

**SUPPLEMENTAL BOARD BOOK
OF
April 14, 2021**



**Leo Vasquez III, Chair
Paul Braden, Vice-Chair
Ajay Thomas, Member
Brandon Batch, Member
Kenny Marchant, Member
Anna Maria Farias, Member**

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

**A G E N D A
10:00 AM
April 14, 2022**

**John H. Reagan Building, JHR 140
1400 Congress Ave
Austin, Texas 78701**

CALL TO ORDER

ROLL CALL

Leo Vasquez, Chair

CERTIFICATION OF QUORUM

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

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

Resolution Recognizing May as Community Action Month

Resolution recognizing May as National Mobility Awareness Month

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the 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 March 10, 2022

Beau Eccles
Board
Secretary

ASSET MANAGEMENT

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

Rosalio Banuelos
Director of Asset
Management

17405 Bridge at Cameron

Austin

19094 Laurel Vista

Beaumont

BOND FINANCE

- c) Presentation, discussion, and possible action on Inducement Resolution No. 22-018 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority

Teresa Morales
Director of
Multifamily Bonds

This will be an open, public meeting conducted under Tex. Gov't Code, chapter 551, without COVID-19 emergency waivers. There will not be a remote online or telephone option for public participation. The meeting, however, will be streamed online for public viewing. Masks will be available for members of the public who wish to attend this public meeting.

- d) Presentation, discussion, and possible action on Resolution No. 22-019 regarding the annual approval of the Department's Interest Rate Swap Policy
- e) Presentation, discussion, and possible action on Resolution No. 22-020 regarding the annual approval of the Department's Investment Policy

RULES

- f) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department, an order adopting new §1.1 Reasonable Accommodation Requests to the Department, and an order directing their publication for adoption in the Texas Register
- g) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, an order adopting new §1.2 Department Complaint Process, and an order directing their publication for adoption in the Texas Register
- h) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors, and directing its publication for readoption in the Texas Register
- i) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses, and directing its publication for readoption in the Texas Register
- j) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12, Negotiated Rulemaking, and directing its publication for readoption in the Texas Register
- k) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures, an order adopting new §1.13 Contested Case Hearing Procedures, and directing their publication for adoption in the Texas Register
- l) Presentation, discussion, and possible action on the statutory four-year rule review ordering readoption of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution, and directing its publication for readoption in the Texas Register
- m) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance, an order adopting new §1.19 Reallocation of Financial Assistance, and an order directing their publication for adoption in the Texas Register
- n) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department, an order adopting new §1.22 Providing Contact Information to the Department, and an order directing their publication for adoption in the Texas Register

COMMUNITY AFFAIRS

- o) Presentation, discussion, and possible action on release of the draft 2023 Low Income Home Energy Assistance Program State Plan for public comment

FINANCIAL ADMINISTRATION

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

Joe Guevara
Director of Financial
Administration

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Media Analysis and Outreach Report (February 2022)
- b) Report on TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives
- c) Report on the Department’s 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures
- d) Report on the Department’s 2nd Quarter Investment Report in accordance with the Public Funds Investment Act

Michael Lyttle
Director of
External Affairs
Brooke Boston
Deputy Director
of Programs
Heather Hodnett
Manager of Single
Family Finance
Joe Guevara
Director of Financial
Administration

ACTION ITEMS

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions¹

Leo Vasquez
Chair

ITEM 3: EXECUTIVE

Executive Director’s Report

Bobby Wilkinson
Executive Director, TDHCA

ITEM 4: CDBG CARES

Presentation, discussion, and possible action on the Community Development Block Grant Coronavirus Aid, Relief, and Economic Security Act Community Resiliency Program Awards

Rudy Bentancourt
Director of CDBG CARES

ITEM 5: BOND FINANCE

- a) Presentation, discussion, and possible action on Resolution No. 22-021 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds, authorizing state debt application, and containing other provisions relating to the subject
- b) Presentation, discussion, and possible action on Resolution No. 22-022 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Single Family Mortgage Revenue Bonds, 2022 Series A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

Heather Hodnett
Manager of Single
Family Finance

ITEM 6: HOME-ARP

Presentation, discussion and possible action for approval of the HOME American Rescue Plan Allocation Plan as modified from the March 10, 2022, Board approval for submission to the U.S. Department of Housing and Urban Development

Naomi Cantu
Director of HOME-ARP

ITEM 7: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended
- b) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for The Commons at St. Anthony’s (#20042) in Amarillo

Cody Campbell
Director of Multifamily
Programs

¹ Note: the Chair is not restricted by this item, and may call for an Executive Session at any time during the posted meeting.

- c) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Lockwood South Apartments (#20077) in Houston
- d) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Connect South Apartments (#20082) in Houston
- e) Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Houston 150 Bayou Apartments (#21038) in Houston
- f) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Cole Creek Estates (#22018) in Houston
- g) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Malcom's Point Scholar House Apartments (#22021) in Dallas
- h) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Kirkwood Crossing Apartments (#22023) in Houston
- i) Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Heritage Estates at Edmonds (#22218) in Lewisville
- j) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.205(4) for The Warehouse Lofts at 707 (#22295)
- k) Presentation, discussion, and possible action on a timely submitted appeal related to a requested Limited Review of Weber Lofts in Corpus Christi (#22249)

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

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

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

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

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

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

OPEN SESSION

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

ADJOURN

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

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact 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 Kathleen Vale Castillo, 512-475-4144, 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 Kathleen Vale Castillo, al siguiente número 512-475-4144 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

7b

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for The Commons at St. Anthony's (#20042) in Amarillo

RECOMMENDED ACTION

WHEREAS, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,500,000 to The Commons at St. Anthony's (the Development) was approved by the Board in July 2020;

WHEREAS, staff executed a Carryover Allocation Agreement with the Development Owner on October 21, 2020, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022, and documentation for the 10% Test would be submitted by July 1, 2021 (which was subsequently extend to September 30, 2021);

WHEREAS, on July 19, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, on September 2, 2021, the Governing Board approved the request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, staff executed a new Carryover Allocation Agreement with the Development Owner on December 22, 2021, which included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2023;

WHEREAS, on March 15, 2022, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

WHEREAS, the Development Owner has presented evidence that relief under force majeure is appropriate.

NOW, therefore, it is hereby

RESOLVED, the request for treatment of The Commons at St. Anthony's under an application of the force majeure rule is approved, with the 2020 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2022 Program Calendar applicable to the Development.

BACKGROUND

An award of Competitive (9%) Housing Tax Credits to The Commons at St. Anthony's was approved by the Board on July 23, 2020. Staff executed a Carryover Allocation Agreement with the Development Owner that included a certification from the Development Owner that documentation for the 10% Test would be submitted by a set date, and, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022. The Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate under these circumstances.

Per 10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, a Development Owner is allowed to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress.

In 2021, the Development Owner communicated to staff how two presidentially declared disasters, the COVID-19 pandemic and Winter Storm Uri, resulted in supply chain disruptions, materials shortages, and labor shortages, all of which have led to price increases impacting construction of the Development.

Staff determined there was sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner”, as described in 10 TAC §11.6(5) and the Board approved the request for force majeure treatment. Accordingly, the Development Owners returned the awarded credits and the execution of a 2021 Carryover Allocation Agreement resulted in a new award and a new placed-in-service deadline of December 31, 2023, for the Developments, with a new 10% Test deadline of July 1, 2022. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules were applicable to the Development for the purposes of the force majeure event.

On March 14, 2022, the Development Owner communicated to staff how ongoing issues due to the COVID-19 pandemic, along with continued increases in construction costs, labor and materials shortages, and supply chain disruptions, are impeding progress toward the Development’s placement in service.

Staff has determined there is sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner”, as described in 10 TAC §11.6(5), for the Department to treat the Development under an application of the force majeure rule. If the Board approves the request to consider these force majeure events, the Development Owner will return the awarded credits and execution of a 2022 Carryover Allocation Agreement will result in a new award and a new placed-in-service deadline of December 31, 2024, for the Development, with a new 10% Test deadline of July 1, 2023. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development for the purposes of the force majeure event.

If the Board denies the request regarding the force majeure events, the date by which the denied Development must be placed in service will remain as previously agreed. Because the Development Owner has anticipated not meeting the placed in service deadline, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. If there are pending Applications on the 2022 or 2023 waiting list (depending on the year of award) from the relevant subregion, the next Application would be awarded, assuming there are enough credits to make the award. If there are not enough credits in the subregion to make an award, the credits will go into the statewide collapse and contribute the next award.

Staff recommends the Board approve the request for treatment under an application of the force majeure rule for the Development. [No federal or state deadlines associated with the National Housing Trust Fund Award are extended with this Board Action.](#)

KRS Housing, LLC

March 14, 2022

Mr. Cody Campbell
Director of Multifamily Finance
Texas Department of Housing and Community
Affairs 221 East 11th Street
Austin, TX 78701

Re: The Commons at St. Anthony's (TDHCA #20042), Amarillo, Potter County

Dear Mr. Campbell,

The Commons at St. Anthony's (#20042/21506/21706) is a 2020 award of 9% Housing Tax Credits in Region 1 Urban that was granted a Force Majeure extension under 10 TAC §11.6(5) on September 2, 2021 (Board Approval Date) and was subsequently awarded \$2,000,000 in National Housing Trust Fund dollars under the Multifamily Direct Loan Program's 2021-3 NOFA on October 14, 2021 (Board Approval Date). Pursuant to the QAP, the original placed in service deadline was December 31, 2022. The Texas Department of Housing and Community Affairs (TDCHA) approved and issued a revised carryover agreement that extended the placed in-service date to no later than December 31, 2023. I am contacting you today to request an extension of the Placement in Service deadline under 10 TAC §11.6(5), Credit Returns Resulting from Force Majeure Events.

Background Information:

The Commons at St. Anthony's is in the City of Amarillo in Potter County, Texas which has been and is still directly impacted by the COVID-19 pandemic. Please see **Exhibit A** for the letter submitted to TDHCA on July 19, 2021, for reference requesting the placed in service extension to December 31, 2023.

The Development has continued to experience "sudden and unforeseen circumstances" due to the COVID-19 Pandemic, supply chain disruptions, material delays, and labor shortages as seen throughout the United States. This resulted in unprecedented cost overruns, increases of materials, labor and the decreased availability of contractors which have seriously impacted the feasibility of the development.

Commons at St. Anthony's was originally projected to close and start construction in the summer of 2021. When we received construction pricing at that time, there was a gap of \$2 million dollars. In response to this cost overrun, the project applied through TDHCA's National Housing Trust Fund (NHTF) program to offset these additional costs. The project was allocated \$2 million dollars in NHTF on October 22, 2021, from TDHCA which allowed the project to continue to move forward. As we were working through our closing due diligence with our various lenders and investors, the general contractor struggled to hold subcontractors and vendors to previous pricing. At the beginning of 2022, we received an updated bid from the general contractor indicating construction pricing had continued to skyrocket, and once again the project was left with a significant funding shortfall. From the summer of 2021 to January of 2022, this project has experienced a 27% increase in construction pricing. Specifically, the major trades (electrical, plumbing, HVAC, drywall) have increased on

400 West 15th St., Ste. 950
Austin, TX 78701

average by 18%.

With the additional gap that was created, we approached the City of Amarillo and Potter County to seek additional funds. The City of Amarillo's City Council on March 8, 2022 approved \$1,050,000 in American Rescue Plan Act (ARPA) Funds from the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program and 100% of annual property taxes rebated for 10 years. See attached **Exhibit B**. Potter County's Commissioners Court approved \$500,000 in APRA SLFRF funds and tax rebate for 10 years on 02/28/2022. See attached **Exhibit C**. While we were working on obtaining these additional funds to close the financial gap, this added to the overall timeline of the project to close with the investor and lender.

The additional Force Majeure events from the previous placed in-service extension directly impacting the Development are:

- The Development has experienced significant cost overruns due to steeply rising material prices, supply chain disruption and labor shortages. All of these are contributing to increasing the construction schedule to a 24-month construction timeline.
- Due to the supply chain disruptions, material delays, and labor shortages, the construction schedule is anticipated to be 24 months. With a projected closing in summer of 2022, this puts the project to be placed in service in summer of 2024. See attached detailed construction schedule in **Exhibit D**.
- The time needed to obtain additional funds from the City of Amarillo (see **Exhibit B for approval**) and Potter County (see **Exhibit C for approval**) allowing for discussion and compliance with proper protocol for approval.

Request:

While it was every intention for the Owner and Development to meet the revised placement in service deadline of December 31, 2023, we now can foresee that this is not possible due to the additional delays noted above. We request that the Owner be permitted to return the Tax Credits and that TDHCA reallocate the Tax Credits to the Owner in the current year in accordance with §11.6(5) of the QAP. The Owner and Development meet all of the requirements in Section 11.6(5) in that:

- 1) The events that caused the delay (i.e. the pandemic, winter freeze, construction market supply and pricing turmoil that impacted design and development, various funding approvals, schedule of values, investor and lender closing, and gap funding) occurred before issuance of 8609s and were sudden, unforeseen circumstances outside the control of the Development Owner.
- 2) The delays were not caused by willful negligence or acts of Owner, any Affiliate, or any other related party. The Owner is experienced with a long history in the LIHTC program and the co-developer partner Commonwealth Development and historic consultant MacRostie Historic Advisors LLC – both have extensive experience with historic renovation and construction. The events causing the delay were unprecedented and all parties did their absolute maximum to problem solve and expedite the multiple unexpected hurdles.
- 3) The Owner has provided evidence of the Force Majeure Events (see **Exhibit A**) and a more detailed explanation of the delays that were a result of the Force Majeure Event, see **Exhibits B-D**.
- 4) Though there was little that could be done to mitigate an unprecedented pandemic, a severe winter freeze or a construction market tumult, the Owner took all reasonable steps to

minimize or mitigate any delays. The Owner remained diligent with communication – pursuing a variety of alternative communication methods and contacts to alleviate each milestone delay.

- 5) The Force Majeure threatens to prevent the Owner from meeting the Place in Service requirements of the original allocation and the subsequent PIS extension to December 31, 2023.
- 6) The requested current year Carryover Agreement would allocate the same amount of Tax Credits as those that would be returned.
- 7) The Development continues to be financially feasible with the addition of the award of National Housing Trust Fund dollars through the 2021-3 NOFA, City of Amarillo funding, and Potter County funding. There has not been any insurance proceeds received related to the Force Majeure event.
- 8) The guarantee of this PIS extension will allow the Development to lock in the construction contract and swiftly move forward with contracting for the National Housing Trust Fund dollars and the financial closing for the project.

On January 11, 2022, the Internal Revenue Service (IRS) issued Notice 2022-05 (see **Exhibit E**) extending and expanding on temporary relief for State Housing Credit Agencies and owners of Housing Credit properties in response to the COVID-19 pandemic. This included deadline extensions to 10% Tests and the Place in Service (PIS) date for many developments that were recently awarded affordable housing tax credits. KRS Housing and Commonwealth Development were proactive in requesting the Force Majeure extension before this announcement was made by the IRS. Had we not submitted our first Force Majeure extension request to TDHCA before this announcement, this would have been our first request to TDHCA requesting an extension to the PIS and 10% Test deadline.

Although the project has been faced with a seemingly insurmountable amount of uncontrollable delays and pricing impacts; the project has overcome them all and is ready to close and start construction. Therefore, we respectfully request approval of this Force Majeure request. If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at 512-925-9200.

Sincerely,



Representative of St. Anthony's Amarillo Housing 20, LP
The Honorable Kent Hance
KRS Housing LLC, Managing Member
khance@hslawmail.com

Cc: Rene Ruiz (via email)
Bobby Wilkinson (via email)
Kent Hance (via email)
Dan Kroetz (via email)
Jennifer Hicks (via email)

KRS Housing, LLC

Honorable Kent R. Hance

July 19, 2021

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

Re: The Commons at St. Anthony's (TDHCA #20042), Amarillo, Potter County

Dear Ms. Holloway,

The Commons at St. Anthony's (#20042) is a 2020 award of 9% Housing Tax Credits in Region 1 Urban. Pursuant to the QAP, the placement in service deadline is December 31, 2022. I am contacting you today to request an extension of the Placement in Service deadline under 10 TAC §11.6(5), Credit Returns Resulting from Force Majeure Events.

Background Information:

The Commons at St. Anthony's is located in the City of Amarillo in Potter County, Texas which has been and is still directly impacted by the COVID pandemic and the Texas Winter Storms – both Presidentially declared disaster areas as Texas SEVERE WINTER STORMS (4586-DR-TX) and Texas COVID-19 PANDEMIC (DR-4485-TX.) See attached **Exhibit A**.

The Development has experienced “sudden and unforeseen circumstances” due to the ripple effect of the Presidentially declared disasters of the COVID-19 Pandemic and the Severe Winter Storms. The result is unprecedented cost overruns, increases of materials, labor and the decreased availability of contractors which have seriously impacted the feasibility of the development. The future progress of the Development will necessitate changes to the financing structure and require us to pursue measures to further reduce the gap in financing which have all had significant impacts on the original timeline for the Development. The two disasters also impacted the timeline by the sheer simplicity of operating in a pandemic with social distancing mandates and comfort levels causing communication lags that would sometimes last for weeks.

The most severe Force Majeure events directly impacting the Development are:

- The Development has experienced significant cost overruns due to steeply rising material prices, snarled supply chains and staffing. Please see letters from both the Prime General Contractor (Commonwealth Construction Corporation) and Main General Contractor (Kelly Wood Company.) See attached **Exhibit B**.
- With the early trade engagement on the project, the construction team anticipated 7-8 weeks to commence construction after drawings were issued on April 9, 2021. The project is currently 60 days delayed from that anticipated schedule. See attached **Exhibit C**.

KRS Housing, LLC

Honorable Kent R. Hance

- As a historic preservation, the Common's at St. Anthony's has had to rely on multi-agency communication to keep the design and development process moving forward. As communicated to TDHCA staff early-on with the 10% Test Extension request (**Exhibit D**), the pandemic caused response delays from both the Texas Historic Commission and National Park Service that impacted key dates within the construction document finalization which in turn extended the overall development timeline. The historic nomination was initially expected to be heard by the Texas Historic Commission State Board of Review on May 16, 2020 but was delayed to September 12, 2020 because of the early impact COVID-19 had on THC and NPS operations. This was a costly delay of time – one that was out of our reasonable control and nothing that could have been reasonably anticipated. The compounding delay in the historic review process also impacted the preparation of detailed Part 2 & B rehabilitation plans to be submitted to the National Park Service and Texas Historical Commission for construction approval.
- In order to save the project and refresh it into a financially viable Development, the Applicant will be pursuing funding under the TDHCA MFDL NOFA 2021-3 for National Housing Trust Fund dollars. Before the Development can close with the investor and lender, the application for funding must be submitted with a good indication of award. It is our understanding that award recommendations will be taken to the TDHCA Board no earlier than September 2nd, but most likely at the October board meeting.

Layered on top of the unforeseen circumstances of the pandemic and severe weather are several additional issues that only added to the breaking-point in the overall timeline for the Development:

- The property Seller is a neighborhood advisory association, a non-profit organization without staff that is run by its volunteer Board of Directors. Day-to-day management of all matters related to the building had been handled on a voluntary basis by an agent for the Seller until early August 2020 when its services were terminated by the Seller. Then, the Seller's Board of Directors changed membership. The removal of the agent by the Seller was a decision made beyond the control of the Applicant and one in which the Applicant was not consulted. The change caused a significant delay in amending purchase agreements, getting City plat documents signed, getting National Park Service applications signed, and receiving access to the building. The Owner was diligent in their communication and was finally able to get the required signatures, but this ownership change definitely caused a significant loss of days at a critical point in the development timeline. See **Exhibit E**.
- In conversations with City of Amarillo building and safety review it was determined that a portion of the adjacent surgical center would need to be removed to create more separation between buildings. The surgical center is located on an adjacent tract. The development applied for a variance for this requirement, but it was not granted. This change required replatting the site to add the City of Amarillo required strip as well as amending the original purchase contract to add this strip of land. The decision to add the strip of land was completely unforeseen.

KRS Housing, LLC

Honorable Kent R. Hance

- The timeline for the mold and asbestos abatement along with the demolition was confirmed to be longer than originally estimated. Adding this increase in time to the 16-month construction timeline (that has always been the case) adds to the critical nature of this placement in service extension.
- Multiple large projects – Amazon warehouse, Texas Tech renovations, etc. – are utilizing subs up from the surrounding area. Even contractors from other parts of the state and even out-of-state have proven slow to respond due to high-demand. When the project finally did get solid bids, there was a several month impact on the timeline.

Request:

While it was every intention for the Owner and Development to meet the placement in service deadline of December 31, 2022, we now can foresee that this is not possible due to the delays noted above. We request that the Owner be permitted to return the Tax Credits and that TDHCA reallocate the Tax Credits to the Owner in the current year in accordance with §11.6(5) of the QAP. The Owner and Development meet all of the requirements in Section 11.6(5) in that:

- 1) The events that caused the delay (i.e. the pandemic, winter freeze, construction market supply and pricing turmoil that impacted design and development, agency approvals, site control, schedule of values, investor and lender closing and gap funding) occurred before issuance of 8609s and were sudden, unforeseen circumstances outside the control of the Development Owner.
- 2) The delays were not caused by willful negligence or acts of Owner, any Affiliate, or any other Related Party. The Owner is experienced with a long history in the LIHTC program and the co-developer partner Commonwealth Development and historic consultant MacRostie Historic Advisors LLC – both have extensive experience with historic renovation and construction. The events causing the delay were unprecedented and all parties did their absolute maximum to problem solve and expedite the multiple unexpected hurdles.
- 3) The Owner has provided evidence of the Force Majeure Events (See **Exhibit A**) and a more detailed explanation of the delays that were a result of the Force Majeure Event, see **Exhibits B-D**.
- 4) Though there was little that could be done to mitigate an unprecedented pandemic, a severe winter freeze or a construction market tumult, the Owner took all reasonable steps to minimize or mitigate any delays. The Owner remained diligent with communication – pursuing a variety of alternative communication methods and contacts to alleviate each milestone delay. The Owner was also proactive in sharing their delays with TDHCA in the 10% extension submitted to TDHCA on March 22, 2022 (**Exhibit D**) and those delays have been compounded in the four short months since.
- 5) The Force Majeure threatens to prevent the Owner from meeting the Place in Service requirements of the original allocation.
- 6) The requested current year Carryover Agreement would allocate the same amount of Tax Credits as those that would be returned.

KRS Housing, LLC

Honorable Kent R. Hance

- 7) The Development continues to be financially feasible with the concurrent Application for an award of National Housing Trust Fund dollars through the 2021-3 NOFA. There has not been any insurance proceeds received related to the Force Majeure event.

Therefore, we respectfully request approval of this Force Majeure request. If you have any questions or would like to discuss these items further, please do not hesitate to contact me directly at ??????.

Sincerely,



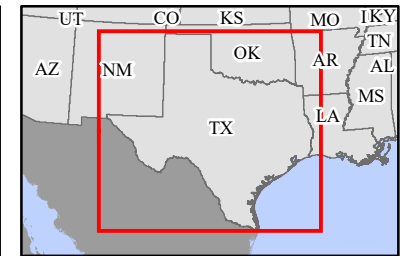
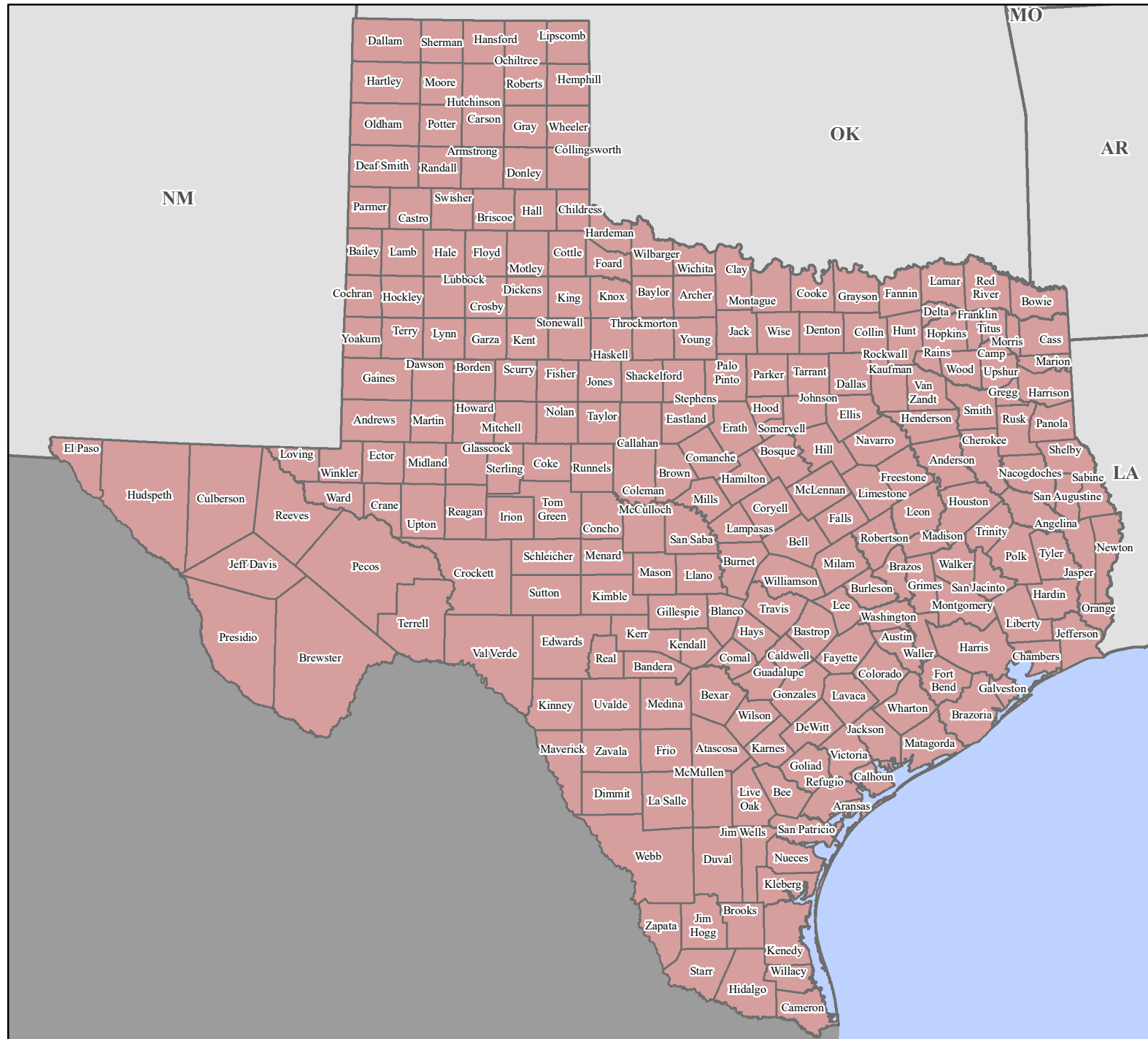
Representative of St. Anthony's Amarillo Housing 20, LP
The Honorable Kent Hance
KRS Housing LLC, Managing Member
khance@hslawmail.com

Cc: Rene Ruiz (via email)
Alena Morgan (via email)
Dan Kroetz (via email)
Jennifer Hicks (via email)

FEMA-4485-DR, Texas Disaster Declaration as of 03/11/2021




FEMA



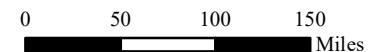
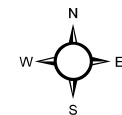
Data Layer/Map Description:
 The types of assistance that have been designated for selected areas in the State of Texas.

Designated Counties

 Individual Assistance and Public Assistance (Category B)

Individual Assistance:
 Individual Assistance limited to the Crisis Counseling Program and COVID-19 Funeral Assistance under Other Needs Assistance in all areas in the State of Texas.

Public Assistance:
 Emergency protective measures (Category B), not authorized under other Federal statutes, including direct federal assistance, for all areas in the State of Texas.

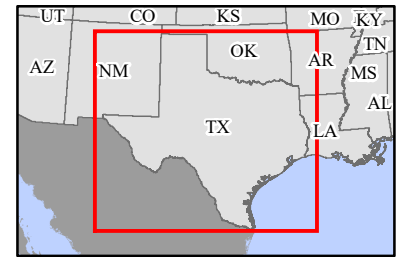
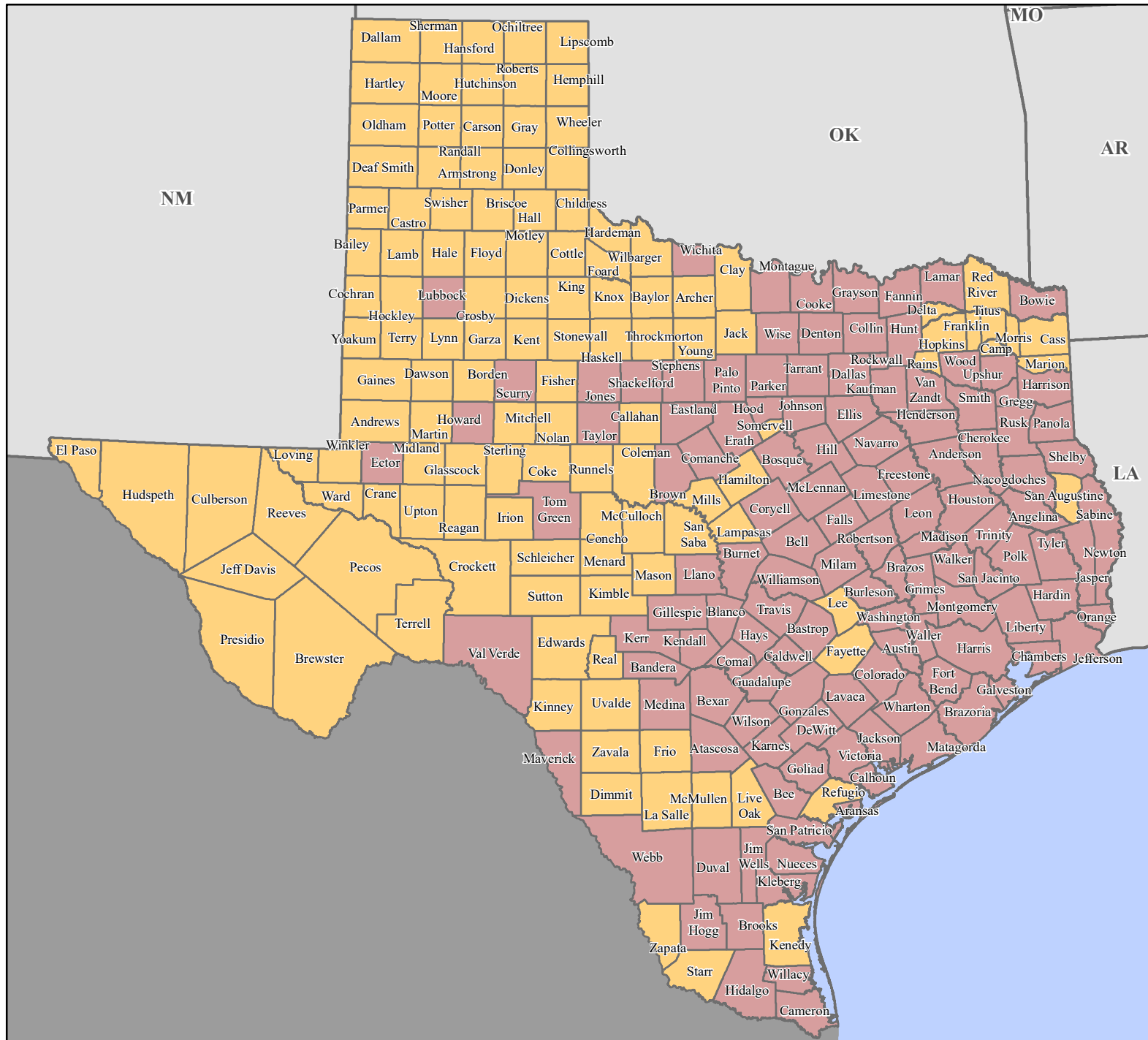


Data Sources:
 FEMA, ESRI;
 Initial Declaration: 03/25/2020
 Disaster Federal Registry Notice:
 Amendment #2: 03/11/2021
 Datum: North American 1983
 Projection: Lambert Conformal Conic

FEMA-4586-DR, Texas Disaster Declaration as of 06/25/2021



FEMA

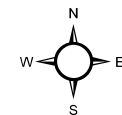


Data Layer/Map Description:
The types of assistance that have been designated for selected areas in the State of Texas.

All areas within the State of Texas are eligible for assistance under the Hazard Mitigation Grant Program.

