based Section 8 contract for 52 of the units (phase one) which will be retained. The existing 5 units of rental assistance from USDA will no longer be available but the existing residents receiving these subsidies will receive vouchers. As the Mt. Pleasant Public Finance Corporation will be an owner, tenant based vouchers, if available will be provided as well.

### RISK PROFILE

STRENGTHS/MITIGATING FACTORS	
▫	Ongoing Section 8 Contract on more than 2/3 of the units.
▫	Proposed property tax exemption
▫	Efforts toward energy efficiency for tenant utilities.

WEAKNESSES/RISKS	
▫	Risk of failing the 50% Test to qualify for 4% tax credits
▫	Low visibility
▫	

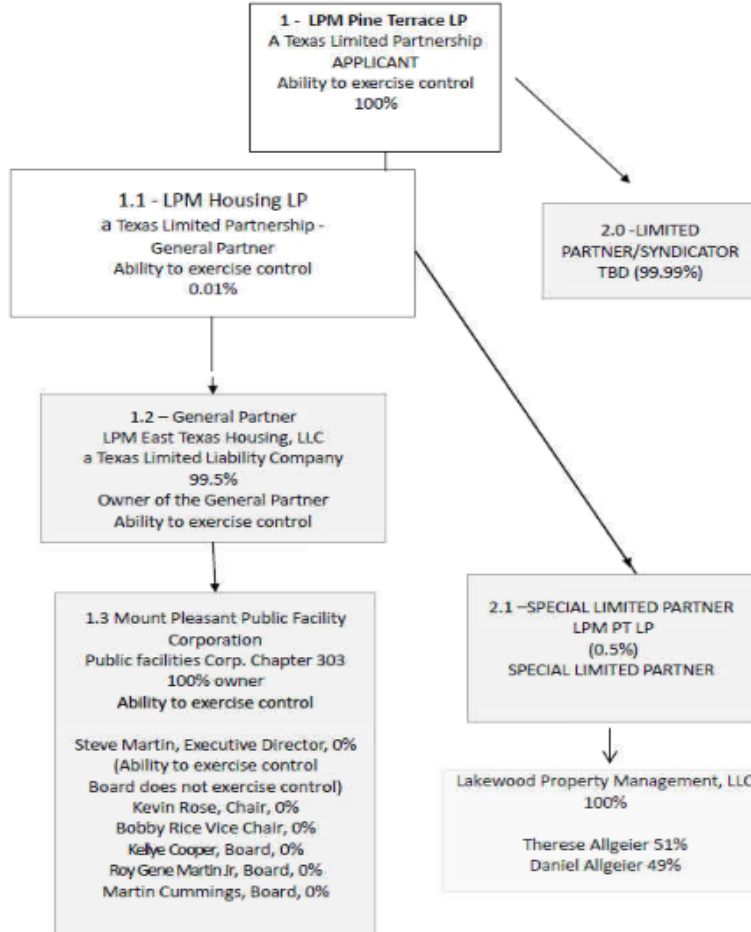
## DEVELOPMENT TEAM

### PRIMARY CONTACTS

Name: Dan Allgeier  
 Phone: (214) 277-4839  
 Relationship: Co-Principal

Name: Therese Allgeier  
 Phone: (972) 489-8096  
 Relationship: Co-Principal

### OWNERSHIP STRUCTURE

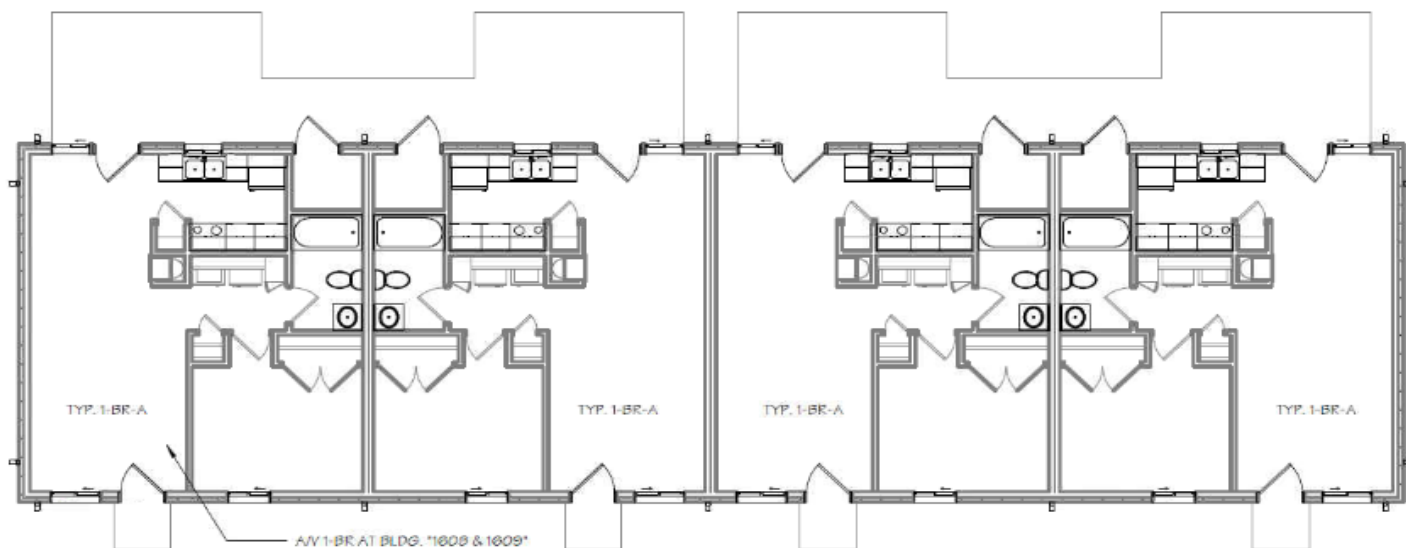


- For decades, Dan Allgeier of LPM Housing LP has successfully contributed as a co-developer, consultant, guarantor or advisor on multiple garden-style apartment communities across Texas, Oklahoma and Florida. He has over 40 years of multifamily development and civil engineering experience as a Professional Engineer. Dan is the current owner and principal of Lakewood Property Management, LLC, participating in the development, management, or maintenance of 11 TDHCA HTC properties since the summer of 1997.





BUILDING PLAN (Typical)



Nineteen fourplex buildings with all one-bedroom units.

BUILDING ELEVATION



Comments:  
Each one-story fourplex is nearly 100% brick with minimal articulation and ornamentation.



**SITE CONTROL INFO**

**Site Acreage:** Development Site: 12.35 acres Density: 6.2 units/acre  
**Site Control:** 12.35 **Site Plan:** 12.35 **Appraisal:** 12.35 **ESA:** 12.35

Control Type: Purchase Contract Contract Expiration: 1/31/2021

Tract 1: 9.84 acres Cost: \$900,000 Seller: Housing Associates of Mt. Pleasant Ltd  
 Tract 2: 2.514 acres Cost: \$525,000 Seller: Housing Associates of Mt. Pleasant Ltd

Development Site: 12.35 acres Cost: \$1,425,000 \$18,750 per unit

Seller: Housing Associates of Mt. Pleasant Ltd  
 Buyer: Lakewood Property Management, LLC  
 Assignee: LPM Pine Terrace, LP

Related-Party Seller/Identity of Interest: Yes

Comments:  
 Tract I is the majority of the site, which includes a substantial amount of forestry.

**APPRAISED VALUE**

Appraiser: The Gill Group Date: 11/8/2020

Land as Vacant: <u>12.35 acres</u>	<u>\$458,000</u>	Per Unit: <u>\$6,026</u>
Existing Buildings: (as-is)	<u>\$1,357,000</u>	Per Unit: <u>\$17,855</u>
<b>Total Development: (as-is)</b>	<b><u>\$1,815,000</u></b>	Per Unit: <b><u>\$23,882</u></b>

**SITE INFORMATION**

Flood Zone: <u>X</u>	Scattered Site? <u>No</u>
Zoning: <u>MF</u>	Within 100-yr floodplain? <u>No</u>
Re-Zoning Required? <u>No</u>	Utilities at Site? <u>Yes</u>
Year Constructed: <u>1980</u>	Title Issues? <u>No</u>

Current Uses of Subject Site:  
 Proposed use:

Surrounding Uses:  
 To the North and West there is some forestry, followed by a large Heritage Park with walking trails, a lake, and numerous types of sports fields and courts. The South and Southwest includes various types of local retail, and Mt. Pleasant Baptist Church is adjacent to the East.

**HIGHLIGHTS of ENVIRONMENTAL REPORTS**

Provider: GIBCO Environmental, LLC Date: 11/14/2019

Recognized Environmental Conditions (RECs) and Other Concerns:

- None

**MARKET ANALYSIS**

Provider: Gibson Consulting, LLC Date: 11/22/2019  
 Contact: Jim Howell Phone: 901-409-3415

Market Analyst calculates a Gross Capture Rate of 4.8% (3.0% for assisted units), which is below the 10% maximum. Underwriter reviewed the market study for compliance. Capture rate limits do not apply to existing affordable housing that is at least 50% occupied and that provides a leasing preference to existing tenants. The subject currently reports 100% occupancy.

**OPERATING PRO FORMA**

**SUMMARY- AS UNDERWRITTEN (Applicant's Pro Forma)**

NOI:	\$230,181	Avg. Rent:	\$550	Expense Ratio:	52.1%
Debt Service:	\$188,084	B/E Rent:	\$501	Controllable Expenses:	\$2,173
Net Cash Flow:	\$42,097	UW Occupancy:	94.0%	Property Taxes/Unit:	\$0
Aggregate DCR:	1.22	B/E Occupancy:	85.8%	Program Rent Year:	2020

All units will have HTC restrictions (47 at 60% AMI and 29 at 30% AMI). The 29 units will also be restricted 30% AMI under the Multifamily Direct Loan Program.

Fifty-two units (68% of the total, and including all the 30% AMI units) are supported by a project-based Section 8 HAP Contract.

Underwriter's expense estimates based on actual operating expenses of the property.

Large discrepancy in Repair & Maintenance estimates due to \$1,000 / unit make-ready expenses in 2019.

New tax exemption is due to Mount Pleasant Public Facilities Corp. entering the Organization Structure.

Related-Party Property Management Company: Yes

Revisions to Rent Schedule: 

1
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Revisions to Annual Operating Expenses: 

1
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## DEVELOPMENT COST EVALUATION

### SUMMARY- AS UNDERWRITTEN (TDHCA's Costs- Based on SCR)

Acquisition	\$37,073/ac	\$18,882/unit	\$1,435,000	Contractor Fee	\$343,502
Off-site + Site Work		\$2,232/unit	\$169,650	Soft Cost + Financing	\$787,256
Building Cost	\$49.44/sf	\$30,059/unit	\$2,284,500	Developer Fee	\$493,508
Contingency	7.79%	\$2,516/unit	\$191,180	Reserves	\$224,000
<b>Total Development Cost</b>	<b>\$78,008/unit</b>	<b>\$5,928,596</b>		<b>Rehabilitation Cost</b>	<b>\$32,291/unit</b>
<b>Qualified for 30% Basis Boost?</b>		Located in OCT with < 20% HTC units/HH			

**Acquisition:**

Applicant allocated \$444,000 of acquisition cost to land and \$981,000 as eligible building cost. Underwriter adjusted to reflect the \$458,000 land value indicated by the appraisals.

**Site Work:**

Site Work costs of less than \$2000/unit are predominantly on-site paving as well as landscaping.

**Building Cost:**

\$7,322 per unit (23% of proposed rehab costs) allocated to upgrades and improvements to unit interiors.

\$24,969 per unit (77% of proposed rehab costs) allocated to building exteriors and site work.

Underwritten hard costs based on Third Party Scope and Cost Review, reflecting \$171,739 more cost than Applicant's Cost Schedule.

### REHABILITATION COSTS / UNIT / % HARD COST

Site Work	\$91,650	\$1,206/unit	3%	Finishes/Fixtures	\$315,500	\$4,151/unit	12%
Building Shell	\$1,728,000	\$22,737/unit	65%	HVAC	\$163,000	\$2,145/unit	6%
Amenities	\$78,000	\$1,026/unit	3%	Appliances	\$78,000	\$1,026/unit	3%
<b>Total Exterior</b>	<b>\$1,897,650</b>	<b>\$24,969/unit</b>	<b>77%</b>	<b>Total Interior</b>	<b>\$556,500</b>	<b>\$7,322/unit</b>	<b>23%</b>

**SCOPE & COST REVIEW**

Provider: GIBCO Environmental, LLC Date: 11/27/2019

**Contingency:**

8.38% Contingency allowable for Acq/Rehab.

**Soft Costs:**

\$811/unit for Tenant Relocation

**Financing Cost:**

Nearly 2/3 of Financing Costs designated for Construction Loan

**Credit Allocation Supported by Costs:**

Total Development Cost	Adjusted Eligible Cost	Credit Allocation Supported by Eligible Basis
\$5,928,596	\$4,934,590	\$200,283

Related-Party Contractor: No

Related-Party Cost Estimator: No

Revisions to Development Cost Schedule:	0
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## UNDERWRITTEN CAPITALIZATION

BOND RESERVATION			
Issuer	Amount	Reservation Date	Priority
Texas State Affordable Housing Corp.	\$3,300,000	8/17/2020	0
Closing Deadline		Bond Structure	
2/13/2021		Private Activity Bonds	

<b>Percent of Cost Financed by Tax-Exempt Bonds</b>	<b>55.2%</b>
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**Comments:**

TDHCA estimates approximately 55% of depreciable cost paid for with tax exempt bonds. The Applicant has provided a CPA analysis indicating that the Development will satisfy the 50% Test, and a statement from the Equity Investor that "Churchill Stateside Group ("CSG") believes the tax exempt bonds will represent over 50% of the aggregate basis and thus meet the requirements of Section 42(h)(4)(B). Churchill is prepared to move forward with consideration of this project."

INTERIM SOURCES				
Funding Source	Description	Amount	Rate	LTC
Churchill Stateside	Conventional Loan	\$2,750,000	4.50%	51%
Churchill Stateside Group	HTC	\$1,215,539	\$0.84	22%
LPM Pine Terrace LP	deferred fee	\$101,493		2%
		<b>\$5,442,032</b>	<b>Total Sources</b>	

PERMANENT SOURCES									
Debt Source	PROPOSED				UNDERWRITTEN				
	Amount	Interest Rate	Amort	Term	Amount	Interest Rate	Amort	Term	LTC
Churchill Mortg Investment, LLC	\$2,750,000	4.00%	40	18	\$2,750,000	4.00%	40	18	46%
TDHCA	\$1,000,000	2.50%	30	18	\$1,000,000	2.50%	30	18	17%
FHLB-AHP Grant	\$300,000	0.00%	0	0	\$300,000	0.00%	0	0	5%
GC provided services/materials	\$75,000				\$75,000				1%
<b>Total</b>	<b>\$4,125,000</b>				<b>\$4,125,000</b>				

**Comments:**

Churchill Mortgage Investment, LLC will provide permanent financing through a forward commitment Freddie Mac Tax Exempt Loan. The rate will be locked for the 24 month Forward Period. currently estimated at 4.75%.

The Development has received a \$300,000 FHLB Grant.

The Applicant is requesting a TDHCA Multifamily Direct Loan in the amount of \$1,000,000 at 2.50% interest.

Equity & Deferred Fees	PROPOSED			UNDERWRITTEN			
	Amount	Rate	% Def	Amount	Rate	% TC	% Def
Churchill Stateside Group	\$1,620,719	\$0.84		\$1,624,734	\$0.84	27%	
LPM Pine Terrace LP	\$19,063		4%	\$178,862		3%	36%
<b>Total</b>	<b>\$1,639,782</b>			<b>\$1,803,596</b>			
				<b>\$5,928,596</b>	<b>Total Sources</b>		

Credit Price Sensitivity based on current capital structure	
\$0.932	Maximum Credit Price before the Development is oversourced and allocation is limited
\$0.677	Minimum Credit Price below which the Development would be characterized as infeasible

Comments:

The Developer Fee is expected to be 36% deferred.

Revisions to Sources Schedule:	0
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### CONCLUSIONS

Gap Analysis:	
Total Development Cost	\$5,928,596
Permanent Sources (debt + non-HTC equity)	\$4,125,000
<b>Gap in Permanent Financing</b>	<b>\$1,803,596</b>

Possible Tax Credit Allocations:	Equity Proceeds	Annual Credits
Determined by Eligible Basis	\$1,682,211	\$200,283
Needed to Balance Sources & Uses	\$1,803,596	\$214,735
Requested by Applicant	\$1,624,734	\$193,440

	RECOMMENDATION	
	Equity Proceeds	Annual Credits
Tax Credit Allocation	\$1,624,734	\$193,440

	Amount	Interest Rate	Amort	Term	Lien
TDHCA Multifamily Direct Loan	\$1,000,000	2.50%	30	18	2

Deferred Developer Fee	\$178,862	( 36% deferred)
Repayable in	4 years	

Comments:

The credit recommendation is \$193,440 as requested by the Applicant.

Underwriter recommends approval of a 2nd-lien Multifamily Direct loan in the amount of \$1,000,000 at 2.50% interest amortized over 30 years with an 18-year term (to match the senior debt).

The Senior Lender term sheet dated December 1, 2020 states that the Lender "requires that Subordinate Debt only be paid from 75% of available cash flow". This requirement is inconsistent with TDHCA Rules; and if this restriction were imposed, the combined Debt Coverage Ratio based on restricted available cash would be 1.10 times, and the Development would be considered infeasible. The recommended award is contingent on receipt of a revised term sheet for the senior debt that does not impose any restriction on cash available to service the TDHCA Direct Loan.

If the Direct Loan funds are not awarded, debt coverage would increase to 1.64 times. The Underwriter would assume a \$700,000 increase in the senior debt. Debt coverage would be 1.30 times and the Development would remain feasible with 98% of the Developer Fee deferred and repayable in 8 years of stabilized operation.

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



**UNIT MIX/RENT SCHEDULE**  
*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

LOCATION DATA	
CITY:	Mt. Pleasant
COUNTY:	Titus
Area Median Income	\$52,300
PROGRAM REGION:	4
PROGRAM RENT YEAR:	2020

UNIT DISTRIBUTION				
# Beds	# Units	% Total	Assisted	MDL
Eff	-	0.0%	0	0
1	76	100.0%	52	29
2	-	0.0%	0	0
3	-	0.0%	0	0
4	-	0.0%	0	0
5	-	0.0%	0	0
<b>TOTAL</b>				
	<b>76</b>	<b>100.0%</b>	<b>52</b>	<b>29</b>

49%	Average Income	
Income	# Units	% Total
20%	-	0.0%
30%	29	38.2%
40%	-	0.0%
50%	-	0.0%
60%	47	61.8%
70%	-	0.0%
80%	-	0.0%
MR	-	0.0%
<b>TOTAL</b>		
	<b>76</b>	<b>100.0%</b>

Pro Forma ASSUMPTIONS	
Revenue Growth	2.00%
Expense Growth	3.00%
Basis Adjust	130%
Applicable Fraction	100%
APP % Acquisition	3.27%
APP % Construction	3.27%
Average Unit Size	608 sf

UNIT MIX / MONTHLY RENT SCHEDULE																							
HTC		TDHCA Direct Loan Program		RENT ASSISTED UNIT		UNIT MIX				APPLICABLE PROGRAM RENT			APPLICANT'S PRO FORMA RENTS				TDHCA PRO FORMA RENTS				MARKET RENTS		
Type	Gross Rent	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%	\$331	30%/30%	\$440	S8	\$611	29	1	1	608	\$611	\$77	\$534	(\$0)	\$0.88	\$534	\$15,486	\$15,498	\$534	\$0.88	\$0	\$775	\$1.27	\$775
TC 60%	\$663			S8	\$611	23	1	1	608	\$611	\$77	\$534	(\$0)	\$0.88	\$534	\$12,282	\$12,291	\$534	\$0.88	\$0	\$775	\$1.27	\$775
TC 60%	\$663			0		24	1	1	608	\$663	\$77	\$586	\$0	\$0.96	\$586	\$14,064	\$14,064	\$586	\$0.96	\$0	\$775	\$1.27	\$775
<b>TOTALS/AVERAGES:</b>						<b>76</b>			<b>46,208</b>				<b>(\$0)</b>	<b>\$0.91</b>	<b>\$550</b>	<b>\$41,832</b>	<b>\$41,853</b>	<b>\$551</b>	<b>\$0.91</b>	<b>\$0</b>	<b>\$775</b>	<b>\$1.27</b>	<b>\$775</b>

<b>ANNUAL POTENTIAL GROSS RENT:</b>	<b>\$501,984</b>	<b>\$502,234</b>
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## STABILIZED PRO FORMA

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

### STABILIZED FIRST YEAR PRO FORMA

	COMPARABLES		APPLICANT				TDHCA				VARIANCE	
	Database	2019 Actual Expenses	% EGI	Per SF	Per Unit	Amount	Amount	Per Unit	Per SF	% EGI	%	\$
<b>POTENTIAL GROSS RENT</b>				\$0.91	\$550	\$501,984	\$502,234	\$551	\$0.91		0.0%	(\$250)
Misc Income					\$10.00	\$9,120						
Total Secondary Income					\$10.00		\$9,120	\$10.00			0.0%	\$0
<b>POTENTIAL GROSS INCOME</b>						\$511,104	\$511,354				0.0%	(\$250)
Vacancy & Collection Loss					6.0% PGI	(30,666)	(30,681)	6.0% PGI			0.0%	15
<b>EFFECTIVE GROSS INCOME</b>						\$480,438	\$480,672				0.0%	(\$235)

General & Administrative	\$23,960	\$315/Unit	\$16,121	\$212	2.53%	\$0.26	\$160	\$12,150	\$16,121	\$212	\$0.35	3.35%	-24.6%	(3,971)
Management	\$29,735	6.3% EGI	\$0	\$0	6.09%	\$0.63	\$385	\$29,267	\$29,281	\$385	\$0.63	6.09%	0.0%	(14)
Payroll & Payroll Tax	\$80,761	\$1,063/Unit	\$49,397	\$650	11.03%	\$1.15	\$697	\$53,000	\$53,000	\$697	\$1.15	11.03%	0.0%	-
Repairs & Maintenance	\$51,328	\$675/Unit	\$89,357	\$1,176	13.53%	\$1.41	\$855	\$65,000	\$57,000	\$750	\$1.23	11.86%	14.0%	8,000
Electric/Gas	\$11,666	\$154/Unit	\$14,705	\$193	2.71%	\$0.28	\$171	\$13,000	\$14,705	\$193	\$0.32	3.06%	-11.6%	(1,705)
Water, Sewer, & Trash	\$36,532	\$481/Unit	\$14,052	\$185	4.58%	\$0.48	\$289	\$22,000	\$14,052	\$185	\$0.30	2.92%	56.6%	7,948
Property Insurance	\$22,793	\$0.49 /sf	\$25,594	\$337	5.41%	\$0.56	\$342	\$26,000	\$25,594	\$337	\$0.55	5.32%	1.6%	406
Property Tax (@ 0%)	\$26,660	\$351/Unit	\$17,909	\$236	0.00%	\$0.00	\$0	\$0	\$0	\$0	\$0.00	0.00%	0.0%	-
Reserve for Replacements				\$0	4.75%	\$0.49	\$300	\$22,800	\$22,800	\$300	\$0.49	4.74%	0.0%	-
internet/cable/phone			\$1,220	\$16	0.12%	\$0.01	\$8	\$600	\$1,220	\$16	\$0.03	0.25%	-50.8%	(620)
Supportive Services				\$0	0.50%	\$0.05	\$32	\$2,400	\$2,400	\$32	\$0.05	0.50%	0.0%	-
TDHCA Compliance fees (\$40/HTC unit)				\$0	0.63%	\$0.07	\$40	\$3,040	\$3,040	\$40	\$0.07	0.63%	0.0%	-
Bond Trustee Fees				\$0	0.21%	\$0.02	\$13	\$1,000	\$1,000	\$13	\$0.02	0.21%	0.0%	-
<b>TOTAL EXPENSES</b>					<b>52.09%</b>	<b>\$5.42</b>	<b>\$3,293</b>	<b>\$ 250,257</b>	<b>\$240,212</b>	<b>\$3,161</b>	<b>\$5.20</b>	<b>49.97%</b>	<b>4.2%</b>	<b>\$ 10,045</b>
<b>NET OPERATING INCOME ("NOI")</b>					<b>47.91%</b>	<b>\$4.98</b>	<b>\$3,029</b>	<b>\$230,181</b>	<b>\$240,460</b>	<b>\$3,164</b>	<b>\$5.20</b>	<b>50.03%</b>	<b>-4.3%</b>	<b>\$ (10,280)</b>

CONTROLLABLE EXPENSES	\$2,173/Unit	\$2,038/Unit
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**CAPITALIZATION / TOTAL DEVELOPMENT BUDGET / ITEMIZED BASIS**

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

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
Churchill Mortgage Investment, LLC	0.10%	1.24	1.19	193,530	4.00%	40	18	\$2,750,000	\$2,750,000	18	40	4.00%	\$140,670	1.64	46.4%
<b>TDHCA</b>		1.24	1.19		2.50%	30	18	\$1,000,000	\$1,000,000	18	30	2.50%	\$47,415	1.22	16.9%
<b>CASH FLOW DEBT / GRANTS</b>															
FHLB-AHP Grant		1.24	1.19		0.00%	0	0	\$300,000	\$300,000	0	0	0.00%		1.22	5.1%
GC provided services/materials		1.24	1.19		0.00%	0	0	\$75,000	\$75,000	0	0	0.00%		1.22	1.3%
				<b>193,530</b>	<b>TOTAL DEBT / GRANT SOURCES</b>			<b>\$4,125,000</b>	<b>\$4,125,000</b>			<b>TOTAL DEBT SERVICE</b>	<b>\$188,084</b>	<b>1.22</b>	<b>69.6%</b>
<b>NET CASH FLOW</b>	\$46,930	\$36,650							<b>APPLICANT</b>	<b>NET OPERATING INCOME</b>	\$230,181	\$42,097	<b>NET CASH FLOW</b>		

EQUITY SOURCES											
APPLICANT'S PROPOSED EQUITY STRUCTURE						AS UNDERWRITTEN EQUITY STRUCTURE					
EQUITY / DEFERRED FEES	DESCRIPTION	% Cost	Annual Credit	Credit Price	Amount	Amount	Credit Price	Annual Credit	% Cost	Annual Credits per Unit	Allocation Method
Churchill Stateside Group	LIHTC Equity	27.3%	\$193,440	0.84	\$1,620,719	\$1,624,734	\$0.84	\$193,440	27.4%	\$2,545	Applicant Request
LPM Pine Terrace LP	Deferred Developer Fees	0.3%	(4% Deferred)		\$19,063	\$178,862	(36% Deferred)		3.0%	<b>Total Developer Fee:</b>	<b>\$493,508</b>
Additional (Excess) Funds Req'd		0.0%			\$0				0.0%		
<b>TOTAL EQUITY SOURCES</b>		<b>27.7%</b>			<b>\$1,639,782</b>	<b>\$1,803,596</b>			<b>30.4%</b>		
<b>TOTAL CAPITALIZATION</b>					<b>\$5,764,782</b>	<b>\$5,928,596</b>				<b>15-Yr Cash Flow after Deferred Fee:</b>	<b>\$695,569</b>

DEVELOPMENT COST / ITEMIZED BASIS												
APPLICANT COST / BASIS ITEMS					TDHCA COST / BASIS ITEMS					COST VARIANCE		
	Eligible Basis		Total Costs	Total Costs	Eligible Basis		Total Costs	Total Costs	%	\$		
	Acquisition	New Const. Rehab			New Const. Rehab	Acquisition						
Land Acquisition			\$5,842 / Unit	\$444,000	\$458,000	\$6,026 / Unit			-3.1%	(\$14,000)		
Building Acquisition	\$981,000		\$12,908 / Unit	\$981,000	\$967,000	\$12,724 / Unit		\$967,000	1.4%	\$14,000		
Closing costs & acq. legal fees				\$10,000	\$10,000					\$0		
Site Work		\$77,234	\$1,016 / Unit	\$77,234	\$91,650	\$1,206 / Unit		\$91,650	-15.7%	(\$14,416)		
Site Amenities		\$70,400	\$926 / Unit	\$70,400	\$78,000	\$1,026 / Unit		\$78,000	-9.7%	(\$7,600)		
Building Cost		\$2,134,777	\$46.20 /sf	\$2,089/Unit	\$2,134,777	\$2,284,500	\$30,059/Unit	\$49.44 /sf	\$2,284,500	-6.6%	(\$149,723)	
Contingency		\$191,180	8.38%	8.38%	\$191,180	\$191,180	7.79%	7.79%	\$191,180	0.0%	\$0	
Contractor Fees		\$343,502	13.89%	13.89%	\$343,502	\$343,502	12.99%	12.99%	\$343,502	0.0%	\$0	
Soft Costs	0	\$264,000	\$4,526 / Unit	\$344,000	\$344,000	\$4,526 / Unit		\$264,000	\$0	0.0%	\$0	
Financing	0	\$221,250	\$5,832 / Unit	\$443,256	\$443,256	\$5,832 / Unit		\$221,250	\$0	0.0%	\$0	
Developer Fee	\$0	\$493,508	14.94%	14.94%	\$493,508	\$493,508	14.21%	11.11%	\$493,508	\$0	0.0%	\$0
Reserves			6 Months	\$224,000	\$224,000	6 Months				0.0%	\$0	
<b>TOTAL HOUSING DEVELOPMENT COST (UNADJUSTED BASIS)</b>	<b>\$981,000</b>	<b>\$3,795,851</b>	<b>\$75,748 / Unit</b>	<b>\$5,756,857</b>	<b>\$5,928,596</b>	<b>\$78,008 / Unit</b>		<b>\$3,967,590</b>	<b>\$967,000</b>	<b>-2.9%</b>	<b>(\$171,739)</b>	
Acquisition Cost	(\$14,000)			\$0								
Contingency		\$0		\$0								
Contractor's Fee		\$0		\$0								
Financing Cost		\$0		\$0								
Developer Fee	\$0	\$0		\$0								
Reserves				\$0								
<b>ADJUSTED BASIS / COST</b>	<b>\$967,000</b>	<b>\$3,795,851</b>	<b>\$75,748/unit</b>	<b>\$5,756,857</b>	<b>\$5,928,596</b>	<b>\$78,008/unit</b>		<b>\$3,967,590</b>	<b>\$967,000</b>	<b>-2.9%</b>	<b>(\$171,739)</b>	
<b>TOTAL HOUSING DEVELOPMENT COSTS BASED ON 3RD PARTY SCR/CNA</b>				<b>\$5,928,596</b>								

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

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

CREDIT CALCULATION ON QUALIFIED BASIS				
	Applicant		TDHCA	
	Acquisition	Construction Rehabilitation	Acquisition	Construction Rehabilitation
<b>ADJUSTED BASIS</b>	\$967,000	\$3,795,851	\$967,000	\$3,967,590
Deduction of Federal Grants	\$0	\$0	\$0	\$0
<b>TOTAL ELIGIBLE BASIS</b>	\$967,000	\$3,795,851	\$967,000	\$3,967,590
High Cost Area Adjustment		130%		130%
<b>TOTAL ADJUSTED BASIS</b>	\$967,000	\$4,934,606	\$967,000	\$5,157,867
Applicable Fraction	100.00%	100.00%	100.00%	100.00%
<b>TOTAL QUALIFIED BASIS</b>	\$967,000	\$4,934,606	\$967,000	\$5,157,867
Applicable Percentage	3.27%	3.27%	3.27%	3.27%
<b>ANNUAL CREDIT ON BASIS</b>	\$31,621	\$161,362	\$31,621	\$168,662
<b>CREDITS ON QUALIFIED BASIS</b>	\$192,983		\$200,283	