Designated Counties

- Public Assistance (Category B)
- Individual Assistance and Public Assistance (Category B)



Data Sources:
FEMA, ESRI;
Initial Declaration: 02/19/2021
Disaster Federal Registry Notice:
Amendment #4: 06/24/2021
Datum: North American 1983
Projection: Lambert Conformal Conic



EXHIBIT B

COMMONWEALTH CONSTRUCTION CORPORATION (CCC)
PO Box 1658, Fond du Lac, WI 54936 | 24 South Brooke Street, Fond du Lac, WI 54935
Phone: 920.922.8170 | Fax: 920.922.8171

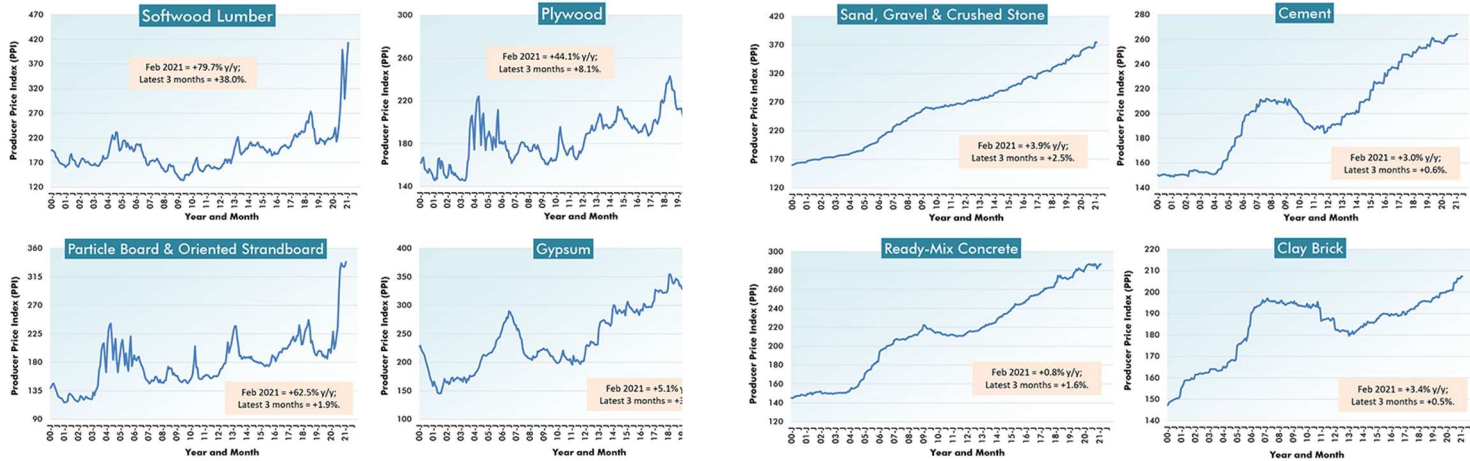
Common @ St Anthony- Amarillo, TX

7/16/2021

To whom it may concern:

During the bidding process for the Commons @ St. Anthony, we ran into many challenges finding subs to bid our project. There are multiple large projects going on in the Amarillo area such as an Amazon Warehouse, Texas Tech Renovation, PAMEX and Hotel Renovations using subs up from not only the Amarillo area but the surrounding communities as well, including Lubbock, Clovis, Pampa. The common response we got from further communities such as Oklahoma City and Dallas was "there is more than enough work within a 30-mile radius, so there is no need to travel that far". We even solicited the help of several local general contractors in hopes of gaining more interest from the local subcontractor pool, including Kelly Wood Construction, S&B Services and Straley Construction Consultants. We also turned to out-of-state subs such as Silgo Construction that specialize in Rehab projects and they were unable to entice their traveling contractors to bid this project due to their current workload.

Once we did receive bids for the project, the price of materials had sky-rocketed and remain on the rise. This includes but is not limited to materials such as PVC pipe, Copper, Tapered Insulation, Drywall, and Framing materials. The demand for these products continues while the labor force has slowed or shut down at times which continues to drive the increased costs with no short-term relief in sight. Below are some charts on costs.



07/16/2021

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



RE: The Commons at St. Anthony's (TDHCA #20042), Amarillo, Potter County

Dear Ms. Holloway,

I am writing to help illustrate how progress with the Commons at Saint Anthony project has been materially impeded this year.

The winter storms of February 2021 have had a notable and lasting effect on construction in Amarillo. Current projects in progress came to a halt and a considerable portion of the local construction workforce was needed to repair the extensive damages caused by this unprecedented event. The labor shortage coupled with the inability to receive materials has affected local contractors exponentially on both current and upcoming projects.

A significant amount of the Amarillo construction work force is currently tied up in several large projects; the scope of which do not typically occur simultaneously. Some of those notable projects include a \$90M Texas Tech School of Veterinary Medicine, the final eighteen schools of a \$104M AISD bond election, construction of several new school campuses from a \$197M bond election in Canyon (19 miles away), and a new 1 million square-foot distribution center for Amazon. Additionally, there is also a new \$54M district courthouse as well as a \$20M renovation a historic building into a hotel currently being constructed within a mile of the project site.

According to the June 2021 Amarillo economic report, most local businesses still report trouble finding employees. A distance of 260 miles to the nearest major metropolitan area makes recruitment of new tradesmen into the workforce difficult. The local Unemployment Rate has dropped to 3.9% and reflects the tightness of the job market and shortage of job applicants.

We have incurred increasing shortages and witnessed substantial price inflation of common construction materials this year. We are hopeful that this will subside and have already seen the retraction of lumber prices beginning to occur.

Due to the conditions stated above, many subcontractors have been unable to provide competitive pricing for the Commons at Saint Anthony project. We took the steps of soliciting bids from outside of the Amarillo trade area to help mitigate the labor shortage issue, however the travel distance reduced interest and increased costs for those who did provide pricing.

We are hopeful that the additional time will permit these factors to come in line and allow this project to be come into fruition as a benefit to our community. Please do not hesitate to contact me if you have any questions or need anything further.

Respectfully,

Casey O. Wood
President

EXHIBIT C

ID	Task Mod	Task Name	Duration	Start	Finish	Predecessors	Resource Names	J	Half 2, 2 J
1		Commons At St. Anthonys	427 days	Mon 11/1/21	Tue 6/20/23				
2		Site Mobilization	35 days	Mon 11/1/21	Fri 12/17/21				
3		Clear and Grub Site	5 days	Mon 11/1/21	Fri 11/5/21				
4		Stake Site	4 days	Wed 11/3/21	Mon 11/8/21	3FS-3 days			
5		Silt Fence /Tracking Pads	7 days	Thu 11/4/21	Fri 11/12/21	3FS-2 days			
6		Site Trailer	3 days	Tue 11/9/21	Thu 11/11/21	4			
7		Site Utilities	20 days	Tue 11/9/21	Mon 12/6/21	4			
8		Site temp fence	4 days	Mon 11/15/21	Thu 11/18/21	5			
9		Separation Fence	15 days	Mon 11/15/21	Fri 12/3/21	5,8SS			
10		Demo:asphalt,concrete,CMU,stairs	10 days	Mon 12/6/21	Fri 12/17/21	9			
11		Exterior Building Work	215 days	Mon 2/21/22	Fri 12/16/22				
12		Roof Demolition	20 days	Mon 2/21/22	Fri 3/18/22	8,18FS-40 days			
13		Roof	30 days	Mon 3/14/22	Fri 4/22/22	12FS-5 days			
14		Windows	20 days	Mon 4/25/22	Fri 5/20/22	13			
15		Exterior Facades	150 days	Mon 5/23/22	Fri 12/16/22	14			
16		Interior Renovation	363 days	Mon 11/29/21	Wed 4/19/23				
17		General	265 days	Mon 11/29/21	Fri 12/2/22				
18		Hazard Abatement	100 days	Mon 11/29/21	Fri 4/15/22	9FS-5 days			
19		Interior Demolition	80 days	Mon 3/7/22	Fri 6/24/22	18FS-30 days			
20		Interior Rough Carpentry	60 days	Mon 6/27/22	Fri 9/16/22	19			
21		Elevator installation	55 days	Mon 9/19/22	Fri 12/2/22	20			
22		Level 5 and Penthouse	70 days	Tue 9/6/22	Mon 12/12/22				
23		Framing	10 days	Tue 9/6/22	Mon 9/19/22	19,20FS-9 days			
24		MEP Rough In	20 days	Tue 9/20/22	Mon 10/17/22	13,20FS-30 days,23			
25		FP Rough In	7 days	Tue 10/4/22	Wed 10/12/22	24FS-10 days			
26		Insulation	5 days	Tue 10/18/22	Mon 10/24/22	24,25			
27		Sheetrock	15 days	Tue 10/25/22	Mon 11/14/22	26			
28		Texture/Paint	20 days	Tue 11/15/22	Mon 12/12/22	27FS-5 days,29FS-3 days			
29		Underlayment and level floors	8 days	Tue 11/8/22	Thu 11/17/22	27FS-5 days			
30		Finishes Level 5	50 days	Fri 12/16/22	Thu 2/23/23				
31		Install Flooring (20 day cure Gypcrete)	12 days	Fri 12/16/22	Mon 1/2/23	29FS+20 days			
32		Install Cabinets and Tops / Range Hood	7 days	Tue 1/3/23	Wed 1/11/23	31			
33		Trim and Doors	7 days	Tue 1/10/23	Wed 1/18/23	28,32FS-2 days			

ID	Task Name	Duration	Start	Finish	Predecessors	Resource Names	J	Half 2, 2 J
34	MEP/FP Trim	5 days	Thu 1/19/23	Wed 1/25/23	32,33			
35	Appliances	2 days	Tue 1/24/23	Wed 1/25/23	34FF			
36	Carpet/Shelving/Mirrors	11 days	Thu 1/26/23	Thu 2/9/23	34			
37	Life Safety Test/ Clean Units	5 days	Thu 1/26/23	Wed 2/1/23	34			
38	CCC Punch /Complete	5 days	Fri 2/10/23	Thu 2/16/23	36			
39	M&A Punch /Complete	5 days	Fri 2/17/23	Thu 2/23/23	38			
40	Level 4	70 days	Tue 9/20/22	Mon 12/26/22				
41	Framing	10 days	Tue 9/20/22	Mon 10/3/22	23			
42	MEP Rough In	20 days	Tue 10/4/22	Mon 10/31/22	41			
43	FP Rough In	7 days	Tue 10/18/22	Wed 10/26/22	42FS-10 days			
44	Insulation	5 days	Tue 11/1/22	Mon 11/7/22	42,43			
45	Sheetrock	15 days	Tue 11/8/22	Mon 11/28/22	44			
46	Texture/Paint	20 days	Tue 11/29/22	Mon 12/26/22	45FS-5 days,47FS-3 days			
47	Underlayment and level floors	8 days	Tue 11/22/22	Thu 12/1/22	45FS-5 days			
48	Finishes Level 4	49 days	Fri 12/30/22	Wed 3/8/23				
49	Install Flooring (20 day cure Gypcrete)	12 days	Fri 12/30/22	Mon 1/16/23	47FS+20 days			
50	Install Cabinets and Tops	7 days	Tue 1/17/23	Wed 1/25/23	49			
51	Trim and Doors	7 days	Tue 1/24/23	Wed 2/1/23	46,50FS-2 days			
52	MEP/FP Trim	5 days	Thu 2/2/23	Wed 2/8/23	50,51			
53	Appliances	2 days	Tue 2/7/23	Wed 2/8/23	52FF			
54	Carpet/Shelving/Mirrors	11 days	Thu 2/9/23	Thu 2/23/23	52			
55	Life Safety Test/ Clean Units	5 days	Thu 2/9/23	Wed 2/15/23	52			
56	CCC Punch /Complete	5 days	Fri 2/24/23	Thu 3/2/23	54			
57	M&A Punch /Complete	4 days	Fri 3/3/23	Wed 3/8/23	56			
58	LVL 5 corridor	52 days	Tue 10/18/22	Wed 12/28/22				
59	MEP Rough In	5 days	Tue 10/18/22	Mon 10/24/22	24			
60	FP Rough In	5 days	Fri 10/21/22	Thu 10/27/22	59FS-2 days			
61	Insulation	2 days	Fri 10/28/22	Mon 10/31/22	59,60			
62	Sheetrock	10 days	Tue 11/1/22	Mon 11/14/22	61			
63	Texture/Paint	10 days	Tue 11/15/22	Mon 11/28/22	62			
64	ACT Ceilings	7 days	Tue 11/29/22	Wed 12/7/22	63			
65	Flooring	7 days	Thu 12/8/22	Fri 12/16/22	64			
66	CCC Punch /Complete	4 days	Mon 12/19/22	Thu 12/22/22	65			

ID	Task Mod	Task Name	Duration	Start	Finish	Predecessors	Resource Names	J	Half 2, 2 J
67		M&A Punch /Complete	4 days	Fri 12/23/22	Wed 12/28/22	66			
68		Level 3	70 days	Tue 10/4/22	Mon 1/9/23				
69		Framing	10 days	Tue 10/4/22	Mon 10/17/22	41			
70		MEP Rough In	20 days	Tue 10/18/22	Mon 11/14/22	69			
71		FP Rough In	7 days	Tue 11/1/22	Wed 11/9/22	70FS-10 days			
72		Insulation	5 days	Tue 11/15/22	Mon 11/21/22	70,71			
73		Sheetrock	15 days	Tue 11/22/22	Mon 12/12/22	72			
74		Texture/Paint	20 days	Tue 12/13/22	Mon 1/9/23	73FS-5 days,75FS-3 days			
75		Underlayment and level floors	8 days	Tue 12/6/22	Thu 12/15/22	73FS-5 days			
76		Finishes Level 3	49 days	Fri 1/13/23	Wed 3/22/23				
77		Install Flooring (20 day cure Gypcrete)	12 days	Fri 1/13/23	Mon 1/30/23	75FS+20 days			
78		Install Cabinets and Tops	7 days	Tue 1/31/23	Wed 2/8/23	77			
79		Trim and Doors	7 days	Tue 2/7/23	Wed 2/15/23	74,78FS-2 days			
80		MEP/FP Trim	5 days	Thu 2/16/23	Wed 2/22/23	78,79			
81		Appliances	2 days	Tue 2/21/23	Wed 2/22/23	80FF			
82		Carpet/Shelving/Mirrors	11 days	Thu 2/23/23	Thu 3/9/23	80			
83		Life Safety Test/ Clean Units	5 days	Thu 2/23/23	Wed 3/1/23	80			
84		CCC Punch /Complete	5 days	Fri 3/10/23	Thu 3/16/23	82			
85		M&A Punch /Complete	4 days	Fri 3/17/23	Wed 3/22/23	84			
86		LVL 4 corridor	52 days	Tue 11/1/22	Wed 1/11/23				
87		MEP Rough In	5 days	Tue 11/1/22	Mon 11/7/22	42			
88		FP Rough In	5 days	Fri 11/4/22	Thu 11/10/22	87FS-2 days			
89		Insulation	2 days	Fri 11/11/22	Mon 11/14/22	87,88			
90		Sheetrock	10 days	Tue 11/15/22	Mon 11/28/22	89			
91		Texture/Paint	10 days	Tue 11/29/22	Mon 12/12/22	90			
92		ACT Ceilings	7 days	Tue 12/13/22	Wed 12/21/22	91			
93		Flooring	7 days	Thu 12/22/22	Fri 12/30/22	92			
94		CCC Punch /Complete	4 days	Mon 1/2/23	Thu 1/5/23	93			
95		M&A Punch /Complete	4 days	Fri 1/6/23	Wed 1/11/23	94			
96		Level 2	70 days	Tue 10/18/22	Mon 1/23/23				
97		Framing	10 days	Tue 10/18/22	Mon 10/31/22	69			
98		MEP Rough In	20 days	Tue 11/1/22	Mon 11/28/22	97			
99		FP Rough In	7 days	Tue 11/15/22	Wed 11/23/22	98FS-10 days			

ID	Task Mod	Task Name	Duration	Start	Finish	Predecessors	Resource Names	Half 2, 2	
								J	J
100		Insulation	5 days	Tue 11/29/22	Mon 12/5/22	98,99			
101		Sheetrock	15 days	Tue 12/6/22	Mon 12/26/22	100			
102		Texture/Paint	20 days	Tue 12/27/22	Mon 1/23/23	101FS-5 days,103FS-3 days			
103		Underlayment and level floors	8 days	Tue 12/20/22	Thu 12/29/22	101FS-5 days			
104		Finishes Level 2	49 days	Fri 1/27/23	Wed 4/5/23				
105		Install Flooring (20 day cure Gypcrete)	12 days	Fri 1/27/23	Mon 2/13/23	103FS+20 days			
106		Install Cabinets and Tops	7 days	Tue 2/14/23	Wed 2/22/23	105			
107		Trim and Doors	7 days	Tue 2/21/23	Wed 3/1/23	102,106FS-2 days			
108		MEP/FP Trim	5 days	Thu 3/2/23	Wed 3/8/23	106,107			
109		Appliances	11 days	Wed 2/22/23	Wed 3/8/23	108FF			
110		Carpet/Shelving/Mirrors	11 days	Thu 3/9/23	Thu 3/23/23	108			
111		Life Safety Test/ Clean Units	5 days	Thu 3/9/23	Wed 3/15/23	108			
112		CCC Punch /Complete	5 days	Fri 3/24/23	Thu 3/30/23	110			
113		M&A Punch /Complete	4 days	Fri 3/31/23	Wed 4/5/23	112			
114		LVL 3 corridor	52 days	Tue 11/15/22	Wed 1/25/23				
115		MEP Rough In	5 days	Tue 11/15/22	Mon 11/21/22	70			
116		FP Rough In	5 days	Fri 11/18/22	Thu 11/24/22	115FS-2 days			
117		Insulation	2 days	Fri 11/25/22	Mon 11/28/22	115,116			
118		Sheetrock	10 days	Tue 11/29/22	Mon 12/12/22	117			
119		Texture/Paint	10 days	Tue 12/13/22	Mon 12/26/22	118			
120		ACT Ceilings	7 days	Tue 12/27/22	Wed 1/4/23	119			
121		Flooring	7 days	Thu 1/5/23	Fri 1/13/23	120			
122		CCC Punch /Complete	4 days	Mon 1/16/23	Thu 1/19/23	121			
123		M&A Punch /Complete	4 days	Fri 1/20/23	Wed 1/25/23	122			
124		Level 1	70 days	Tue 11/1/22	Mon 2/6/23				
125		Framing	10 days	Tue 11/1/22	Mon 11/14/22	97			
126		MEP Rough In	20 days	Tue 11/15/22	Mon 12/12/22	125			
127		FP Rough In	7 days	Tue 11/29/22	Wed 12/7/22	126FS-10 days			
128		Insulation	5 days	Tue 12/13/22	Mon 12/19/22	126,127			
129		Sheetrock	15 days	Tue 12/20/22	Mon 1/9/23	128			
130		Texture/Paint	20 days	Tue 1/10/23	Mon 2/6/23	129FS-5 days,131FS-3 days			
131		Underlayment and level floors	8 days	Tue 1/3/23	Thu 1/12/23	129FS-5 days			
132		Finishes Level 1	49 days	Fri 2/10/23	Wed 4/19/23				

ID	Task Mod	Task Name	Duration	Start	Finish	Predecessors	Resource Names	J	Half 2, 2 J
133		Install Flooring - LVP	12 days	Fri 2/10/23	Mon 2/27/23	131FS+20 days			
134		Install Cabinets and Tops	7 days	Tue 2/28/23	Wed 3/8/23	133			
135		Trim and Doors	7 days	Tue 3/7/23	Wed 3/15/23	130,134FS-2 days			
136		MEP/FP Trim	5 days	Thu 3/16/23	Wed 3/22/23	134,135			
137		Appliances	11 days	Wed 3/8/23	Wed 3/22/23	136FF			
138		Carpet/Shelving/Mirrors	11 days	Thu 3/23/23	Thu 4/6/23	136			
139		Life Safety Test/ Clean Units	5 days	Thu 3/23/23	Wed 3/29/23	136			
140		CCC Punch /Complete	5 days	Fri 4/7/23	Thu 4/13/23	138			
141		M&A Punch /Complete	4 days	Fri 4/14/23	Wed 4/19/23	140			
142		LVL 2 corridor	52 days	Tue 11/29/22	Wed 2/8/23				
143		MEP Rough In	5 days	Tue 11/29/22	Mon 12/5/22	98			
144		FP Rough In	5 days	Fri 12/2/22	Thu 12/8/22	143FS-2 days			
145		Insulation	2 days	Fri 12/9/22	Mon 12/12/22	143,144			
146		Sheetrock	10 days	Tue 12/13/22	Mon 12/26/22	145			
147		Texture/Paint	10 days	Tue 12/27/22	Mon 1/9/23	146			
148		ACT Ceilings	7 days	Tue 1/10/23	Wed 1/18/23	147			
149		Flooring	7 days	Thu 1/19/23	Fri 1/27/23	148			
150		CCC Punch /Complete	4 days	Mon 1/30/23	Thu 2/2/23	149			
151		M&A Punch /Complete	4 days	Fri 2/3/23	Wed 2/8/23	150			
152		LVL 1 corridor	52 days	Tue 12/13/22	Wed 2/22/23				
153		MEP Rough In	5 days	Tue 12/13/22	Mon 12/19/22	126			
154		FP Rough In	5 days	Fri 12/16/22	Thu 12/22/22	153FS-2 days			
155		Insulation	2 days	Fri 12/23/22	Mon 12/26/22	153,154			
156		Sheetrock	10 days	Tue 12/27/22	Mon 1/9/23	155			
157		Texture/Paint	10 days	Tue 1/10/23	Mon 1/23/23	156			
158		ACT Ceilings	7 days	Tue 1/24/23	Wed 2/1/23	157			
159		Flooring	7 days	Thu 2/2/23	Fri 2/10/23	158			
160		CCC Punch /Complete	4 days	Mon 2/13/23	Thu 2/16/23	159			
161		M&A Punch /Complete	4 days	Fri 2/17/23	Wed 2/22/23	160			
162		Site Work	115 days	Mon 12/19/22	Fri 5/26/23				
163		Site Concrete	50 days	Mon 12/19/22	Fri 2/24/23	2,11			
164		Final Grade Asphalt Prep	40 days	Mon 1/30/23	Fri 3/24/23	163FS-20 days			
165		Asphalt and Street Repair	35 days	Mon 3/13/23	Fri 4/28/23	164FS-10 days			

ID	Task Mod	Task Name	Duration	Start	Finish	Predecessors	Resource Names	J	Half 2, 2 J
166		Striping /Signage	4 days	Thu 4/27/23	Tue 5/2/23	165FF+2 days			
167		Landscaping	55 days	Mon 2/27/23	Fri 5/12/23	163			
168		Asphalt Blue Top	1 day	Mon 5/1/23	Mon 5/1/23	165			
169		CCC Punch /Complete	5 days	Mon 5/15/23	Fri 5/19/23	167			
170		M&A Punch /Complete	5 days	Mon 5/22/23	Fri 5/26/23	169			
171									
172		Final inspections	15 days	Thu 4/20/23	Wed 5/10/23	16			
173		Fire Safety System Inspection	10 days	Thu 4/20/23	Wed 5/3/23	16			
174		TCO	1 day	Thu 5/11/23	Thu 5/11/23	172,173			
175		CO	2 days	Mon 5/29/23	Tue 5/30/23	162,174			
176		Tenant Move ins	15 days	Wed 5/31/23	Tue 6/20/23	175			

KRS Housing, LLC

Honorable Kent R. Hance

March 22, 2021

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701-2410

DELIVERY BY EMAIL: Bobby.Wilkinson@tdhca.state.tx.us and asset.management@tdhca.state.tx.us

**Re: Commons at St. Anthony's, TDHCA #20042
10% Test Report Submittal Extension Request**

Dear Mr. Wilkinson:

The Commons at St. Anthony's will be a 124 senior apartment development located in Amarillo within a portion of the historic St. Anthony's Hospital, a building dating back to the early 1900's and the first hospital to serve Amarillo. I request a ninety (90) day extension to the July 1, 2021 10% Test submittal deadline due to the following factors that were beyond the reasonable control of the Applicant and could not have been reasonably anticipated. KRS Housing, LLC is the General Partner of the Applicant – St. Anthony's Amarillo Housing 20, LP.

The property Seller is a neighborhood advisory association, a non-profit organization without staff that is run by its volunteer Board of Directors. Day-to-day management of all matters related to the building had been handled on a voluntary basis by an agent for the Seller until early August 2020 when its services were terminated by the Seller. Then, the Seller's Board of Directors changed membership. The removal of the agent by the Seller was a decision made beyond the control of the Applicant and one in which the Applicant was not consulted. Additional time has been spent educating the new Board about the real estate purchase agreement, the rehabilitation architectural plans, the various approval processes, and future cooperative necessities. The change in Seller representation and Board membership has also increased the time needed to receive Seller approval of key design and approval instruments. In addition, gaining access to the building has proven challenging and limited to times convenient for the volunteer agent and then the volunteer neighborhood Directors. Access to the building for key measurements and third-party professionals is critical to keep the project on our targeted timeline.

The historic nature of the Development requires additional project design review by the Texas Historical Commission (THC) and U.S. National Park Service (NPS); a time-consuming process not applicable to new construction or renovation projects. These extra layers of review were initially factored into the overall Development timeline by co-Developer Commonwealth Development and historic consultant MacRostie Historic Advisors LLC – who both have extensive experience with historic renovation and construction; however, the early onset of the pandemic and travel restrictions caused a real impediment to forward

progress on this process. On-site physical inspections of the building were essential to document its historic character for the THC and NPS. Also, given the age of the building, no building plans were available to the architect – only a very old scan without dimensions. Detailed field building dimensional verification had to be conducted to create base architectural plans from which to design the rehabilitation. Travel to the site, however, was mostly prohibited throughout much of 2020 because of the COVID-19 pandemic, making coordination among the design team and historic consultants more difficult. The National Register of Historic Places nomination was submitted to the THC on February 7, 2020; BEFORE submitting the 9% tax credit application to TDHCA. This was considered to be a very early submittal of the historic nomination, but the Historic Places nomination review got bogged down by initial COVID-19 office shut downs and then at-home nomination reviews being performed by THC and NPS staff. Archive libraries at Texas universities needed to research the building history were closed and inaccessible. The historic nomination was initially expected to be heard by the THC State Board of Review on May 16, 2020 but was delayed to September 12, 2020 because of the early impact COVID-19 had on THC and NPS operations. This was a costly delay of time – one that was out of our reasonable control and nothing that could have been reasonably anticipated. The following notice was issued by the NPS April 1, 2020:

From the National Park Service (NPS):

The Technical Preservation Services (TPS) office remains open, with TPS staff primarily teleworking from home at this time. TPS staff can continue to be reached by phone and email. Review of tax incentive applications by our office and the State Historic Preservation Offices (SHPO) continues (including Part 1 applications and appeals), but please note that TPS and SHPO staff may not have immediate access to applications and project files during this period. Many SHPO offices are also operating remotely during this period with limited or no access to their offices and mail, so please consult with your SHPO office should you have questions concerning their specific current operations before submitting any tax incentive applications.

TPS continues to review hard-copy applications at this time, but please anticipate that there will be some additional delays in review.

The compounding delay in the review process impacted the preparation of detailed Part 2 & B rehabilitation plans to be submitted to the NPS and THC for construction approval. Work cannot begin on the hazardous materials abatement and demolition until the NPS and THC approve the rehabilitation plans. Furthermore, the financing and purchase closing will not occur before NPS and THC approve the Part 2 & B plans. This architectural plan development and approval delay has subsequently pushed the March 2021 projected closing date later into 2021. Assuming the typical NPS rehabilitation plan approval time, the closing is anticipated to occur by June 1, 2021. There remains, however, outstanding risk that the closing could be delayed further by the NPS. The chance of insufficient time to incur the needed expenses and submit the 10% test report by July 1, 2021 is great enough to necessitate requesting a 10% test extension.

The projected construction duration is sixteen months; therefore, meeting the December 31, 2022 placed in service date is not in jeopardy. The first year in which tax credits will be claimed is 2023.

In summary, for the many causes of delay discussed above that were beyond the Applicant's reasonable control and could not have been reasonably anticipated, I respectfully request a ninety (90) day extension to the 10% test submittal deadline. I also request that, as Executive Director, you may make a determination that granting the extension will not warrant a point reduction in future 9% LIHTC rounds per §11.9(f) of the Qualified Allocation Plan. In addition, this extension request is being filed more than thirty (30) days prior to the July 1st deadline and therefore no fee is due with the request.

I appreciate your consideration in this matter and request that you contact me should you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kent R. Hance".

Kent R. Hance

Manager of General Partner Managing Member of St. Anthony's Amarillo Housing 20, LP

EXHIBIT E

Exhibit E

Delays caused by Neighborhood Association terminating management agent relationship and relying on a voluntary board of directors:

- February 18, 2021 Revised Plat application submitted to Neighborhood Association for review and signature

- March 10, 2021 The NPS Part 2 Application and the THC Part B Tax Credit Rehab Application sent to neighborhood association for signature with a return Fed-Ex envelope.

- March 15, 2021 After an on-site meeting with Commonwealth Development, the neighborhood association had agreed to the location of the new lot line

- March 16, 2021 The neighborhood association said they were seeking legal representation

- March 23, 2021 Another email based on conversations to get the plat app and the Part B apps signed.

- April 6, 2021 Confirmation that the applications were signed by the neighborhood.

45-DELAY to the Development Timeline

jennifer@truecasa.net

From: Craig Alter <c.alter@commonwealthco.net>
Sent: Tuesday, March 16, 2021 9:44 AM
To: Kent Hance
Cc: Jack P. Driskill; jennifer@truecasa.net; Alexandro Contreras; Darlene Metz; Dan Kroetz; Kevin Sturgeon
Subject: FW: St. Anthony's Revised Subdivision Plat
Attachments: image015.jpg

Kent:
I simply want to bring these issues to your attention so you are aware.

The revised subdivision plat application to move the lot lines as we have discussed with the neighborhood association cannot be filed without including a NHAA representative signature or the NHAA approval to allow the surveyor to act as agent. The subdivision application was delivered to NHAA by the surveyor a couple of weeks ago and has not been returned. Per the message below, NHAA is waiting to have legal representation before signing the application or giving the surveyor authority to submit it.

I had also sent the National Park Service Part 2 Rehabilitation Application and the Texas Historical Commission Part B Tax Credit Rehabilitation Application to Mildred on March 10, 2021 for her signature with a return FedEx envelope. She has not returned the documents, my email, or phone call. Perhaps the NHAA is also waiting to execute these until they have legal counsel.

Craig

CRAIG B. ALTER
VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES




11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738
DIRECT: 512-956-5432
CELL: 512-563-3225
C.ALTER@COMMONWEALTHCO.NET
WWW.COMMONWEALTHCO.NET
FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.

 Please consider the environment before printing this email. Thank you.

From: Jay Parker <jparker.nhaa@gmail.com>
Sent: Tuesday, March 16, 2021 9:24 AM
To: Craig Alter <c.alter@commonwealthco.net>
Cc: ken McEntire <kmcentire@beyondmapping.com>; Melodie N. Graves <mgraves24@actx.edu>; Mildred Darton <mjcornish@att.net>; Ben Marshall <b.marshall@madesigninc.net>; Brian Redig <b.redig@madesigninc.net>; jennifer@truecasa.net; Kevin Sturgeon <k.sturgeon@commonwealthco.net>; Alexandro Contreras

<AContreras@hslawmail.com>

Subject: Re: St. Anthony's Revised Subdivision Plat

We are a day or two away from acquiring legal representation regarding this project. Please hold on completing your submission until our attorney review is complete.

Respectfully,

J. Parker

On Mon, Mar 15, 2021, 6:29 PM Craig Alter <c.alter@commonwealthco.net> wrote:

Ken:

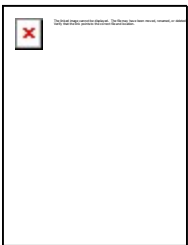
Please proceed with filing the subdivision replat application. Ben Marshall met with NHAA representative Jay Parker on site to review the lot line relocation. It is our understanding, Mr. Parker understood and accepted the lot line revision as proposed.

Thank you,

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

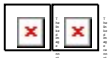
DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.



Please consider the environment before printing this email. Thank you.

From: ken McEntire <kmcentire@beyondmapping.com>
Sent: Monday, February 22, 2021 5:15 PM
To: Craig Alter <c.alter@commonwealthco.net>
Subject: Re: St. Anthony's Revised Subdivision Plat

Sounds good.

Thanks for the update

[Ken McEntire, RPLS](#)

Director of Survey Division



3501 South Georgia Street, Suite A

Amarillo, Texas, 79109

(806) 467-3777

Firm #10194246

On Mon, Feb 22, 2021 at 4:54 PM Craig Alter <c.alter@commonwealthco.net> wrote:

Ken,

We are planning to discuss the plat with the NHAA representatives this week and then can provide direction on filing the revised plat.