Method	ANNUAL CREDIT CALCULATION BASED ON TDHCA BASIS		FINAL ANNUAL LIHTC ALLOCATION		
	Annual Credits	Proceeds	Credit Price \$0.8399	Variance to Request	
			Credit Allocation	Credits	Proceeds
<b>Eligible Basis</b>	\$200,283	\$1,682,211	----	----	----
<b>Needed to Fill Gap</b>	\$214,735	\$1,803,596	----	----	----
<b>Applicant Request</b>	\$193,440	\$1,624,734	<b>\$193,440</b>	<b>\$0</b>	<b>\$0</b>

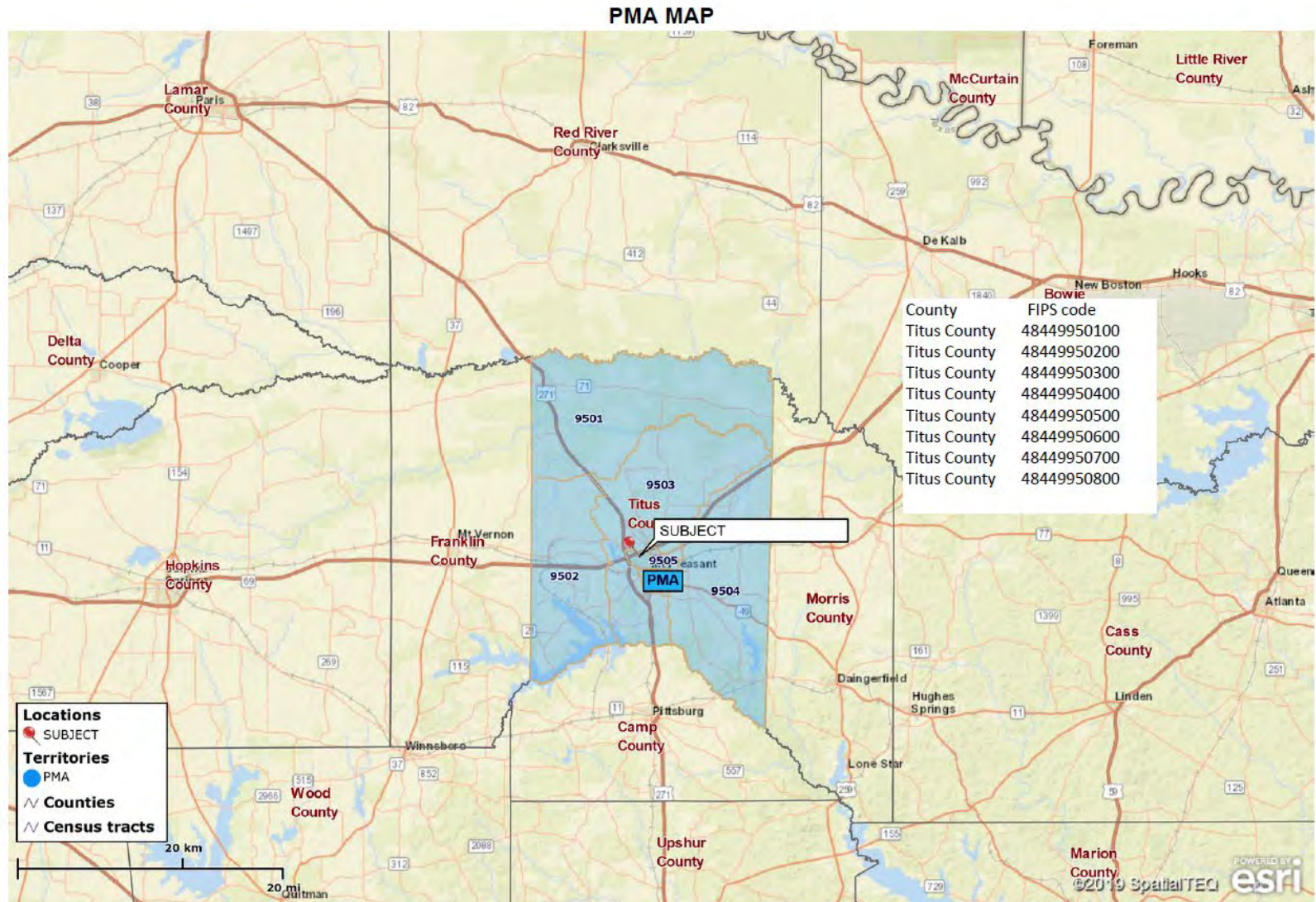
50% Test for Bond Financing for 4% Tax Credits					
Tax-Exempt Bond Amount	\$2,750,000		Percent Financed by Tax-Exempt Bonds	Applicant	TDHCA
	Applicant	TDHCA		57.20%	55.2%
Land Cost	\$444,000	\$458,000	amount aggregate basis can increase before 50% test fails	\$692,657	\$520,918
Depreciable Bldg Cost	\$4,363,343	\$4,521,082		14.4%	10.5%
<b>Aggregate Basis for 50% Test</b>	<b>\$4,807,343</b>	<b>\$4,979,082</b>			

## Long-Term Pro Forma

*Pine Terrace, Mt. Pleasant, 4% HTC/MDL #20464*

	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%	\$480,438	\$490,047	\$499,847	\$509,844	\$520,041	\$574,168	\$633,927	\$699,907	\$772,754	\$853,183	\$941,983	\$1,040,025
TOTAL EXPENSES	3.00%	\$250,257	\$257,472	\$264,898	\$272,540	\$280,406	\$323,319	\$372,884	\$430,144	\$496,301	\$572,751	\$661,107	\$763,237
<b>NET OPERATING INCOME ("NOI")</b>		<b>\$230,181</b>	<b>\$232,574</b>	<b>\$234,950</b>	<b>\$237,304</b>	<b>\$239,636</b>	<b>\$250,849</b>	<b>\$261,043</b>	<b>\$269,763</b>	<b>\$276,453</b>	<b>\$280,432</b>	<b>\$280,876</b>	<b>\$276,788</b>
EXPENSE/INCOME RATIO		52.1%	52.5%	53.0%	53.5%	53.9%	56.3%	58.8%	61.5%	64.2%	67.1%	70.2%	73.4%
<b>MUST -PAY DEBT SERVICE</b>													
Churchill Mortgage Investment, LLC		\$140,670	\$140,641	\$140,612	\$140,581	\$140,549	\$140,368	\$140,147	\$139,877	\$139,548	\$139,145	\$138,654	\$138,055
TDHCA		\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415	\$47,415
<b>TOTAL DEBT SERVICE</b>		<b>\$188,084</b>	<b>\$188,056</b>	<b>\$188,026</b>	<b>\$187,995</b>	<b>\$187,963</b>	<b>\$187,782</b>	<b>\$187,561</b>	<b>\$187,292</b>	<b>\$186,962</b>	<b>\$186,560</b>	<b>\$186,069</b>	<b>\$185,469</b>
DEBT COVERAGE RATIO		1.22	1.24	1.25	1.26	1.27	1.34	1.39	1.44	1.48	1.50	1.51	1.49
<b>ANNUAL CASH FLOW</b>		<b>\$42,097</b>	<b>\$44,519</b>	<b>\$46,924</b>	<b>\$49,309</b>	<b>\$51,672</b>	<b>\$63,067</b>	<b>\$73,482</b>	<b>\$82,472</b>	<b>\$89,491</b>	<b>\$93,872</b>	<b>\$94,807</b>	<b>\$91,319</b>
Deferred Developer Fee Balance		\$136,766	\$92,247	\$45,323	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>CUMULATIVE NET CASH FLOW</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,986</b>	<b>\$55,658</b>	<b>\$348,516</b>	<b>\$695,569</b>	<b>\$1,090,618</b>	<b>\$1,524,945</b>	<b>\$1,986,747</b>	<b>\$2,460,473</b>	<b>\$2,926,033</b>

Primary Market Area Map-Exhibit 5



The PMA contains approximately 426 square miles and the farthest boundary is approximately 16 miles from the site.

6c

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



6d

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action on a waiver relating to 10 TAC §11.01(b)(2) of the Qualified Allocation Plan (QAP) concerning Development Size Limitations and a Determination Notice for Housing Tax Credits for Bluebonnet Ridge (#21403) in Ennis

**RECOMMENDED ACTION**

**WHEREAS**, an application for Bluebonnet Ridge, sponsored by the North Central Texas Housing Finance Corporation and The Michaels Organization, requesting 4% Housing Tax Credits was submitted to the Department on January 5, 2021;

**WHEREAS**, the current Certification of Reservation (Reservation) from the Texas Bond Review Board was issued on January 22, 2021, and will expire on July 21, 2021;

**WHEREAS**, the proposed issuer of the bonds is the North Central Texas Housing Finance Corporation;

**WHEREAS**, the applicant has requested a waiver, in accordance with 10 TAC §11.207 of the QAP of 10 TAC §11.101(b)(2) of the QAP relating to Development Size Limitations, whereby new construction developments in a rural area are limited to 120 total units;

**WHEREAS**, after an evaluation of the proposed primary market area, including occupancy rates, the number of units proposed, and major employers in the area, staff believes granting this waiver supports the requirements articulated in 10 TAC §11.207 relating to waivers granted by the Board; and

**WHEREAS**, granting the waiver better serves the purposes articulated in Tex. Gov't Code, §2306 as further explained herein.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver relating to 10 TAC §11.101(b)(2) of the QAP concerning Development Size Limitations for the proposed development, as discussed herein, is hereby granted, and

**FURTHER RESOLVED**, that the issuance of a Determination Notice of \$1,985,983 in 4% HTC, subject to underwriting conditions that may be applicable as found in the Real Estate Analysis report posted to the Department's website for Bluebonnet Ridge is hereby approved as presented to this meeting.

## BACKGROUND

*General Information:* The development is proposed to be located at approximately 216 Valek Road in Ennis, Ellis County, and involves the new construction of 264 units serving the general population. All of the units will be rent and income restricted at 60% AMFI. The proposed development received its Reservation as part of the BRB Private Activity Bond 2021 Lottery.

*Waiver Request:* The applicant has requested a waiver of 10 TAC §11.101(b)(2) of the QAP, regarding development size limitations. The proposed development site is within an area that is considered rural pursuant to the 2021 Site Demographics Characteristics Report published by the Department, and pursuant to 10 TAC §11.101(b)(2), *“Tax-Exempt Bond Developments Involving New Construction or Adaptive Reuse in a Rural Area are limited to a maximum of 120 total Units.”* This requirement stems, in part, from the definition of a Rural Development as found in Tex. Gov’t Code §2306.004(28-b), which reads *“a development or proposed development that is located in a rural area, other than rural new construction developments with more than 80 units.”* Staff believes that the definition represents a characterization of a development that would have greater implication under the Competitive 9% HTC program considering the Rural Set-Aside and other provisions that relate to the scoring of a rural application. Under the Non-competitive 4% HTC program, set-aside, and scoring provisions do not exist. Moreover, staff modified the maximum number of units under the 4% HTC program from 80 to 120 units starting with the 2019 QAP. The requirement in the rule that limits the size of multifamily developments in rural areas, regardless of funding source, albeit somewhat different, is representative of Department policy in preventing the over-burdening of units in a rural area.

Ennis has a population of approximately 19,196 and is part of the Dallas-Fort Worth-Arlington MSA. The next closest urban area is Waxahachie, whose boundaries are approximately one mile from the city limits of Ennis. If these two city limits shared boundaries, Ennis would be considered an urban area under the definition and a waiver would not be necessary.

Staff evaluated the market area and supplemental information provided by the applicant relating to employers in the area and the demand for an affordable development of this size. While the market study goes into further detail regarding the existing supply in the area and the primary market area, worth noting is Silverton Village, a 250-unit affordable property, located approximately one mile from the proposed site, has a current occupancy of 94%. This property was built before the limitation on development size in a rural area was added to the QAP and was built under the 4% HTC program. As it relates to other properties located within a 20-minute drive time of the proposed development, the overall occupancy rate was reported to be 97.9%. The applicant reported a number of large employers in the area with employees who would qualify at the 60% AMFI level proposed. According to information provided by the applicant, a number of these employees do not currently reside in Ennis, but live in surrounding cities and commute to work.

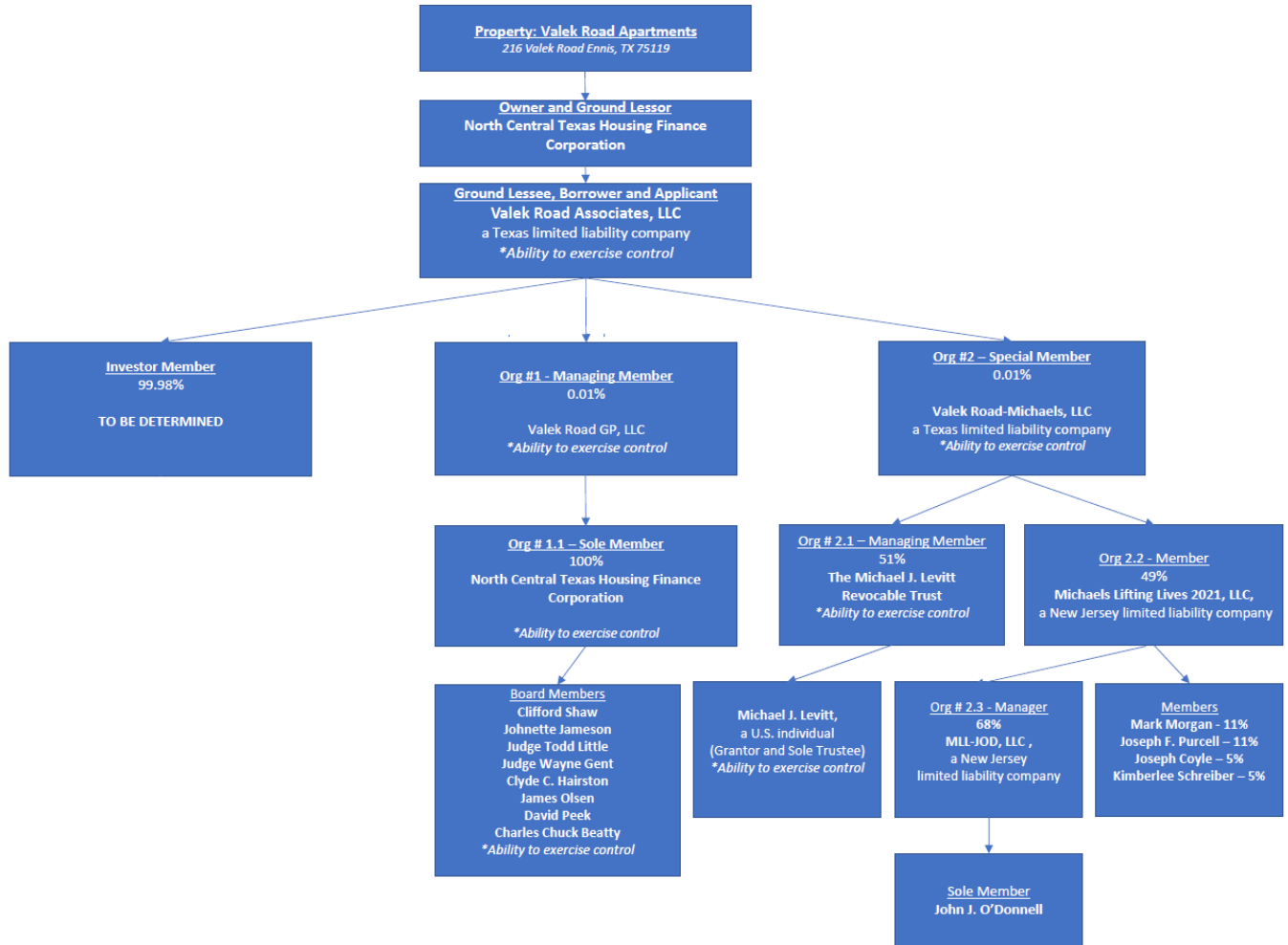
The general process for a waiver granted by the Board, as articulated under 10 TAC §11.207 of the QAP, requires the applicant to demonstrate that the need for such waiver is beyond the applicant’s control, and also requires an applicant to demonstrate how, the granting the waiver better serves the

policies and purposes articulated in Tex. Gov't Code §2306. It is important to note that 4% HTC transactions are financially feasible only on a larger scale in order for the development to be able to absorb the costs associated with issuing bonds. The applicant cannot control these costs and this application is not part of a portfolio of other transactions where such costs could be absorbed. Based on the Department's property inventory, there are five multifamily properties in Ennis and the majority of them were awarded under the 9% Competitive HTC program. The need for affordable housing in the community is being addressed on a small-scale given the 80-unit limitation under the 9% HTC program, and given the overall competitive nature of the program, based on the information provided by the applicant, the supply of affordable housing has not kept up with the employment growth in Ennis. The proposed development would also serve to stimulate economic development in Ennis as articulated under Tex. Gov't Code §2306.002 and would maximize the number of affordable units added to the state's housing supply as identified under Tex. Gov't Code §2306.6701. Considering all of the aforementioned facts, staff believes Ennis could support the number of units proposed by the applicant based on the totality of the information received and recommends the waiver be granted.