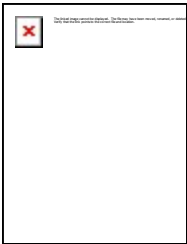
Please contact me should you have any questions.

Thanks,

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

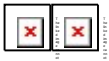
DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET


WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.

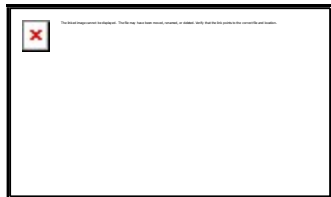
 Please consider the environment before printing this email. Thank you.

From: ken McEntire <kmcentire@beyondmapping.com>
Sent: Monday, February 22, 2021 1:39 PM
To: Craig Alter <c.alter@commonwealthco.net>
Cc: Brian Redig <b.redig@makesigninc.net>; Ben Marshall <b.marshall@makesigninc.net>; Kevin Sturgeon <k.sturgeon@commonwealthco.net>; Darlene Metz <d.metz@commonwealthco.net>; Kent Hance <khance@hslawmail.com>; Alexandro Contreras <AContreras@hslawmail.com>; Jerri Glover <jerri.glover@gmail.com>; Mildred Darton <mjcornish@att.net>; mgraves24@actx.edu
Subject: Re: St. Anthony's Revised Subdivision Plat

I have corrected the application. Do we have an update on the review of the preliminary plat? Does it appear that the revised boundary is where you are wanting it? Also, what is the status of the application?

Ken McEntire, RPLS

Director of Survey Division



3501 South Georgia Street, Suite A

Amarillo, Texas, 79109

(806) 467-3777

Firm #10194246

On Thu, Feb 18, 2021 at 9:35 AM Craig Alter <c.alter@commonwealthco.net> wrote:

Ken:

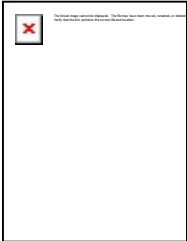
St. Anthony's Legacy & Redevelopment Corp. is no longer agent for NHAA and should be removed from the subdivision application.

Thanks,

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET


WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.

 Please consider the environment before printing this email. Thank you.

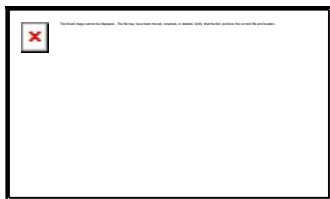
From: ken McEntire <kmcentire@beyondmapping.com>
Sent: Thursday, February 18, 2021 9:29 AM
To: Craig Alter <c.alter@commonwealthco.net>
Cc: Brian Redig <b.redig@makesigninc.net>; Ben Marshall <b.marshall@makesigninc.net>; Kevin Sturgeon <k.sturgeon@commonwealthco.net>; Darlene Metz <d.metz@commonwealthco.net>; Kent Hance <khance@hslawmail.com>; Alexandro Contreras <AContreras@hslawmail.com>; Jerri Glover <jerri.glover@gmail.com>; Mildred Darton <mjcornish@att.net>
Subject: Re: St. Anthony's Revised Subdivision Plat

See attached recorded plat, preliminary plat and the revised survey with background to verify the location of the new boundary lines as well as the plat application.

Thanks,

[Ken McEntire, RPLS](#)

Director of Survey Division



3501 South Georgia Street, Suite A

Amarillo, Texas, 79109

(806) 467-3777

Firm #10194246

On Wed, Feb 17, 2021 at 6:08 PM Craig Alter <c.alter@commonwealthco.net> wrote:

Ken:

In response to your ownership question, the property is still owned by NHAA. The recently elected President is Jerri Glover (email above) and the past President, now Vice President, is Mildred Darton. Please send the plat application to them for review and signature. Please also send all of us an exhibit showing the approved subdivision lot line compared to the revised lot line location.

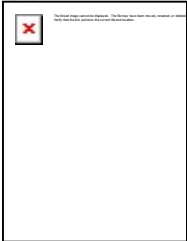
Jerri and Mildred, I would be happy to discuss the revised subdivision plat with you at your convenience. The revised subdivision plat is needed in response to the Amarillo City development rules.

Thank you.

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.



Please consider the environment before printing this email. Thank you.

jennifer@truecasa.net

From: Craig Alter <c.alter@commonwealthco.net>
Sent: Tuesday, March 23, 2021 2:53 PM
To: j.peterson2426@gmail.com
Cc: Kent Hance; jennifer@truecasa.net
Subject: FW: St. Anthony's Application Documents
Attachments: OwnerPart2SubmittalAuthorForMD_3-10-21.pdf; OwnerPart2SubmittalAuthor_3-4-21.pdf; PartBDescriptionOfRehabTHC_3-4-21.pdf; Part2DescriptionOfRehabNPS,v2_3-3-21.pdf; ReplatApplication,NoSig.pdf; ExistingProposedLotLineExhibit_2-25-21.pdf

Joseph:

Thank you for your call today. Below is my follow-up email to Melodie stating Mildred agreed to execute or get the documents executed. I'll also forward to you my email to Mildred.

Attached are the letters addressed to Melodie and Mildred with requested Owner's signature place at the bottom acknowledging no objection to us submitting the rehabilitation construction plans to the National Park Service (NPS) for approval. The Texas Historical Commission (THC) Part B and the NPS Part 2 applications for rehabilitation are attached. The Owner representative should sign the THC Part B form on page 2 below my signature. I request the executed letter and THC Part B form be returned to me. Please use blue ink when signing the documents.

Also attached are the subdivision plat application which needs the Owner printed name and signature on page 5 and the exhibit showing the original and revised subdivision plat lines (original is the red line and revised is the heavy black dashed line). Please have this executed and returned to me in the same envelope as above.

Please contact me should you have any questions about these documents.

Thank you for your assistance.

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.



Please consider the environment before printing this email. Thank you.

From: Craig Alter <c.alter@commonwealthco.net>

Sent: Wednesday, March 10, 2021 5:26 PM

To: Melodie N. Graves <mgraves24@actx.edu>

Cc: Mildred Darton <mjcornish@att.net>

Subject: St. Anthony's Application Documents

Melodie:

You may disregard my previous emails requesting that you execute documents related to National Park Service and Texas Historical Commission rehabilitation tax credit applications. After speaking with Mildred, I sent the needed documents to her today for her execution and return of original documents to me.

Mildred:

Please execute the documents you receive in blue ink.

Thank you both for your help.

Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.



Please consider the environment before printing this email. Thank you.

jennifer@truecasa.net

From: Craig Alter <c.alter@commonwealthco.net>
Sent: Tuesday, March 23, 2021 2:58 PM
To: j.peterson2426@gmail.com
Cc: Kent Hance; jennifer@truecasa.net
Subject: FW: St. Anthony's Preservation Applications
Attachments: OwnerPart2SubmittalAuthor_3-4-21.pdf; Part2DescriptionOfRehabNPS_3-3-21.pdf; Part2DescriptionOfRehabTHC_3-4-21.pdf

Below is the follow-up email to Melodie requesting return of the documents with her signature.

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.



Please consider the environment before printing this email. Thank you.

From: Craig Alter
Sent: Wednesday, March 10, 2021 3:53 PM
To: Melodie N. Graves <mgraves24@actx.edu>
Cc: Mildred Darton <mjcornish@att.net>; Beth Jacob <bjacob@mac-ha.com>; Darlene Metz <d.metz@commonwealthco.net>; Jay Parker <jparker.nhaa@gmail.com>; Ben Marshall <b.marshall@madesigninc.net>
Subject: FW: St. Anthony's Preservation Applications

Dear Melodie:

I am following up on the message below to see if you have had the opportunity to review the attached documents and ask if you have any questions? We are ready to submit the rehabilitation plans to the National Park Service and Texas Historical Commission but cannot do so without including the attached documents with your signature added to the letter on Commonwealth letterhead and the THC Part 2 Description of Rehabilitation application (revised from below email message with my signature).

Please return the two executed documents this week to enable our submittal. Feel free to contact me should you have any questions.

Thank you,
Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN RELATION TO THE CONTENTS OF THIS E-MAIL AND ANY OF ITS ATTACHMENTS IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND PERMANENTLY DELETE THE ORIGINAL E-MAIL AND DESTROY ANY COPIES OR PRINTOUTS OF THIS E-MAIL, AS WELL AS ANY ATTACHMENTS.

 Please consider the environment before printing this email. Thank you.

From: Craig Alter <c.alter@commonwealthco.net>

Sent: Thursday, March 04, 2021 2:16 PM

To: Melodie N. Graves <mgraves24@actx.edu>

Cc: Mildred Darton <mjcornish@att.net>; Kent Hance <khance@hslawmail.com>; jennifer@truecasa.net; Alexandro Contreras <AContreras@hslawmail.com>; Darlene Metz <d.metz@commonwealthco.net>; Kevin Sturgeon <k.sturgeon@commonwealthco.net>; Brian Redig <b.redig@maesigninc.net>

Subject: St. Anthony's Preservation Applications

Melodie:

Commonwealth's architect, M+A Design, in consultation with the project historic consultants, has prepared construction plans for the renovation of the senior apartment portion of the hospital. The National Park Service and Texas Historical Commission construction plan applications need acknowledgement the property owner does not object to the applications being filed. Please sign the attached letter which will accompany the National Park Service application and sign the attached Texas Historical Commission application under my name and return both to me by email. We will submit the applications upon receiving executed documents. Also attached is the National Park Service rehabilitation application for your records.

Should you have any questions, please contact me.

Thank you,
Craig

CRAIG B. ALTER

VICE PRESIDENT OF DEVELOPMENT | THE COMMONWEALTH COMPANIES



11612 BEE CAVES ROAD, BLDG. 2, SUITE 152, AUSTIN, TX 78738

DIRECT: 512-956-5432

CELL: 512-563-3225

C.ALTER@COMMONWEALTHCO.NET

WWW.COMMONWEALTHCO.NET

FOLLOW US ON FACEBOOK OR ON TWITTER



WE OPEN DOORS TO OPPORTUNITY.

THIS E-MAIL AND ANY ATTACHMENTS MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. THIS E-MAIL IS INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL, YOU ARE HEREBY NOTIFIED THAT ANY COPYING, DISTRIBUTION, DISSEMINATION OR ACTION TAKEN IN

AGENDA

FOR A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, MARCH 8, AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

City Council Mission: Use democracy to govern the City efficiently and effectively to accomplish the City's mission.

Please note: The City Council may take up items out of the order shown on any Agenda. The City Council reserves the right to discuss all or part of any item in an executive session at any time during a meeting or work session, as necessary and allowed by state law. Votes or final decisions are made only in open Regular or Special meetings, not in either a work session or executive session.

INVOCATION: Lisa Bradshaw, Hillside Christian Church

PUBLIC ADDRESS:

(For items on the agenda for City Council consideration)

The public will be permitted to offer public comment on agenda items. Public Address signup times are available from Sunday at 8:00 a.m. until Tuesday at 12:45 p.m. at <https://www.amarillo.gov/departments/city-manager/city-secretary/public-address-registration-form> or by calling the City Secretary's office at (806) 378-3014.

AGENDA

1. City Council will discuss or receive reports on the following current matters or projects:

- A. Review agenda items for regular meeting and attachments;
- B. Updates from Councilmembers serving on outside boards and commissions:
 - a. Animal Management & Welfare Advisory Board;
 - b. Local Government Corporation;
- C. Quarterly Budget Update;
- D. Quarterly Sales Tax Update;
- E. Discuss Solid Waste Update; and
- F. Request future agenda items and reports from City Manager.

2. CONSENT ITEMS

It is recommended that the following items be approved and that the City Manager be authorized to execute all documents necessary for each transaction:

THE FOLLOWING ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCILMEMBER, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.

A. CONSIDER APPROVAL - MINUTES:

(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the regular meeting held on February 22, 2022.

B. CONSIDERATION OF ORDINANCE NO. 7961

(Contact: Anthony Spanel, Environmental Health Director)

This item is the second and final reading of an ordinance amending the Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-20 to provide an updated scoring system for food hygiene inspections.

C. CONSIDERATION OF ORDINANCE NO. 7962

(Contact: Brady Kendrick, Planner II)

This item is the second and final reading of an ordinance to consider an ordinance rezoning a 0.81-acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to General Retail District (GR). (Vicinity: Georgia St. and S.W.58th Ave.; Applicant/S: Lawrence Vigil for Vigil Properties LLC)

D. CONSIDERATION OF ORDINANCE NO. 7963

(Contact: Brady Kendrick, Planner II)

This item is the second and final reading of an ordinance to consider an ordinance rezoning the east 74 feet of the west 180 feet of Lot 9, Block 8, Pleasant Valley Unit No. 1, a subdivision of the S.E. ¼ and part of the S.W. ¼ of Section 159, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Residential District 1 (R-1) to Residential District 1 with Specific Use Permit 199 (R-1/S-199) for the placement of a Type B Manufactured Home. (Vicinity: Withers Ave. and Mountain Dr.; Applicant/s: Leocadio Duarte.)

E. CONSIDERATION OF ORDINANCE NO. 7964

(Contact: Martin Birkenfeld, Chief of Police)

This item is a second and final reading of an ordinance amending the Amarillo Municipal Code, Chapter 10-3, Article VII, Section 10-3-11(a) to update maximum non-consent towing fees, and deleting Chapter 10-3, Article VII, Section 10-3-116.

F. CONSIDER AWARD – ANNUAL CHEMICALS AND PESTICIDE CONTRACT

(Contact: Michael Kashuba, Director of Parks and Recreation)

Award to: SKTR Inc. dba Pro Chem Sales – \$61,118.63

This item considers awarding an annual contract for the purchase of various herbicides, fungicides, and wetting agents to be used throughout the year at Ross Rogers and Comanche Trail Golf Complexes and by the park maintenance division.

G. CONSIDER AWARD – ANNUAL UNIFORM CONTRACT FOR AMARILLO POLICE DEPARTMENT AND AIRPORT DEPARTMENT

(Contact: Trent Davis, Purchasing Agent)

Award to: Nardis, Inc. – \$158,779.46

This item considers the award of an annual contract to provide uniforms for Amarillo's Airport and Police departments.

H. CONSIDER AWARD – HIGHWAY LUMINAIRES SUPPLY AGREEMENT

(Contact: Trent Davis, Purchasing Agent)

Award to: Techline, Inc. – \$62,160.00

This item considers award of an annual agreement to supply highway luminaries for use by various city departments.

I. CONSIDER AWARD – TEMPORARY LABOR SERVICES CONTRACT FOR CIVIC CENTER COMPLEX

(Contact: Bo Fowlkes, Assistant General Manager)

Award to: Hire Quest – Not to exceed \$250,000.00

This item considers award of a one-year contact with two one-year extensions to provide temporary labor services for use throughout the Amarillo Civic

Center Complex for services including cleaning, setup, restoration, and event services.

J. CONSIDER PURCHASE – VIDEO MANAGEMENT PLATFORM

(Contact: Martin Birkenfeld, Chief of Police)
Award to: ICU Technologies – \$50,277.04
(GSA #47QWA18D003K)

This item considers the purchase of a core video management platform to be utilized in the Amarillo Regional Crime Center.

K. CONSIDER AWARD – CONSTRUCTION SERVICES CONTRACT FOR SEWER MAIN REHABILITATION BY PIPE BURSTING

(Contact: Matthew Thomas, City Engineer)
Award to: King Solution Services– \$1,925,095.00

This item considers the award of a construction services contract to furnish and install a new six-inch sanitary sewer main via the pipe bursting method, sewer taps, and manholes.

L. CONSIDER AWARD – CONTRACT FOR INTERPRETATION SERVICES

(Contact: Casie Stoughton, Director of Public Health)
Award to: Refugee Language Project – Not to exceed \$400,000

This item considers the award of a two-year contract for interpretation and translation services for the clients of the Amarillo Department of Public Health.

M. CONSIDER APPROVAL – AVIATION CLEAR ZONE EASEMENT

(Contact: Cris Valverde, Director of Planning and Development Services)

This item is the consideration of an Aviation Clear Zone Easement being 4,600 feet above mean sea level above the plat of Valley View South Unit No. 5, a suburban subdivision to the City of Amarillo, being an unplatted tract of land, in Section 175, Block 2, A.B.&M. Survey, Randall County, Texas. (Vicinity: Farmers Ave & Burlington St.; Applicant: Kalem Thomas-President for Derrick & Kalem Transportation, LLC)

N. CONSIDER APPROVAL – AVIATION CLEAR ZONE EASEMENT

(Contact: Cris Valverde, Director of Planning and Development Services)

This item is the consideration of an Aviation Clear Zone Easement being 4,400 feet above mean sea level above the plat of Merrit Estates Unit No. 3, an addition to the City of Amarillo, being a replat of Lot 18E, Block 1, Merrit Estates Unit No. 2, in Section 152, Block 2, A.B.&M. Survey, Randall County, Texas. (Vicinity: Tradewind St. & Meritta Ln.; Applicant: James Del Vecchio)

O. CONSIDER APPROVAL – AVIATION CLEAR ZONE EASEMENT

(Contact: Brady Kendrick, Planner II)

This item is the consideration of an Aviation Clear Zone Easement, being 5,450 feet above mean sea level above the plat of City View Estates Unit No. 21, an addition to the City of Amarillo, being a replat of a portion of Lot 57, Block 35, City View Estates Unit No. 12, in Section 231, Block 2, A.B.&M. Survey, Randall County, Texas. (Vicinity: Farmers Ave. and Western St.; Applicant: Mark Tate for Circle K Stores Inc.)

P. CONSIDER APPROVAL – AVIATION CLEAR ZONE EASEMENT

(Contact: Brady Kendrick, Planner II)

This item is the consideration of an Aviation Clear Zone Easement, being 4,750 feet above mean sea level above the plat of Carnero Addition Unit No. 2, a suburban subdivision to the City of Amarillo, being an unplatted tract of land in Section 152, Block 2, A.B.&M. Survey, Randall County, Texas. (Vicinity:

Tradewind St. and SE 46th Ave; Applicant: Joel Concepcion Mena and Dianelys Pradas Venero)

Q. CONSIDER APPROVAL – DEDICATION OF LAND FOR PUBLIC UTILITY EASEMENTS

(Contact: Brady Kendrick, Planner II)

This item is the consideration of a dedication of a 0.455-acre and a 0.081-acre tract of unplatted land for Public Utility Easements (P.U.E.) being in Section 231, Block 2, A.B.&M. Survey, Randall County, Texas. (Vicinity: Miami Ave. and Loop 335; Applicant: Happy Again, L.P. and Attebury Elevators, LLC)

3. NON-CONSENT ITEM:

A. PUBLIC HEARING AND CONSIDERATION OF ORDINANCE NO. 7965

(Contact: Kyle Schniederjan, Capital Projects & Development Engineering Director)

This item is a public hearing and first reading of an ordinance approving and adopting the Five-Year Community Investment Program (CIP) for FY 2021/2022 through 2025/2026.

B. PUBLIC HEARING AND CONSIDERATION OF ORDINANCE NO. 7966

(Contact: Brady Kendrick, Planner II)

This item is a public hearing and first reading to consider an ordinance rezoning Lots 6 thru 8, Block 16, Morningside Subdivision, an addition to the City of Amarillo, in Section 156, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Multiple Family District 1 (MF-1) to General Retail District (GR). (Vicinity: Amarillo Blvd. and Mirror St.; Applicants: Greg Mitchell for JAMAL Enterprises, LP)

C. PUBLIC HEARING AND CONSIDERATION OF ORDINANCE NO. 7967

(Contact: Brady Kendrick, Planner II)

This item is a public hearing and first reading to consider an ordinance rezoning all of Lots 3 and 4 and the remaining portion of Lot 5, Block 16, Morningside Subdivision, an addition to the City of Amarillo, in Section 156, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Heavy Commercial District (HC) to General Retail District (GR). (Vicinity: Amarillo Blvd. and Mirror St.; Applicants: Greg Mitchell for JAMAL Enterprises, LP)

4. EXECUTIVE SESSION:

The City Council may convene in Executive Session to receive reports on or discuss any of the following pending projects or matters:

- A. Sec. 551.071 – Consultation with an attorney on 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 the Texas Open Meetings Act:
 - a. Commercial and industrial utility users in Potter and Randall counties
- B. Sec. 551.072 – Discussion regarding the purchase, exchange, lease, or value of real property:
 - a. Sale of real property located in the Northeast Quadrant of the City of Amarillo
- C. Sec. 551.074 – Discuss the appointment, employment, evaluation, reassignment, duties, and qualifications of a public officer or employee:
 - a. Discussion of City Manager Jared Miller’s performance evaluation

- D. Sec. 551.087 - Discussion regarding commercial or financial information received from a business prospect and/or to deliberate the offer of a financial or other incentive to a business prospect:
- a. Commercial and industrial utility users in Potter and Randall counties

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 S. Buchanan Street) of the building. An access ramp leading to the main entry is located at the southwest corner of the building. Parking spaces for individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations, or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3014 or the City TDD number at 378-4229.

Watch the meeting live: <http://amarillo.gov/city-hall/city-government/view-city-council-meetings>.

I certify that the above notice of meeting was posted on the electronic bulletin board in City Hall, 601 S. Buchanan, Amarillo, Texas, and the City website (www.amarillo.gov) on or before the 4th day of March 2022, at 5:00 p.m. in accordance with the Open Meetings Laws of the State of Texas, Chapter 551, Texas Government Code.


Stephanie Coggins, City Secretary

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO

On the 22nd of February 2022 the Amarillo City Council met at 1:00 p.m. for a regular meeting held in Council Chamber, located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON	MAYOR
FREDA POWELL	MAYOR PRO TEM / COUNCILMEMBER NO. 2
COLE STANLEY	COUNCILMEMBER NO. 1
EDDY SAUER	COUNCILMEMBER NO. 3
HOWARD SMITH	COUNCILMEMBER NO. 4

Absent were none. Also in attendance were the following administrative officials:

JARED MILLER	CITY MANAGER
ANDREW FREEMAN	ASSISTANT CITY MANAGER
FLOYD HARTMAN	ASSISTANT CITY MANAGER
LAURA STORRS	ASSISTANT CITY MANAGER
BRYAN MCWILLIAMS	CITY ATTORNEY
JENIFER RAMIREZ	ASSISTANT TO THE CITY MANAGER
STEPHANIE COGGINS	CITY SECRETARY

A quorum was established by Mayor Nelson and Councilmembers Powell, Sauer, Stanley, and Smith. Mayor Nelson called the meeting to order at 1:06 p.m. welcomed those in attendance, and the following items of business were conducted.

The invocation was given by Greg Dowell of Hillside Christian Church. Mayor Nelson led the Pledge of Allegiance.

Councilmember Stanley read a proclamation for "Black History Month" which was presented to Melodie Graves and Hobert Brown.

PUBLIC ADDRESS:

There were no citizens registered to comment during public address.

ITEM 1 – CITY COUNCIL DISCUSSED OR RECEIVED REPORTS ON THE FOLLOWING CURRENT MATTERS OR PROJECTS:

- A. Review agenda items for regular meeting and attachments;
- B. Updates from Councilmembers serving on outside boards and commissions:
 - a. Beautification and Public Arts Advisory Board
 - b. Park and Recreation Board
 - c. Pedestrian and Bicycle Safety Advisory Committee
 - d. Environmental Task Force
- C. Discuss Fiscal 2021/2022 Five-Year Community Investment Program (CIP); and
- D. Request future agenda items and reports from City Manager.

ITEM 2 – CONSENT ACTION ITEMS:

Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Councilmember Sauer asked that a correction be made to the minutes to reflect his title as Place 3. Item No. 2-KK was discussed separately at the request of Councilmember Stanley. Victoria Medley, Director of Animal Management and Welfare, presented the item, and it remained on the consent agenda. A motion was made to approve the consent agenda with the noted correction to the minutes by Councilmember Powell, seconded by Councilmember Sauer.

- A. **CONSIDER APPROVAL - MINUTES:**
(Contact: Stephanie Coggins, City Secretary)

This item considers approval of the City Council minutes for the regular meeting held on February 8, 2022.

B. CONSIDERATION OF ORDINANCE NO. 7954

(Contact: Cris Valverde, Director of Planning and Development Services)

This item is a second and final reading to consider an ordinance rezoning a 4.58-acre tract of unplatted land in Section 65, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to Residential District 3 (R-3). (Vicinity: Soncy Rd. and Heritage Hills Pkwy)

C. CONSIDERATION OF ORDINANCE NO. 7955

(Contact: Cris Valverde, Director of Planning and Development Services)

This item is a second and final reading to consider an ordinance rezoning an 18.89-acre tract of unplatted land in Section 65, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to Moderate Density District (MD). (Vicinity: Soncy Rd. and Heritage Hills Pkwy.)

D. CONSIDERATION OF ORDINANCE NO. 7956

(Contact: Cris Valverde, Director of Planning and Development Services)

This item is a second and final reading to consider an ordinance rezoning a 4.88-acre tract of unplatted land in Section 2, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to Moderate Density District (MD). (Vicinity: Western St. and Sundown Ln.)

E. CONSIDERATION OF ORDINANCE NO. 7957

(Contact: Brady Kenrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning a 22.73-acre tract of unplatted land, in Section 2, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to Residential District 3 (R-3). (Vicinity: Western St. and Sundown Ln.)

F. CONSIDERATION OF ORDINANCE NO. 7958

(Contact: Brady Kenrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning a 1.43-acre tract of unplatted land in Section 65, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to General Retail District (GR). (Vicinity: FM 2186 and FM 2590 (Hollywood Rd. and Soncy Rd.))

G. CONSIDERATION OF ORDINANCE NO. 7959

(Contact: Brady Kenrick, Planner II)

This item is a second and final reading to consider an ordinance rezoning a 2.74-acre tract of unplatted land, in Section 65, Block 9, B.S.&F. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District (A) to General Retail District (GR). (Vicinity: Arden Rd. and Helium Rd.)

H. CONSIDERATION OF ORDINANCE NO. 7960

(Contact: Debbie Reid, Director of Finance)

This item is the second and final reading of an ordinance to amend the City of Amarillo 2020/2021 Budget.

I. **CONSIDER AWARD – HANSEN’S GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services
Grant Amount - \$18,500.00

This item accepts the award from the Texas Department of State Health Services from April 1, 2022, thru March 31, 2023, to continue funding to prevent and control the transmission of Hansen’s Disease.

J. **CONSIDER AWARD – HEALTHY TEXAS MOTHERS AND BABIES GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services
Grant Amount: \$85,000.00

This item accepts the award from the Texas Department of State Health Services from September 1, 2022, thru August 31, 2023, to continue funding to support activities under the Health Texas Mothers and Babies Grant.

K. **CONSIDER AWARD – HIV PREVENTION GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services

Grant Amount: \$248,125.00

This item accepts the award from the Texas Department of State Health Services from September 1, 2022, thru August 31, 2023, to continue funding HIV Prevention.

L. **CONSIDER AWARD – IMMUNIZATION GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services
Grant Amount - \$261,049.00

This item accepts the award from the Texas Department of State Health Services from September 1, 2022, thru August 31, 2023, to continue funding to prevent and control the transmission of vaccine-preventable diseases in children and adults, with emphasis on accelerating strategic interventions to improve their vaccine coverage levels.

M. **CONSIDER AWARD – TUBERCULOSIS STATE GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services
Grant Amount - \$75,066.00

This item accepts the award from the Texas Department of State Health Services from September 1, 2022, thru August 31, 2023, to continue funding to prevent and control the transmission of active and latent tuberculosis.

N. **CONSIDER AWARD – PUBLIC HEALTH EMERGENCY PREPAREDNESS GRANT**

(Contact: Casie Stoughton, Director of Public Health)
Grantor: Texas Department of State Health Services
Grant Amount - \$256,077.00

This item accepts the award from the Texas Department of State Health Services from July 1, 2022, thru June 30, 2023, to continue funding to provide all hazards planning and Strategic National Stockpile coordination for Potter and Randall Counties.

O. CONSIDER APPROVAL – MEMORANDUM OF UNDERSTANDING BETWEEN THE AMARILLO METROPOLITAN PLANNING ORGANIZATION AND THE CITY OF AMARILLO

(Contact: Travis Muno, MPO Administrator)

This item considers approval of a Memorandum of Understanding (MOU) between the Amarillo Metropolitan Planning Organization (MPO) and the City of Amarillo for the purpose of outlining the roles and responsibilities of the parties for federal reimbursement using consolidated Planning Grant funds and other federal transportation funds that may be used for planning. This is based on the planning contract, between The State of Texas, MPO and the City of Amarillo, which is effective until September 30, 2024.

P. CONSIDER AWARD – PROFESSIONAL SERVICES AGREEMENT FOR MARTIN ROAD LAKE IMPROVEMENTS – FISHING AMENITY DESIGN AND CONSTRUCTION

(Contact: Kyle Schniederjan, Director of Capital Projects & Development Engineering)

Award to: HDR Engineering, Inc. - \$131,950.00

This item considers award of a professional services agreement to reflect the final scope of the fishing amenity design and related construction phase services for the Martin Road Lake Improvements project.

Q. CONSIDER APPROVAL – ANNUAL MAINTENANCE AGREEMENT FOR SYSTEM SERVICES

(Contact: James McCormick, Radio Communications Coordinator)

Award to: Motorola Solutions - \$84,525.72

This item considers approval of an annual service agreement and maintenance of system services and security monitoring. These critical maintenance additions provide 24/7 response to potential issues with the City's radio system connectivity and 24/7 cybersecurity monitoring of the radio network.

R. CONSIDER AWARD – REDI-MIX CONCRETE ANNUAL CONTRACT

(Contact: Donny Hooper, Director of Public Works)

Award to: Thomas Redi-Mix, Inc. - \$315,036.00

This item is to consider award of a contract for the purchase of Redi-mix Concrete, used by the Street Division primarily to repair utility cuts in streets, alleys, and other miscellaneous projects.

S. CONSIDER PURCHASE – POLICE INTERCEPTORS AND ACCESSORIES

(Contact: Donny Hooper, Director of Public Works)

Award to: Holiday Ford - \$107,580.00

Defender Supply - \$ 72,416.15

Total Award - \$179,996.15

(Tarrant County Coop Contracts #2020-174, 2019-181, and 2020-046)

This item considers the purchase of three Police patrol vehicles upfitted with equipment for use in the Amarillo Independent School District (AISD) School Liaison Officer (SLO) program. This purchase will be funded by reimbursement from AISD through a Memorandum of Understanding agreement between the City of Amarillo and AISD for the SLO program.

T. CONSIDER AWARD – POLICE EQUIPMENT SUPPLY AGREEMENT

(Contact: Trent Davis, Purchasing Agent)

Award to: Proforce Law Enforcement - \$ 19,900.95

USIQ, Inc. - \$ 18,214.80

GT Distributors - \$ 222.50

Dana Safety Supply - \$ 9,917.85

Galls, Inc. - \$ 5,398.00

Sirchie Fingerprint Laboratories -	\$ 1,478.48
CPR Savers & First Aid Supply -	\$ 1,920.00
Total Award -	\$ 57,052.58

This item considers the award of a supply agreement to purchase various types of police equipment including but not limited to handcuffs, flashlights, ASP batons, fingerprint pads, gloves.

U. CONSIDER AWARD – GREENWAYS PUBLIC IMPROVEMENT DISTRICT LANDSCAPE MAINTENANCE CONTRACT

(Contact: Justin Oppel, Development Customer Service Coordinator)
Award to: Ramirez Lawn & Sprinkler – Not to exceed \$200,000.00

This item considers award of a one-year renewal of the Greenways Public Improvement District (PID) Landscape Maintenance Contract. This item is funded by special assessments collected from property owners in the Greenways PID.

V. CONSIDER AWARD – ROOF TOP UNIT REPLACEMENTS AT AMARILLO CENTRAL BRANCH AND EAST BRANCH LIBRARIES

(Contact: Jerry Danforth, Facilities Director)
Award to: TD Industries, Inc. - \$428,677.00

This item considers award of a replacement contract for the demolition, site preparation, security, and installation of two new roof top units at 413 S.E. 4th Avenue and 2232 S.E. 27th Avenue in Amarillo, Texas.

W. CONSIDER AWARD – HOTEL OCCUPANCY TAX ADMINISTRATION AND AUDIT SERVICES CONTRACT

(Contact: Debbie Reid, Finance Director)
Award to: Azavar Government Solutions – Not to exceed \$175,000.00

This item considers the award of a contract for Hotel Occupancy Tax (HOT) administration and audit services to provide a review and audit of Hotel Occupancy Tax (HOT) from hotel/motel owners in accordance with state and local laws and to provide on-going monthly HOT administration services for all local establishments required to remit HOT to the City.