However, staff notes that this waiver is specific to the facts and circumstances associated with this application and the information presented. This waiver should not be interpreted to indicate that other large scale developments, should they be proposed by other applicants, would yield a similar recommendation.

*Organizational Structure:* The Borrower is Valek Road Associates, LLC, and includes the entities and principals as illustrated in Exhibit A. The applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by EARAC.

## EXHIBIT A

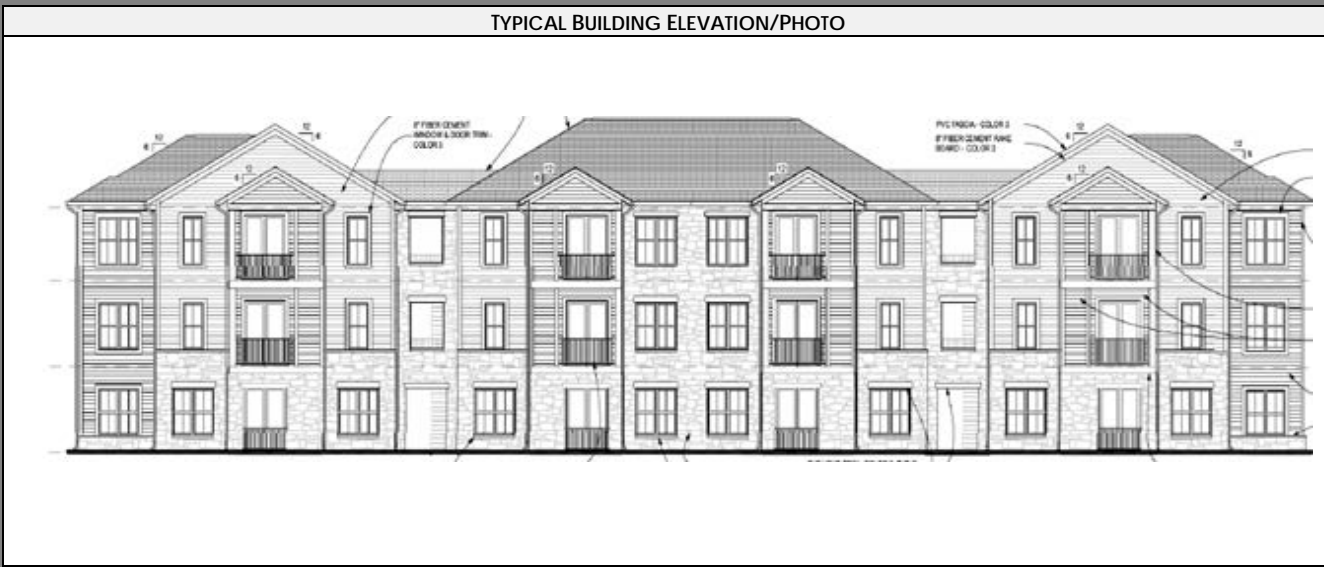


# 21403 Bluebonnet Ridge Apartments - Application Summary

PROPERTY IDENTIFICATION	
Application #	21403
Development	Bluebonnet Ridge Apartments
City / County	Ennis / Ellis
Region/Area	3 / Rural
Population	General
Set-Aside	General
Activity	New Construction

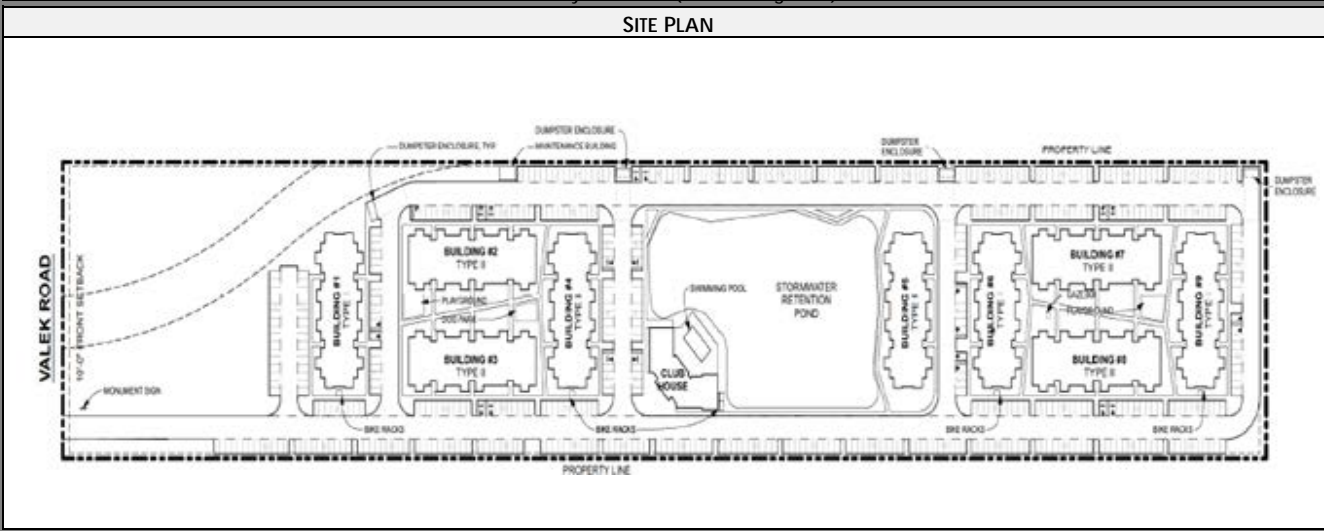
RECOMMENDATION					
TDHCA Program		Request	Recommended		
LIHTC (4% Credit)		\$1,985,983	\$1,985,983	\$7,523/Unit	\$0.90

KEY PRINCIPALS / SPONSOR		
The Michaels Development Company I, LP; Developer		
North Central Texas Housing Finance Corp.: GP		
Related Parties	Contractor - No	Seller - No



UNIT DISTRIBUTION			INCOME DISTRIBUTION		
# Beds	# Units	% Total	Income	# Units	% Total
Eff	-	0%	20%	-	0%
1	96	36%	30%	-	0%
2	108	41%	40%	-	0%
3	60	23%	50%	-	0%
4	-	0%	60%	263	100%
			70%	-	0%
			80%	-	0%
			EO	1	0%
<b>TOTAL</b>	<b>264</b>	<b>100%</b>	<b>TOTAL</b>	<b>264</b>	<b>100%</b>

PRO FORMA FEASIBILITY INDICATORS			
Pro Forma Underwritten		Applicant's Pro Forma	
Debt Coverage	1.16	Expense Ratio	46.5%
Breakeven Occ.	85.5%	Breakeven Rent	\$992
Average Rent	\$1,075	B/E Rent Margin	\$83
Property Taxes	Exempt	Exemption/PILOT	100%
Total Expense	\$5,655/unit	Controllable	\$4,016/unit



MARKET FEASIBILITY INDICATORS			
Gross Capture Rate (15% Maximum)	13.0%		
Highest Unit Capture Rate	35%	1 BR/60%	96
Dominant Unit Cap. Rate	32%	2 BR/60%	107
Premiums (↑60% Rents)	#DIV/0!	#DIV/0!	
Rent Assisted Units	N/A		

DEVELOPMENT COST SUMMARY			
Costs Underwritten		Applicant's Costs	
Avg. Unit Size	967 SF	Density	17.7/acre
Acquisition	\$06K/unit	\$1,600K	
Building Cost	\$81.84/SF	\$79K/unit	\$20,897K
Hard Cost	\$110K/unit		\$28,948K
Total Cost	\$182K/unit		\$47,967K
Developer Fee	\$4,982K	(23% Deferred)	Paid Year: 5
Contractor Fee	\$3,491K	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
FHLMC / Greystone	16/35	3.87%	\$23,000,000	1.40						Berkadia	\$17,969,553
FHLMC / Greystone	16/35	4.27%	\$4,550,000	1.16						Deferred Developer Fees	\$1,150,775
										Income from Operations	\$1,181,302
										Interest Income - Bond Proceeds	\$114,994
										Valek Road Associates, LLC	\$100
										<b>TOTAL EQUITY SOURCES</b>	<b>\$20,416,724</b>
										<b>TOTAL DEBT SOURCES</b>	<b>\$27,550,000</b>
<b>TOTAL DEBT (Must Pay)</b>			<b>\$27,550,000</b>		<b>CASH FLOW DEBT / GRANTS</b>			<b>\$0</b>		<b>TOTAL CAPITALIZATION</b>	<b>\$47,966,724</b>

**CONDITIONS**

- Receipt and acceptance by Cost Certification:
- Architect certification that all noise assessment recommendations were implemented and the Development is compliant with HUD noise guidelines.

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

BOND RESERVATION / ISSUER	
Issuer	North Central Texas Housing Finance Corp
Expiration Date	7/21/2021
Bond Amount	\$23,000,000
BRB Priority	Priority 2
Bond Structure	Freddie Mac TEL
% Financed with Tax-Exempt Bonds	60.9%

RISK PROFILE	
<b>STRENGTHS/MITIGATING FACTORS</b>	
▫	Developer's experience with TDHCA programs
▫	100% Tax-Exemption
▫	Support of City of Ennis
▫	Parking Ratio
<b>WEAKNESSES/RISKS</b>	
▫	Feasibility dependent on tax-exemption

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▫	Feasibility dependent on tax-exemption



6e



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

7a

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**APRIL 8, 2021**

Presentation, discussion, and possible action on release of the draft 2022 Low Income Home Energy Assistance Program State Plan for public comment

**RECOMMENDED ACTION**

**WHEREAS**, the U.S. Department of Health and Human Services (USHHS) requires that the Department submit a State Plan every year in order to receive its allotment of Low Income Home Energy Assistance Program (LIHEAP) funds;

**WHEREAS**, the Department has prepared a draft 2022 LIHEAP State Plan (the Plan); and

**WHEREAS**, USHHS requires that a draft Plan be released for public comment and the State requires a public hearing prior to the submission of the Plan to USHHS;

**NOW, therefore, it is hereby**

**RESOLVED**, that the draft Plan, in the form presented to this meeting, is hereby approved to be released for public comment, public hearing, posted on the Department's website and published in the *Texas Register*;

**FURTHER RESOLVED**, that if USHHS releases different guidance after Board approval, the Board authorizes staff to make needed conforming changes and non-substantive changes to the Plan, and to change the public hearing dates and the comment period; and

**FURTHER RESOLVED**, that the final Plan with consideration of final grant guidance, public comment and technical corrections made by staff, along with award recommendations for subrecipients, will be presented to the Board no later than July 2021.

**BACKGROUND**

USHHS requires that the State of Texas submit a LIHEAP State Plan each year on or before September 1<sup>st</sup> in order to receive its allotment of LIHEAP funds. In response to this requirement, the Department has prepared a draft 2022 LIHEAP State Plan. Subrecipients had two previous opportunities to provide input into the drafting of this Plan. The first opportunity included a 14-day timeframe in January 2021 to provide comments on what they wanted changed from the 2021 LIHEAP State Plan and the second opportunity included a 12-day period of time in March 2021 to comment on the draft 2022 Plan before presenting it to the Board at this meeting.

The Plan, upon approval by the Board, will be posted on the Department's website, published in the *Texas Register*, released for public comment and public hearings will be held. An announcement of the availability of the draft Plan and details regarding the timeframe to accept comments from the public and the public hearing will be posted on the Department's website no later than April 9, 2021, and published in the *Texas Register* on April 23, 2021. The period to accept comments from the public

regarding the Plan will be open from Friday, April 23, 2021, through Monday, May 24, 2021, at 5:00 p.m. Austin local time. Written comments concerning the Plan may be submitted to the Texas Department of Housing and Community Affairs, Community Affairs Division, P.O. Box 13941, Austin, TX 78711-3941, or by email to [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us), or by fax to (512) 475-3935. Comments are due no later than 5:00 p.m. Austin local time on Monday, May 24, 2021.

The Department will also conduct two virtual public hearing through GoToWebinar. Meeting details are:

- Wednesday, May 12, 2021, from 2:00 p.m.-3:00 p.m.
  - Via GoToWebinar
  - To Register: <https://global.gotowebinar.com/join/7383217695375202320/94910646>
- Thursday, May 13, 2021, from 6:00 p.m.-7:00 p.m.
  - Via GoToWebinar
  - To Register: <https://global.gotowebinar.com/join/1364361302557537552/596155856>

Upon completion of the public comment period and public hearing, staff will modify the Plan, if appropriate, based on public comment. Staff will also include any changes required by federal guidance and necessary technical corrections made by staff. Staff anticipates presenting the revised Plan, along with recommendations for subrecipient awards, to the Board for review and final approval no later than July.

LIHEAP funds, as reflected in the Plan, are utilized in the following three ways:

- The Department allocates at least 75% of the LIHEAP funds to the Comprehensive Energy Assistance Program (CEAP), which provides utility assistance to eligible households, including crisis assistance and services to reduce home energy needs.
- The Department allocates up to 15% of the LIHEAP funds to the WAP. There is generally greater flexibility with LIHEAP weatherization funds than U.S. Department of Energy (DOE) weatherization funds, so continuing to allocate some portion of these funds for this activity allows households to receive more comprehensive assistance than were they to be served solely by DOE WAP funds.
- The Department allocates 10% of LIHEAP funds for Department and subrecipient administration.

In review of the Plan, attached, it should be noted that the Plan follows a template and series of required responses pre-determined by USHHS with character limitations and specific instructions. Also, the Plan is provided in blackline form reflecting the changes being recommended since the publication of the 2021 LIHEAP State Plan.

The full text of the draft 2022 LIHEAP State Plan may be viewed at the Department's website: <https://www.tdhca.state.tx.us/public-comment.htm>. The public may also receive a copy of the draft 2022 LIHEAP State Plan by contacting Gavin Reid at [gavin.reid@tdhca.state.tx.us](mailto:gavin.reid@tdhca.state.tx.us).

**LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

**MODEL PLAN**

**PUBLIC LAW 97-35, AS AMENDED**

**FEDERAL FISCAL YEAR 202~~1~~**

**GRANTEE: Texas Department of Housing and Community Affairs**

**EIN: 17426105429**

**ADDRESS: P.O. Box 13941**

**Austin, Texas 78711-3941**

**LIHEAP COORDINATOR: Michael DeYoung**

**EMAIL: michael.deyoung@tdhca.state.tx.us**

**TELEPHONE: (512) 475-2125      **FAX: (512) 475-3935****

**CHECK ONE: TRIBE / TRIBAL ORGANIZATION \_\_\_\_\_ STATE X \_\_\_\_\_ INSULAR AREA \_\_\_\_\_**

**Department of Health and Human Services  
Administration for Children and Families  
Office of Community Services  
Washington, DC 20447**

**August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01**

**OMB Approval No. 0970-0075**

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

## Assurances

The Texas Department of Housing and Community Affairs agrees to:

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs, and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed an amount equal to 150 percent of the poverty level for such State; or

(i) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a Federal fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-

income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that--

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the Federal fiscal year preceding the Federal fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to--

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that--

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a Federal fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) beginning in Federal fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

\* This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed \$200,000. Neither territories with annual allotments of \$200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.



Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: \_\_\_\_\_

Title: Executive Director, Texas Department of Housing and Community Affairs

Date: August 2020<sup>01</sup> (*Exact date to be notated in USHHS OLDC system at time of submission*)

**The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.**

**The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.**

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

**Section 1<sup>1</sup>**

**Program Components, 2605(a), 2605(b)(1) – Assurance 1, 2605(c)(1)(C)**

1.1 Check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Dates of Operation<sup>2</sup>

- Heating assistance Start date: 10/01/202~~10~~ End date: 09/30/202~~32~~
- Cooling assistance Start date: 10/01/202~~10~~ End date: 09/30/202~~32~~
- Crisis assistance Start date: 10/01/202~~10~~ End date: 09/30/202~~32~~
- Weatherization assistance Start date: 10/01/202~~10~~ End date: 09/30/202~~32~~

**Estimated Funding Allocation, 2604(c), 2605(k)(1), 2605(b)(9), 2605(b)(16) – Assurances 9 and 16**

1.2 Estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%**

15% heating assistance

50% cooling assistance

10% crisis assistance

Up to 15% weatherization assistance<sup>3</sup>

0% carryover to the following Federal fiscal year

10% administrative and planning costs

0% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

---

<sup>1</sup> Capitalized terms are defined in Title 10, Chapters 1, 2, or 6 (as applicable) of the Texas Administrative Code or by federal law.

<sup>2</sup> Identification of these periods does not limit the payment of assistance on any “seasonal” basis.

<sup>3</sup> If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

**Alternate Use of Crisis Assistance Funds, 2605(c)(1)(C)**

1.3 The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

- Heating assistance
- Weatherization assistance
- Cooling assistance
- Other (specify): funds are utilized for all eligible components

**Categorical Eligibility, 2605(b)(2)(A) – Assurance 2, 2605(c)(1)(A), 2605(b)(8A) – Assurance 8**

1.4 Do you consider households categorically eligible if one household member receives one of the following categories of benefits in the left column below?  Yes  No

Program	Cooling	Heating	Crisis	Weatherization
Temporary Assistance for Needy Families	No	No	No	No
Supplemental Security Income	Yes	Yes	Yes	Yes
Supplemental Nutrition Assistance Program	No	No	No	No
Means-tested Veterans Programs	Yes	Yes	Yes	Yes

1.5 Do you automatically enroll households without a direct annual application?  
 Yes  No

1.6 How do you ensure there is no difference in the treatment of categorically eligible households from those not receiving other public assistance when determining eligibility and benefit amounts?  
 Texas provides Categorical Eligibility for SSI and Means-Tested Veterans Programs into its program. State rules have a provision that there is to be no difference in the treatment of Categorically Eligible Households. The Department has a system for persons to submit complaints, and the monitoring reviews would also note any differences in treatment of persons that are or are not Categorically Eligible.

**SNAP Nominal Payments**

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP households? If you answered “yes” to question 1.71 you must provide a response to 1.7b, 1.7c, 1.7d.

- a.  Yes  No
- b. Amount of Nominal Assistance: \$ \_\_\_ NA \_\_\_\_\_
- c. Frequency of Assistance:
  - Once per year
  - Once every five years
  - Other (describe): \_\_\_\_\_ NA \_\_\_\_\_

d. How do you confirm that the household receiving a nominal payment has an energy cost or need?

## Determination of Eligibility – Countable Income

1.8 In determining a household's income eligibility for LIHEAP, do you use gross income or net income?

- Gross Income (except for self-employment or farm income or gambling/lottery winnings)<sup>4</sup>  
 Net Income

1.9. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP.<sup>5</sup>

- Wages (except as prohibited by the Workforce Investment Act of 1998)  
 Self-employment income  
 Contract income  
 Payments from mortgage or sales contracts  
 Unemployment Insurance  
 Strike pay  
 Social Security Administration (SSA) benefits  
 Including MediCare deduction  Excluding MediCare deduction  
 Supplemental Security Income (SSI)  
 Retirement / pension benefits  
 General Assistance benefits (except as excluded by federal law or 10 TAC §6.4-)  
 Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)  
 Supplemental Nutrition Assistance Program (SNAP) benefits  
 Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits  
 Loans that need to be repaid  
 Cash gifts  
 Savings account balance  
 One-time lump-sum payments, such as rebates/credits, refund deposits, etc.  
 Jury duty compensation  
 Rental income  
 Income from employment through Workforce Investment Act (WIA)  
 Income from work study programs  
 Alimony  
 Child support  
 Interest, dividends, or royalties  
 Commissions  
 Legal settlements  
 Insurance payments made directly to the insured  
 Insurance payments made specifically for the repayment of a bill, debt, or estimate  
 Veterans Administration (VA) benefits (except for 38 USC 1315, 1521, 1541, 1542)  
 Earned income of a child under the age of 18  
 Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.  
 Income tax refunds  
 Stipends from senior companion programs, such as VISTA  
 Funds received by household for the care of a foster child  
 AmeriCorps Program payments for living allowances, earnings, and in-kind aid.  
 Reimbursements (for mileage, gas, lodging, meals, etc.)

<sup>4</sup> Exceptions on use of net income are provided for in 10 TAC §6.4.

<sup>5</sup> Any income received by a household that is received from a federal, State, local government, or disaster relief agency that is in excess of the amounts of what would be received if not for the CARES Act, [†Coronavirus Response and Relief Supplemental Appropriations Act, 2021](#) or [American Rescue Plan](#) legislation, will be excluded per 10 TAC §6.4(c)(28).

Other Any item not excluded in 10 TAC §6.4 or by other federal law

## Section 2 - HEATING ASSISTANCE

### Eligibility, 2605(b)(2) – Assurance 2

2.1 Designate the income eligibility threshold used for the heating component:

<i>Household Size</i>	<i>Eligibility Guidelines</i>	<i>Eligibility Threshold</i>
All Household Sizes	USHHS Poverty Guidelines	150%
All Household Sizes	State Median Income	60% <sup>6</sup>

2.2 Do you have additional eligibility requirements for **HEATING ASSISTANCE**?

Yes  No <sup>7</sup>

2.3 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>                          | <u>No</u>                           |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: |                                     |                                     |
| ● Renters?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>8</sup>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:                    |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Households with high energy consumption                      |                                     |                                     |

<sup>6</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State's median income (SMI). The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. Texas will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>7</sup> 10 TAC §6.307(f) states: "A Dwelling Unit cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if: (1) the members of the separate structures that share a meter meet the definition of a Household per §6.2 of this Chapter (relating to Definitions); (2) the members of the separate structures that share a meter submit one application as one Household; and (3) all persons and applicable income from each structure are counted when determining eligibility."

<sup>8</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent.

## Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Households with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

2.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need:
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need
  - Other (Describe: [Alternative Billing Method](#))

~~Other Description: Other Utility assistance payment can be based on the previous twelve (12) month's home energy consumption history or, if this data is unavailable, payments may be based on payments of the current program year's bill or utilize an alternative billing method (ABM) for clients with incomplete billing histories. The Department recommends an alternative billing method where the subrecipient determines the average consumption amount (kWh, therms, MCF, gallons, etc.) per month, for each household size and type based on a minimum sample size of 30 files that contain complete billing histories. Subrecipients can propose other types of ABMs. The ABM proposed by the subrecipient must be approved by the Department prior to utilization.~~

~~The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Per 10 TAC §6.309(e), Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of \$1,500 per Component; Households with incomes 76%-150% FPIG have a maximum of \$1,400 per Component; and there is a maximum of up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.~~

## Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.6 Describe estimated benefit levels for FY 2022~~0~~:

\$1 Minimum benefit      \$~~8,212,300~~ Maximum benefit

Note: The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount. The maximum benefit amount per household is \$12,300 per program year and could be reached if a household received up to \$2,400 in Crisis Assistance, \$2,400 in Utility Assistance, and a \$7,500 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. The initial assistance payment that would include arrears does not count towards the annual benefit caps for a household.

Households are eligible for up to \$~~1,62,400~~ under Utility Assistance Component and up to \$~~2,41,600~~ under Crisis Assistance Component. The level of assistance is dependent on Household income and meeting CEAP program eligibility requirements. The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$2,300 per Component; incomes 76%-150% FPIG up to \$2,200 per Component; and up to \$7,500 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$12,300.

Non-vulnerable population households with inoperable heating and cooling units may be eligible for an additional \$~~7,5,000~~ for service and repair of existing heating and cooling units when the Household meets crisis conditions. -Vulnerable Population Households, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$~~7,5,000~~. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

~~If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.~~

~~The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount.~~

~~The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$1,500 per Component; incomes 76%-150% FPIG up to \$1,400 per Component; and up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.~~

~~The maximum benefit amount per household is \$8,200 per program year and could be reached if a household received up to \$1,600 in Crisis Assistance, \$1,600 in Utility Assistance, and a \$5,000 repair or replacement of a heating or cooling unit or crisis related purchase of portable heating and cooling units. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).~~

WINTER STORM URI Exception. Responding to the needs of low-income Texans impacted by this weather disaster which occurred February 2021, the Department is granting the following flexibilities to subrecipients in the administration of LIHEAP assistance for 2021 funds obligated by September 30, 2021, through December 31, 2021:

1. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$3,200 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$3,000 per Component, incomes 76%-150% FPIG up to \$2,800 per Component. Combined with Flexibility #2, maximum total eligible assistance per Household is \$13,900.
2. Annual cap on repairs or replacement of inoperable heating systems were increased from \$5,000 to \$7,500. Combined with Flexibility #1, maximum total eligible assistance per Household is \$13,900.
3. The initial assistance payment that would include arrears will not count towards the annual benefit caps for a household. The billing cycle(s) that include the increased utility costs associated with Winter Storm Uri will not count towards the annual benefit caps for a household.
4. Service and repair of heating units was expanded from only being an allowable activity for Vulnerable Households to also being allowable for Non-Vulnerable Households.

2.7 Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?

Yes       No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed ~~\$7,55,000~~ if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed ~~\$7,55,000~~. All Households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

### Section 3: COOLING ASSISTANCE

Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2



3.1 Designate the income eligibility threshold used for the cooling component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>9</sup>

3.2 Do you have additional eligibility requirements for **COOLING ASSISTANCE**

Yes  No<sup>10</sup>

3.3 Check the appropriate boxes below and describe the policies for each.

- |  | <u>Yes</u>                          | <u>No</u>                           |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?                             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: |                                     |                                     |
| ● Renters?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>11</sup> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:                    |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Households with high energy consumption                      |                                     |                                     |

3.3 Check the appropriate boxes below and describe the policies for each.

<sup>9</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income. Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. The State will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>10</sup> [10 TAC §6.307\(f\) states: “A Dwelling Unit cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if: \(1\) the members of the separate structures that share a meter meet the definition of a Household per §6.2 of this Chapter \(relating to Definitions\); \(2\) the members of the separate structures that share a meter submit one application as one Household; and \(3\) all persons and applicable income from each structure are counted when determining eligibility.”](#)

<sup>11</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer’s rent.

Explanations of policies for each “yes” checked above:

10 TAC §6.307(e) states “Subrecipients must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.”

Priority must be given to Elderly, Disabled, Households with Young Children, and Households with High Energy Burden and High Energy Consumption.

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application periods, etc.

Subrecipients use a rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household’s income. Households with the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children do not have a limit on the number of benefit payments, but adhere to the same benefit amounts. The maximum benefit amount is determined per-program year based on Household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

**Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need
  - Fuel type
  - Climate/region
  - Individual bill
  - Dwelling type
  - Energy burden (% of income spent on home energy)
  - Energy need
  - Other (describe)

**Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)**

3.6 Describe benefit levels:

\$1 Minimum benefit \$~~12,38,200~~ Maximum benefit

Note:

The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount. The maximum benefit amount per household is \$12,300 per program year and could be reached if a household received up to \$2,400 in Crisis Assistance, \$2,400 in Utility Assistance, and a \$7,500 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. The initial assistance payment that would include arrears does not count towards the annual benefit caps for a household.

Households are eligible for up to \$2,400 under Utility Assistance Component and up to \$2,400 under Crisis Assistance Component. The level of assistance is dependent on Household income and meeting CEAP program eligibility requirements. The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$2,400 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$2,300 per Component; incomes 76%-150% FPIG up to \$2,200 per Component; and up to \$7,500 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$12,300.

Non-vulnerable population households with inoperable heating and cooling units may be eligible for an additional \$7,500 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$7,500. All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

All households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

~~Households are eligible for up to \$1,600 under Utility Assistance Component and up to \$1,600 under Crisis Assistance Component dependent on Household income and meeting eligibility requirements. Non-vulnerable population households may be eligible for an additional \$5,000 for service and repair of existing heating and cooling units when the Household meets crisis conditions. Vulnerable Population Households with an inoperable heating and cooling unit, regardless of crisis conditions, that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a life threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).~~

~~If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component or Crisis Assistance Component, depending on whether the Household is Vulnerable or Non-Vulnerable. Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.~~

~~The State of Texas does not have a minimum benefit amount. The amount of benefit/assistance indicates \$1.00, because the OLDC system requires that a figure be inserted in the minimum amount.~~

~~The amount of benefit/assistance that an applicant is eligible for is based on their level of household income. Households with incomes at 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$1,600 for the Utility Assistance Component and the Crisis Assistance Component; Households with incomes at 51%-75% FPIG have a maximum of \$1,500 per Component; Households with incomes 76%-150% FPIG have a maximum of \$1,400 per Component; and there is a maximum of up to \$5,000 for Service and Repair of heating and cooling units. The maximum total eligible assistance is \$8,200.~~

~~The maximum benefit amount per household is \$8,200 per program year and could be reached if a Household received up to \$1,600 in Crisis Assistance, \$1,600 in Utility Assistance, and a \$5,000 repair or replacement of a heating or cooling unit or crisis-related purchase of portable heating and cooling units. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed \$5,000. All Households experiencing a life-threatening crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).~~

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2. Annual cap on repairs or replacement of inoperable heating systems were increased from \$5,000 to \$7,500. Combined with Flexibility #1, maximum total eligible assistance per Household is \$13,900.
3. The initial assistance payment that would include arrears will not count towards the annual benefit caps for a household. The billing cycle(s) that include the increased utility costs associated with Winter Storm Uri will not count towards the annual benefit caps for a household.
4. Service and repair of heating units was expanded from only being an allowable activity for Vulnerable Households to also being allowable for Non-Vulnerable Households.

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

Yes  No -- If yes, describe.

Non-vulnerable Households may receive service and repair of existing heating and cooling units not to exceed ~~\$7,55,000~~ if the Household is experiencing crisis conditions. Vulnerable Households that include at least one member that is Elderly, Disabled, or a Child age 5 or younger, may receive service and repair of existing heating and cooling units not to exceed ~~\$7,55,000~~. All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or

other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310 (c), which include blankets, fans, air conditioners, and generators.

**Section 4: CRISIS ASSISTANCE**

**Eligibility - 2604(c), 2605(c)(1)(A)**

4.1 Designate the income eligibility threshold used for the crisis component:

#	Household Size	Eligibility Guidelines	Eligibility Threshold
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>12</sup>

4.2 Provide your LIHEAP program’s definition for determining a crisis.

Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions):

- (1) Extreme Weather Conditions, with assistance provided within 48 hours;
- (2) Disaster, with assistance provided within 48 hours; or
- (3) Life Threatening Crisis, with assistance provided within 18 hours.