X. CONSIDER AWARD – RENEWAL OF LANDSCAPE MAINTENANCE AGREEMENT FOR CITY PARKS AND OTHER LOCATIONS

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Reeder Landscape – \$928,146.27

This item considers the award of a one-year renewal of the current contract to provide regular mowing and other landscape maintenance for neighborhood parks, linear parks, public buildings, traffic islands and other City properties. If this renewal is awarded, one additional one-year renewal will remain available.

Y. CONSIDER PURCHASE – FERTILIZER

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: SKRT.INC dba Pro Chem - \$142,427.50
Harrell's LLC - \$ 65,428.20
BWI Dallas/Fort Worth - \$ 4,550.00
Justin Seed - \$ 23,075.00
Total Award - \$235,480.70

This item considers approval of the annual purchase of various fertilizers to be used throughout the year at Ross Rogers and Comanche Trail Golf Complexes as well as the park Maintenance Division.

Z. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT BENTON PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Child's Play, Inc. - \$149,969.76 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Benton Park.

AA. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT EL ALAMO PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Lea Park & Play Inc. - \$153,573.00 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within El Alamo Park.

BB. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT GLENWOOD PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)

Award to: Exerplay Inc. - \$152,247.25 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Glenwood Park.

CC. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT HINES MEMORIAL PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)

Award to: Exerplay Inc. - \$144,359.35 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Hines Memorial Park.

DD. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT MARY HAZELRIGG PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Child's Play Inc - \$149,964.38 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Mary Hazelrigg Park.

EE. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT PLEASANT VALLEY PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Kraftsman Commercial Playgrounds and Water Parks - \$136,067.66 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Pleasant Valley Park.

FF. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT SANBORN PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Kraftsman Commercial Playgrounds and Water Parks - \$129,450.21 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Sanborn Park.

GG. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT SOUTHEAST PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Kompan Inc. - \$145,176.52 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Southeast Park.

HH. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT STEPHEN F. AUSTIN PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Kompan Inc. - \$148,198.75 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Stephen F. Austin Park.

II. CONSIDER AWARD – REPLACEMENT OF PLAYGROUND EQUIPMENT AT WILL ROGERS PARK

(Contact: Michael Kashuba, Director of Parks and Recreation)
Award to: Lea Park & Play Inc. - \$155,801.00 (Buyboard #592-19)

This item considers award of a contract for a turn-key replacement of playground equipment within Will Rogers Park.

JJ. CONSIDER APPROVAL – LAND DEDICATION

(Contact: Brady Kendrick, Planner II)

This item considers approval for the dedication of a 0.039-acre tract of unplatted land for a Public Water and Sewer Facility Easement in Section 31, Block 9, B.S.&F. Survey, Randall County, Texas (Vicinity: Thunder Rd. and Interstate 27; Applicant/s: Church at Thunder Rd., LLC)

KK. CONSIDER AWARD – AGREEMENTS FOR PROFESSIONAL VETERINARIAN SERVICES

(Contact: Victoria Medley, Director of Animal, Management and Welfare)

This item is to consider the award of five agreements with local doctors of veterinarian medicine (DVM) to provide relief shelter veterinarian services.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3 - NON-CONSENT ITEMS:

ITEM 3A: Mayor Nelson introduced the first reading of Ordinance No. 7961 for consideration. Anthony Spanel, Environmental Health Director, presented the item. A motion was made adopt Ordinance No. 7961 amending the Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-20 to provide an updated scoring system for food hygiene inspections by Councilmember Powell, seconded by Councilmember Smith.

ORDINANCE NO. 7961

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 8-5, ARTICLE IV, SECTION 8-5-20 TO PROVIDE A SCORING SYSTEM FOR FOOD HYGIENE INSPECTIONS; PROVIDING FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW, PENALTY, PUBLICATION, AND EFFECTIVE DATE

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3B: Mayor Nelson introduced the Annual Comprehensive Financial Report to be received and considered for acceptance. Ms. Storrs presented the item. A motion was made to accept the Annual Comprehensive Financial Report for the year ended

September 30, 2021, as presented, by Councilmember Powell, seconded by Councilmember Sauer.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3C: Mayor Nelson introduced a Location Incentive Agreement for consideration. Kevin Carter, Amarillo Economic Development Corporation, presented the item. A motion was made to approve a Location Incentive Agreement (LIA) between Amarillo Economic Development Corporation (AEDC) and Caviness Beef Packers, LTD that would provide Caviness \$1,000,000 for the creation of up to 100 full-time employees, to be paid out over five years based on a five-year performance term by Councilmember Powell, seconded by Councilmember Smith.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3D: Mayor Nelson introduced a public hearing and first reading of Ordinance No. 7962 for consideration. Brady Kendrick, Planner II, presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made to adopt Ordinance No. 7962 rezoning a 0.81-acre tract of unplatted land in Section 183, Block 2, A.B.&M. Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Agricultural District to General Retail District in the vicinity of Georgia St. and S.W.58th Ave by Councilmember Powell, seconded by Councilmember Stanley.

ORDINANCE NO. 7962

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF GEORGIA STREET AND SOUTHWEST 58TH AVENUE, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3E: Mayor Nelson introduced a public hearing and first reading of Ordinance No. 7963 for consideration. Brady Kendrick, Planner II, presented the item. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. A motion was made to adopt Ordinance No. 7963 rezoning the east 74 feet of the west 180 feet of Lot 9, Block 8, Pleasant Valley Unit No. 1, a subdivision of the S.E. ¼ and part of the S.W. ¼ of Section 159, Block 2, A.B.&M. Survey, Potter County, Texas, plus one-half of all bounding streets, alleys, and public ways, to change from Residential District 1 to Residential District 1 with Specific Use Permit 199 for the placement of a Type B Manufactured Home in the vicinity of Withers Ave. and Mountain Dr by Councilmember Powell, seconded by Councilmember Sauer.

ORDINANCE NO. 7963

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF WITHERS AVENUE AND MOUNTAIN DRIVE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

Mayor Nelson recessed the meeting at 2:34 p.m. At 2:47 p.m. Mayor Nelson resumed the meeting.

ITEM 3G: Mayor Nelson introduced the first reading of Ordinance No. 7964 for consideration. Chief Martin Birkenfeld, Amarillo Police Department, presented the item. A motion was made adopt Ordinance No. 7954 amending the Amarillo Municipal Code, Chapter 10-3, Article VII, Section 10-3-11(a) to update maximum non-consent towing fees, and deleting Chapter 10-3, Article VII, Section 10-3-116 by Councilmember Powell, seconded by Councilmember Smith.

ORDINANCE NO. 7964
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AMARILLO, TEXAS: AMENDING THE AMARILLO
MUNICIPAL CODE, CHAPTER 10-3, ARTICLE VII,
SECTION 10-3-111(a) TO UPDATE MAXIMUM NON-
CONSENT TOWING FEES; AND DELETING CHAPTER 10-
3, ARTICLE VII, SECTION 10-3-116; PROVIDING FOR:
SEVERABILITY, REPEALER, CONTINUATION OF PRIOR
LAW, PENALTY, PUBLICATION, AND EFFECTIVE DATE.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 3F: Mayor Nelson introduced an item for discussion and possible consideration of a Chapter 380 Economic Development Program Agreement. Mr. Freeman and Councilmember Powell presented the item. A motion was made to approve a Chapter 380 Agreement for the Commons at St. Anthony's project with 100% of annual property taxes rebated for ten years; \$1,050,000 in American Rescue Plan Act funds with 75% paid during construction and 25% paid after a certificate of occupancy is received; and a refund on paid permitting fees related to the project in the amount of \$88,098 by Councilmember Powell, seconded by Councilmember Sauer. Councilmember Powell amended her motion to add the agreement will be contingent upon Potter County passing their portion of the proposal. Councilmember Sauer seconded the amended motion.

Voting AYE were Mayor Nelson and Councilmembers Powell, Sauer, Smith, and Stanley; voting NO were none; absent were none; the motion passed by a 5-0 vote.

ITEM 4: Mr. McWilliams advised at 3:20 p.m. that the City Council would convene in Executive Session per Texas Government Code: 1) Sec. 551.072 – Discussion regarding the purchase, exchange, lease, or value of real property: (a) Sale of real property located in the Northeast Quadrant of the City of Amarillo; 2) Sec. 551.074 – Discuss the appointment, employment, evaluation, reassignment, duties, and qualifications of a public officer or employee: (a) Discussion of City Manager Jared Miller's performance evaluation, (b) Discussion of Municipal Court Judge Laura Hamilton's performance evaluation; and 3) Sec. 551.087 – Discussion regarding commercial or financial information received from a business prospect and/or to deliberate the offer of a financial or other incentive to a business prospect: (a) Project # 21-10-03 (Manufacturing), (b) Project # 22-02-04 (Manufacturing), (c) Project # 22-02-05 (Manufacturing).

Mr. McWilliams announced that Executive Session was adjourned at 5:09 p.m. and recessed the Regular Meeting.

ATTEST:

Stephanie Coggins, City Secretary

Ginger Nelson, Mayor

**MINUTES OF THE POTTER COUNTY
COMMISSIONER'S COURT MEETING
FEBRUARY 28, 2022**

STATE OF TEXAS §
COUNTY OF POTTER §

ON THIS THE 28TH DAY OF FEBRUARY, 2022, THE COMMISSIONERS' COURT OF POTTER COUNTY, TEXAS MET IN REGULAR SESSION AT 9:00 A.M., IN THEIR REGULAR MEETING PLACE AT THE POTTER COUNTY COURTHOUSE, 500 S. FILLMORE, AMARILLO, TEXAS.

1) **CALL TO ORDER**

THE FOLLOWING MEMBERS WERE PRESENT, TO WIT:

- Commissioner H.R. Kelly
- Commissioner Alphonso Vaughn
- Judge Nancy Tanner
- Commissioner John Coffee
- Commissioner Robert Ruiz

THE FOLLOWING MEMBERS WERE ABSENT, TO WIT:

None

2) **PLEDGES TO U.S. FLAG, TEXAS FLAG AND INVOCATION**

Manny DeLos Santos, Pastor at Power Church, gave the invocation.

Judge Nancy Tanner led Commissioners' Court in the Pledge of Allegiance and the Pledge to the Texas Flag.

3) **RECOGNITION OF MINUTES**

- 3.A To recognize the minutes from the February 14, 2021 Potter County Commissioners' Court.
[02-14-2022 Minutes.pdf](#)

The minutes from the February 14, 2022 Commissioners' Court meeting were so recognized.

4) **VOUCHERS**

- 4.A To consider and act upon the approval of the payment of vouchers processed by the County Auditor's office. [Dossett]
[Summary 2-CCt Check Register for February 28 2022.pdf](#)
[02-CCt Check Register for February 28 2022.pdf](#)
[Signed Vouchers](#)

MOTION was made by Commissioner Alphonso Vaughn: Move to approve checks, vouchers and wire transfers as stated by the County Judge in the amount of \$3,654,211.26.

SECOND was made by Commissioner Robert Ruiz.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

5) **INSURANCE - HUMAN RESOURCES**

5.A To recognize the insurance fund report. [Woodard]
[Copy of 2-28-22 Comm Court report Final.xlsx](#)

The Insurance Fund Report was so recognized.

6) **TREASURER'S REPORT**

6.A To hear the monthly Treasurer's Report. [Jennings]
[Monthly Cash Report.pdf](#)

Brooke Graves, Assistant Deputy Treasurer, provided an Insurance Fund Report.

The Insurance Fund Report for January, 2022 was so recognized.

7) **AGENDA ITEMS**

7.A **HIGH NOON ON THE SQUARE - CENTER CITY:**

To consider and act upon the approval of the use of the County Courthouse grounds for High Noon on the Square for the dates of June 1, 8, 15, 22, and 29; and July 6, 13, 20 and 27. [Tanner, Duke]
[Center City.pdf](#)

Beth Duke, Executive Director of Center City, made a request to Commissioners' Court.

MOTION was made by Commissioner Alphonso Vaughn: Move to approve the use of the County Courthouse grounds for High Noon on the Square for the dates of June 1, 8, 15, 22 and 29; and July 6, 13, 20 and 27, for the purpose of High Noon on the Square.

SECOND was made by Commissioner H.R. Kelly.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

7.B **ST. ANTHONY'S PROJECT:**

To hear a discussion and possible consideration of a Chapter 381 Agreement request for a Property Tax Rebate and American Rescue Plan funding to incentivize the Commons at St. Anthony's project located as Amarillo Boulevard and Polk Street. [Mayor Pro Tem Freda Powell and Assistant City Manager, Andrew Freeman]
[St. Anthony's.pdf](#)

St Anthony's Project

Freda Powell, Mayor Pro Tem, Andrew Freeman, Assistant City Manager, Joseph Peterson of the North Heights Advisory Association and Chancellor Kent Vance made a request to Commissioners' Court.

MOTION was made by Commissioner Alphonso Vaughn: I move that we consider Chapter 381 Agreement request for a Property Tax Rebate and American Rescue Plan funding to incentivize the Commons at St. Anthony's project located at Amarillo Boulevard and Polk Street as listed for ARPA funds and tax rebate at ten years for \$222,370.00, usage of the ARPA funds at \$500,000.00 and we follow the City's recommendation that we do 75/25, seventy five at the onset and twenty five upon completion, I so state.

SECOND was made by Commissioner H.R. Kelly.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

7.C DISTRICT ATTORNEY:

To consider and act upon salary adjustments for two positions in the 47th District Attorney's Office. Funds to come from salary budget. [Sims]

Randall Sims, 47th District Attorney, provided an explanation to Commissioners' Court.

MOTION was made by Commissioner John Coffee: Move to approve salary adjustments for two positions in the 47th District Attorney's Office. Funds to come from salary budget.

SECOND was made by Commissioner Alphonso Vaughn.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

7.D POTTER COUNTY HISTORIC COMMISSION:

To consider and act upon the appointment or reappointment of members of the Potter County Historic Commission. [Tanner, Reeves]

[Historical Commission members.docx](#)

Wes Reeves of the Potter County Historic Commission, presented a list of members, appointed and reappointed to the Potter County Historic Commission.

MOTION was made by Commissioner H.R. Kelly: Move to approve appointments as stated by the County Judge.

SECOND was made by Commissioner Robert Ruiz.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

7.E PUBLIC DEFENDER OFFICE:

To receive a report from the Public Defender/Managed Assigned Counsel Oversight Board regarding appointment of attorneys to serve as Directors of the Public Defender and Managed Assigned Counsel departments of the Potter-Armstrong County Public Defense Program. [Kiehl]
[Hiring.Memo.to.Court.docx](#)
[Recommendations PD-MAC Oversight Board](#)

John Kiehl, Regional Services Director at PRPC, introduced Vaavia Rudd hired to serve as the Counties' Managed Assigned Counsel Director and Jason Howell hired to serve as the Counties' Public Defender Director.

The recommendations from the Potter and Armstrong County PD/MAC Oversight Board were so recognized.

7.F MENTAL HEALTH COURT:

To consider and act upon a Memorandum of Understanding between Potter County and Texas Panhandle Centers in relation to the Panhandle Regional Problem Solving Court. (PRPSC) [Melissa Talley, Jason Howell, Denise Hefley]
[Mental Health Court - TPC contract - Final 02-11-22 3.57 p.m_.pdf](#)
[MOU - Panhandle Centers - Potter County](#)

Jason Howell, Assistant Attorney, 47th District Attorney's Office, provided an explanation to Commissioners' Court.

MOTION was made by Commissioner Alphonso Vaughn: Move to approve a Memorandum of Understanding between Potter County and Texas Panhandle Centers in relation to the Panhandle Regional Problem Solving Court.

SECOND was made by Commissioner John Coffee.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 - 0

7.G PLAT APPROVAL:

To consider and act upon a plat of a 4-acre tract in Riviera Park Unit No. 2, being a re-plat of Tract 11, Riviera Park. Presented by land surveyor Kevin Brown.
[Plat - Riviera Park #2](#)

MOTION was made by Commissioner H.R. Kelly: Move to approve.

SECOND was made by Commissioner John Coffee.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 - 0

7.H CYBERSECURITY TRAINING:

To consider and act upon the yearly requirement from Texas Association of Counties for every county employee to take the Cybersecurity Training Course and to take any action necessary. [Tanner, Blankenship]

[Cybersecurity.pdf](#)

[TAC Cybersecurity Enrollment Form for Counties](#)

David Blankenship, IT Director, provided an explanation to Commissioners' Court.

MOTION was made by Commissioner John Coffee: I move to require Cybersecurity Training for County employees as presented by David Blankenship.

SECOND was made by Commissioner Robert Ruiz.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 - 0

7.I POTTER COUNTY CONSTABLE PRECINCT 1 RACIAL PROFILING REPORT:

To review and recognize Constable, Precinct 1's Racial Profiling Report for the year 2021, filed with the Texas Commission on Law Enforcement and submitted to the Potter County Commissioners' Court pursuant to Articles 2.131-2.134 of the Texas Code of Criminal Procedure. [Wertz]

[Precinct 1.pdf](#)

The 2021 Constable Precinct 1 Racial Profiling Report was so recognized.

7.J POTTER COUNTY CONSTABLE PRECINCT 3 RACIAL PROFILING REPORT:

To review and recognize Constable Precinct 3's Racial Profiling Report for the year 2021, filed with the Texas Commission on Law Enforcement and submitted to the Potter County Commissioners' Court pursuant to Articles 2.131-2.134 of the Texas Code of Criminal Procedure. [Wertz]

[Precinct 3.pdf](#)

[Precinct 3ii.pdf](#)

Robert (Chip) Parker, Constable Precinct 3, was called to speak before Commissioners' Court

The 2021 Constable Precinct 3 Racial Profiling Report was so recognized.

8) EMPLOYMENT ITEMS

To consider and act upon the following employment items:

8.A FACILITIES AND MAINTENANCE:

The resignation of Andrea M Sayasith as Custodian I, effective February 23, 2022. [Wade]

[Employment.pdf](#)

8.B CHILD PROTECTIVE SERVICES COURT:

The new employment of Stacy Zavala as CPS Guardian Ad Litem effective February 15, 2022. [Tanner]
[Zavala.pdf](#)

MOTION was made by Commissioner H.R. Kelly: Move to approve employment items as presented.

SECOND was made by Commissioner Robert Ruiz.

AYES: Commissioner H.R. Kelly, Commissioner Alphonso Vaughn, Judge Nancy Tanner, Commissioner John Coffee, Commissioner Robert Ruiz

NOES: None

Motion carried by 5 – 0

9) POTTER COUNTY PROJECTS

To hear a report on various Potter County Projects and to take any action necessary.

Nicholas Wade, Potter County Facilities Maintenance Director, provided a Potter County Projects update.

No action was taken.

10) JAIL REPORT

To hear a report on the Potter County Detention Center and to take any action necessary.

Current jail population: 513 (74 females; 0 in other facilities) 88% felons and 7% misdemeanors.

11) PROPERTY INSURANCE

To consider and act upon any insurance claims, accidents, etc. against the County.

No property insurance claims were presented.

12) EXECUTIVE SESSION

To hold an executive session, if necessary, on the above agenda items as allowed by Chapter 551, Texas Government Code.

No executive session was held.

13) UPCOMING AGENDA ITEMS

To receive agenda items for the next Commissioners' Court.

No agenda items were presented.

14) ADJOURNMENT

County Judge Nancy Tanner adjourned the meeting at 10:40 a.m.

STATE OF TEXAS §

COUNTY OF POTTER §

I, Julie Smith, attest that the above proceedings are the true and accurate account of the Commissioners' Court meeting held on this 28th day of February 2022.

FILED & RECORDED
February 28, 2022



JULIE SMITH, County Clerk
Clerk of Commissioners' Court
Potter County, Texas

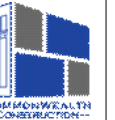
Notice: Any documentation linked to the Agenda/Minutes are subject to change both after posting and/or after discussion and vote during the Commissioners' Court meeting. Please contact the Potter County Clerk's office for signed documents not included in these minutes.

COMMONS at ST. ANTHONY'S



ID	Task Name	Duration	Start	Finish	Qtr 1, 2022			Qtr 2, 2022			Qtr 3, 2022			Qtr 4, 2022			Qtr 1, 2023			Qtr 2, 2023			Qtr 3, 2023			Qtr 4, 2023			Qtr 1, 2024			Qtr 2, 2024			Qtr 3, 2024		
					Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	
1	Commons At St. Anthony's	530 days	Wed 6/1/22	Tue 6/11/24																																0%	
2	Site Mobilization	35 days	Wed 6/1/22	Tue 7/19/22																																0%	
3	Clear and Grub Site	5 days	Wed 6/1/22	Tue 6/7/22																															0%		
4	Stake Site	4 days	Fri 6/3/22	Wed 6/8/22																															0%		
5	Silt Fence /Tracking Pads	7 days	Mon 6/6/22	Tue 6/14/22																															0%		
6	Site Trailer	3 days	Thu 6/9/22	Mon 6/13/22																															0%		
7	Site Utilities	20 days	Thu 6/9/22	Wed 7/6/22																															0%		
8	Site temp fence	4 days	Wed 6/15/22	Mon 6/20/22																															0%		
9	Separation Fence	15 days	Wed 6/15/22	Tue 7/5/22																															0%		
10	Demo:asphalt,concrete,CMU,stairs	10 days	Wed 7/6/22	Tue 7/19/22																															0%		
11	Exterior Building Work	245 days	Wed 11/2/22	Tue 10/10/23																															0%		
12	Roof Demolition	30 days	Wed 11/2/22	Tue 12/13/22																															0%		
13	Roof	30 days	Wed 12/7/22	Tue 1/17/23																															0%		
14	Windows	40 days	Wed 1/18/23	Tue 3/14/23																																0%	
15	Exterior Facades	150 days	Wed 3/15/23	Tue 10/10/23																																0%	
16	Interior Renovation	490 days	Wed 6/29/22	Tue 5/14/24																																0%	
17	General	490 days	Wed 6/29/22	Tue 5/14/24																																0%	
23	Level 5 and Penthouse	85 days	Thu 6/15/23	Wed 10/11/23																																0%	
24	Framing	10 days	Thu 6/15/23	Wed 6/28/23																																0%	
25	MEP Rough In	20 days	Thu 6/29/23	Wed 7/26/23																																0%	
26	FP Rough In	7 days	Thu 7/13/23	Fri 7/21/23																																0%	
27	Insulation	5 days	Thu 7/27/23	Wed 8/2/23																																0%	
28	Sheetrock	30 days	Thu 8/3/23	Wed 9/13/23																																0%	
29	Texture/Paint	20 days	Thu 9/14/23	Wed 10/11/23																																0%	
30	Underlayment and level floors	8 days	Thu 9/7/23	Mon 9/18/23																																0%	
31	Finishes Level 5	58 days	Tue 10/17/23	Thu 1/4/24																																0%	
32	Install Flooring (20 day cure Gypcrete)	20 days	Tue 10/17/23	Mon 11/13/23																																0%	
33	Install Cabinets and Tops / Range Hoods	7 days	Tue 11/14/23	Wed 11/22/23																																0%	
34	Trim and Doors	7 days	Tue 11/21/23	Wed 11/29/23																																0%	
35	MEP/FP Trim	5 days	Thu 11/30/23	Wed 12/6/23																																0%	
36	Appliances	2 days	Tue 12/5/23	Wed 12/6/23																																0%	
37	Carpet/Shelving/Mirrors	11 days	Thu 12/7/23	Thu 12/21/23																																0%	
38	Life Safety Test/ Clean Units	5 days	Thu 12/7/23	Wed 12/13/23																																0%	
39	CCC Punch /Complete	5 days	Fri 12/22/23	Thu 12/28/23																																0%	
40	M&A Punch /Complete	5 days	Fri 12/29/23	Thu 1/4/24																																0%	

COMMONS at ST. ANTHONY'S



ID	Task Name	Duration	Start	Finish	Qtr 1, 2022												Qtr 2, 2022												Qtr 3, 2022												Qtr 4, 2022												Qtr 1, 2023												Qtr 2, 2023												Qtr 3, 2023												Qtr 4, 2023												Qtr 1, 2024												Qtr 2, 2024												Qtr 3, 2024											
					Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec																							
111	Carpet/Shelving/Mirrors	11 days	Mon 1/8/24	Mon 1/22/24																																																	Carpet/Shelving/Mirrors 0%																																																																																			
112	Life Safety Test/ Clean Units	5 days	Mon 1/8/24	Fri 1/12/24																																																	Life Safety Test/ Clean Units 0%																																																																																			
113	CCC Punch /Complete	5 days	Tue 1/23/24	Mon 1/29/24																																																	CCC Punch /Complete 0%																																																																																			
114	M&A Punch /Complete	4 days	Tue 1/30/24	Fri 2/2/24																																																	M&A Punch /Complete 0%																																																																																			
115	LVL 3 corridor	85 days	Thu 8/24/23	Wed 12/20/23																																																	0%																																																																																			
116	MEP Rough In	5 days	Thu 8/24/23	Wed 8/30/23																																																	MEP Rough In 0%																																																																																			
117	FP Rough In	5 days	Tue 8/29/23	Mon 9/4/23																																																	FP Rough In 0%																																																																																			
118	Insulation	2 days	Tue 9/5/23	Wed 9/6/23																																																	Insulation 0%																																																																																			
119	Sheetrock	30 days	Thu 9/7/23	Wed 10/18/23																																																	Sheetrock 0%																																																																																			
120	Texture/Paint	10 days	Thu 10/19/23	Wed 11/1/23																																																	Texture/Paint 0%																																																																																			
121	ACT Ceilings	7 days	Thu 11/2/23	Fri 11/10/23																																																	ACT Ceilings 0%																																																																																			
122	Flooring	20 days	Mon 11/13/23	Fri 12/8/23																																																	Flooring 0%																																																																																			
123	CCC Punch /Complete	4 days	Mon 12/11/23	Thu 12/14/23																																																	CCC Punch /Complete 0%																																																																																			
124	M&A Punch /Complete	4 days	Fri 12/15/23	Wed 12/20/23																																																	M&A Punch /Complete 0%																																																																																			
125	Level 1	85 days	Thu 8/10/23	Wed 12/6/23																																																	0%																																																																																			
126	Framing	10 days	Thu 8/10/23	Wed 8/23/23																																																	Framing 0%																																																																																			
127	MEP Rough In	20 days	Thu 8/24/23	Wed 9/20/23																																																	MEP Rough In 0%																																																																																			
128	FP Rough In	7 days	Thu 9/7/23	Fri 9/15/23																																																	FP Rough In 0%																																																																																			
129	Insulation	5 days	Thu 9/21/23	Wed 9/27/23																																																	Insulation 0%																																																																																			
130	Sheetrock	30 days	Thu 9/28/23	Wed 11/8/23																																																	Sheetrock 0%																																																																																			
131	Texture/Paint	20 days	Thu 11/9/23	Wed 12/6/23																																																	Texture/Paint 0%																																																																																			
132	Underlayment and level floors	8 days	Thu 11/2/23	Mon 11/13/23																																																	Underlayment and level floors 0%																																																																																			
133	Finishes Level 1	57 days	Tue 12/12/23	Wed 2/28/24																																																	0%																																																																																			
134	Install Flooring - LVP	20 days	Tue 12/12/23	Mon 1/8/24																																																	Install Flooring - LVP 0%																																																																																			
135	Install Cabinets and Tops	7 days	Tue 1/9/24	Wed 1/17/24																																																	Install Cabinets and Tops 0%																																																																																			
136	Trim and Doors	7 days	Tue 1/16/24	Wed 1/24/24																																																	Trim and Doors 0%																																																																																			
137	MEP/FP Trim	5 days	Thu 1/25/24	Wed 1/31/24																																																	MEP/FP Trim 0%																																																																																			
138	Appliances	11 days	Wed 1/17/24	Wed 1/31/24																																																	Appliances 0%																																																																																			
139	Carpet/Shelving/Mirrors	11 days	Thu 2/1/24	Thu 2/15/24																																																	Carpet/Shelving/Mirrors 0%																																																																																			
140	Life Safety Test/ Clean Units	5 days	Thu 2/1/24	Wed 2/7/24																																																	Life Safety Test/ Clean Units 0%																																																																																			
141	CCC Punch /Complete	5 days	Fri 2/16/24	Thu 2/22/24																																																	CCC Punch /Complete 0%																																																																																			
142	M&A Punch /Complete	4 days	Fri 2/23/24	Wed 2/28/24																																																	M&A Punch /Complete 0%																																																																																			
143	LVL 2 corridor	85 days	Thu 9/7/23	Wed 1/3/24																																																	0%																																																																																			
144	MEP Rough In	5 days	Thu 9/7/23	Wed 9/13/23																																																	MEP Rough In 0%																																																																																			
145	FP Rough In	5 days	Tue 9/12/23	Mon 9/18/23																																																	FP Rough In 0%																																																																																			

Part III - Administrative, Procedural, and Miscellaneous

Notice 2022-05

I. PURPOSE

Because of the Coronavirus Disease 2019 (COVID-19) pandemic, the Department of the Treasury and the Internal Revenue Service issued Notice 2021-12, 2021-6 I.R.B. 828, as clarified by Notice 2021-17, 2021-14 I.R.B. 984, to provide temporary relief from certain requirements under § 42 of the Internal Revenue Code (Code) for qualified low-income housing projects and under §§ 142(d) and 147(d) of the Code for qualified residential rental projects. In response to the continuing presence of the pandemic and precautions necessitated by new disease variants, this notice provides certain new relief and extends the temporary relief for certain requirements addressed in Notice 2021-12. Section III of this notice describes the persons eligible for the relief granted in sections IV through VI of this notice.

II. BACKGROUND

A. Qualified low-income housing projects

In this notice, the terms “Agency,” and “Owner” have the same meanings as described in section 5 of Rev. Proc. 2014-49, 2014-37 I.R.B. 535.

For background on the requirements under § 42 that are receiving an extension under this notice of the relief provided under Notice 2021-12, refer to Section II.A of Notice 2021-12.

An additional requirement under § 42 relating to an Agency's inspection of low-income units as provided in § 1.42-5(c)(2)(iii)(C)(2) of the Income Tax Regulations is the 15-day reasonable notice requirement described in § 1.42-5(c)(2)(iii)(C)(3). Section 1.42-5(c)(2)(iii)(C)(2) provides that an Agency must select the low-income units to inspect and low-income certifications to review in a manner that does not give advance notice that a particular low-income unit (or low-income certifications for a particular low-income unit) will or will not be inspected (or reviewed) for a particular year. The Agency may notify the owner of the low-income units for on-site inspection only on the day of inspection. However, the Agency may give an owner reasonable notice that there will be an inspection of the project and of not-yet-identified low-income units or a review of low-income certifications of not-yet-identified low-income units. The notice serves to enable the owner to assemble needed documentation for low-income certifications for review and to notify tenants of the possibility of physical inspection of their units. Section 1.42-5(c)(2)(iii)(C)(3) provides that reasonable notice is generally no more than 15 days.

Under § 42(m)(1)(A)(i), an Agency's qualified allocation plan (QAP) must have been approved by the governmental unit of which the Agency is a part. This approval is to be made in accordance with rules similar to certain rules in § 147(f)(2), other than § 147(f)(2)(B)(ii). Because approval under § 147(f)(2)(B)(i) involves a public hearing, such a hearing is also required for purposes of § 42(m)(1)(A)(i). In response to the

COVID-19 pandemic, hearings under § 147 were permitted to be conducted telephonically. See Rev. Proc. 2021-39, 2021-38 I.R.B. 426. In addition, Notice 2021-12 permitted hearings under § 42(m)(1)(A)(i) to be conducted telephonically.

B. Qualified residential rental projects financed by bonds

In this notice, the terms “Issuer” and “Operator” have the same meanings as described in section 4 of Rev. Proc. 2014-50, 2014-37 I.R.B. 540.

For background on the requirements under §§ 142(d) and 147(d) that are receiving an extension under this notice of the relief provided under Notice 2021-12, refer to Section II.B of Notice 2021-12.

C. Postponement of certain deadlines by reason of Presidentially declared disasters

On March 13, 2020, the President of the United States issued an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 et seq., in response to the ongoing COVID-19 pandemic (Emergency Declaration).¹ The Emergency Declaration instructed the Secretary of the Treasury “to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency, as appropriate, pursuant to 26 U.S.C. 7508A(a).” Subsequent to the Emergency Declaration, the President issued major disaster declarations under the authority of the Stafford Act with respect to all 50 States, the District of Columbia, and 5 territories (Major Disaster Declarations).² In addition, under § 1.42-13(a), the Secretary of the Treasury or her delegate has the general authority to issue guidance and provide relief to carry out the purposes of § 42.