4.3 What constitutes a life-threatening crisis?

A Life Threatening Crisis exists when the life of at least one person in the applicant Household who is a U.S. Citizen, U.S. National, or a Qualified Alien would likely, in the opinion of a reasonable person, be endangered if utility assistance or heating and cooling assistance is not provided due to a Household member who needs electricity for life-sustaining equipment or whose medical professional has prescribed that the person with a medical condition requires that the ambient air temperature be maintained at a certain temperature. Examples of life-sustaining equipment include, but are not limited to, kidney dialysis machines, oxygen concentrators, and cardiac monitors. Documentation must not be requested about the medical condition of the applicant, but the applicant must state that such a device is required in the Dwelling Unit to sustain life.

**Crisis Requirements, 2604(c)**

4.4 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households? 48 Hours

4.5 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours<sup>13</sup>

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<sup>12</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas may use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. Texas will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

<sup>13</sup> Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides “some form of assistance that will resolve the energy crisis” not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

**Crisis Eligibility, 2605(c)(1)(A)?**

4.6 Do you have additional eligibility requirements for **CRISIS ASSISTANCE**

Yes  No

4.7 Check the appropriate boxes below and describe the policies for each.

- |  | Yes                                 | No                                  |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to:  |                                     |                                     |
| ● Elderly?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Disabled?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Young children?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Households with high energy burdens?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?<br>Households with high energy consumption  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● In order to receive crisis assistance: <sup>14</sup>   |                                     |                                     |
| ● Must the household have received a shut-off notice or have a near empty tank?  | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Must the household have been shut off or have an empty tank?   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Must the household have exhausted their regular heating benefit?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must renters with heating costs included in their rent have received an eviction notice?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must heating/cooling be medically necessary?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Must the household have non-working heating or cooling equipment?  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| ● Other?   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| Explanation for Other: Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the following conditions, as defined in 10 TAC §6.301 (relating to Background and Definitions): |                                     |                                     |
| (1) Extreme Weather Conditions, with assistance provided within 48 hours;  |                                     |                                     |
| (2) Disaster, with assistance provided within 48 hours; or   |                                     |                                     |
| (3) Life Threatening Crisis, with assistance provided within 18 hours.   |                                     |                                     |
| ● Do you have additional/differing eligibility policies for:   |                                     |                                     |
| ● Renters?   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing?  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? <sup>15</sup>   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

<sup>14</sup> The program has different requirements depending on whether the household contains a member of a priority group.

<sup>15</sup> Per 10 TAC §6.309(h)(8), Subrecipient may make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating household of the amount of assistance paid on its

## Determination of Benefits

4.8 How do you handle crisis situations?

Separate component

Fast Track

Other

4.9 If you have a separate component, how do you determine crisis assistance benefits?

Amount to resolve crisis, up to a maximum of \$12,3600

Other  
Heating and cooling equipment repair or replace up to \$7,5000

## Crisis Requirements, 2604(c)

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

Yes  No

Explain: In addition to what is already stated in Section 2604(c)(3) regarding the requirement that each subrecipient accept applications at sites that are geographically accessible to all Households in the area to be served, 10 TAC §6.313(c) states "Subrecipient shall handle Reasonable Accommodation requests, in accordance with §1.204 of this title (relating to Reasonable Accommodations)." 10 TAC §1.204 (b) General Considerations in Handling of Reasonable Accommodations. An applicant, participant, or occupant who has a disability may request an accommodation and, depending on the program funding the property or activity and whether the accommodation requested is a reasonable accommodation, their request must be timely addressed."

4.11 Do you provide individuals who have physical disabilities the means to:

■ Submit applications for crisis benefits without leaving their homes?

Yes  No If no, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant's home to take the application.

■ Travel to the sites at which applications for crisis assistance are accepted?

Yes  No If yes, explain.

If you answered "No" to both questions 4.11, please explain alternative means of intake to those who are homebound or physically disabled.

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behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from client's rent.

## Benefit Levels, 2605(c)(1)(B)

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis      \$ 0 maximum benefit

Summer Crisis      \$ 0 maximum benefit

Year-round Crisis      \$ 2,41,600 maximum benefit

4.13 Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits?

Yes  No If yes, describe.

~~Non-Vulnerable Households may receive service and repair of existing heating and cooling units not to exceed \$5,000 if the Household is experiencing crisis conditions.~~

~~If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient can replace the component(s) in order to repair the heating or cooling system. If any components of the heating and cooling unit, or heating and cooling system cannot be repaired with parts, Subrecipients can replace the heating or cooling unit, components or heating and cooling system under the Utility Assistance Component for Vulnerable Households or Crisis Assistance Component for Non-Vulnerable Households, depending on whether the Household is Vulnerable or Non-Vulnerable.~~ Where replacement is required, the subrecipient should prioritize the use of Energy Star heating and/or cooling units, and that the units are appropriately sized using standard Manual J procedures.

LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c).

All Households experiencing a Life-Threatening Crisis may be eligible to receive portable air conditioning/evaporative coolers and heating units (portable electric heaters are allowable only as a last resort).

Eligible Households may receive temporary shelter not to exceed the annual household expenditure limit for the duration of the contract period in the limited instances when natural disasters result in energy supply shortages or other energy-related emergencies. Eligible Households may receive emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price. This benefit may include coverage for tank pressure testing. When natural disasters result in energy supply shortages or other energy-related emergencies, LIHEAP will allow home energy related expenditures as described in 10 TAC §6.310(c), which include blankets, fans, air conditioners, and generators.

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2. Annual cap on repairs or replacement of inoperable heating systems were increased from \$5,000 to \$7,500. Combined with Flexibility #1, maximum total eligible assistance per Household is \$13,900.



3. The initial assistance payment that would include arrears will not count towards the annual benefit caps for a household. The billing cycle(s) that include the increased utility costs associated with Winter Storm Uri will not count towards the annual benefit caps for a household.
4. Service and repair of heating units was expanded from only being an allowable activity for Vulnerable Households to also being allowable for Non-Vulnerable Households.

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes  No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

Type of Assistance	Winter Crisis	Summer Crisis	Year-round Crisis
Heating system repair			X
Heating system replacement (only components of a central HVAC system)			X
Cooling system repair			X
Cooling system replacement (only components of a central HVAC system)			X
Wood stove purchase			
Pellet stove purchase			
Solar panel(s)			
Utility poles / Gas line hook-ups			
Other (Specify): For Households which include a member of a Vulnerable Population, service and repair or purchase of portable heating and cooling units can be provided if a system is non-existent up to \$7,500. For Households who do not have a member of a Vulnerable Population, such assistance is limited to times when <u>a crisis exists as defined in 10 TAC §6.310(a)</u> <del>the county is experiencing Extreme Weather Conditions.</del>			X

4.16 Do any of the utility vendors you work with enforce a winter moratorium on shut offs? If you respond "Yes" to question 4.16, you must respond to question 4.17.  Yes  No

4.17 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Specific to energy assistance clients, §25.483(i) of the Texas Public Utilities Commission rules provides that a Retail Electric Provider (REP) shall not authorize a disconnection for nonpayment of electric service to a delinquent residential customer for a billing period in which the REP receives a pledge, letter

of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue service provided that such pledge, letter of intent, purchase order, or other notification is received by the due date stated on the disconnection notice, and the customer, by the due date on the disconnection notice, either pays or makes payment arrangements to pay any outstanding debt not covered by the energy assistance provider. Additionally, the rule provides that if an energy assistance provider has requested monthly usage data pursuant to §25.472(b)(4) (relating to Privacy of Customer Information), the REP shall extend the final due date on the disconnection notice, day for day, from the date the usage data was requested until it is provided; and that a REP shall allow at least 45 days for an energy assistance provider to honor a pledge, letter of intent, purchase order, or other notification before submitting the disconnection request to the TDU.

There are protections for several other categories of clients and situations applicable to LIHEAP clients served:

§25.483(g) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent Critical Care Residential Customer when that customer establishes that disconnection of service will cause some person at that residence to become seriously ill or more seriously ill.

§25.483(h) provides that a REP shall not authorize a disconnection for nonpayment of electric service at a permanent, individually metered dwelling unit of a delinquent customer when that customer has been designated as a Chronic Condition Residential Customer pursuant to 25.497 with noted rule exceptions.

§25.483(j) provides that a REP shall not authorize a disconnection for nonpayment of electric service for any customer in a county in which an extreme weather emergency occurs. A REP shall offer residential customers a deferred payment plan upon request by the customer that complies with the requirements of 25.480 (relating to Bill Payment and Adjustments) for bills that become due during the weather emergency. The term “extreme weather emergency” shall mean a day when:

(A) the previous day’s highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours anywhere in the county, according to the nearest National Weather Service (NWS) reports; or

(B) the NWS issues a heat advisory for a county, or when such advisory has been issued on any one of the preceding two calendar days in a county.

## **Section 5: WEATHERIZATION ASSISTANCE**

### **Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2**

5.1 Designate the income eligibility threshold used for the weatherization component:

<b>#</b>	<b>Household Size</b>	<b>Eligibility Guidelines</b>	<b>Eligibility Threshold</b>
1	All Household Sizes	USHHS Poverty Guidelines	150%
2	All Household Sizes	State Median Income	60% <sup>16</sup>

<sup>16</sup> In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, Texas will use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). Texas may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. TDHCA will communicate this designation to affected Subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component?**  Yes  No

5.3 If yes, name the agency. N/A

5.4 Is there a separate monitoring protocol for weatherization?  Yes  No

### **WEATHERIZATION - Types of Rules**

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

Entirely under LIHEAP (not DOE) rules

Entirely under DOE WAP (not LIHEAP) rules

Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

Income Threshold

Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.

Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities).

Other (describe): Adhere to [language from the Energy Act of 2020, that Paragraph \(2\) of Section 415\(c\) of the Energy Conservation and Production Act \(42 USC 6865\(c\)\) ~~DOE WAP regulation 10 CFR Section 440.18\(f\)\(2\) is amended to reflect that a dwelling unit may be re-weatherized if it is 15 years or more since the previous weatherization.~~ regarding re-weatherization](#) 10 TAC Part 1, Chapter 6, Subchapter D, Weatherization Assistance Program, is one area where the LIHEAP funded weatherization program adheres to DOE regulations. TDHCA uses a priority list for LIHEAP households at 150% or below USHHS poverty income level. Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization. If LIHEAP funds are included in a DOE unit, the SIR/audit must be used to justify all measures.

Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

Income Threshold.

Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.

- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)

**Eligibility, 2605(b)(5) – Assurance 5**

5.6 Do you require an assets test? Yes No

5.7 Do you have additional/differing eligibility policies for:

- Renters?
- Renters living in subsidized housing?

5.8 Do you give priority in eligibility to:

- Elderly?
- Disabled?
- Young children?
- Households with high energy burdens?
- Other?

Explanation: Households with high energy consumption

**Benefit Levels**

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?

5.10 If yes, what is the maximum amount? \$118,000

NOTE: unless additional expenditure is authorized in writing by the Department. **Types of Assistance, 2605(c)(1), (B) & (D)**

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

Weatherization needs/assessments/audits

Caulking and insulation

Storm windows

Furnace/heating system modifications/repairs

Furnace replacement

Cooling system modifications/repairs

Water conservation measures

Compact fluorescent light bulbs

Energy related roof repair

Major appliance repairs

Major appliance replacement

Windows/sliding glass doors

Doors

Water Heater

Cooling system replacement

Other (describe)

Solar screens or window film. Smart thermostats, miscellaneous repairs up to \$500 for structural and ancillary only if required to enable effective weatherization; Window screens to help prevent exposure to the Zika virus for Households with pregnant women.

If any of the questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.

**Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)**

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.

Publish articles in local newspapers or broadcast media announcements.

Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.

Mass mailing(s) to prior-year LIHEAP recipients.

Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.

Execute interagency agreements with other low-income program offices to perform outreach to target groups.

Other (specify):

**Section 7: Coordination, 2605(b)(4) – Assurance 4**

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

- Joint application for multiple programs
- Intake referrals to/from other programs
- One-stop intake centers
- Other – describe:

**Section 8: Agency Designation, 2605(b)(6) – Assurance 6**

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency
- Welfare Agency
- Other – describe:

**Alternate Outreach and Intake, 2605(b)(15) – Assurance 15**

8.2 How do you provide alternate outreach and intake for **HEATING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

8.3 How do you provide alternate outreach and intake for **COOLING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

8.4 How do you provide alternate outreach and intake for **CRISIS ASSISTANCE**?

In instances of natural disaster, subrecipients coordinate with other assistance organizations (shelters, Red Cross, etc.). Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), and presentation at area events.

<b>Question 8.5</b>	<b>Heating</b>	<b>Cooling</b>	<b>Crisis</b>	<b>Weatherization</b>
8.5a. Who determines client eligibility?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Non-profits

8.5b. Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments , CAAs and Other Nonprofits	N/A
8.5c. Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments , CAAs and Other Nonprofits	N/A
8.5d. Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Nonprofits-most subcontract with local contractors

Note for 8.5: In the USHHS-OLDC system where the State Plan is entered, it only allows states to select one type of entity. The Department will select Nonprofits; although we will also contract with Units of government and CAAs.

#### 8.6 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

Currently, the Department administers all aspects of program delivery through subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and Department rules. If subrecipients are successfully administering the program, the Department may offer to renew the contract.

Under this model, if the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if a subrecipient fails to administer the program correctly, the Department will proceed with the process provided for in Department rules of removing funds and reassign the service area or a portion to another existing subrecipient or conduct solicitation or selection of a new subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected subrecipient may request a hearing in accordance with §2105.204 of the Texas Government Code.

However, the Department retains the right to go through a procurement process for some or all aspects of the LIHEAP program.

8.7 How many local administering agencies do you use? 37 (The Department may use a temporary provider(s) or may select a permanent provider(s) to administer the CEAP Program in Galveston, Fort Bend, Wharton, and Brazoria counties)

8.8 Have you changed any local administering agencies from last year?   Yes   No

8.9 If so, why?

- Agency was in noncompliance with grantee requirements for LIHEAP
- Agency is under criminal investigation
- Added agency
- Agency closed
- Other – describe – voluntary relinquishment



## Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7

9.1 Do you make payments directly to home energy suppliers?

Heating  Yes  No

Cooling  Yes  No

Crisis  Yes  No

Are there exceptions?  Yes  No

If yes, describe:

9.2 How do you notify the client of the amount of assistance paid?

The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. The Department provides subrecipients with a Department approved Vendor Agreements to utilize. The document can be found at the Department's website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor Agreements are used in all components. The Department provides subrecipients with a Department approved Vendor Agreement to utilize. The document can be found at the Department's website at <https://www.tdhca.state.tx.us/community-affairs/ceap/guidance.htm>

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households?  Yes  No. If so, describe the measures unregulated vendors may take.

## Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10

10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?

1. Review annual audits
2. Monitor fiscal records
3. Review current and prior year monthly expenditure and performance reports

### Audit Process

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133?  Yes  No

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding <sup>17</sup>	Type	Brief Summary	Resolved?	Action Taken
<u>LIHEAP Performance Data Form discrepancies</u>	<u>Reporting</u>	<u>Certain line items reported did not agree to the supporting schedules for the amounts reported in Schedule 2</u>	<u>Yes</u>	<u>Several upgrades to the automated system have been made. The Department is still working to resolve the finding.</u>

10.4. Audits of Local Administering Agencies

What types of annual audit requirements do you have in place for local administering agencies/district offices?

Local agencies/district offices are required to have an annual audit in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).<sup>18</sup>

Local agencies/district offices are required to have an annual audit (other than 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)).

10.4 (continued)

Local agencies/district offices 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) or other independent audits are reviewed by Grantee as part of compliance process.

Grantee conducts fiscal and program monitoring of local agencies/district offices.

### Compliance Monitoring

10.5. Describe the Grantee’s strategies for monitoring compliance with the Grantee’s and Federal LIHEAP policies and procedures by:

Grantee employees:

Internal program review

Departmental oversight

Secondary review of invoices and payments

Other program review mechanisms are in place. Describe: Cross Division peer review of documents

<sup>18</sup> For 2022-19, Subrecipients will follow the audit requirements in 45 CFR 75 Subpart F, as applicable, and the requirements in the Texas Single Audit Act.

Local Administering Agencies/District Offices:

- On-site evaluation
- Annual program review
- Monitoring through Central Database
- Desk reviews
- Client File Testing/Sampling
- Other program review mechanisms are in place. Describe: Desk review of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); A review of the Subrecipient’s resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

- 10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.  
See attached monitoring schedule and monitoring instruments.

Describe how you select local agencies for monitoring reviews?

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews. ~~Selection of contracts for monitoring is primarily based on risk assessment.~~ LIHEAP subrecipients are monitored at least once every three years. This is a component of the risk assessment score. If a subrecipient also has Community Service Block Grant funds, the LIHEAP monitoring may be done at the same time. Subrecipients that leverage LIHEAP funds with DOE funds for weatherization are subject to a programmatic, fiscal, and unit inspection review according to the DOE monitoring schedule (once a year). Contracts may also be selected for monitoring based on other factors, such as prior monitoring findings, issues noted in the Single Audit, complaints, and/or special requests.

- 10.7. Site Visits: Onsite monitoring visits are conducted at least once every three years. The Department will inspect a minimum of 5% of all LIHEAP weatherized units reported as complete.  
Desk Reviews: Some materials are requested and reviewed at the Department’s office prior to the onsite visit.

- 10.8. How often is each local agency monitored? At least once every three years.

- 10.9. What is the combined error rate for eligibility determinations? (Optional question) Optional

- 10.10. What is the combined error rate for benefit determinations? (Optional question)  
Optional

- 10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) -0

- 10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) -0

**Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)**

- 11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other, describe:

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

Increased annual caps on benefit levels and on repairs or replacement of inoperable cooling and heating systems.

Changed the variables to determine benefit levels in Sections 2.5 and 3.5 to include only income and Household size.

TBD

**Public Hearings, 2605(a)(2)**

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
<p><del>Wednesday, May 27, 2020 from 2:00 – 2:30 p.m.</del>  <u>Wednesday, May 12, 2021, 2:00 p.m. virtual meeting</u></p>	<p>Virtual Hearing via GoTo<del>Webinar</del><del>Webinar</del> due to COVID-19  <a href="https://global.gotowebinar.com/join/7383217695375202320/94910646">https://global.gotowebinar.com/join/7383217695375202320/94910646</a>  <b>You can also dial in using your phone.</b>  <u>United States: +1 (562) 247-8422 (Persons using the dial in number and access code without registering online will only be able to hear the hearing and will not be able to provide comment)</u>  <b>Access Code: 267-578-547</b></p> <p><del>To Register:</del>  <del>Dial in number: +1 (415) 930-5321, access code 351-573-674</del>  <del>(Persons who use the dial in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments.)</del></p>
<p><del>Wednesday, May 27, 2020 from 5:15 – 5:45 p.m.</del>  <u>FridThursd ay, May 13, 2021, 6:00 p.m. virtual meeting</u></p>	<p>Virtual Hearing via GoToWebinar due to COVID-19  <a href="https://global.gotowebinar.com/join/1364361302557537552/596155856">https://global.gotowebinar.com/join/1364361302557537552/596155856</a>  <b>You can also dial in using your phone.</b>  <u>United States: +1 (415) 655-0052 (Persons using the dial in number and access code without registering online will only be able to hear the hearing and will not be able to provide comment)</u>  <b>Access Code: 990-433-162</b></p>

~~To Register:  
Dial in number: +1 (562) 247-8321, access code 210-536-015  
(Persons who use the dial in number and access code without registering online will only be able to hear the public hearing and will not be able to ask questions or provide comments.)~~

11.4 How many parties commented on your plan at the hearing(s)? **TBD**

11.5 Summarize the comments you received at the hearing(s).

**TBD**

### General Comments

COMMENT SUMMARY: **TBD**

11.6 What changes did you make to your LIHEAP plan as a result of the comments received at the public hearing(s)?

**TBD**

### Section 12: Fair Hearings, 2605(b)(13) – Assurance 13

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?  
None

12.2 How many of those fair hearings resulted in the initial decision being reversed? N/A

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings? None

12.4 Describe your fair hearing procedures for **households whose applications are denied**.  
Subrecipient contracts include the following section:

### APPEALS PROCESS

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner. Subrecipient must establish a denial of service complaint procedure in accordance with 10 TAC §6.8 of the State Rules. The rule states:

(b) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/customers. At a minimum, the procedures described in paragraphs (b)(1) - (8) of this subsection shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The

applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) A Subrecipient must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.

(3) Subrecipients shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within ten (10) business days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven (7) calendar days before the appeal hearing.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing.

(c) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(d) Applicants/customers who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Tex. Gov't Code, Chapter 2001.

(e) The hearing under subsection (d) shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient, for which the procedures are further described in §1.13, relating to Contested Case Hearing Procedures, of this title.

(f) If the applicant/customer appeals to the Department, the funds should remain encumbered until the Department completes its decision.

12.5 When and how are applicants informed of these rights?

Within ten days of the determination, the subrecipient must provide written notification to the applicant.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

An Applicant requests a hearing with the Subrecipient initially. If not satisfied with the results of the Subrecipient's hearing, the Applicant then appeals to the Texas Department of Housing and Community Affairs. The Department then schedules a fair administrative hearing.

12.7 When and how are applicants informed of these rights?

Applicants are informed of their rights either by 1) informing them on the application itself, 2) handing them a document with such information at the time of application, 3) displaying posters at intake

offices, or 4) providing them the information in the denial of LIHEAP assistance letter that is mailed to the applicant.

**Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16**

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?

N/A- The State does not use funds under Assurance 16.

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?

NA-The State does not use funds under Assurance 16.

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

NA-The State does not use funds under Assurance 16.

13.5 How many households applied for these services?

NA-The State does not use funds under Assurance 16.

13.6 How many households received these services?

NA-The State does not use funds under Assurance 16.

**Section 14: Leveraging Incentive Program, 2607A**

14.1 Do you plan to submit an application for the leveraging incentive program?

Yes       No

14.2 Describe instructions to any third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records.      NA

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

Resource	What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with LIHEAP?
NA	NA	NA	NA

**Section 15: Training**

15.1 Describe the training you provide for each of the following groups:

a. Grantee Staff:

- Formal training on grantee policies and procedures

How often?

- Annually  
 Biannually  
 As needed  
 Other – Describe:

- Employees are provided with policy manual

- Other – Describe:

Employees are provided with all the information necessary to administer the LIHEAPa notebook with plans, rules, the contract, and budget. The Department training team provides grantee-its new staff with programmatic orientation training. ~~New staff are provided an orientation training,~~ and are invited to attend-observe and participate in Subrecipient trainings as well.

b. Local Agencies:

- Formal training conference

How often?

- Annually  
 Biannually  
 As needed  
 Other – Describe: The Department offers a manager training for newly hired managers or Executive Directors, as needed, which is then followed up with individualized technical assistance. The Department conducts-hosts meetings and training events on an as needed basis with quarterly network calls and/or webinars to update Subrecipients on-to conduct necessary training and/or make announcementschanges. ~~The Department provides~~The Department collaborates with the Texas Association of Community Action Agencies to coordinate training for Subrecipients. -training-Training for Subrecipients occurs at an annual conference which is sponsored by the Texas Association of Community Action Agencies each year. The Department provides Energy Audit training to agencies as needed, along with Department posted Energy Audit Student Guide and Best Practices on its website. The Department provides a template for developing the Annual Service Delivery Plan and a guide for developing it. The Department develops data tools and trains agencies as needed on how to analyze their data to improve efficiency and productivity. Email communication is the best and primary means with which the Department trains, assists, and communicates with LIHEAP Subrecipients.

- On-site training

How often?

- Annually  
 Biannually  
 As needed  
 Other –

The Department identifies key areas for training needs based upon monitor reports and Subrecipient requests. The Department provides on-site training as needed to



individual agencies or through regional trainings on a variety of topics such as: process mapping, production, data analysis, intake, client file documentation, weatherization assessments, audits, final inspections, working with contractors, ~~and~~ reporting, and technical assistance for service delivery.

- Employees are provided with policy manual
- Other – Describe: The Department uses an online portal (i.e., Wufoo) that agencies use daily for quick responses to questions or for requesting training. As needed, ~~the~~ Department schedules ~~a webinar meetings each quarter~~ to provide information, training, and technical assistance to the local agencies. Email communication is the best and primary means with which the Department trains, assists, and communicates with LIHEAP Subrecipients. The Department hosts an additional weatherization quarterly webinar to provide updates on rules, regulations, and technical issues that are identified. The Department creates tools, guides, best practices, and FAQs that are posted on program webpages.

c. Vendors

- Formal training conference
  - How often?
  - Annually
  - Biannually
  - As needed
  - Other – Describe:
- Policies communicated through vendor agreements
- Policies are outlined in a vendor manual
- Other – Describe:

15.2 Does your training program address fraud reporting and prevention?

- Yes       No

**Section 16: Performance Goals and Measures, 2605(b)**

16.1 Describe your progress toward meeting the data collection and reporting requirements of the four required LIHEAP performance measures. Include timeframes and plans for meeting these requirements and what you believe will be accomplished in the coming federal fiscal year.

The Department was able to meet the four LIHEAP performance measures.

The Department currently requires subrecipients to upload data related to the four performance measures into our State reporting system. The Department has made this reporting a contractual requirement for all LIHEAP subrecipients. The Department periodically reviews uploaded summary reports and offers technical assistance to subrecipients who may not understand what to report or may not upload the data in a timely fashion.

**Section 17: Program Integrity, 2605(b)(10)**

17.1 Fraud Reporting Mechanisms

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse. Select all that apply.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

Note: TDHCA’s website has a webpage named “Report Fraud, Waste, and Abuse by TDHCA Management and Staff” directing persons who suspect fraud, waste, and abuse by TDHCA management and staff to report to the State Auditor’s Office at <https://sao.fraud.texas.gov/ReportFraud/>. Subrecipients are required to establish fraud, waste, and abuse procedures.

17.1 (continued)

b. Describe strategies in place for advertising the above-referenced resources. Select all that apply.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

17.2 Identification Documentation Requirements

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*
Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>	Required <input checked="" type="checkbox"/>

Government-issued identification card (e.g.,: driver's license, state ID, Tribal ID, passport, etc.)	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
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#	Other	Applicant Only Required	Applicant Only Requested	All Adults in Household Required	All Adults in Household Requested	All Household Members Required	All Household Members Requested
1	Other: clients provide identification to the subrecipients at the time of application. See attachment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

\*Households may include members who are not seeking assistance and may not be included in the household count. A live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household.

b. Describe any exceptions to the above policies: NA

### 17.3 Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members. Select all that apply.

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff (for tribal grantees only)
- Match SSN/Tribal ID number with tribal database or enrollment records (for tribal grantees only)
- Other – describe:

Subrecipients verify the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (SAVE) system.

### 17.4 Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients' submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status
- Citizens must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe: U.S. Nationals will have to provide documentation of that status.

17.5 Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members
  - Pay stubs
  - Social Security award letters
  - Bank statements
  - Tax statements
  - Zero-income statements
  - Unemployment Insurance letters
  - Other – describe: Court Documents or government benefit statements as applicable.
- Computer data matches:
  - Income information matched against state computer system (e.g., SNAP, TANF)
  - Proof of unemployment benefits verified with state Department of Labor
  - Social Security income verified with SSA
  - Utilize state directory of new hires
- Other – describe:

17.6 Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
  - Grantee employees
  - local agencies/district offices
- Employees must sign confidentiality agreement
  - Grantee employees
  - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe: Grantee contracts include the following section:

**RECORD KEEPING REQUIREMENTS**

Subrecipient acknowledges that all information collected, assembled, or maintained by subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

**Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.409 requires that:**

(a) Client Records including Multifamily Development Owners. The Department requires subrecipient organizations to document client services and assistance. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization

policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

(b) Records of client eligibility must be retained for five (5) years starting from the date the Household activity is completed, unless otherwise provided in federal regulations governing the program.

(c) Other records must be maintained as described in the Contract or the LURA, and in accordance with federal or state law for the programs described in the Chapters of this Part.

### 17.7 Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State/Tribe
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

### 17.8 Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
  - Account ownership
  - Consumption
  - Balances
  - Payment history
  - Account is properly credited with benefit
  - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

### 17.9 Benefits Policy – Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors? Select all that apply.

- Vendors are checked against an approved vendors list
- Centralized computer system/database is used to track payments to all vendors
- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor

- Direct payment to households are made in limited cases only
- Vendors are only paid once they provide a delivery receipt signed by the client
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

#### 17.10 Investigations and Prosecutions

Describe the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient may be referred to the Department's Enforcement Committee or proposed for debarment.

## **Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions**

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

#### Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used



in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

#### **Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 19: Certification Regarding Drug-Free Workforce Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

### Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

*Controlled substance* means a controlled substance in Schedules I through V of the Controlled

Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

*Conviction* means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

*Criminal drug statute* means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

*Employee* means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of Subrecipients or subcontractors in covered workplaces).

## Certification Regarding Drug-Free Workplace Requirements

### Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;  
(2) The grantee's policy of maintaining a drug-free workplace;  
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and  
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --  
(1) Abide by the terms of the statement; and  
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

221 East 11<sup>th</sup> Street

Austin, Travis County, Texas, 78701

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

## Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

## **REQUIRED ATTACHMENTS**

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix. (Attachment 3)
- Cooling component benefit matrix. (Attachment 3)
- Local Agency Monitoring Schedule (Attachment 4)

## Attachment 3

### Benefit Matrix

Program rules found at 10 Texas Administrative Code, §6.309(e):

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=10&pt=1&ch=6&rl=309](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=6&rl=309) . .

All benefits are determined based on a sliding scale.

(e) Benefit determinations for the Utility Assistance Component and the Crisis Assistance Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection:

- (1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed ~~\$2,41,600~~ per Component;
- (2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed ~~\$2,31,500~~ per Component; and
- (3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed ~~\$2,21,400~~ per Component; and

(f) Service and Repair of existing heating and cooling units: Households may receive up to ~~\$7,55,000~~ for service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system based on requirements in §6.310 ~~and §6.311, relating to Crisis Assistance Component.~~

WINTER STORM URI Exception. Responding to the needs of low-income Texans impacted by this weather disaster which occurred February 2021, the Department is granting the following flexibilities to subrecipients in the administration of LIHEAP assistance for 2021 funds obligated by September 30, 2021, through December 31, 2021:

1. Households with incomes 0-50% of Federal Poverty Income Guidelines (FPIG) have a maximum of \$3,200 for the Utility Assistance Component and the Crisis Assistance Component, incomes at 51%-75% FPIG up to \$3,000 per Component, incomes 76%-150% FPIG up to \$2,800 per Component. Combined with Flexibility #2, maximum total eligible assistance per Household is \$13,900.
2. Annual cap on repairs or replacement of inoperable heating systems were increased from \$5,000 to \$7,500. Combined with Flexibility #1, maximum total eligible assistance per Household is \$13,900.
3. The initial assistance payment that would include arrears will not count towards the annual benefit caps for a household. The billing cycle(s) that include the increased utility costs associated with Winter Storm Uri will not count towards the annual benefit caps for a household.
4. Service and repair of heating units was expanded from only being an allowable activity for Vulnerable Households to also being allowable for Non-Vulnerable Households.