¹ See <https://www.fema.gov/news-release/20200514/president-donald-j-trump-directs-fema-support-under-emergency-declaration>.

² See <https://www.fema.gov/coronavirus/disaster-declarations>.

In the context of a Presidentially-declared Major Disaster, Rev. Proc. 2014-49 provides temporary relief from certain requirements of § 42 for Agencies and Owners of low-income housing projects. Under section 8 of Rev. Proc. 2014-49, in the case of a casualty loss suffered due to a Major Disaster that has reduced a low-income building's qualified basis, the Agency that has jurisdiction over the building must determine what constitutes a reasonable restoration period. The reasonable restoration period established by the Agency must not extend beyond the end of the 25th month following the close of the month of the Major Disaster declaration (25-month reasonable restoration period). Until the restoration is completed, to determine the credit amount allowable during the reasonable restoration period for a building described in section 8 of Rev. Proc. 2014-49, an Owner must use the building's qualified basis at the end of the taxable year immediately preceding the first day of the incident period for the Major Disaster.

Rev. Proc. 2014-49 also provides emergency housing relief for individuals who are displaced by a Major Disaster from their principal residences in certain Major Disaster Areas. See Rev. Proc. 2014-49, sections 12-14. In the context of a Presidentially-declared Major Disaster, Rev. Proc. 2014-50 provides temporary relief from certain requirements under § 142(d) for qualified residential rental projects financed with exempt facility bonds issued by State and local governments under § 142. Rev. Proc. 2014-50 also provides emergency housing relief for individuals who are displaced by a Major Disaster from their principal residences in certain Major Disaster Areas. See Rev. Proc. 2014-50, sections 5-7.

Notice 2020-23, 2020-18 I.R.B. 742, published on April 27, 2020, provided certain relief to affected taxpayers and postponed due dates until July 15, 2020, with respect to certain tax filings and payments, certain time-sensitive government actions, and all time-sensitive actions listed in Rev. Proc. 2018-58, 2018-50 I.R.B. 990 (Dec. 10, 2018), that were due to be performed on or after April 1, 2020, and before July 15, 2020, including certain actions under § 42 for qualified low-income housing projects.

Notice 2020-53, 2020-30 I.R.B. 151, published on July 20, 2020, extended until December 31, 2020, the relief provided in Notice 2020-23 for § 42 qualified low-income housing projects, as well as providing until December 31, 2020, additional relief under § 42 and under §§ 142(d) and 147(d) for qualified residential rental projects.

Notice 2021-12, published on February 8, 2021, extended the temporary relief provided in Notice 2020-53, and also provided temporary relief from additional § 42 requirements not previously addressed in Notice 2020-53.

Notice 2021-17, published on April 5, 2021, clarified Notice 2021-12 by providing a more precise citation in section IV.E of that notice.

III. SCOPE OF THE RELIEF GRANTED IN THIS NOTICE

Sections IV.A through F of this notice apply to certain deadlines related to low-income housing projects under § 42. Sections V.A through D apply to relief involving operational waivers for low-income housing projects, and Section V.E applies to relief involving operational waivers both for those projects and for qualified rental projects under § 142(d). Sections VI.A and B apply to private activity bonds that are issued for the acquisition of buildings intended to be qualified residential rental projects and that are qualified bonds (as defined in § 141(e)) if the applicable requirements of §§ 142(d)

and 147(d)(2) are satisfied. All of the provisions in Sections IV through VI also apply to Agencies, Owners, Issuers, and Operators that have responsibilities with respect to those projects and bonds.

IV. GRANT OF RELIEF FOR DEADLINES RELATED TO THE LOW-INCOME HOUSING CREDIT

In this Section IV, “original deadline” means the deadline without regard to any extension under Notice 2020-23, Notice 2020-53, or Notice 2021-12 (as clarified by Notice 2021-17).

A. THE 10-PERCENT TEST FOR CARRYOVER ALLOCATIONS

- For purposes of § 42(h)(1)(E)(ii), if the original deadline for an Owner of a building with a carryover allocation to meet the 10-percent test is on or after April 1, 2020, and on or before December 31, 2020, the deadline is extended to the original deadline plus two years.
- If the original deadline is on or after January 1, 2021, and before December 31, 2022, the deadline is extended to December 31, 2022.

B. THE § 42(e) 24-MONTH MINIMUM REHABILITATION EXPENDITURE PERIOD

- For purposes of § 42(e)(3)(A)(ii), if the original deadline for the 24-month minimum rehabilitation expenditure period for a building originally is on or after April 1, 2020, and is on or before December 31, 2021, then that deadline is extended to the original date plus 18 months.
- If the original deadline for this requirement is on or after January 1, 2022, and on or before June 30, 2022, then that deadline is extended to June 30, 2023.

- If the original deadline for this requirement is on or after July 1, 2022, and on or before December 31, 2022, then that deadline is extended to the original date plus 12 months.
- If the original deadline for this requirement is on or after January 1, 2023, and on or before December 30, 2023, then that deadline is extended to December 31, 2023.

C. PLACED IN SERVICE DEADLINE

- For purposes of § 42(h)(1)(E)(i), if the original deadline for a low-income building to be placed in service is the close of calendar year 2020, the new deadline is the close of calendar year 2022 (that is, December 31, 2022).
- If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was before April 1, 2020, the new placed-in-service deadline is the close of calendar year 2022 (that is, December 31, 2022).
- If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was on or after April 1, 2020, and on or before December 31, 2020, then the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).
- If the original placed-in-service deadline is the close of calendar year 2022 (and thus the original deadline for the 10-percent test was in 2021), then the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).

D. REASONABLE PERIOD FOR RESTORATION OR REPLACEMENT IN THE EVENT OF CASUALTY LOSS

For purposes of § 42(j)(4)(E) both in the case of a casualty loss not due to a pre-COVID-19-pandemic Major Disaster and in situations governed by section 8.02 of Rev. Proc. 2014-49 in the case of a casualty loss due to a pre-COVID-19-pandemic Major Disaster, if a low-income building's qualified basis is reduced by reason of the casualty loss and the reasonable period to restore the loss by reconstruction or replacement that was originally set by the HCA (original Reasonable Restoration Period) ends on or after April 1, 2020, then the last day of the Reasonable Restoration Period is postponed by eighteen months but not beyond December 31, 2022. Notwithstanding the preceding sentence, the Agency may require a shorter extension, or no extension at all.

For purposes of determining the credit amount allowable under § 42(a) in the case of a credit year that ends on or after April 1, 2020, and not later than the end of the Reasonable Restoration Period (taking into account any extension under the preceding paragraph), if the Owner restores the building by the end of that extended Reasonable Restoration Period, then for taxable years ending after the first day of the casualty and before the completion of the restoration, the Owner must use the building's qualified basis at the end of the taxable year immediately preceding the first day of the casualty as the building's qualified basis for that credit year.

E. EXTENSION TO SATISFY OCCUPANCY OBLIGATIONS

If the close of the first year of the credit period with respect to a building is on or after April 1, 2020, and on or before December 31, 2022, then, for purposes of § 42(f)(3)(A)(ii), the qualified basis for the building for the first year of the credit period is calculated by taking into account any increase in the number of low-income units by the close of the 6-month period following the close of that first year.

F. CORRECTION PERIOD

For purposes of § 1.42-5, if a correction period that was set by the Agency ends on or after April 1, 2020, and before December 31, 2021, then the end of the correction period (including as already extended, if applicable) is extended by a year, but not beyond December 31, 2022. If the correction period originally set by the Agency ends during 2022, the end of the period is extended to December 31, 2022. Notwithstanding the preceding sentences, the Agency may require a shorter extension, or no extension at all.

V. GRANT OF RELIEF FOR OPERATIONAL PROVISIONS

A. COMPLIANCE-MONITORING—REVIEW OF TENANT FILES

For purposes of § 1.42-5, an Agency is not required to review tenant files in the period beginning on April 1, 2020, and ending on December 31, 2021. The Agency must have resumed tenant-file review as due under § 1.42-5 as of January 1, 2022.

For purposes of § 1.42-5(c)(2)(iii)(C)(3), between April 1, 2020, and the end of 2022, when the Agency gives an Owner reasonable notice that it will review low-income certifications of not-yet-identified low-income units, it may treat reasonable notice as being up to 30 days. Beginning on January 1, 2023, for this purpose reasonable notice again is generally no more than 15 days.

B. COMPLIANCE-MONITORING—PHYSICAL INSPECTIONS

For purposes of § 1.42-5, an Agency is not required to conduct compliance-monitoring physical inspections in the period beginning on April 1, 2020, and ending on June 30, 2022. Because of high State-to-State and intra-State variability of COVID-19 transmission, an Agency, in consultation with public health experts, may extend the waiver in the preceding sentence if the level of transmission makes such an extension

appropriate. Depending on varying rates of transmission, the extension may be State-wide, may be limited to specific locales, or may be on a project-by-project basis. No such extension may go beyond December 31, 2022. The Agency must resume compliance-monitoring reviews as due under § 1.42-5 once the waiver expires.

For purposes of § 1.42-5(c)(2)(iii)(C)(3), between April 1, 2020, and the end of 2022 only, when the Agency gives an Owner reasonable notice that it will physically inspect not-yet-identified low-income units, it may treat reasonable notice as being up to 30 days. Beginning on January 1, 2023, for this purpose reasonable notice again is generally no more than 15 days.

C. COMMON AREAS AND AMENITIES

A temporary full or partial unavailability or closure of an amenity or common area in a low-income building or project does not result in a reduction of eligible basis of the affected building if the unavailability or closure is during some or all of the period from April 1, 2020, to December 31, 2022, and is in response to the COVID-19 pandemic and not because of other noncompliance with § 42. During the above period, an Agency may deny any application of the above waiver or, based on public health criteria, may limit the waiver to partial closure, or to limited or conditional access of an amenity or common area. (For example, the Agency may apply the waiver to access an amenity or common area that is limited to persons wearing masks or to persons fully vaccinated against COVID-19.)

D. PERMISSION FOR AGENCIES TO CONDUCT HEARINGS IN THE SAME MANNER AND UNDER THE SAME PROCEDURES AS PRIVATE-ACTIVITY-BOND HEARINGS

Beginning on April 1, 2020, for the purposes of QAP approval under § 42(m)(1)(A), if a public hearing is conducted in a manner and under procedures such

that § 1.147(f)-1(d) would be satisfied, taking into account the date on which the hearing is held, then the manner and procedures of the hearing are acceptable for QAP approval under § 42(m)(1)(A).³ Continued application of the preceding sentence is not dependent on the continuation of the COVID-19 pandemic.

E. EMERGENCY HOUSING FOR MEDICAL PERSONNEL AND OTHER ESSENTIAL WORKERS

If individuals are medical personnel or other essential workers (as defined by State or local governments) that provide services during the COVID-19 pandemic, then, for purposes of providing emergency housing from April 1, 2020, to December 31, 2022, under Rev. Proc. 2014-49 or under Rev. Proc. 2014-50, Agencies, Issuers, Owners, and Operators of low-income housing projects may treat these individuals as if they were Displaced Individuals (defined under section 5.02 of Rev. Proc. 2014-49 or Section 4.04 of Rev. Proc. 2014-50, as applicable). That is, Agencies, Issuers, Owners, and Operators may provide emergency housing for these individuals pursuant to the provisions of the applicable revenue procedure. See sections 12, 13, and 14 of Rev. Proc. 2014-49 and sections 5, 6, and 7 of Rev. Proc. 2014-50.

VI. GRANT OF RELIEF FOR DEADLINES ASSOCIATED WITH QUALIFIED RESIDENTIAL RENTAL PROJECTS

In this Section VI, “originally” means without regard to any extension under Notice 2020-23, Notice 2020-53, or Notice 2021-12 (as clarified by Notice 2021-17).

³ For example, while Rev. Proc. 2021-39 is in effect, satisfying the hearing procedures in that revenue procedure satisfies the procedural requirements for QAP hearings.

A. THE 12-MONTH TRANSITION PERIOD TO MEET SET-ASIDES FOR QUALIFIED RESIDENTIAL RENTAL PROJECTS

For purposes of section 5.02 of Rev. Proc. 2004-39, if the last day of a 12-month transition period for a qualified residential rental project originally was on or after April 1, 2020, and before December 31, 2022, then that last day is postponed to December 31, 2022.

B. THE § 147(d) 2-YEAR REHABILITATION EXPENDITURE PERIOD FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS

If a bond is used to provide a qualified residential rental project and if the last day of the § 147(d) 2-year rehabilitation expenditure period for the bond originally was on or after April 1, 2020, and before December 31, 2023, then that last day is postponed to the earlier of eighteen months from the original due date or December 31, 2023.

VII. EFFECT ON OTHER DOCUMENTS

Notice 2020-23, Notice 2020-53, Notice 2021-12, Notice 2021-17, Rev. Proc. 2004-39, Rev. Proc. 2014-49, and Rev. Proc. 2014-50 are amplified.

VIII. DRAFTING INFORMATION

The principal authors of this notice are Dillon Taylor and Michael Torruella Costa, Office of Associate Chief Counsel (Passthroughs & Special Industries) and David White, Office of the Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice relating to the low-income housing credit, please contact Dillon Taylor or Michael Torruella Costa at (202) 317-4137 (not a toll-free call); for further information regarding this notice relating to qualified residential rental projects, please contact David White at (202) 317-4562 (not a toll-free call).

7c

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Lockwood South Apartments (#20077) in Houston

RECOMMENDED ACTION

WHEREAS, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,500,000 to Lockwood South Apartments (the Development) was approved by the Board in July 2020;

WHEREAS, staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, which included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022;

WHEREAS, on September 13, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, on October 14, 2021, the Governing Board approved the request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, staff executed a new Carryover Allocation Agreement with the Development Owner on December 26, 2021, which included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2023;

WHEREAS, on March 21, 2022, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

WHEREAS, the Development Owner has presented evidence that relief under force majeure is appropriate.

NOW, therefore, it is hereby

RESOLVED, the request for treatment of Lockwood South Apartments under an application of the force majeure rule is approved, with the 2020 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2022 Program Calendar applicable to the Development.

BACKGROUND

An award of Competitive (9%) Housing Tax Credits to Lockwood South Apartments was approved by the Board on July 23, 2020. Staff executed a Carryover Allocation Agreement with the Development Owner that included a certification from the Development Owner that documentation for the 10% Test would be submitted by a set date, and, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022. The Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate under these circumstances.

Per 10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, a Development Owner is allowed to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress.

In 2021, the Development Owner communicated to staff how two presidentially declared disasters, the COVID-19 pandemic and Winter Storm Uri, resulted in supply chain disruptions, materials shortages, and labor shortages, all of which have led to price increases impacting construction of the Development. Additionally, the Development Owner noted challenges with Community Development Block Grant –

Disaster Recovery (CDBG-DR) funding from the City of Houston and the requirements of Multifamily Direct Loan (MFDL) funding from the Department.

Staff determined there was sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner,” as described in 10 TAC §11.6(5) and the Board approved the request for force majeure treatment. Accordingly, the Development Owners returned the awarded credits and the execution of a 2021 Carryover Allocation Agreement resulted in a new award and a new placed-in-service deadline of December 31, 2023, for the Developments, with a new 10% Test deadline of July 1, 2022. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules were applicable to the Development for the purposes of the force majeure event.

On March 21, 2022, the Development Owner communicated to staff how ongoing issues due to the COVID-19 pandemic, including difficulties with CDBG-DR and MFDL funding, higher inflation and interest rates and continued increases in construction costs, labor and materials shortages, and supply chain disruptions, are impeding progress toward the Development’s placement in service. Staff has determined there is sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner”, as described in 10 TAC §11.6(5), for the Department to treat the Development under an application of the force majeure rule. If the Board approves the request to consider these force majeure events, the Development Owners will return the awarded credits and execution of a 2022 Carryover Allocation Agreement will result in a new award and a new placed-in-service deadline of December 31, 2024, for the Development, with a new 10% Test deadline of July 1, 2023. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development for the purposes of the force majeure event.

If the Board denies the request regarding the force majeure events, the date by which the denied Development must be placed in service will remain as previously agreed. Because the Development Owner has anticipated not meeting the placed in service deadline, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. If there are pending Applications on the 2022 or 2023 waiting list (depending on the year of return) from the relevant subregion, the next Application would be awarded, assuming there are enough credits to make the award. If there are not enough credits in the subregion to make an award, the credits will go into the statewide collapse and contribute the next award.

Staff recommends the Board approve request for treatment under an application of the force majeure rule for the Development.



600 Congress Avenue, Suite 2200
Austin, Texas 78701-2748
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Raj Bandla
Direct Telephone: 512-305-4749
Direct Fax: 512-391-4830
raj.bandla@lockelord.com

March 21, 2022

VIA EMAIL DELIVERY

Rosalio Banelos
Cody Campbell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Lockwood South Apartments (the "**Development**")
TDHCA File No. 20077 (MFDL File No. 21502)

Greetings:

We represent Lockwood South Apts, LP, a Texas limited partnership ("**Owner**"), which submitted an Application¹ for Housing Tax Credits in the 2020 Application Cycle. An award of Tax Credits was conditionally approved on July 23, 2020, and the Commitment was issued by the Department on August 25, 2020. At the time the Application was submitted, Owner contemplated a conservative 18-month construction schedule, which would allow for closing in the Spring of 2021 and completion before December 31, 2022. Upon receipt of its award, even before the Commitment was issued, Owner began updating its construction budget for submission to the City of Houston related to its Community Development Block Grant – Disaster Recovery ("**CDBG-DR**") funding related to the Development. Owner began to encounter subcontractors who refused to bid or refused to hold a bid because of volatility in pricing, not just for lumber, which has been widely reported, but for a variety of materials. Additionally, Owner's and the City of Houston's vendors and personnel were delayed in processing important construction bidding and permitting due to the Winter Storm Uri. In an abundance of caution, we also applied to TDHCA for a reallocation of the Tax Credits in the 2021 cycle pursuant to the "Force Majeure" provisions in Section 11.6(5) of the QAP. TDHCA graciously granted this request. Unfortunately, the same factors that caused an initial delay persist and, in some cases, have become even more problematic.

Due to the funding gap created by increases in supplier pricing and development progress delays, the Owner responded to the Departments 2021-3 NOFA for MFDL funding on or about

¹ Capitalized terms used but not defined in this letter shall have the meanings assigned to them in the 2021 Qualified Allocation Plan (the "**QAP**").

July 20, 2021. Unfortunately, draft MFDL loan documents have not been provided to date and no guidance has been received as to when they will be available, which prevents the City of Houston from completing its review and authorizing funding of CDBG-DR grant funds. Finally, Owner's lender requires that the Development's placement in service deadline be at least 90 days beyond Owner's finalized construction schedule – which is currently anticipated to be **January 30, 2024**.

Relief Sought

Owner submits this request for a reallocation of credits to 2023 and a related nine-month placement in service deadline to **September 30, 2024**, as permitted under to the "Force Majeure" provisions in Section 11.6(5) of the QAP.

Support for Force Majeure Conditions

Pursuant to Section 11.6(5) of the QAP, a Force Majeure event includes Acts of God; changes in law, rules, or regulations; and supplier failures or materials or labor shortages that make construction activity impossible or materially impede its progress. We know TDHCA is well aware of the general construction market conditions that have changed dramatically since Applications were submitted in the first quarter of 2020. Specific to this Development:

- **TDHCA Loan Documents.** As a result of the increases in costs for materials and labor, Owner sought MFDL Funding from the Department on or about July 20, 2021. Subsequently, the Development experienced significant delays in the awarding and processing this funding. The Development received Board approval for MFDL funding on December 9, 2021, but owner and financing partners have yet to receive loan documents from the Department. During this delay the Development experienced rising development costs, inflation, and interest rates, which forced Owners to seek new sources, thus compounding delays.
- **Materials Costs and Shortages.** Due to the impact of the COVID-19 pandemic on mills, labor, and distribution channels coupled with increased restrictions on cutting/logging in Canada and a significant increase in home improvement projects nationwide, costs for building materials including lumber, steel, and PVC, have increased substantially since Owner filed the Application. While the Development was able to absorb significant material cost escalations throughout 2020 due to favorable Tax Credit equity terms, the cost of building materials increased even more throughout 2021. According to the National Association of Home Builders, the cost of building materials nationally increased 14.1% in 2021.

Shortages remain a major problem as well. For example, the Development is facing a 9-12 month wait period for trusses.

As a result of unprecedented material costs and shortages, the Development has been delayed due to the pursuit of additional funding, work on design changes, and coming up with solutions with our contractor to manage material shortages. This is unfortunately an industry-wide problem as the enclosed article from *Affordable Housing Finance* details (Exhibit B).

- **Inflation and Interest Rates.** Year-over-year consumer price index (CPI) rate in January 2022 was 7.5%—the highest for any month since June 1982, according to data from the Bureau of Labor Statistics. That is the highest rate of inflation for any year since the low-income housing tax credit was enacted. Consequently, we are seeing higher interest rates and projected operating expenses, particularly in payroll and insurance costs. As a result, the Development faces additional delays to raise more sources because of having less borrowing capacity.

Investor Requirements

Like many tax equity investors, our investor Richman Group requires some cushion in the construction schedule. Due to the delays outside of Owner's control described herein, the Development will not meet Richman's required cushion. Therefore, Richman has required Owner to promptly request a force majeure extension from TDHCA (see Exhibit A). For the same reason, our lender Capital One has also required us to make this request.

Factors for Consideration

In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. Owner has proven up delays resulting from "force majeure" events, including supplier failures and materials and labor shortages, the impact of the February ice storm, and the ongoing COVID-19 pandemic. The delays materially impeded Owner's ability to engage in construction activity.
2. When Owner submitted its Tax Credit Application in early 2020, it had no way of knowing what was to come with market conditions that are now commonly referred to as "unprecedented."
3. Owner has endeavored to mitigate the delays by working proactively with the local and state agencies providing funding.
4. Owner's lender believes there is a reasonable likelihood that it will not be able to meet the placement in service deadline because of the delays experienced. The current schedule calls for completion by January 30, 2024, which raises legitimate concern about meeting the deadline for placement in service.

Although we intend to close on financing within the next 60 days so that we can proceed toward placement in service as expeditiously as possible, the challenges outlined in this letter are significant.

We believe Owner has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. If additional information is required, please feel free to contact us.

Sincerely,



Raj Bandla

cc: Lockwood South Apts, LP

Exhibit A -- Investor Correspondence

Exhibit B – *Affordable Housing Finance Article*

Exhibit A

Investor Correspondence



777 West Putnam Avenue
Greenwich, CT 06830
(203) 869 0900

March 15, 2022

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: 20077 – Lockwood South Apartments

Mr. Wilkinson:

We strongly support a request by Brinshore Development, LLC to extend the placed-in-service deadline to September 30, 2024 on Lockwood South Apartments. The project has been impacted by rising interest rates and materials and labor shortages, requiring the development team to secure additional soft funds from TDHCA to maintain financial feasibility. These factors have delayed the closing date. In order to secure credit approval to close, our investor requires a cushion of at least 3 months from the projected construction completion date and the placed-in-service deadline. Based on the proposed 18-month construction schedule and estimated July 2022 closing, we believe a nine-month extension to the placed-in-service deadline will be sufficient. Without the extension it is doubtful we could get investor approval.

We appreciate TDHCA's continued support of this important family development in Houston. Should you need any further assistance, please feel free to contact me with any questions at 203-413-0316.

Sincerely,

The Richman Group Affordable Housing Corporation

By: Jason Wilber
Executive Vice President

Exhibit B

***Affordable Housing Finance* Article Link**

https://www.housingfinance.com/news/rising-costs-hit-affordable-housing-projects_o

7d

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Connect South Apartments (#20082) in Houston.

RECOMMENDED ACTION

WHEREAS, an award of Competitive (9%) Housing Tax Credits in the amount of \$1,500,000 to Connect South Apartments (the Development) was approved by the Board in July 2021;

WHEREAS, staff executed a Carryover Allocation Agreement with the Development Owner on October 28, 2020, which included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2022;

WHEREAS, on September 13, 2021, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, on October 14, 2021, the Governing Board approved the request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, staff executed a new Carryover Allocation Agreement with the Development Owner on December 26, 2021, which included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2023;

WHEREAS, on March 21, 2022, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

WHEREAS, the Development Owner has presented evidence that relief under force majeure is appropriate.

NOW, therefore, it is hereby

RESOLVED, the request for treatment of Connect South Apartments under an application of the force majeure rule is approved, with the 2020 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2022 Program Calendar applicable to the Development.

BACKGROUND

An award of Competitive (9%) Housing Tax Credits to Connect South Apartments was approved by the Board on July 23, 2020. Staff executed a Carryover Allocation Agreement with the Development Owner that included a certification from the Development Owner that documentation for the 10% Test would be submitted by a set date, and, in order to satisfy the requirements of §42 of the Internal Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2022. The Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate under these circumstances.

Per 10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, a Development Owner is allowed to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Pursuant to 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress.

In 2021, the Development Owner communicated to staff how two presidentially declared disasters, the COVID-19 pandemic and Winter Storm Uri, resulted in supply chain disruptions, materials shortages, and labor shortages, all of which have led to price increases impacting construction of the Development. Additionally, the Development Owner noted challenges with Community Development Block Grant –

Disaster Recovery (CDBG-DR) funding from the City of Houston and the requirements of Multifamily Direct Loan (MFDL) funding from the Department.

Staff determined there was sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner”, as described in 10 TAC §11.6(5) and the Board approved the request for force majeure treatment. Accordingly, the Development Owners returned the awarded credits and the execution of a 2021 Carryover Allocation Agreement resulted in a new award and a new placed in service deadline of December 31, 2023, for the Developments, with a new 10% Test deadline of July 1, 2022. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules were applicable to the Development for the purposes of the force majeure event.

On March 21, 2022, the Development Owner communicated to staff how ongoing issues due to the COVID-19 pandemic, including difficulties with CDBG-DR and MFDL funding and continued increases in construction costs, labor and materials shortages, and supply chain disruptions, are impeding progress toward the Development’s placement in service. Staff has determined there is sufficient evidence of “sudden and unforeseen circumstances outside the control of the Development Owner”, as described in 10 TAC §11.6(5), for the Department to treat the Development under an application of the force majeure rule. If the Board approves the request to consider these force majeure events, the Development Owners will return the awarded credits and execution of a 2022 Carryover Allocation Agreement will result in a new award and a new placed-in-service deadline of December 31, 2024, for the Development, with a new 10% Test deadline of July 1, 2023. The 2020 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Development for the purposes of the force majeure event.

If the Board denies the request regarding the force majeure events, the date by which the denied Development must be placed in service will remain as previously agreed. Because the Development Owner has anticipated not meeting the placed in service deadline, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. If there are pending Applications on the 2022 or 2023 waiting list (depending on the year of return) from the relevant subregion, the next Application would be awarded, assuming there are enough credits to make the award. If there are not enough credits in the subregion to make an award, the credits will go into the statewide collapse and contribute the next award.

Staff recommends the Board approve the request for treatment under an application of the force majeure rule for the Development.



600 Congress Avenue, Suite 2200
Austin, Texas 78701-2748
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Raj Bandla
Direct Telephone: 512-305-4749
Direct Fax: 512-391-4830
raj.bandla@lockelord.com

March 21, 2022

VIA EMAIL DELIVERY

Rosalio Banelos
Cody Campbell
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, Texas 78701-2410

Re: Connect South Apartments (the "**Development**")
TDHCA File No. 20082 (MFDL File No. 21503)

Greetings:

We represent Connect South Apts, LP, a Texas limited partnership ("**Owner**"), which submitted an Application¹ for Housing Tax Credits in the 2020 Application Cycle. An award of Tax Credits was conditionally approved on July 23, 2020, and the Commitment was issued by the Department on August 25, 2020. At the time the Application was submitted, Owner contemplated a conservative 18-month construction schedule, which would allow for closing in the Spring of 2021 and completion before December 31, 2022. Upon receipt of its award, even before the Commitment was issued, Owner began updating its construction budget for submission to the City of Houston related to its Community Development Block Grant – Disaster Recovery ("**CDBG-DR**") funding related to the Development. In an abundance of caution, we also applied to TDHCA for a reallocation of the Tax Credits in the 2021 cycle pursuant to the "Force Majeure" provisions in Section 11.6(5) of the QAP. TDHCA graciously granted this request. Unfortunately, the same factors that caused an initial delay persist and, in some cases, have become even more problematic.

Due to the funding gap created by increases in supplier pricing and development progress delays, the Owner responded to the Departments 2021-3 NOFA for MFDL funding on or about July 20, 2021. Unfortunately, draft MFDL loan documents have not been provided to date and no guidance has been received as to when they will be available, which prevents the City of Houston from completing its review and authorizing funding of CDBG-DR grant funds. Finally, Owner's lender requires that the Development's placement in service deadline be at least 90 days

¹ Capitalized terms used but not defined in this letter shall have the meanings assigned to them in the 2021 Qualified Allocation Plan (the "**QAP**").

beyond Owner's finalized construction schedule – which is currently anticipated to be **February 28, 2024**.

Relief Sought

Owner submits this request for a reallocation of credits to 2023 and a related nine-month placement in service deadline to September 30, 2024, as permitted under to the "Force Majeure" provisions in Section 11.6(5) of the QAP.

Support for Force Majeure Conditions

Pursuant to Section 11.6(5) of the QAP, a Force Majeure event includes Acts of God; changes in law, rules, or regulations; and supplier failures or materials or labor shortages that make construction activity impossible or materially impede its progress. We know TDHCA is well aware of the general construction market conditions that have changed dramatically since Applications were submitted in the first quarter of 2020. Additionally, specific to this Development:

- **MFDL Documents.** Owner's commitment of CDBG-DR funding from the City of Houston required an approval of TDHCA MFDL documents. Unfortunately, despite having submitted our application in during the summer of 2021, we have not been able to provide draft documents to the City of Houston and have not been provided any guidance on when draft documents will be available. We recognize and appreciate the many challenges that TDHCA has faced in meeting an unprecedented demand for all of its programs.
- **City of Houston CDBG-DR Loan Documents.** Also affected by COVID-19, the City of Houston was unable to timely prepare the documents and obtain City Council approval for the CDBG-DR funding. At the time of the Application, City Council approval was originally anticipated by March 15, 2021. With respect to the City of Houston's CDBG-DR funding and the proposed Department's HOME funding, the City of Houston requires an intercreditor agreement. Owner understands that the Department's staff cannot begin reviewing and commenting on the City of Houston intercreditor agreement until the Development receives an award of MFDL funds—which is not anticipated until in November 2021. Meanwhile, the City of Houston cannot authorize closing until City Council has approved the CDBG-DR loan documents—including the intercreditor agreement.
- **Materials Costs and Shortages.** Due to the impact of the COVID-19 pandemic on mills, labor, and distribution channels coupled with increased restrictions on cutting/logging in Canada and a significant increase in home improvement projects nationwide, costs for building materials including lumber, steel, and PVC, have increased substantially since

Owner filed the Application. While the Development was able to absorb significant material cost escalations throughout 2020 due to favorable Tax Credit equity terms, the cost of building materials increased even more after the start of 2021; in the period between July 2021 and March 2022 alone, construction costs rose \$2.9MM, or 15%. This is unfortunately an industry-wide problem as the enclosed article from Affordable Housing Finance details (Exhibit B).

- **Request for TDHCA MFDL Funding.** As a result of the increases in costs for materials and labor, Owner sought MFDL Funding from the Department. As noted above, the Department is still in the process of drafting the relevant loan documents and Owner and its financing partners will need time to review and comment on the same. Further, as discussed above, the Department will need to review and comment on the City of Houston's intercreditor agreement related to its CDBG-DR funding before it can authorize closing. Finally, the City of Houston will need to review the Department's draft loan documents before it can authorize funding.

Investor Requirements

Like many tax equity investors, our investor Hudson requires some cushion in the construction schedule. Due to the delays outside of Owner's control described herein, the Development will not meet Hudson's required cushion. Therefore, Hudson has required Owner to promptly request a force majeure extension from TDHCA (see Exhibit A). For the same reason, our lender Capital One has also required us to make this request.

Factors for Consideration

In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. Owner has proven up delays resulting from "force majeure" events, including supplier failures and materials and labor shortages, the impact of the February ice storm, and the ongoing COVID-19 pandemic. The delays materially impeded Owner's ability to engage in construction activity.
2. When Owner submitted its Tax Credit Application in early 2020, it had no way of knowing what was to come with market conditions that are now commonly referred to as "unprecedented."
3. Owner has endeavored to mitigate the delays by working proactively with the local and state agencies providing funding.
4. Owner's lender believes there is a reasonable likelihood that it will not be able to meet the placement in service deadline because of the delays experienced. The current schedule calls

for completion by February 28, 2024, which raises legitimate concern about meeting the deadline for placement in service.

Although we intend to close on financing within the next 90 days so that we can proceed toward placement in service as expeditiously as possible, the challenges outlined in this letter are significant.

We believe Owner has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. If additional information is required, please feel free to contact us.

Sincerely,



Raj Bandla

cc: Connect South Apts, LP

Exhibit A -- Investor Correspondence

**Exhibit A
Investor Letter**



March 16, 2022

Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: 20082 – Connect South Apartments

Mr. Wilkinson:

We strongly support a request by Brinshore Development, LLC to extend the placed-in-service deadline to September 30, 2024 on Connect South Apartments. The project has been impacted by rising interest rates and materials and labor shortages, requiring the development team to secure additional soft funds from TDHCA to maintain financial feasibility. These factors have delayed the closing date. In order to secure credit approval to close, our investor requires a cushion of at least 3 months from the projected construction completion date and the placed-in-service deadline. Based on the proposed 19-month construction schedule and estimated July 2022 closing, we believe a nine-month extension to the placed-in-service deadline will be sufficient. Without adequate cushion, we will not receive investor approval to close.

We appreciate TDHCA's continued support of this important family development in Houston. Should you need any further assistance, please feel free to contact me with any questions at (212) 218-4446 or via email at josh.lappen@hudsonhousing.com.

Sincerely,

A handwritten signature in blue ink that reads "Joshua Lappen".

Joshua Lappen
Vice President
Hudson Housing Capital, LLC

Exhibit B

Affordable Housing Finance Article Link

https://www.housingfinance.com/news/rising-costs-hit-affordable-housing-projects_o

7e

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Houston 150 Bayou Apartments (#21038) in Houston.

RECOMMENDED ACTION

WHEREAS, an award of Competitive (9%) Housing Tax Credits in the amount of \$2,000,000 to Houston 150 Bayou Apartments (the Development) was approved by the Board in July 2021;

WHEREAS, staff executed a Carryover Allocation Agreement with the Development Owner on December 26, 2021, that included a certification from the Development Owner that each building for which the allocation was made would be placed in service by December 31, 2023;

WHEREAS, on March 18, 2022, the Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events;

WHEREAS, other than in situations covered by force majeure, the Department lacks authority to extend federal deadlines for placement in service; and

WHEREAS, the Development Owner has presented evidence that relief under force majeure is appropriate;

NOW, therefore, it is hereby

RESOLVED, the request for treatment of Houston 150 Bayou Apartments under an application of the force majeure rule is approved, with the 2021 Qualified Allocation Plan and Uniform Multifamily Rules, and the 2022 Program Calendar applicable to the Development.

BACKGROUND

An award of Competitive (9%) Housing Tax Credits to Houston 150 Bayou Apartments was approved by the Board on July 22, 2021. Staff executed a Carryover Allocation Agreement with the Development Owner that included a certification from the Development Owner that documentation for the 10% Test would be submitted by a set date, and, in order to satisfy the requirements of §42 of the Internal

Revenue Code, each building for which the allocation was made would be placed in service by December 31, 2023. The Department received a request from the Development Owner to extend the placement in service deadline under the provisions of 10 TAC §11.6(5) related to Credits Returns Resulting from Force Majeure Events. Staff determined that an extension of the 10% Test deadline was appropriate under these circumstances.

Per 10 TAC §11.6(5) of the Qualified Allocation Plan (QAP), related to Credits Returns Resulting from Force Majeure Events, a Development Owner is allowed to return issued credits within three years of award, and have those credits re-allocated to the Development outside of the usual regional allocation system if all of the requirements of the subsection are met. Per 10 TAC §11.6(5), the Department's Governing Board may approve the execution of a current program year Carryover Allocation Agreement regarding the returned credits with the Development Owner that returned such credits only if:

(A) The credits were returned as a result of "Force Majeure" events that occurred before issuance of Forms 8609. Force Majeure events are the following sudden and unforeseen circumstances outside the control of the Development Owner: acts of God such as fire, tornado, flooding, significant and unusual rainfall or subfreezing temperatures, or loss of access to necessary water or utilities as a direct result of significant weather events; explosion; vandalism; orders or acts of military authority; unrelated party litigation; changes in law, rules, or regulations; national emergency or insurrection; riot; acts of terrorism; supplier failures; or materials or labor shortages. If a Force Majeure event is also a presidentially declared disaster, the Department may treat the matter under the applicable federal provisions. Force Majeure events must make construction activity impossible or materially impede its progress.

The Development Owner has communicated to staff how the COVID-19 pandemic, a presidentially declared disaster, has resulted in supply chain disruptions, materials shortages, and labor shortages, all of which have led to price increases and timing uncertainty impacting construction of the Development. These claims are substantiated in the owner's request by a letter from the construction company indicating that the anticipated construction schedule is 18 months.

Staff has determined there is sufficient evidence of "sudden and unforeseen circumstances outside the control of the Development Owner", as described in 10 TAC §11.6(5), for the Department to treat the Developments under an application of the force majeure rule. If the Board approves the request to consider these force majeure events, the Development Owners will return the awarded credits and execution of a 2021 Carryover Allocation Agreement will result in a new award and a new placed in service deadline of December 31, 2024, for the Developments, with a new 10% Test deadline of July 1, 2023. The 2021 Qualified Allocation Plan and Uniform Multifamily Rules will be applicable to the Developments for the purposes of the force majeure event.

If the Board denies the request regarding the force majeure events, the date by which the denied Development must be placed in service will remain as previously agreed. Because the Development Owner has anticipated not meeting the placed in service deadline, the credits are expected to be returned. If the Development Owner returns the credits, the credits would first be made available in the

subregion from which they were originally awarded, pursuant to 10 TAC §11.6(2), related to returned credits. If there are pending Applications on the 2022 or 2023 (depending on when the credits are returned) waiting list from the relevant subregion, the next Application would be awarded, assuming there are enough credits to make the award. If there are not enough credits in the subregion to make an award, the credits will go into the statewide collapse and contribute the next award.

Staff recommends the Board approve the extended 10% Test deadline and the request for treatment under an application of the force majeure rule for the Development.



600 Congress Avenue, Suite 2200
Austin, Texas 78701-2748
Telephone: 512-305-4700
Fax: 512-305-4800
www.lockelord.com

Cynthia L. Bast
Direct Telephone: 512-305-4707
Direct Fax: 512-391-4707
cbast@lockelord.com

March 18, 2022

VIA EMAIL DELIVERY

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

Re: Houston 150 Bayou Apartments (the "**Property**")
TDHCA File No. 21038

Greetings:

We represent 2021 Houston 150 MF Housing, LP, a Texas limited partnership ("**Owner**"), which received a commitment of low-income housing tax credits ("**Tax Credits**") in the 2021 9% competitive cycle. Owner submits this request to return the Tax Credits and have TDHCA reallocate the Tax Credits in the current year pursuant to the "Force Majeure" provisions in Section 11.6(5) of the 2022 Qualified Allocation Plan (the "**QAP**"). Capitalized terms used but not defined in this letter shall have the meanings given them in the QAP.

Detailed Description of Delays

After submitting the Application for 2021 Tax Credits, even before the award was made, Owner began reaching out to several construction companies to evaluate the plans and better understand pricing in context of the chaotic construction market. Owner worked with multiple contractors between March and June, while monitoring the Application ranking and the likelihood of success in the award of Tax Credits. Owner learned that there were certain inefficiencies in the design that, if eliminated, could help us from a pricing standpoint. The plan was to match up an experienced contractor with the architect of record to work collaboratively to get a more efficient project and bring the construction pricing down. In early August, Owner interviewed three different companies. After obtaining proposals from all three candidates, Owner hired Icon Builders and matched them up with Trahan architects. A contract was executed for pre-construction and design services. On September 23, Owner began a series of weekly meetings to further advance the design of the project to try to reach greater efficiencies and lower costs. These weekly meetings continued into the middle of December when preliminary pricing was provided by Icon. Owner went through several rounds of value

engineering in order to try to reduce the cost further. Now, as Owner continues to grapple with construction uncertainties, scheduling has become a problem. Given the current state of the market, Icon is requiring a construction schedule of eighteen (18) months. See the letter attached as Exhibit A. With the time it will take to finalize construction pricing, finish permitting, close the financing and commence construction, adding an 18-month construction schedule means there is a very good chance that placement in service will occur in 2024.

In order to continue to expend the time and costs associated with preparing this Development for closing and construction, Owner needs assurance that it will not lose the Tax Credits because the contractor requires eighteen (18) months for completion.

Factors for Consideration

In accordance with Section 11.6(5) of the QAP, we believe Owner meets TDHCA's requirements for the relief sought, in that:

1. The delays imposed by the uncertainty in the construction market are "force majeure" events that have materially impeded Owner's ability to engage in construction activity.
2. Owner endeavored to mitigate the delays by commencing the construction pricing and value engineering process, even before the Tax Credits were awarded.
3. Owner believes there is a reasonable likelihood that it will not be able to meet the placement in service deadline because of the delays experienced.

Owner believes it has satisfied TDHCA's requirements for a reallocation of Tax Credits under Section 11.6(5) of the QAP and requests that this matter be considered at the next available Board meeting with a recommendation for approval. If additional information is required, please feel free to contact us.

Sincerely,



Cynthia L. Bast

cc: Eureka Multifamily

Exhibit A

ICON BUILDERS, LLC
COMMERCIAL • MULTIFAMILY • RETAIL • GOVERNMENT

9 Greenway Plaza, Suite 1250, Houston, Texas 77046
Phone 713-963-8660 • www.iconbuilders.net



January 19, 2022

2021 Houston 150 MF Housing, LP
603 West 8th Street
Austin, Texas 78701

Attn: Mark Rogers

Re: Houston Portwest Development – Current Market Status

Dear Mr. Rogers;

As requested we'd like to report on the current state of the construction market in general in ICON's professional opinion. Due to current economic conditions and overall inflation as a result of the effects of the COVID pandemic, we're experiencing disruptions in raw material deliveries and continuing increases in pricing. Vendors selling commodities like lumber, steel, rebar, appliances, hardware, etc. are quoting prices that are generally good from short periods of time with sudden increases despite purchase order agreements to the contrary. Even when pricing is firm, deliveries of such products are often being delayed or postponed due to supply chain disruptions. The labor market is also experiencing shortages as demand for new product on the ground increases.

Coupled with supply chain disruptions and inflation, the housing industry is also experiencing increased demands that further puts pressure on the already difficult situation. Inventory of single and multi-family homes are still at historically low levels because product is selling faster than our industry can keep pace.

So from our professional opinion and current experience, due to potential inflation (said to be at least 7% this coming year), supply disruptions, labor shortages and increased demand means we're probably headed for another year of unpredictability at best. Until the housing market eases and supply catches up to demand, it's difficult to predict when exactly this trend will end.

In light of these circumstances, we will anticipate an 18-month construction schedule for your project, from commencement to placement in service. This time is necessary to provide sufficient buffer for the inevitable delays we anticipate.

Exhibit A

We hope this helps in your decision making as to what's best for your project's future needs.
Sincerely,

Stephen Nelson

Stephen Nelson
Preconstruction Services Director
xc: Kevin Hardy
Carlos Kenner

7f

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Cole Creek Estates (#22018) in Houston.

RECOMMENDED ACTION

WHEREAS, pursuant to 10 TAC §11.101(a)(2) of the 2022 Qualified Allocation Plan related to Undesirable Site Features, Development Sites within the applicable distance of any of the identified undesirable features will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility;

WHEREAS, for the items requiring disclosure under 10 TAC §11.101(a)(2), staff received such a disclosure for Cole Creek Estates (#22018); and

WHEREAS, staff has conducted a review of the disclosure pursuant to 10 TAC §11.101(a)(2) and prepared a summary for the Board;

NOW, therefore, it is hereby

RESOLVED, that the Board determine whether the information regarding the undesirable site features is sufficient and supports site eligibility under the requirements of 10 TAC §11.101(a)(2) for Cole Creek Estates (#22018).

BACKGROUND

Per 10 TAC §11.101(a)(2), Development Sites within the applicable distance of any of the undesirable features identified in the rule will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility. Should the Board make the determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is final and not subject to further appeal.

The applicant submitted a Request for Pre-Determination regarding the proposed development site for Cole Creek Estates in early 2021. Staff acknowledged receipt of that Request for Pre-Determination on February 11, 2021, but were unable to adequately review it without an Environmental Site Assessment (ESA) for the proposed development site.

In a request for eligibility submitted with the application on February 28, 2022, the applicant disclosed two commercial businesses located near the proposed development site for Cole Creek Estates: Harris County Household Hazardous Waste Collection Facility and Action Gypsum Supply. The Harris County Household Hazardous Waste Collection Facility adjoins the proposed development site to its south, while Action Gypsum Supply is located northwest of the proposed development site. The determination sought is that 10 TAC §11.101(a)(2)(L) does not render this site ineligible. This subsection would prohibit:

Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. . . .

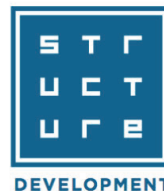
According to the Harris County Engineering Department’s website, the Harris County Household Hazardous Waste Collection Facility provides services to allow residents a convenient, safe, and environmentally compliant way to dispose of the chemicals and some other non-hazardous recyclable items. The Harris County Household Hazardous Waste Collection Facility accepts items “that are used for household purposes only,” and “cannot accept waste from businesses, electronics (computers/TVs/DVR/radios/etc.), explosives (including ammunition and firecrackers), medical/biological/radioactive materials (including smoke detectors), household appliances, and municipal trash.”

The ESA for the proposed development site included with the applicant’s request acknowledges the presence of a structure with auto service bays and a hazardous materials storage area and 55-gallon drums within a concrete containment barrier at the Harris County Household Hazardous Waste Collection Facility, but notes, “No indications of a release were observed in association with this facility.” Ultimately, the ESA opines that, “There are no indications that the subject property has been impacted from auto service or waste collection activities conducted at the south adjoining property based on the limited extent of impact discovered by VCP investigation activities, gradient direction and current site conditions.”

Action Gypsum Supply’s website notes its facility located at 9635 West Little York Road is a building supply store that also serves as the company’s headquarters for its business activities serving several major construction markets across Texas. The applicant notes the extent of the use of the site by Action Gypsum Supply is material storage and the building materials sold there are not produced on-site.

The ESA included with the applicant’s request revealed no evidence of controlled, *de minimis*, historical, nor recognized environmental conditions in connection with the property in use by Action Gypsum Supply, and recommends “no further investigation is required to identify a recognized environmental condition.”

Based on information and supporting documentation provided by the applicant in their request, staff recommends that the Board determine the Development Site not ineligible under 10 TAC §11.101(a)(2)(L).



January 3, 2022

Cody Campbell
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, Texas 78701

Re: *TDHCA Application # 22018 Cole Creek Estates Houston, Texas
Request for Eligibility related to Undesirable Site Features*

Dear Mr. Campbell:

I am writing on behalf of the Applicant, Cole Creek Estates, Ltd., for TDHCA Application # 22018 Cole Creek Estates, proposed to be located in Houston, Texas. The Applicant seeks a waiver if deemed applicable as permitted by 10 TAC § 11.101(a)(2) of the Multifamily Rules relating to Undesirable Site Features.

The site for Cole Creek Estates is approximately 6850 Gessner Road, in northwest Houston. Out of an abundance of caution, and to provide TDHCA with a clear picture of the community context, there are 2 commercial land uses nearby that we wish to disclose. The 2 commercial businesses are Harris County Household Hazardous Waste Collection Facility and Action Gypsum Supply. Please refer to the location and aerial maps of the site in Exhibit A and Exhibit B. As confirmed by the recently completed ESA, I expect that you will find that the nearby land uses do not have the negative characteristics that constitute an undesirable site feature. However, if deemed necessary, we respectfully request a waiver for being near these businesses.

Section 11.101(a)(2) states, “Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (L) of this paragraph will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility.”

- Subparagraph (L) prohibits “*Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. If staff believe that a Site should be deemed unacceptable under this provision due to information that was not included in the Application, it will provide the Applicant with written notice and an opportunity to respond.*”

Harris County Household Hazardous Waste Facility collects household items, such as household cleaners, paint and paint related products, yard/automotive and pool products, and batteries. The County provides this invaluable program to safely dispose of everyday household items to ensure a cleaner environment. As noted on the facility’s FAQ page (Exhibit C), the facility does not buy the items that are collected there, and moreover, as evidenced on the facility’s brochure (Exhibit D), the facility recycles or safely disposes of the household items. Since the items collected at this facility are only at this facility for a temporary period before being recycled or completely disposed of, this site does not store increasingly large amounts of waste. Importantly, the facility does not collect explosives and limits the quantity of

Mr. Cody Campbell
January 3, 2022
Page 2 of 3

items that can be collected from a household to what fits in one car. The collection facility is only open to the public on Wednesdays from 9 am – 3 pm, every 2nd Saturday of the Month from 9 am – 2pm, and every 4th Saturday of the Month during the months of January- October, from 9 am – 2 pm. Due to the limited hours of operation, the collection facility does not cause traffic concerns for the area.

The Environmental Site Assessment performed by Phase Engineering, Inc. on February 22, 2021 includes the following note regarding this land use:

“The south adjoining property, addressed as 6900 Hahl Road, operated as a county waste collection and auto service facility under the name Harris County Household Hazardous Waste Facility at the time of the site visit. A structure with auto service bays and a hazardous materials storage area and 55-gallon drums within a concrete containment barrier were observed in association with this facility.” Furthermore, the **ESA states that there are no indications that the Cole Creek Estates development site has been impacted by the collection facility.** Please see Exhibit F for excerpts from the ESA.

Action Gypsum Supply is a fence-enclosed building supply store that constitutes a light industrial use. Action Gypsum Supply is the supplier for commercial and residential projects around Texas, including the University of Houston. The extent of the use of this site is material storage. Notably, the building materials sold here are not produced at this site, rather they are stored, purchased, and transported off this site. As such, there are no loud external noises associated with this use, nor any toxic fumes or exhausts that might come from a manufacturing facility.

The ESA only notes this facility, which is located at 9635 West Little York Road, when identifying surrounding land uses. **The supply store does not rise to any level of environmental concern that was captured in the ESA.** The Environmental Site Assessment indicates that neither of these facilities expose the Development site to any environmental hazards that would seem the site unacceptable for housing. The full ESA has been uploaded to the Departments ftp site.

The Development site for Cole Crossing Estates is located within a census tract that does not have any communities funded by Low Income Housing Tax Credits, highlighting a need for affordable housing options in the area. The Site is located near Highway 290, which provides vital access to community amenities and jobs. We believe that granting this request will further the purposes and policies as stated in Texas Government Code, §§2306.001, 2306.002, 2306.359, and 2306.6701. I am requesting that the Development Site for Cole Creek Estates be found eligible because 1) the Harris County Hazardous Waste Facility does not accept or carry explosive or otherwise harmful materials to deter nearby development; 2) The Action Gypsum Supply stores and sells building materials, which are transported off the site. The purchase of these materials to be used elsewhere does not constitute heavy industrial use; and 3) Neither of these facilities cause the Development Site to be exposed to environmental factors that would adversely affect the health and safety of the residents or render the Site inappropriate for housing use as is evidenced by the ESA.

We appreciate your time and consideration.



Anjelica Rivas
Consultant to the project

Mr. Cody Campbell
January 3, 2022
Page 3 of 3

Exhibit A – Location Map
Exhibit B – Aerial Map
Exhibit C – HHW FAQ
Exhibit D – HHW Brochure
Exhibit E – Community Assets Map
Exhibit F – Cole Creek Environmental Site Assessment Excerpts



Location Map

Cole Creek Apartments

SWQ Gessner Rd and W Little York Rd
Houston, Texas





Harris County Engineering Department

John R. Blount, P.E., County Engineer

1001 Preston, 7th Floor
Houston, TX 77002

Search...



About Us



Consultants

Portfolio



Permits

Real Property

Construction

CIP Resources

Construction

Environmental Services

Floodplain Management

Professional Services

Standards & Specifications

Transportation & Planning

Watershed

Household Hazardous

Household Hazardous Waste

Facility Information

Which HHW Items Do We Accept?

Disposal Tips

How to Prepare HHW for Transport

Business Waste

HazMobile Events

Other Collection Sites

HHW FAQ

HHW Brochures

Appointment for HHW Facility

Appointment for PCT1 – HazMobile

Appointment for PCT2 – HazMobile

Appointment for PCT4 – BOPA

Frequently Asked Questions

Q: What do we accept?

A: We accept items from your home that are used for household purposes only. They include, but are not limited to, household cleaners, paint and paint related products, yard/automotive and pool products, batteries, aerosols (except for mace and Freon), small propane and BBQ size propane cylinders, items that contain Mercury, and up to 4 tires per visit.

Q: What do we not accept?

A: We cannot accept waste from businesses, electronics (computers/TVs/DVR/radios/etc), explosives (including ammunition and firecrackers), medical/biological/radioactive materials (including smoke detectors), household appliances, and municipal trash.

Q: I have business waste so how do I dispose of my materials?

A: We are not allowed to accept waste from businesses. Businesses must call the Texas Commission on Environmental Quality (TCEQ) Small Business Assistance Hotline at 1-800-447-2827 for information on disposal of business waste.

Q: Is there a fee?

A: There is no charge for our services.

Q: What if I live in the incorporated City of Houston but I am closer to the Harris County facility?

A: Any City of Houston resident living closer to the Harris County facility may utilize this facility.

Q: Where do I take my electronics?

A: www.TexasRecyclesTVs.org, www.TexasRecyclesComputers.org, www.earth911.com or www.recycleinfo.org find the closest location where you can take your E-Cycling. We suggest calling the company first to make sure they can accept the size item you are bringing and their hours of operation.

Q: Can you take my prescription medications?

A: We can accept over the counter medications. Your prescription medications may be disposed at one of the Drug Enforcement Agency's (DEA) events that are conducted in the spring and fall. Check their web-site at <http://www.deadiversion.usdoj.gov/> or call the Texas office at 210-442-5600 for information on their collections.

Q: Where can I take my syringes?

A: Syringes are sharps and we do not accept these. You can do a search on the web for "sharps disposal Houston Texas" and you will be directed to the locations in the Houston area that will service your needs.

Q: What if I have a helium or oxygen tank?

A: We only accept small and BBQ size propane cylinders. If you have a helium tank, contact the place where you purchased it and see if they will take it back. If not, contact a metals recycler for proper disposal. If you have an oxygen cylinder, contact your doctor or the place you purchased it. They should take them back.

Q: Where do I take my recyclables (paper, cans, glass, etc)?

A: You can go to www.earth911.com or www.recycleinfo.org for information on recycling. These services are usually provided to residents of unincorporated Harris County by the HOA or water provider. Please contact them to see if you have door to door recycling services.

Q: What if I have shingles, wood, tiles, or other construction debris?

A: We do not accept these items. If the items are in good condition, please call the City of

Houston ReUse Warehouse at 281.814.3324.If they are not reusable, contact your closest landfill for information

Q: Can I hold my own collection and bring those items to you?

A: No – you may bring your neighbor’s materials or your relative’s materials with you as long as it fits in your vehicle.

Featured Projects	Quick Links	Open Positions
Harris County Birnamwood Drive	2-Year Hurricane Harvey Summary	Administrative Assistant IV
Harris County Dennis Johnston Park	RRD - Recovery and Resiliency	Contract Administrator
Harris County Election Technology Center	Civil Review Sheet (PDF/DWG)	Elevator Project Manager
Greenhouse Road Project	Currently Advertised RFQs	Engineer Technician IV
Harris County Institute of Forensic Sciences - Forensic Genetics Laboratory	E-Permits Online	Graphics Technician
Harris County Law Library	Floodplain Management	Instrument Person
Leonel J. Castillo Community Center	Geographic Information Systems	Maintenance Mechanic
Sylvan Beach Pavilion	HCED Capital Improvement Plan	Plumber
	HHW - Household Hazardous Waste	Real Estate Analyst - Appraisals
	Permit Office	Right of Way Coordinator Flood Control)
	Professional Services Registry	Road and Bridge Project Manager (Capital Projects)
	Transportation and Planning	Survey Rod Person
	US 290 Area Major Thoroughfare Study	Survey Technician
	Watershed Seminars	

Harris County Household Hazardous Waste Collection Facility

6900 Hahl Road, Houston, TX 77040



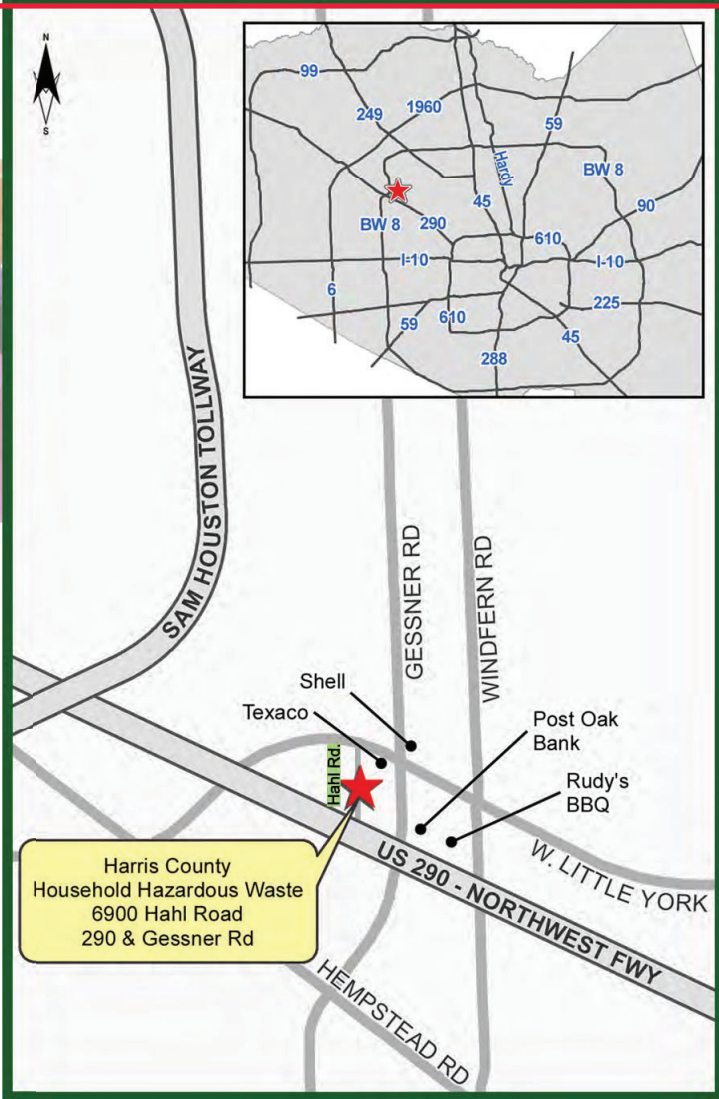
Open to the Public { Wednesdays: 9 am - 3 pm
Every 2nd Saturday of the Month: 9 am - 2 pm
4th Saturday of the Month (Jan. - Oct.): 9 am - 2 pm
(For Holiday Closures and 4th Saturday Operation Dates, visit www.HCHHW.org)

Items we accept:

- Paint
- Household Cleaners
- Automotive Products
- Propane (camping/grilling)
- Lights: CFL/LED/Fluorescent
- Items Containing Mercury
- Tires (4 per visit)
- Aerosol Cans
- Yard Products
- Pool Chemicals
- Cooking Oil
- Batteries
- Fire Extinguishers

Items we DO NOT accept:

- Electronics
- Household Appliances
- Recyclables/Trash/Empty Containers
- Dried Latex Paint
- Pharmaceuticals/Prescription Medicines
- Needles/Sharps
- Radioactive Materials
- Construction Debris
- **Explosives (Ammunition & Fireworks)**
- Other Compressed Gas Cylinders/Tanks



For more information about our program, please visit www.HCHHW.org or call us at 281.560.6200.



Tips for Transporting HHW

- Pack items carefully to prevent spillage.
- Cushion containers to prevent breakage.
- Pack similar chemical containers together (All yard products together, all paint products together, etc.)
- Make sure the containers are not leaking and lids are tightly sealed.
- Label materials that are not in their original containers.



Answers to Often Asked Questions

- Approximately 80% of all items we receive are recycled or used as an alternative fuel source.
- Proper disposal of your HHW items decreases contamination in our environment.
- Empty containers and dried latex paint should be placed in your regular trash.
- Our facility will temporarily close in the event of inclement weather. Please call 281.560.6230 for closure information.

When you arrive at our facility please do the following...

- Drive slowly between the orange cones once you enter.
- Pay attention to personnel and posted signs.
- Stop at the STOP sign and wait for further instructions.

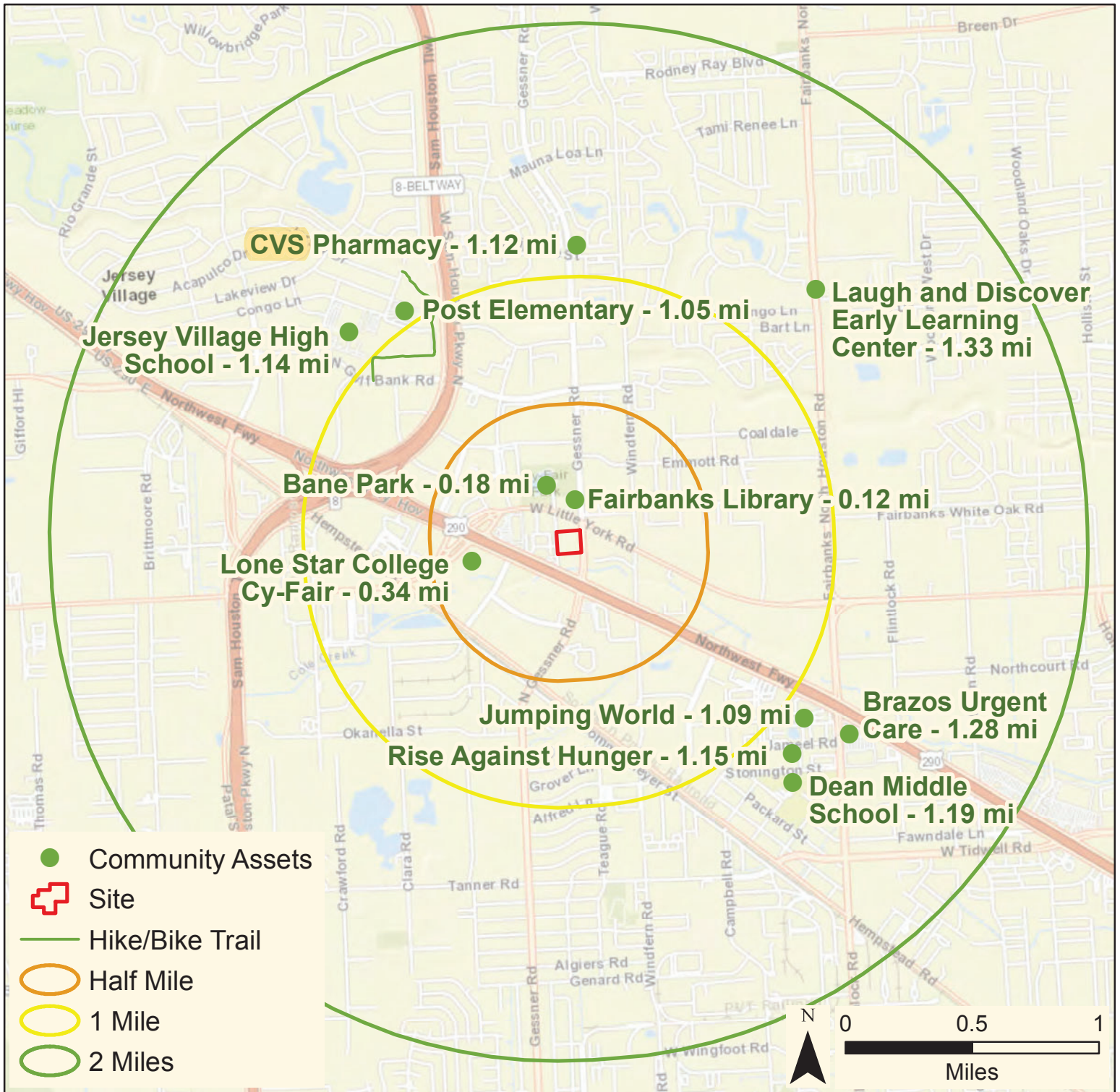
For your safety:

- Put your vehicle in park, turn off the ignition and remain in your vehicle while you are being off-loaded.
- This is a no smoking facility.

Notice: This Service is for Residential Household Items Only. We Cannot Accept Business, Nonprofit, Church, or School Waste per State Rules.



For more information about our program, please visit www.HCHHW.org or call us at 281.560.6200. Also visit www.CleanWaterways.org to learn how to keep our bayous and rivers running clean!