**Attachment 4**  
**Monitoring Schedule for FY 2022**

	<b>SUBRECIPIENT</b>	<b>REVIEW TYPE</b>	<b>Date of Next Monitoring Review</b>	<b>DATE OF LAST FULL ONSITE REVIEW (IF APPLICABLE)</b>
<u>1</u>	<u>Alamo Area Council of Governments</u>	<u>On-Site</u>	<u>2021</u>	<u>October 2020</u>
<u>2</u>	<u>Aspermont Small Business Development Center, Inc.</u>	<u>On-Site</u>	<u>2022</u>	<u>November 2019</u>
<u>3</u>	<u>BakerRipley</u>	<u>On-Site</u>	<u>2021</u>	<u>November 2020</u>
<u>4</u>	<u>Bexar County Community and Development Programs</u>	<u>On-Site</u>	<u>2022</u>	<u>January 2020</u>
<u>5</u>	<u>Big Bend Community Action Committee, Inc.</u>	<u>On-Site</u>	<u>2021</u>	<u>August 2020</u>
<u>6</u>	<u>Brazos Valley Community Action Programs</u>	<u>On-Site</u>	<u>2022</u>	<u>March 2020</u>
<u>7</u>	<u>Cornerstone Community Action Agency</u>	<u>On-Site</u>	<u>2023</u>	<u>September 2020</u>
<u>8</u>	<u>City of Fort Worth Neighborhood Services Department</u>	<u>On-Site</u>	<u>2022</u>	<u>February 2021</u>
<u>9</u>	<u>City of Lubbock Community Development Department</u>	<u>On-Site</u>	<u>2021</u>	<u>February 2019</u>
<u>10</u>	<u>Combined Community Action, Inc.</u>	<u>On-Site</u>	<u>2022</u>	<u>November 2019</u>
<u>11</u>	<u>Community Action Committee of Victoria, Texas</u>	<u>On-Site</u>	<u>2022</u>	<u>Septmber 2019</u>
<u>12</u>	<u>Community Action Corporation of South Texas</u>	<u>On-Site</u>	<u>2021</u>	<u>January 2021</u>
<u>13</u>	<u>Community Action Inc. of Central Texas</u>	<u>On-Site</u>	<u>2022</u>	<u>October 2018</u>
<u>14</u>	<u>Community Council of South Central Texas, Inc.</u>	<u>On-Site</u>	<u>2021</u>	<u>October 2020</u>
<u>15</u>	<u>Community Services Northeast Texas, Inc.</u>	<u>On-Site</u>	<u>2023</u>	<u>May 2018</u>
<u>16</u>	<u>Concho Valley Community Action Agency</u>	<u>On-Site</u>	<u>2022</u>	<u>January 2020</u>
<u>17</u>	<u>County of Hidalgo Community Services Agency</u>	<u>On-Site</u>	<u>2023</u>	<u>December 2018</u>
<u>18</u>	<u>Dallas County Health and Human Services</u>	<u>On-Site</u>	<u>2022</u>	<u>September 2020</u>
<u>19</u>	<u>Economic Action Committee of the Gulf Coast</u>	<u>On-Site</u>	<u>2022</u>	<u>January 2020</u>
<u>20</u>	<u>Economic Opportunities Advancement Corporation of Planning Region XI</u>	<u>On-Site</u>	<u>2022</u>	<u>January 2020</u>
<u>21</u>	<u>El Paso Community Action Program-Project BRAVO</u>	<u>On-Site</u>	<u>2022</u>	<u>February 2020</u>
<u>22</u>	<u>Entities serving Brazoria, Fort Bend, Galveston, and Wharton counties</u>	<u>On-Site</u>	<u>2022</u>	<u>March 2019</u>
<u>23</u>	<u>Greater East Texas Community Action Program</u>	<u>On-Site</u>	<u>2021</u>	<u>April 4, 2020</u>
<u>24</u>	<u>Hill Country Community Action Association, Inc.</u>	<u>On-Site</u>	<u>2021</u>	<u>December 2018</u>
<u>25</u>	<u>Kleberg County Human Services</u>	<u>On-Site</u>	<u>2022</u>	<u>November 2019</u>
<u>26</u>	<u>Nueces County Community Action Agency</u>	<u>On-Site</u>	<u>2022</u>	<u>February 2019</u>
<u>27</u>	<u>Panhandle Community Services</u>	<u>On-Site</u>	<u>2022</u>	<u>May 2020</u>
<u>28</u>	<u>Pecos County Community Action Agency</u>	<u>On-Site</u>	<u>2023</u>	<u>January 2021</u>
<u>29</u>	<u>Rolling Plains Management Corporation</u>	<u>On-Site</u>	<u>2021</u>	<u>December 2020</u>
<u>30</u>	<u>South Plains Community Action Association, Inc.</u>	<u>On-Site</u>	<u>2022</u>	<u>April 2018</u>
<u>31</u>	<u>South Texas Development Council</u>	<u>On-Site</u>	<u>2022</u>	<u>January 2021</u>
<u>32</u>	<u>Texas Neighborhood Services</u>	<u>On-Site</u>	<u>2022</u>	<u>May 2019</u>
<u>33</u>	<u>Texoma Council Of Governments</u>	<u>On-Site</u>	<u>2022</u>	<u>August 2019</u>
<u>34</u>	<u>Travis County Health and Human Services</u>	<u>On-Site</u>	<u>2022</u>	<u>August 2020</u>
<u>35</u>	<u>Tri-County Community Action, Inc.</u>	<u>On-Site</u>	<u>2021</u>	<u>November 2018</u>
<u>36</u>	<u>Webb County Community Action Agency</u>	<u>On-Site</u>	<u>2022</u>	<u>December 2019</u>
<u>37</u>	<u>West Texas Opportunities, Inc.</u>	<u>On-Site</u>	<u>2022</u>	<u>July 2020</u>
<u>38</u>	<u>Williamson-Burnet County Opportunities, Inc.</u>	<u>On-Site</u>	<u>2022</u>	<u>April 2019</u>



7b

**BOARD ACTION REQUEST**  
**COMMUNITY AFFAIRS DIVISION**  
**APRIL 8, 2021**

Presentation, discussion and possible action on the programming of Low Income Home Energy Assistance Program funds available to Texas through the American Rescue Plan Act of 2021 and authorization to award such funds and update on administrative flexibilities

**RECOMMENDED ACTION**

**WHEREAS**, on March 11, 2021, the President of the United States signed the American Rescue Plan Act of 2021 into law which provides relief for the continuing effects of the pandemic;

**WHEREAS**, Title II Section 2911 of the Act provides supplemental formula funding in the amount of \$4,500,000,000 to states for making Low Income Home Energy Assistance (LIHEAP) payments under subsection (b) of section 2602 of the Low-Income Home Energy Assistance Act of 1981 to assist eligible low-income households with heating and cooling energy costs;

**WHEREAS**, the Texas Department of Housing and Community Affairs (the Department) is the designated recipient of LIHEAP funding for the State of Texas and is expected to receive a proportional share of the \$4,500,000,000, roughly estimated to be \$234 million, which must be expended by September 30, 2022;

**WHEREAS**, the Department is recommending that 74% of the LIHEAP funding be allocated to the Comprehensive Energy Assistance Program (CEAP) subrecipients to provide heating and cooling assistance to the low-income population in all 254 counties (contingent upon a positive recommendation from EARAC and subject to EARAC Conditions), 25% to be kept in reserve for additional CEAP or LIHEAP Weatherization Assistance Program (WAP) activities, and the remaining 1% for state administration;

**WHEREAS**, responding to the needs of Texans during the pandemic has demanded that the Department take extraordinary measures necessary to ensure the funding is deployed as effectively and fully as possible;

**WHEREAS**, in accordance with U.S. Department of Health and Human Services (USHHS) guidance (i.e., LIHEAP-DCL-2020-07) released on April 1, 2020, and the authority granted to the Executive Director under 10 TAC §1.5, the Department has employed certain disaster flexibilities to address the COVID-19 pandemic which remain in effect until rescinded by the Department; and

**WHEREAS**, there are significant portions of LIHEAP funds from the 2020 CARES Act and the 2021 Consolidated Appropriations Act that have not yet been obligated or expended and other federal funding available for utility assistance;

**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 grant guidance from USHHS on implementation of the American Rescue Plan Act of 2021 LIHEAP funding and to make decisions as they or any of them may deem necessary or advisable to effectuate the foregoing;

**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 this Board to issue and extend flexibilities to Department guidance and 10 TAC Chapter 6 rules necessary in the implementation of the American Rescue Plan Act of 2021 LIHEAP funding;

**FURTHER RESOLVED**, that the Executive Director and his designees each of them be and they hereby are, authorized, empowered, and directed, for and on behalf of this Board, to issue CEAP and LIHEAP WAP contracts for these funds, only upon confirmation of previous participation review by the Compliance Division and subject to a positive recommendation from EARAC and subject to any EARAC conditions, consistent with the policy noted herein; and

**FURTHER RESOLVED**, that in cases where it becomes apparent a subrecipient is unable to expend the Act's LIHEAP funds evidenced by a subrecipient missing one or more contract milestones, the Executive Director or his designee is granted authority to deobligate funds from all or part of any American Rescue Plan Act's LIHEAP budget categories and reobligate such funds to subrecipients showing the highest rate of expenditure to ensure full utilization by September 30, 2022.

### **BACKGROUND**

President Biden on March 11, 2021, signed the American Rescue Plan Act of 2021 into law which provides \$4,500,000,000 in supplemental LIHEAP funding to states to mitigate the continuing effects of the COVID-19 pandemic. Because the Department is designated the recipient of LIHEAP funds for the State of Texas, the Department expects to receive further guidance and a Notice of Grant Award for its proportional share of the funds from USHHS, the federal government agency responsible for these funds, in the weeks ahead. Once received, the Department wishes to quickly issue contracts and distribute the supplemental LIHEAP funds to each of its CEAP subrecipients (contingent upon a positive EARAC recommendation and subject to EARAC conditions) covering all 254 counties of the state so that subrecipients can begin providing utility assistance to low-income Texans to help mitigate the effects of the pandemic.

In a typical Program Year, the Department reserves 90% of the regular LIHEAP annual award for subrecipients of which 75% is utilized for CEAP utility assistance and 15% is utilized for weatherization assistance. The remaining 10% is for Department and subrecipient administration.

For the American Rescue Plan Act LIHEAP supplemental funds, the Department is recommending a different distribution of the funds. This is because there are still significant amounts of LIHEAP 2020 Cares Act and 2021 LIHEAP Program Year funds that have not been expended, other federal funding is more widely available for utility bill assistance including but not limited to Treasury and Community Development Block Grant funds, and because one expenditure deadline for a normal program year award has already passed. Thus, TDHCA is recommending the following distribution:

- 74% of the allotment to CEAP subrecipients to provide utility assistance to eligible households, including crisis assistance and services to reduce home energy needs. These funds will be distributed proportionally to subrecipients using the distribution formula in 10 TAC §6.303;
- 1% for state administration expenses including but not limited to possible procurement of Article IX Full Time Equivalent positions for increased training assistance and reporting functions required by subrecipients to expend the supplemental funds; and
- 25% of the allotment to be kept in reserve for additional CEAP activities to be distributed to the highest spenders of combined 2021 CEAP Program Year Allocation and the 2021 American Rescue Plan funding or to be awarded weatherization funds to LIHEAP WAP Subrecipients either by the formula in 10 TAC §6.404 or based on the highest spenders of 2021 LIHEAP WAP funding (subject to a recommendation from EARAC or a recommendation with conditions and limited to 15% of total American Rescue Plan funds unless a waiver is granted by USHHS), or any combination thereof.

Unless an earlier period is required by USHHS through its contract with the Department or through its guidance, 25% of the allotment will be initially awarded between October 15, 2021, and March 1, 2022, based on the expenditure levels of other available LIHEAP funding. Additionally, based on Department experience from receiving other large infusions of funds during the American Recovery and Reinvestment Act of 2009 and CARES Act of 2020, it occasionally occurs that some subrecipients do not have the capacity to adjust to such a large increase in funding. Therefore, the Department recommends granting the Executive Director or his designee the authority to deobligate funds from a subrecipient's American Rescue Plan Act LIHEAP budget categories if they either are not spending funds in a timely manner to serve the low-income population in their service area, or there is a lack of need in the service area, as evidenced by missing one or more CEAP American Rescue Plan Act contract milestones. Funds deobligated will be reobligated to those subrecipients showing the highest rate of expenditure based on their estimated ability to spend available funding. Granting the Executive Director this authority will further promote timely utility assistance for low-income Texans, and ensure full utilization of funds by September 30, 2022.

The Department is committed to assisting subrecipients serving the low-income population of Texas during this pandemic and must take extraordinary allowable measures to reduce COVID-19's impact. As such, the Department has employed the following flexibilities to Department guidance and 10 TAC Chapter 6 which will remain in effect until rescinded by the Department:

- Client signature flexibility – for use in taking phone applications for documents where the client signature and date is required on a form.
- Citizenship self-certification flexibility – for use when U.S. Citizens are not otherwise able to receive assistance because they cannot obtain their birth record due to record office closure in their area. U.S. Citizens without documents to prove citizenship must still provide identification documents and a signed attestation form certifying that they are indeed a lawful U.S. Citizen.
- §6.304 Deobligation/Reobligation flexibility – expenditure targets are suspended
- §6.309 Two fuel payments per month flexibility – two utility bills (propane, electric, gas) may be paid each month

Throughout the duration of this pandemic, staff will continue to assess different ways in which the Department can assist subrecipients and the low-income Texans they serve. Approving this action will assist in reducing a collateral negative effect of the pandemic on the poverty populations of Texas by delivering Federal funds to the intended population in need of timely assistance, while granting the Department and its subrecipients the necessary flexibility and a more streamlined approach to mitigate the effects of the pandemic on the low-income population of Texas.

The list of the subrecipients EARAC will consider to receive the American Rescue Plan Act's LIHEAP supplemental funds is in the table below. The Previous Participation Rule (10 TAC, Chapter 1, Subchapter C, §1.302) requires a review of LIHEAP awards prior to contract execution. At the time of Board Book posting, the Department has not yet received its Notice of Grant Award from USHHS indicating its proportional share of funds. Staff is requesting authorization to initiate the Previous Participation Review process for the subrecipients listed in the table below and make awards contingent upon a positive EARAC recommendation and subject to any EARAC conditions. This is so that contracts can be executed as quickly as possible. A CEAP award may also be made to a temporary provider or providers of services in Galveston, Brazoria, Fort Bend, Galveston, Wharton counties. If an entity disagrees with an EARAC condition or recommendation, it will be allowed to follow the Dispute process in 10 TAC §1.303.

	<b>SUBRECIPIENT*</b>
1	Aspermont Small Business Development Center, Inc.
2	BakerRipley
3	Bexar County Community and Development Programs
4	Big Bend Community Action Committee, Inc.
5	Brazos Valley Community Action Programs
6	Central Texas Opportunities, Inc.
7	City of Fort Worth Neighborhood Services Department
8	City of Lubbock Community Development Department
9	Combined Community Action, Inc.
10	Community Action Committee of Victoria, Texas
11	Community Action Corporation of South Texas
12	Community Action Inc. of Central Texas
13	Community Council of South Central Texas, Inc.
14	Community Services Northeast Texas, Inc.
15	Concho Valley Community Action Agency
16	County of Hidalgo Community Services Agency
17	Dallas County Health and Human Services
18	Economic Action Committee of the Gulf Coast
19	Economic Opportunities Advancement Corporation of Planning Region XI
20	El Paso Community Action Program-Project BRAVO
21	Greater East Texas Community Action Program
22	Hill Country Community Action Association, Inc.
23	Kleberg County Human Services
24	Nueces County Community Action Agency
25	Panhandle Community Services
26	Pecos County Community Action Agency
27	Rolling Plains Management Corporation
28	South Plains Community Action Association, Inc.
29	South Texas Development Council
30	Texas Neighborhood Services
31	Texoma Council Of Governments
32	Travis County Health and Human Services
33	Tri-County Community Action, Inc.
34	Webb County Community Action Agency
35	West Texas Opportunities, Inc.
36	Williamson-Burnet County Opportunities, Inc.

\*To the extent that any of the subrecipients decline their award or do not have a positive recommendation from EARAC or do not agree to comply with EARAC conditions, after all appeal periods have been exhausted, the Department will redistribute the allocation proportionally using the allocation formula described in 10 TAC §6.303.