Community Assets



Cole Creek Estates

SWQ Gessner Rd and W Little York Rd
Houston, Texas

Pharmacy: CVS
 Health: Brazos Urgent Care
 Childcare: Laugh and Discover Early Learning Center
 Library: Fairbanks Library
 University: Lone Star College - Cy-Fair
 Indoor Rec: Jumping World
 Outdoor Rec: Bane Park
 Civic Org: Rise Against Hunger
 Meals Service: Meals on Wheels
 Rated School: Post Elementary, Dean Middle, Jersey Village High

This does not represent a recognized environmental condition.

FINDING

Auto repair shops operated at the north adjoining property.

Standard Environmental Record Sources, Federal, State & Tribal

No regulatory agency listings were found in connection with this finding.

See Section 5.1 for more information regarding the regulatory agency documentation reviewed during this assessment.

Records Review

Historical street directories indicate that the north adjoining property, addressed as 9545 West Little York Road, operated as auto repair shops from the mid-2000s to the late-2010s under the names Mr. Column Inc., Woodwind Lakes Auto Service, Ramsco Enterprises and Fox Collision. Auto repair shops are known to store, use and dispose of hazardous substances and petroleum products possibly including degreaser solvents, paints, paint thinners, coolants, oil, hydraulic oil, lubricants, gasoline and diesel. No reported releases were found in connection with these facilities during records review conducted for this assessment.

See Section 5.4 for more information regarding historical sources reviewed during this assessment.

Site Reconnaissance

No features were observed to be associated with this finding during the site reconnaissance.

See Section 6.0 for more information regarding observations noted during the site reconnaissance.

Interviews and/or Inquiries

No details were identified in connection with this finding during interviews and/or inquiries conducted for this assessment.

See Section 7.0 for more information regarding interviews and inquiries conducted during this assessment.

OPINION

There are no indications that the subject property has been impacted from auto repair shop operations conducted at the north adjoining property based on lack of reported releases and the limited extent of operations indicated by historical documentation.

This does not represent a recognized environmental condition.

FINDING

A county facility conducting auto service and waste collection activities operates at the south adjoining property.

Standard Environmental Record Sources, Federal, State & Tribal

The south adjoining property, addressed as 6900 Gessner Road under the name Harris County Multi Use Facility, is a registered UST facility, a LPST site and a VCP site.

- One 6,000 gallon diesel UST and two 5,000 gallon gasoline USTs were reported to have been installed at this facility prior to 1981 and were removed from the ground in 1997. No documentation was available upon request from the TCEQ regarding any release determination investigation activities possibly conducted at the time of UST removal. This is a data gap.
- An 8,000 gallon gasoline UST and an 8,000 gallon diesel UST were installed at this facility in March 1997 and are currently in use. Compliance investigations were conducted at this facility in August 2011, August 2012, March 2017 and October 2019.
- This facility applied to the VCP in February 2008 and was accepted in April 2008 in connection with the investigation of a UST related release and potential impact from truck and auto service related activities. Subsequent soil and groundwater investigation activities and multiple groundwater monitoring events were conducted as a part of VCP response and characterization actions. The TCEQ issued a Certificate of Completion (COC) for this site in September 2016 granting closure under conditions including lack of documented beneficial use of impacted groundwater and restricted usage of the property to commercial/industrial activities. This facility was issued a LPST case number for the UST related release at the time of closure and closure conditions were issued through a VCP COC.
- Monitoring wells were installed along the north boundary of this facility near a maintenance building (MW-1), north of the USTs (MW-5) and near a washing area with grit trap (MW-4). During the most recent groundwater sampling event conducted in May 2012, the wells discovered no impact to groundwater from petroleum products at concentrations exceeding regulatory action limits. This site is hydraulically cross-gradient to the subject property according to prior VCP site investigation activities; therefore, any releases were unlikely to migrate to the subject property.

See Section 5.1 for more information regarding the regulatory agency documentation reviewed during this assessment.

Records Review

Historical street directories and aerial photographs indicate that the south adjoining property, addressed as 6900 Gessner Road, operated as an auto service facility since the mid-1960s under the names County Road Precinct No. 4, County Commissioner, County Road Maintenance Camp and County Precinct 4. Auto service facilities are known to store, use and dispose of hazardous substances and petroleum products possibly including degreaser solvents, paints, paint thinners, coolants, oil, hydraulic oil, lubricants, gasoline and diesel.

See Section 5.4 for more information regarding historical sources reviewed during this assessment.

Site Reconnaissance

The south adjoining property, addressed as 6900 Hahl Road, operated as a county waste collection and auto service facility under the name Harris County Household Hazardous Waste Facility at the time of the site visit. A structure with auto service bays and a hazardous materials storage area and 55-gallon drums within a concrete containment barrier were observed at this facility. **No indications of a release were observed in association with this facility.**

See Section 6.0 for more information regarding observations noted during the site reconnaissance.

Interviews and/or Inquiries

No details were identified in connection with this finding during interviews and/or inquiries conducted for this assessment.

See Section 7.0 for more information regarding interviews and inquiries conducted during this assessment.

OPINION

There are no indications that the subject property has been impacted from auto service or waste collection activities conducted at the south adjoining property based on the limited extent of impact discovered by VCP investigation activities, gradient direction and current site conditions. This does not represent a recognized environmental condition.

Please note that the 2022 ESA received after pre-application has the same findings for the facility.

The west adjoining property across Hahl Road, addressed as 14838 Northwest Freeway under the names Texas DOT West Harris, Texas Department of Transportation, TxDOT West Harris Central Houston Area Office, Waller West Harris Area Office and TxDOT Houston Maintenance Facility, is a registered AST facility, a registered UST facility, a IHW registration and reporting facility, an IHW Corrective Action facility and a LPST site.

- One 2,000 gallon diesel AST was installed at this facility in June 2002 and is currently in use. No regulatory agency reported releases were found in connection with the AST.
- A 4,000 gallon used oil UST was reported to have been installed at this facility prior to 1969 and was removed from the ground in September 1990. A 4,000 gallon gasoline UST and a 6,000 gallon gasoline UST were reported to have been installed at this facility prior to 1982 and were removed from the ground in September 2020. A 4,000 gallon diesel UST was reported to have been installed at this facility prior to 1984 and was removed from the ground in September 2020. A compliance investigation was conducted at this facility in April 2017. The USTs at this facility were reported to be located approximately 500 feet west of the subject property.
- A petroleum product release was discovered during UST removal related release determination investigation activities conducted in 1990. This facility was issued an LPST case number in response to the discovered petroleum product impact. Subsequent soil and groundwater investigation activities and multiple groundwater monitoring events were conducted as a part of LPST response and characterization actions. The Texas Natural Resource Conservation Commission (TNRCC, now the TCEQ) issued a “No Further Action” letter for this site in March 2004. The monitoring well (MW-9) installed in closest proximity to the subject property during LPST site investigation activities discovered no impact from petroleum products at concentrations exceeding regulatory action limits during the most recent groundwater sampling event conducted in October 1998.
- This facility has an IHW status of “Inactive” and is not undergoing corrective action. No registered Waste Management Units (WMUs) or generated waste streams are listed for this facility.
- This facility entered into IHW corrective actions in November 2002 in connection with a suspected release from a septic tank and leach field which were connected with an auto service shop and a materials testing laboratory. Soil samples taken near septic system features discovered no impact from chemicals of concern at concentrations exceeding regulatory action limits. In March 2006, the TCEQ issued a letter of “No Further Action” to this

6.4 Uses and Conditions

The uses and conditions should be noted to the extent visually and / or physically observed during the site visit. The uses and conditions should also be the subject of questions asked as part of interviews of owners, operator, and occupants. Uses and condition shall be described in the report. The environmental professional(s) performing the Phase I Environmental Site Assessment are obligated to identify uses and conditions only to the extent that they may be visually and/or physically observed on a site visit or to the extent that they are identified by the interviews.

Photographs of the subject property, adjoining properties and other key observed features are located in Appendix II of this report.

The subject property was observed to be addressed as 6850 Gessner Road, Houston, Texas and the current use(s) was / were observed to be undeveloped land with planted trees.

The following table summarizes addresses and general uses observed for the adjoining properties.

Adjoining Property Details

Adjoining Property Details		
Direction	Observed Address / Address Range	General Observed Use(s)
North	9545 West Little York Road	Door and frame shop
North	9521 West Little York Road	Motel
North	9515 West Little York Road	Convenience store and gasoline station
East	None observed	Undeveloped land
East	9445 West Little York Road	Financial services
South	6900 Hahl Road	County maintenance and waste collection facility
West	14338 Northwest Freeway	County maintenance and engineering facility
West	9635 West Little York Road	Construction materials supply

6.4.1 Surrounding Property Uses

The current uses of properties in the surrounding area were observed to have included the following general categories:

Surrounding Area Property Types

Residential Uses			
Multi-family	Single-family	Rural	Other
✓	✓		
General Non-Residential Uses			
Commercial	Retail	Industrial	Other
✓	✓		
Civic Uses			
School	Medical	Recreational	Other
		✓	

Recognized environmental condition is defined in ASTM Standard E 1527-13 as “the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.” Phase Engineering, Inc. has considered all migration pathways including soil, groundwater and vapor during evaluation of all identified environmental conditions. This assessment has revealed no evidence of recognized environmental conditions in connection with the property.

A controlled recognized environmental condition (CREC) is defined in ASTM Standard E 1527-13 as “a recognized environmental condition resulting from a past release of hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority with hazardous substances or petroleum products allowed to remain in place subject to the implementation of required controls.” Controlled recognized environmental conditions are recognized environmental conditions. This assessment has revealed no evidence of controlled recognized environmental conditions in connection with the property.

A historical recognized environmental condition (HREC) is defined in ASTM Standard E 1527-13 as “a past release of any hazardous substances or petroleum products that has occurred in connection with the property and has been addressed to the satisfaction of the applicable regulatory authority or meeting unrestricted use criteria established by a regulatory authority, without subjecting the property to any required controls.” A historical recognized environmental condition is not a recognized environmental condition. This assessment has revealed no evidence of historical recognized environmental conditions in connection with the property.

De minimis conditions are defined in ASTM Standard E 1527-13 as conditions “that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.” *De minimis* conditions are not recognized environmental conditions. This assessment has revealed no evidence of *de minimis* conditions in connection with the property.

1.5 Recommendations

Recommendations

The following recommendation is made with respect to the environmental aspects of the subject property:

No further investigation is required to identify a recognized environmental condition.



Anjelica Rivas <anjelica@structuretexas.com>

Pre-Application 21042, Cole Creek Estates

Alena Morgan <alena.morgan@tdhca.state.tx.us>

Thu, Feb 11, 2021 at 2:17 PM

To: Anjelica Rivas <anjelica@structuretexas.com>

Cc: "rhettig@hettig-kahn.com" <rhettig@hettig-kahn.com>, "aduggin@hettin-kahn.com" <aduggin@hettin-kahn.com>, "sara@structuretexas.com" <sara@structuretexas.com>, Marni Holloway <marni.holloway@tdhca.state.tx.us>, Matthew Griego <matthew.griego@tdhca.state.tx.us>

Dear Ms. Rivas,

The Texas Department of Housing and Community Affairs (the Department) is in receipt of the pre-determination request for eligibility submitted with Pre-Application 21042, Cole Creek Estates. At this time, Staff are unable to make a determination based on the materials presented. Review of the Environmental Site Assessment (ESA) will be required in order to determine the potential environmental impact on the proposed Development Site.

Thank you for your cooperation in this important matter. If you have questions regarding the contents of this email or the 9% Housing Tax Credit Program, you may contact me directly.

Sincerely,

Alena R. Morgan, JD

Competitive (9%) Housing Tax Credit Program Administrator

Texas Department of Housing and Community Affairs

[221 E. 11th St., Austin, TX 78701](#)

[Office: 512.936.7834](#)

TDHCA COVID-19 ASSISTANCE: <https://www.tdhca.state.tx.us/covid19-response.htm>.

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC §11.1(b), there are important limitations and caveats.

About TDHCA

The Texas Department of Housing and Community Affairs administers a number of state and federal programs through for-profit, nonprofit, and local government partnerships to strengthen communities through affordable housing development, home ownership opportunities, weatherization, and community-based services for Texans in need. For more information, including current funding opportunities and information on local providers, please visit www.tdhca.state.tx.us

7g

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Malcom's Point Scholar House Apartments (#22021) in Dallas.

RECOMMENDED ACTION

WHEREAS, pursuant to 10 TAC §11.101(a)(2) of the 2022 Qualified Allocation Plan related to Undesirable Site Features, Development Sites within the applicable distance of any of the identified undesirable features will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility;

WHEREAS, for the items requiring disclosure under 10 TAC §11.101(a)(2), staff received such a disclosure for Malcom's Point Scholar House Apartments (#22021); and

WHEREAS, staff has conducted a review of the disclosure pursuant to 10 TAC §11.101(a)(2) and prepared a summary for the Board;

NOW, therefore, it is hereby

RESOLVED, that the Board determine whether the information regarding mitigation of the undesirable site features and a request for waiver is sufficient and supports site eligibility under the requirements of 10 TAC §11.101(a)(2) for Malcom's Point Scholar House Apartments (#22021). Staff does not have a recommendation on this determination.

BACKGROUND

Per 10 TAC §11.101(a)(2), Development Sites within the applicable distance of any of the undesirable features identified in the rule will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility. Should the Board make the determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is final and not subject to further appeal. Among the undesirable site features established in the QAP is 10 TAC §11.101(a)(2)(F), which states:

(F) Development Sites located within 500 feet of heavy industry (i.e. facilities that require extensive use of land and machinery, produce high levels of external noise such as manufacturing plants, or maintains fuel storage facilities (excluding gas stations)

The Development Site is one of three sites selected by the City of Dallas and included in an Request For Proposal (RFP) process intended to bring affordable housing to the area. Additionally, a letter from the City of Dallas included with the applicant's request states the site is covered by three concerted revitalization areas and reaffirms the City's formal support for the development of affordable housing at the proposed development site as formalized in a resolution of support approved by the City Council on February 23, 2022. The Development will serve the Supportive Housing population and include wraparound services to aiming to transition families out of poverty and promote self-sufficiency. There is existing multifamily housing on the property adjoining the Development Site to the Southeast, and other recently-constructed single family and multifamily housing in close proximity to the Development Site.

In a waiver request submitted with the application on February 28, 2022, the applicant disclosed the presence of the Martin Foundry, a manufacturing facility operated by Martin Sprocket & Gear located near the Development Site for Malcom's Point Scholar House Apartments. The properties containing the Development Site and the foundry are separated by a 50-foot abandoned railroad right of way.

The Environmental Site Assessment (ESA) submitted with the Application concluded that, "Based on the duration of the foundry's operations (1950s to the present), the types of chemicals typically associated with foundry operations, the black staining observed in aerial photographs around the foundry, a statement from an unidentified person discussing air emissions, black soot/dust, settling on the ground surface around the foundry, and the proximity to the subject property, the northwest-adjointing foundry facility is considered a recognized environmental condition."

The request notes the Martin Foundry operates under an Air New Source Review Permit and maintains a "high" compliance history classification at the site adjoining the Development Site with the Texas Commission on Environmental Quality (TCEQ). According to the TCEQ's website, this compliance history classification means the Martin Foundry "complies with environmental regulations extremely well" at that site.

Among the undesirable site features established in the QAP is 10 TAC §11.101(a)(2)(L), which states:

"(L) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated."

In addition to the heavy industry, the ESA report describes as follows: "Grand Plaza Shopping Center, located at 3103-3129 Grand Avenue, approximately 390 feet northeast the subject property was listed in the U.S. EPA Brownfields database. According to the Brownfields listing, the City of Dallas conducted a Phase I ESA for the property. A Phase II ESA was subsequently recommended due to the presence of current and historical dry cleaners on the property as well as the potential presence of a gasoline UST. According to the Brownfields listing, chlorinated solvents were identified in soil and groundwater at the property. No other records were available for review. Based on the property's proximity and upgradient

position relative to the subject property, the identified chlorinated solvents in soil and groundwater at the properties may have the potential to migrate to the subject property and impact soil, soil vapor, or groundwater; these properties are considered a recognized environmental condition.”

Moreover, the ESA report identified several historical uses of dry-cleaners and auto repair shops within 400 feet of the subject property (3020 Grand Avenue, 3030 Grand Avenue, 2715 Meadow Street, 3102 Grand Avenue) and concluded that: “The potential exists for chemical of concern (COC) impacts at these facilities to have migrated to and impacted soil, groundwater, and/or soil vapor at the subject property.”

Finally, the ESA states “A lumber-treating plant identified on the northeast near vicinity property (upgradient) operated in the 1950s in association with a lumberyard on the northeast adjoining property. Based on the types of chemicals typically associated with lumber-treating plant operations and the proximity to the subject property, the former northeast near vicinity lumber-treating plant facility is considered a recognized environmental condition.”

To mitigate against any potential noise or other negative externality stemming from heavy industry as described in 10 TAC §11.101(a)(2)(F), the Applicant states in its request it will comply with any recommendations of the noise assessment as recommended by the Phase I ESA submitted with the Application and the Phase II ESA when completed.

Staff recognizes the Applicant’s commitment to adhere to any recommendations of the noise assessment as well as the City of Dallas’ support for development at this site; however, the foundry does appear to be heavy industry and is a recognized environmental condition noted in the ESA. Because of this and noting the other recognized environmental conditions noted in the ESA, staff’s recommendation on this determination is neutral.



February 28, 2022

Cody Campbell
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
222 E 11th Street
Austin, TX 78701

Re: TDHCA # 22021 Malcolm's Point Scholar House Apts Industrial Use Disclosure

Dear Mr. Campbell,

I am writing on behalf the Applicant, Malcolm's Point Scholar House Apts, LP, for TDHCA #22021 Malcolm's Point Scholar House Apts, proposed to be in Dallas, Texas. The Applicant is applying for 9% Housing Tax Credits for the construction of a Permanent Supportive Housing development in an area with much need for this product. Out of an abundance of caution, I am writing to provide relevant background information regarding the presence of an industrial use near the Development Site at 3015 Al Lipscomb Way, in Dallas, TX. The properties are separated by 50' right of way. A foundry was discovered through the Phase I Environmental Site Assessment, and to fully be transparent, we wish to offer additional information about this nearby business and the suitability of the Development Site's location. Should the Department determine the industrial use qualifies as Heavy Industrial, the Applicant respectfully request a waiver of the §11.101(2)(F) for the site to qualify as eligible.

City of Dallas Authority

The Development Site's location is wholly outside the control of the applicant, as it was selected by the City of Dallas and included in an RFP process intended to bring affordable housing to the area. Housing on this site, Supportive Housing in particular, not only addresses the needs of Jeffrey-Meyers neighborhood in South Dallas, where there is an overwhelming need for affordable housing, but it also serves the Department's policies and purposes by providing for the housing needs of individuals and families.

Mr. Cody Campbell

February 28, 2022

Page 2 of 4

The Development Site was recently analyzed and identified by the City of Dallas as one of five properties included in the “1000 Unit Housing Challenge” identified for high-density Transit-Oriented residential development, and the City even described it as a *perfect location for residents*. An RFP was issued for this Site, soliciting bids to build affordable housing options consistent with the City’s Comprehensive Housing Policy.

The Development Site is in the boundaries of three revitalization areas: the South Dallas/Fair Park Area Plan, the Grand Park South TIF, and the Downtown Dallas 360 Plan, all of which are actively prioritized for revitalization. As such, the City of Dallas is committed to working alongside local businesses, including Martin Foundry as they seek redevelopment and revitalization opportunities in this underserved area. Investment in the area can be seen up and down Al Lipscomb Way, as the City has recently sold 26 vacant lots to developers to build single-family homes. Moreover, the *Grand Park South TIF area has seen over \$14 million in investments* within the TIF boundaries, and there have been 46 redevelopment related projects within one mile from the site funded by the City of Dallas 2017 bond program. These investments in the area further highlight that the City of Dallas fully supports continuous redevelopment of the area.

The City of Dallas further authorizes residential development in the areas as demonstrated by the zoning districts and overlays in their Code of Ordinances. The Development Site lies partially in the PD-363 (Subarea 2) Planning Development Subdistrict, created by ordinance to allow residential development adjacent to the Subdistrict which encompasses the foundry (PD-595 (RS-MU) Tract 1 south).

Although vacant now, 3015 Al Lipscomb Way has been the site of both single-family and multi-family housing as recent as 2012. This immediate area is home to other affordable and market-rate residential developments, all of which were built after the foundry began operations, including Eban Village, which is a LIHTC 9% property, which received awards in both 1995 and 1999:

- Aya Senior Village; affordable, HUD; 2607 Jeffries St.
- Eban Village Apartment Homes, affordable LIHTC 9%; 3023 Park Row Ave.
- Jeffries St Apartment Complex; market rate; 2618 Jeffries St.
- Reed Manor; market rate; 2627 Meyers St.

The City of Dallas authorizes residential development at this location, as evidenced by their partnership with Brinshore Development in the Housing Challenge RFP, their resolution of

support at their City Council meeting on February 23, 2022, codified in their Code of Ordinances, and written documentation confirming their desire to see affordable housing on this piece of land.

Industrial Use Compliance

The QAP defines heavy industry as industrial uses that require extensive use of land and machinery, produce high levels of external noise such as manufacturing plants, or maintains fuel storage facilities (excluding gas stations). The Martin Foundry is located on a narrow 4.47 acre lot separated from the development site by a 50' abandoned railroad right of way. The ESA provider suggested a noise study and the Applicant certifies that it will perform the study and follow all ESA recommendations. Additionally, the ESA provider and the development team has thoroughly researched past and current permits issued by the Texas Commission of Environmental Quality (TCEQ) to Martin Foundry. The foundry operates under an Air New Source Review Permit, the guidelines for which are detailed in 30 TAC § 116 Subchapter 5 of the Texas Government Code. Martin Foundry takes the well-being of their neighbors and employees seriously and maintains a "HIGH" compliance classification with the TCEQ. They are operating a modern, compliant business, which is monitored by no fewer than six TCEQ programs to ensure the health and safety of those in and around the foundry property.

Furthermore, the Applicant will comply with any recommendations of the Phase II ESA and noise assessment.

Serves an Overwhelming Need

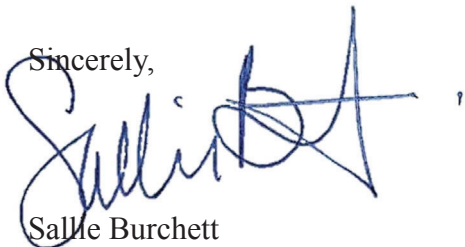
The Development Site is in dire need of affordable housing options, as less than 10% of the total rental units in the Primary Market Area are affordable, and the census tract is in the top 17% of most burdened tracts in the State. By granting the waiver, it better serves the policies and purposes articulated in Tex. Gov't Code §2306.001, 2306.002, 2306.359, and 2306.6701 associated with the lack of supply in this area. The site is consistent with the goals of the QAP as well as best planning practices. Malcolm's Scholar House Apts is within 2 miles of 142,828 jobs, ¼ mile from a new \$36.8 million middle school, ½ mile from Fair Park, and ¼ mile from the DART station making it an ideal place to live, work, learn, and play. Additionally, the workforce development program, two-generational investment in education, and wrap-around supportive services provided will lift families out of poverty and into self-sufficiency.

Summary

With explicit support from the City of Dallas, the stellar record of Martin Foundry, and the lack of any City, State, or Federal regulations prohibiting residential construction near this type of business, the Applicant believes that granting this request will further the purposes and policies as stated in Texas Government Code, §2306.001(2), 2306.002(1), 2306.002(2), and 2306.6701. The development of Malcolm's Point Scholar House Apts aligns with the explicit objective of the City of Dallas' 1,000 Unit Challenge of providing affordable housing at this specific location. The Applicant believes that the eligibility of this development will further the TDHCA's priorities for promoting housing in underserved areas, and it will play an essential role in Dallas's efforts to bring housing stability to the most vulnerable residents of South Dallas. We hope that you find that the feature disclosed above does not warrant the need for a waiver. Should you disagree, the Applicant respectfully requests a waiver and for the site to be found eligible.

We are happy to address any additional questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sallie Burchett', with a stylized flourish extending to the right.

Sallie Burchett

Attached exhibits

- Exhibit A: City of Dallas 1000 Unit RFP Press Release
- Exhibit B: 1000 Unit RFP Project Details
- Exhibit C: Area Plan Map
- Exhibit D: New Construction
- Exhibit E: Zoning Map
- Exhibit F: Zoning Description
- Exhibit G: City of Dallas Residential Authorization letter
- Exhibit H: TCEQ Documentation
- Exhibit I: Location Map

City of Dallas launches “1,000 Unit Housing Challenge” to add mixed-income, transit focused housing for underserved residents

The City of Dallas is endeavoring to develop 1,000 units of housing for mixed-income Dallas residents, with an emphasis on job access for residents and proximity to public transit. The “1,000 Unit Housing Challenge” is being undertaken by the Department of Housing and Neighborhood Revitalization, which has already selected three top-tier locations for development.

“After a year of uncertainty for many Dallas residents, we are excited to launch this initiative, to provide housing to those who need them most,” said Housing & Neighborhood Revitalization Director David Noguera. “These hand-picked sites are the perfect locations for residents to be able to access our public transportation system and engage with their community.”

Sites selected for development include:

- **3015 Al Lipscomb Way**—a two-acre site in South Dallas near the MLK Jr. DART rail station.
- **6601 S. Lancaster Road**—a 10-acre site near the University of North Texas at Dallas campus.
- **4515 S. Lancaster Road**—a 7.5-acre site located across from the Dallas VA Medical Center.

To choose sites for development, the Department of Housing and Neighborhood Revitalization looked for parcels of City-owned land that were larger than ½ acre, within half a mile of a DART station and are currently vacant or underutilized.

“This shows the complexity of the different offices that have come together to work on this to reduce automobile trips and greenhouse gas emissions; increase mixed-income housing and affordable job access; and increase our tax base and efficient use of existing infrastructure,” said Chad West, District 1 Council Member. “There are so many acres of underutilized or unused land that the City is sitting on, I’m glad to see some of those acres activated.”

The City will collaborate with developers over the next several months to rezone the sites as needed, assemble appropriate financing and work with the community to flush out the design.

BYZ21-00015558 - 1000 Unit Housing Challenge

City of Dallas [Back to list](#)

Exhibit B



Project Details

Project: 1000 Unit Housing Challenge

Ref. #: BYZ21-00015558

Type: RFP

Status: CLOSED

Open Date: Jan 21st 2021, 5:00 PM CST

Questions Due Date: Mar 3rd 2021, 5:00 PM CST

Close Date: Mar 18th 2021, 2:00 PM CDT

Days Left: Submissions are now closed

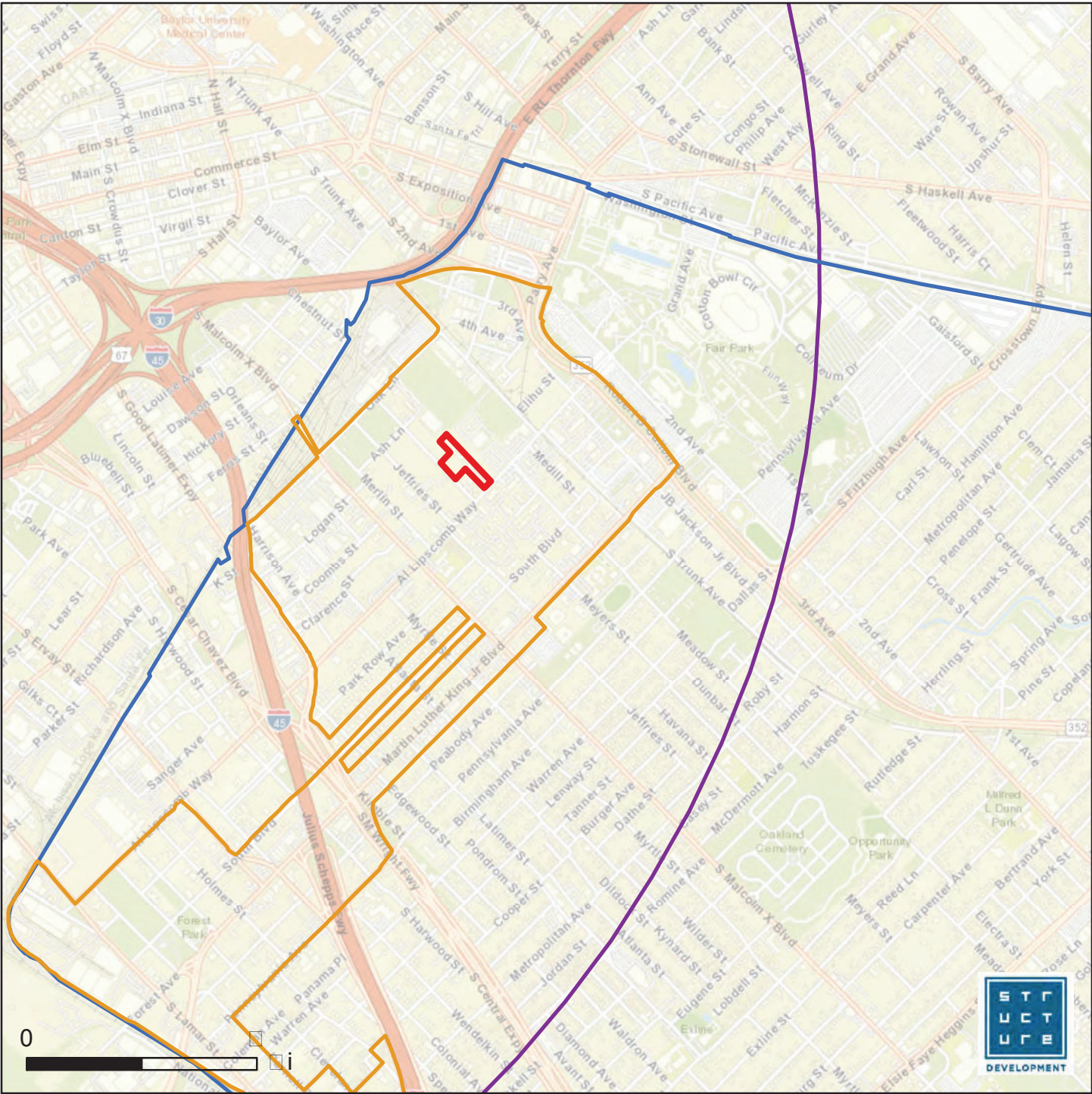
February 2022

[prev](#) [next](#)

Sun	Mon	Tue	Wed	Thu	Fri	Sat
30	31	1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	1	2	3	4	5

Project Description:

The purpose of this RFP is to solicit development concepts from qualified development teams (the "Respondents") that align with City goals outlined in Section II in exchange for City-owned land, expedited rezoning and development review, waiver of park land dedication fees and funding for environmental site assessments. The City also expects that proposals will include affordable housing options consistent with the City's Comprehensive Housing Policy (CHP). The City will prioritize proposals that maximize economic impact (e.g. taxable value, job creation, or other measurable public/community benefits) and produce diverse housing options that are congruent with transit-oriented development goals—specifically as it relates to the creation of compact, walkable, and pedestrian-oriented places offering a mix of residential and commercial uses.



Area Revitalization Plans

Malcolm's Point Scholar Apartments





-  Site
-  Grand Park South District
-  South Dallas Fair Park Area Plan
-  The 360 Plan

Exhibit D New residential construction on Al Lipscomb Way

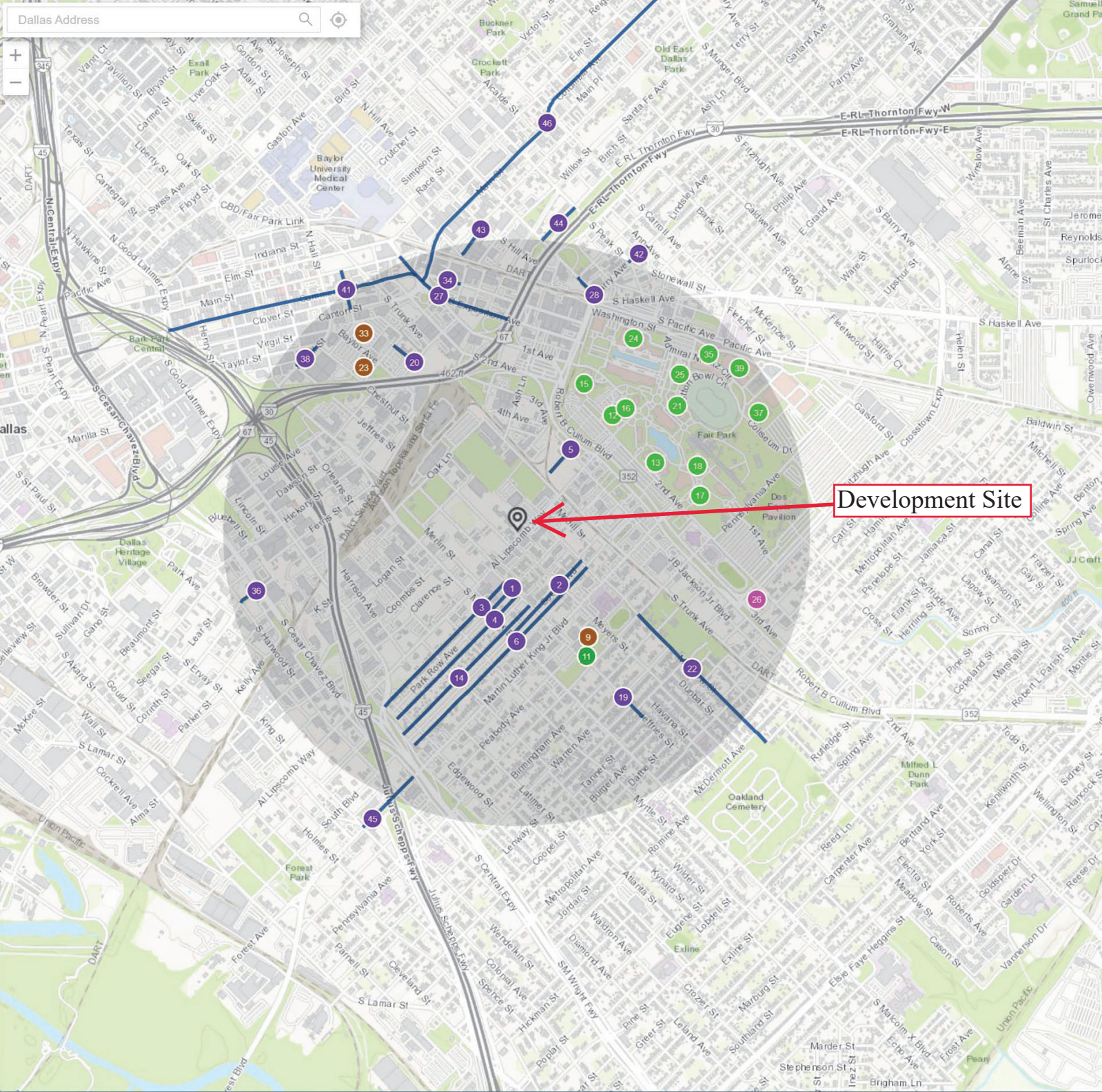
2524 Al Lipscomb Way
Dallas, Texas

Google

Street View - Feb 2021



Redevelopment Projects within 1 mile from the site funded by the Dallas Bond 2017



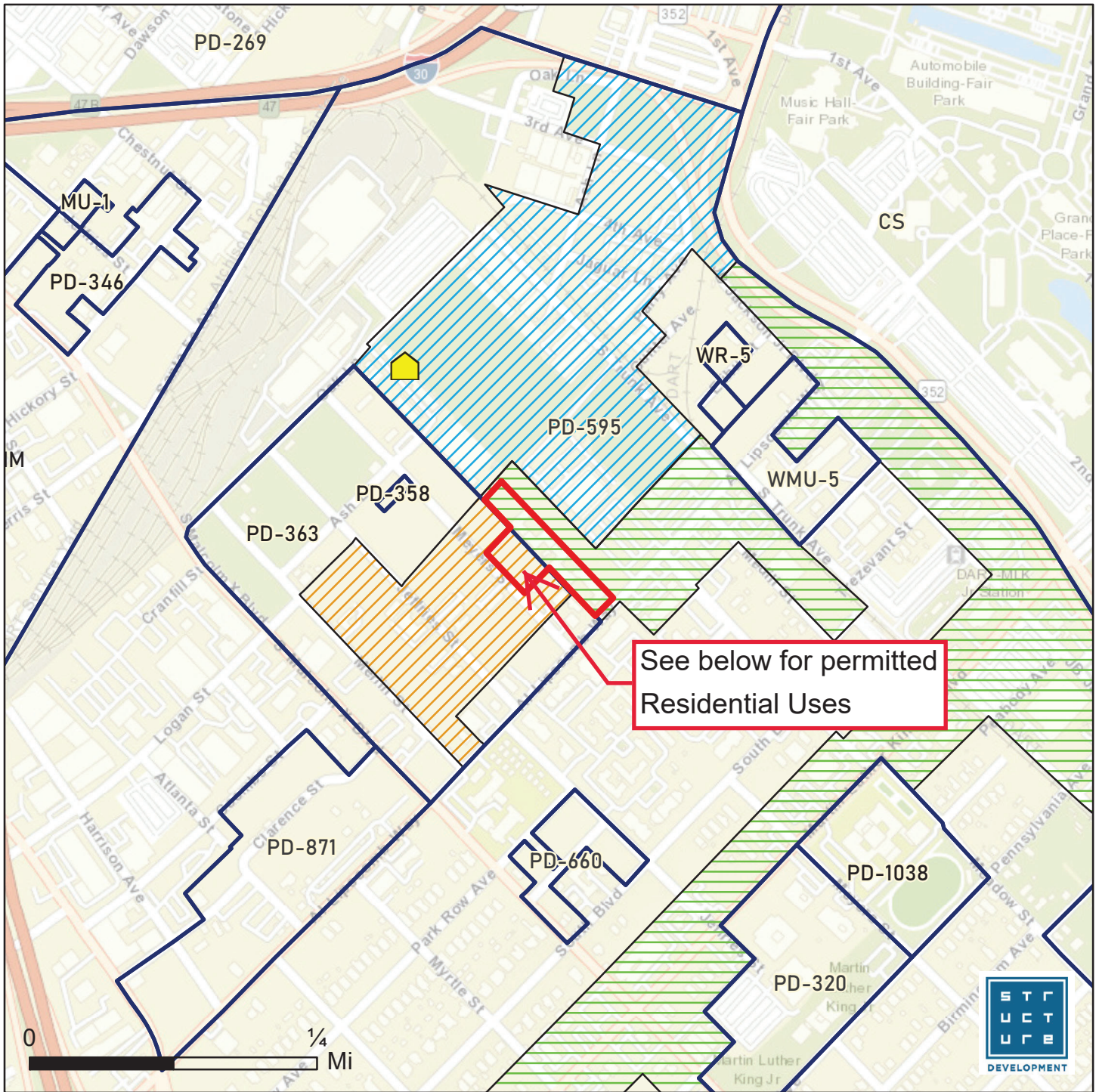
Redevelopment Projects within 1 mile from the site funded by the Dallas Bond 2017

46
Projects







Search Radius (1 mi)

- 1 2017 Proposition A:Park Row Ave from Malcolm X Blvd to Jeffries St
0.19 MILES
- 2 2017 Proposition A:South Blvd from Malcolm X Blvd to Meadow St
0.23 MILES
- 3 2017 Proposition A:Park Row Ave from South Central Expy to Jeffries S...
0.28 MILES
- 4 2017 Proposition A:Park Row Ave from South Central Expy to Jeffries S...
0.31 MILES
- 5 2017 Proposition A:Elihu St from End of Pavement to JB Jackson Jr Blvd
0.34 MILES
- 6 2017 Proposition A:South Blvd from South Central Expy to Meadow St-...
0.37 MILES
- 7 2017 Proposition H:Martin Luther King, Jr. Center - Plumbing
0.43 MILES
- 8 2017 Proposition H:Martin Luther King Jr. Center - HVAC Controls
0.43 MILES
- 9 2017 Proposition H:Martin Luther King Jr. Center - Medical
0.43 MILES
- 10 2017 Proposition B:Martin Luther King Jr. Park - Playground replaceme...
0.48 MILES
- 11 2017 Proposition B:Martin Luther King Jr. Park -Recreation Center - Gy...
0.48 MILES
- 12 2017 Proposition C:African American Museum
0.52 MILES
- 13 2017 Proposition C:Science Place 1 (Phase 1)
0.53 MILES
- 14 2017 Proposition A:South Blvd from South Central Expy to Meadow St-...
0.53 MILES
- 15 2017 Proposition C:Music Hall
0.56 MILES
- 16 2017 Proposition C:Magnolia Lounge
0.56 MILES
- 17 2017 Proposition C:Texas Discovery Gardens
0.64 MILES

- 18 2017 Proposition C:Aquarium Annex
0.66 MILES
- 19 2017 Proposition A:Jeffries St. - Tanner St. to Warren Ave. (sidewalk)
0.67 MILES
- 20 2017 Proposition A:Pearlstone St from Dawson St to Hickory St
0.68 MILES
- 21 2017 Proposition C:Tower Building
0.7 MILES
- 22 2017 Proposition A:Meadow St from Pennsylvania Ave to Tuskegee St
0.76 MILES
- 23 2017 Proposition H:City Marshal's Office
0.77 MILES
- 24 2017 Proposition C:Centennial Building
0.77 MILES
- 25 2017 Proposition C:Hall of State
0.77 MILES
- 26 2017 Proposition F:South Dallas Cultural Center
0.85 MILES
- 27 2017 Proposition A:CBD Fair Park Link From Main to IH30 (Design And...
0.85 MILES
- 28 2017 Proposition A:S Haskell Ave from Garland Ave to Parry Ave
0.85 MILES
- 29 2017 Proposition G:Central Patrol Station-EB17VG33
0.86 MILES
- 30 2017 Proposition G:Central Patrol Station-EB17VG34
0.86 MILES
- 31 2017 Proposition H:Central Service Center - Streets Operations Building
0.86 MILES
- 32 2017 Proposition H:Central Service Center- Sanitation Building
0.86 MILES
- 33 2017 Proposition H:Garage at Central Service Center
0.86 MILES
- 34 2017 Proposition A:Commerce St from East Side Ave to Benson St
0.89 MILES
- 35 2017 Proposition C:Food and Fiber Building
0.9 MILES
- 36 2017 Proposition A:Corinth St from S Hardwood St to S Cesar Chavez B...
0.91 MILES
- 37 2017 Proposition C:Coliseum
0.92 MILES
- 38 2017 Proposition A:S Hall St from Chestnut St to Jeffries St
0.93 MILES
- 39 2017 Proposition C:Pan American Complex
0.94 MILES
- 40 2017 Proposition A:Commerce Street from Good Latimer to Exposition
1.01 MILES
- 41 2017 Proposition A:Murray St from Main St to Canton St
1.01 MILES
- 42 2017 Proposition A:Parry Ave from S Peak St to Ann Ave
1.04 MILES
- 43 2017 Proposition A:Benson St from S Washington Ave to S Hill Ave
1.04 MILES
- 44 2017 Proposition A:Terry St from S Haskell Ave to S Peak St
1.06 MILES
- 45 2017 Proposition A:Martin Luther King Jr from S Ervay St to S Central S...
1.09 MILES
- 46 2017 Proposition A:Columbia Ave/Main St from S Beacon St to Deep Ell...
1.4 MILES



Local Zoning Malcolm's Point Scholar Apartments

-  Martin Foundry
-  Site
-  Base Zones
-  PD-363 (Subarea 2)
-  PD-595 (CC) Tract 4
-  PD-595 (RS-MU) Tract 1 south

(e) Nonconforming residential uses.

(1) Nonconforming residential uses in this subarea are not subject to amortization by the board of adjustment.

(2) The right to operate a nonconforming residential use in this subarea terminates when the structure housing the use is found to be an urban nuisance and its demolition is required by the urban rehabilitation standards board under the provisions contained in Chapter 27 of the Dallas City Code, as amended, and all rights to appeal the decision of the board have been exhausted.

(3) The right to operate a nonconforming residential use in this subarea may also terminate in any manner provided by the provisions contained in Section 51A-4.704 governing termination of nonconforming uses, that is not in conflict with this subsection. (Ord. Nos. 21258; 25850)

SEC. 51P-363.109. SUBAREA 2.

(a) Main uses permitted.

(1) Agricultural uses.

-- Crop production.

(2) Industrial uses.

-- Temporary concrete or asphalt batching plant. *[By special authorization of the building official.]*

(3) Institutional and community service uses.

-- Child-care facility. *[SUP]*

-- Church.

-- Community service center. *[SUP]*

-- Convalescent and nursing homes, hospice care, and related institutions. *[RAR]*

-- Convent or monastery.

-- Foster home.

(4) Miscellaneous uses.

-- Carnival or circus (temporary). *[By special authorization of the building official.]*

-- Temporary construction or sales office.

(5) Recreation uses.

-- Private recreation center, club, or area. *[SUP]*

-- Public park, playground, or golf course.

(6) Residential uses.

-- College dormitory, fraternity, or sorority house.

-- Duplex.

- Handicapped group dwelling unit. *[SUP required if spacing component of Section 51A-4.209(3.1) is not met.]*
- Multifamily.
- Retirement housing.
- Single family.

(b) Accessory uses.

(1) As a general rule, an accessory use is permitted in any district in which the main use is permitted. Some specific types of accessory uses, however, due to their unique nature, are subject to additional regulations contained in Section 51A-4.217. For more information regarding accessory uses, consult Section 51A-4.217.

(2) The following accessory uses are not permitted in this subarea:

- Accessory helistop.
- Accessory outside display of merchandise.
- Accessory outside sales.
- Accessory outside storage.
- Amateur communication tower.
- Private stable.

(3) In this subarea, the following accessory use is permitted by SUP only:

- Accessory community center (private).

(c) Yard, lot, and space regulations. (Note: The yard, lot, and space regulations in this subsection must be read together with the yard, lot, and space regulations contained in Division 51A-4.400. In the event of a conflict between this subsection and Division 51A-4.400, Division 51A-4.400 controls.)

(1) Front yard. Minimum front yard is 15 feet.

(2) Side and rear yard.

- (A) No minimum side and rear yard for single family structures.
- (B) Minimum side yard for duplex structures is five feet.
- (C) Minimum side yard for other permitted structures is 10 feet.
- (D) Minimum rear yard for duplex structures is 10 feet.

(E) Except as otherwise provided in this subparagraph, minimum rear yard for other permitted structures is 15 feet. A minimum rear yard of 10 feet may be provided when a building site backs upon an MF, MF(A), O-1, O-2, NO, NO(A), LO, LO(A), MO, MO(A), GO, GO(A), NS, NS(A), SC, CR, RR, GR, LC, HC, CS, CA-1, CA-1(A), CA-2, CA-2(A), I-1, I-2, I-3, LI, IR, IM, mixed use, or multiple commercial district.

(3) Dwelling unit density.

(A) Maximum dwelling unit density for the retirement housing use is 45 dwelling units per net acre.



CITY OF DALLAS

February 25, 2022

Cody Campbell
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 E. 11th Street
Austin, TX 78701

RE: Malcolm's Point Scholar House Site Attributes

Dear Mr. Campbell:

I write to you today to document the City of Dallas' commitment to the proposed Malcom's Point Scholar House development at 3015 Al Lipscomb Way in Dallas, Texas.

Located in the Jefferies Meyers neighborhood of Dallas, the area is important to the City due to its central location, including close proximity to the State Fair of Texas. The City of Dallas is focused on neighborhood redevelopment efforts in the Jefferies Meyers area because of great transit connections to high density job centers, good housing stock, and land availability. In fact, we have three (3) active concerted revitalization efforts for the neighborhood and development site: Grand Park South TIF, South Dallas Fair Park PID, and the 360 Plan. The Grand Park South TIF alone provides for approximately \$30.3 million in public improvements including a recent \$500k in public lighting upgrades. One goal of the TIF is for the area to attract new residential development, adding 2,400 new resident units by 2035.

The City of Dallas is entirely in favor of residential development at this location as demonstrated in numerous ways. To begin with, the redevelopment of this site is part of the 1,000 Unit Challenge, issued by the Dallas City Council, developing 1,000 units of affordable housing on city owned land near transit. This past summer through a solicitation process the City of Dallas selected Brinshore Development to develop the property for the sole purpose of affordable housing. Secondly, the City of Dallas underscored its support for development at 3015 Lipscomb with a resolution of support approved by the Dallas City Council on February 23, 2022. Third, the site is covered by three (3) revitalization areas with significant public/private partnerships and investment created to foster growth for a robust and economically thriving mixed use neighborhood and the City sold 26 vacant lots in the neighborhood to two (2) other single-family home developers at a reduced price and invested \$2.1M into the single family home development projects.

The neighborhood's proximity to the Trinity River, highways, and downtown has drawn a multitude of uses over the years. Located near the development site, the Martin Foundry is an example which remains in operation today. The industrial use is compliant with our local regulations and has an excellent track record with the Texas Commission on Environmental Quality. The City has recently been awarded a \$600k Brownfields Assessment Coalition Grant from the EPA for 2020 – 2023 with a focus on the South Dallas/Fair Park area. The Jeffries Meyers neighborhood is included within this focus area and an environmental screening using the grant is currently being conducted on properties in the vicinity to determine if further investigation is needed. While the Al Lipscomb site is not part of the study, adjacent land is, and the City will share this information with Brinshore Development, LLC to aid in the redevelopment efforts of the site and the neighborhood.

The City of Dallas fully supports new development around the existing industrial use as qualified above. We understand the nuances associated with redevelopment in an older mixed-use area. We also know that as a regulator, the developer will be required to follow all recommendations of the environmental site assessment as well as City of Dallas Code of Ordinances. We are confident that Malcolm's Point Scholar House Apartments can be developed in full compliance with all applicable environmental requirements. **By issuing the affordable housing Request For Proposals and awarding a contract for the development site, the City has venerated and formalized that residential development is permitted at this site, near the Martin Foundry.**

Should you have any questions about the City's commitment to redevelop this area for affordable housing by Brinshore Development LLC, please contact me at david.noguera@dallascityhall.com or by phone at 469-866-1079.

Thank you.

Sincerely,

David Noguera

David Noguera, Director

Department Housing & Neighborhood Revitalization

TCEQ Compliance History Search

Compliance History - RN102512340

Regulated Entity Information

RN: [?](#) RN102512340
Name: MARTIN FOUNDRY
Location: 2944 OAK LN
 DALLAS, TX 75215-1559
County: DALLAS
Region: REGION 04 - DFW METROPLEX

Compliance History by Customer

There are 3 customers associated to this site. The Customer's compliance history for the site is displayed below.

1-3 of 3 Records

CN ▲	Customer Name	Related Program IDs ?	Rating	Classification	Date Rated
CN600256333	MARTIN SPROCKET & GEAR INC	AIRNSR 10124 AIRNSR 2058 IHW 31322 P2PLAN P02349 STORM TXR05K467	0.00	HIGH	09/01/2021
CN601287360	MARTIN FOUNDRY	AIRNSR 8725	0.00	HIGH	09/01/2021
CN604479139	SPROCKET MARTIN GEAR	No Active IDs found. Please see the CR Query for a full list.	---	UNCLASSIFIED	09/01/2021

1-3 of 3 Records

▲ [Back to top](#)

Exhibit I



Location Map

Malcolm's Point
Scholar House Apts

3015 Al Lipscomb Way
Dallas, TX

 Site

 Industrial Use

7h

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Kirkwood Crossing Apartments (#22023) in Houston

RECOMMENDED ACTION

WHEREAS, pursuant to 10 TAC §11.101(a)(2) of the 2022 Qualified Allocation Plan related to Undesirable Site Features, Development Sites within the applicable distance of any of the identified undesirable features will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility;

WHEREAS, for the items requiring disclosure under 10 TAC §11.101(a)(2), staff received such a disclosure for Kirkwood Crossing Apartments (#22023); and

WHEREAS, staff has conducted a review of the disclosure pursuant to 10 TAC §11.101(a)(2) and prepared a summary for the Board.

NOW, therefore, it is hereby

RESOLVED, that the Board determine whether the information regarding the undesirable site features is sufficient and supports site eligibility under the requirements of 10 TAC §11.101(a)(2)(L) for Kirkwood Crossing Apartments (#22023).

BACKGROUND

Per 10 TAC §11.101(a)(2), Development Sites within the applicable distance of any of the undesirable features identified in the rule will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility. Should the Board make the determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is final and not subject to further appeal.

In a Request for Eligibility submitted with the application on March 1, 2022, the applicant disclosed the proposed development site is situated atop a portion of the former Sugar Hill Golf Course, which operated from 2001 to 2005, following a redevelopment of the former Doty and Olshan landfills. The determination sought is that 10 TAC §11.101(a)(2)(L) does not render this site ineligible. This subsection would prohibit:

Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. . . .

According to a summary of relevant Texas Commission on Environmental Quality (TCEQ) requirements pertaining to land use over a closed landfill as prescribed by 30 TAC §330 Subchapter T submitted with the Applicant's request, the former Doty landfill portion of the subject property is under a TCEQ Municipal Solid Waste (MSW) permit as a closed landfill in post-closure care, while the smaller former Olshan landfill portion of the subject property is a closed landfill no longer under a TCEQ permit.

The Environmental Site Assessment states: "Although this landfill was permitted for receipt of construction and demolition wastes in 1981, other wastes may have been disposed of within the landfill before 1981. Therefore, the possible presence of regulated substances within the landfill could represent an environmental concern for the subject property and represents a REC¹ for the subject property. Notwithstanding, soil and groundwater investigations at the subject property have not demonstrated that any releases of regulated substances related to possible landfill waste have occurred to soil or groundwater. Moreover, potential exposure to landfill gas produced by decomposing organic waste will be controlled by TCEQ-required landfill gas mitigation systems detailed in 30 TAC 330 Subchapter T."

Additionally, the summary also details steps that needed to have been taken to close out the existing MSW permit encumbering the property:

1. Ensure landfill gas management system is in compliance;
2. Remove ponded surface water from the property; and
3. Address groundwater exceedances.

Additional gas vents were installed to ensure the system's compliance and existing ponds over the waste have been drained and will prevent future surface water accumulation, leaving the remediation of any of the property's groundwater exceedances as the last remaining step toward requesting the revocation of the TCEQ MSW permit for the former Doty landfill.

A consulting narrative submitted with the applicant's request notes the site owner has obtained approval from the City of Houston for a Municipal Setting Designation (MSD) to address the regulatory status of the arsenic impacts and prohibit the use of groundwater under the subject property. Upon certification of the MSD by TCEQ, "no further actions will be required with respect to contaminants at the site" and "the potential for an environmental hazard associated with hazardous materials within or migrating from the landfill will be eliminated."

¹ REC stands for a recognized environmental condition.

Based on information and supporting documentation provided by the applicant in their request, staff recommends that the Board determine the site for this Application is not ineligible under 10 TAC §11.101(a)(2)(L).



February 25, 2022

Cody Campbell
Director of Multifamily Programs
Texas Department of Housing and Community Affairs
221 E 11th Street
Austin, Texas 78701

Re: TDHCA Application # 22023 Kirkwood Crossing Apartments
Request for Eligibility Under 10 TAC §10.101(a)(2)(E) related to Undesirable Site Features

Dear Mr. Campbell:

I am writing on behalf of the Applicant, 12000 Bissonnet Propco, L.P., for TDHCA Application #22023 Kirkwood Crossing Apartments, proposed to be located in Houston, Texas, Urban Region 6. The Applicant is submitting a pre-application and will submit a final application for 2022 Competitive Housing Tax Credits for the construction of 138 units, of which 114 will be affordable. Out of an abundance of caution, the Application wishes to disclose the historical use of a nearby site, and requests a waiver if deemed applicable as permitted by 10 TAC § 11.101(a)(2) of the Multifamily Rules relating to Undesirable Site Features. We also submitted a disclosure with our preapplication.

The site for Kirkwood Crossing Apartments is located at 12000 Bissonnet Street in the Alief neighborhood, which is a Houston designated Complete Community. The Development Site is located atop a portion of a former Sugar Hill Golf Course, which opened in 2001 after redeveloping former Doty Landfill and Olshan Landfill. As confirmed by the Texas Commission on Environmental Quality (TCEQ) for the larger redevelopment of the golf course, the former landfills have not been depositories of waste for over 20 years and the TCEQ has since deemed all of the land buildable.

Section 11.101(a)(2) states, “Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility.”

Subparagraph (L) prohibits “*Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated. If staff believe that a Site should be deemed unacceptable under this provision due to information that was not included in the Application, it will provide the Applicant with written notice and an opportunity to respond.*”

Sugar Hill Golf Course operated from 2001 to 2005 after the redevelopment of 2 former landfills. While the Development site is only a portion of one of the former landfills, both landfills were jointly redeveloped. As a part of the redevelopment into a golf course, between 4 to 15 ft of imported fill was added to the landfill cap, graded and vegetated. The Development site is only one small portion of the greater redevelopment of this now closed golf course, but the Texas Commission of Environmental Quality has deemed as all of the Sugar Hill Golf Course area buildable land. **The TCEQ has rigorous and well-established approval pathways pertaining to the use of land over a closed landfill** and the

development teams involved in the redevelopment of this entire area followed every step of the process to ensure there are no negative environmental characteristics associated with the former land use.

As part of the process to ensure there are no negative environmental characteristics associated with the former land use, the City of Houston and formally approved a Municipal Setting Designation ordinance, which is a method that supports and enables redevelopments of properties by certifying the designated groundwater at the property is not used as potable water. By issuing this ordinance (Ordinance No. 2022-7), the City of Houston has shown that they formally approve of the proposed future land use of this site. For more information on the Municipal Setting Designation and the processes the development team is pursuing to ensure the health and safety of future residents on this development site, please see Exhibits D and E.

I am requesting that the Development Site for Kirkwood Crossing Apartments be found eligible because 1) the City has formally passed a resolution that allows for redevelopment of this site; 2) the land has been through rigorous environmental review by TCEQ and has been deemed buildable; 3) redevelopment must meet TCEQ's development standards and obtain a TCEQ development permit; 4) The land has not functioned as a landfill in over 20 years; and 5) the development will complete all requirements of the ESA that will be evidenced and documented in the full application accompanying the ESA.

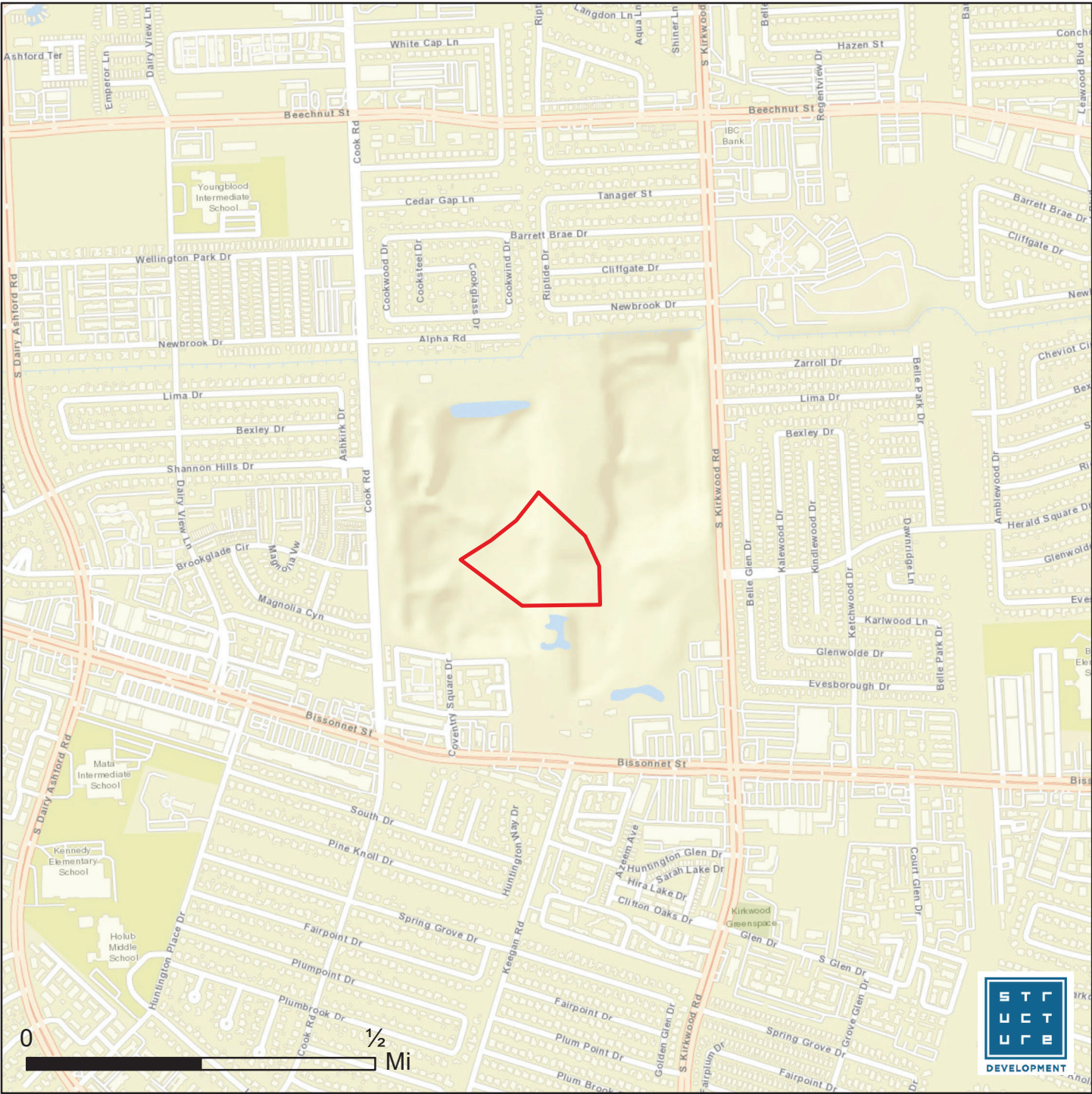
The Development site for Kirkwood Crossing Apartments is located within a census tract that does not have any communities funded by Low Income Housing Tax Credits, nor do any of the adjacent tracts have any communities funded by Low Income Housing Tax Credits in the past 15 years. This highlights a need for affordable housing options in the area. The Site is located in one of Houston's Complete Communities, exemplifying the City's ongoing commitment to redevelopment of this area, ensuring that future residents will live in a community in which is safe and healthy to eat, work and play. We believe that granting this request will further the purposes and policies as stated in Texas Government Code, §§2306.001(2), 2306.002(1), 2306.002(2), and 2306.6701. We hope that you find that the features disclosed above do not warrant undesirable site feature status and thus a waiver for the features is not needed. Should you disagree, the Applicant respectfully requests a waiver and for the site to be found eligible.

We appreciate your time and consideration.



Anjelica Rivas
Consultant to the project

- Exhibit A – Location Map
- Exhibit B – Community Assets Map
- Exhibit C- Landfill Redevelopment Explanatory Email
- Exhibit D- Ordinance No. 2022-7
- Exhibit E- SKA Consulting Narrative detailing processes of ensuring the safety of this site
- Exhibit F- Site Photos



Location Map

Kirkwood Crossing



Site

12000 Bissonnet Street
Houston, TX



Sallie Burchett <sallie@structuretexas.com>

FW: Follow Up

Jessica Mullins <jmullins@starwood.com>
To: Sallie Burchett <sallie@structuretexas.com>

Thu, Dec 23, 2021 at 2:32 PM

Please see below

Jessica Mullins
Jmullins@starwood.com

Sent from mobile

----- Original message -----

From: Mark Lester <mlester@landcorealestate.com>
Date: 12/23/21 1:53 PM (GMT-06:00)
To: Jessica Mullins <jmullins@starwood.com>
Subject: Follow Up

EXTERNAL

Jess,

The project environmental group provided the following as a summary of TCEQ requirements. The subject property is located on the larger landfill referred to below as the Doty:

The 118-acre Doty Sand Pit Venture (DSPV) Landfill portion of the subject property is under a Texas Commission on Environmental Quality (TCEQ) Municipal Solid Waste (MSW) permit No. 1247 as a closed Type IV (construction and demolition debris) landfill in post closure care. The 18-acre Olshan Landfill portion of the subject property is also a closed Type IV landfill that is no longer under a TCEQ permit. Neither landfill has accepted waste in the past 20 years. Both landfills were developed jointly as a golf course (Sugar Hills Golf Course) that operated from about 2000 to 2005. About 4 to 15 ft of imported fill was added to the landfill cap and graded and vegetated for the golf course.

To close out the DSPV MSW permit, three items had to be addressed: (1) the landfill gas management system needed to be brought into compliance, (2) ponded surface water needed to be removed from the property, and (3) groundwater exceedances needed to be addressed. Additional landfill gas vents have been installed to address item (1) and the landfill gas monitoring network does not have any exceedances. The existing ponds over the waste have been drained and will no longer accumulate surface water. A Municipal Setting Designation is in process to restrict access to the groundwater under the subject property. When these items have been completed, a request for revocation of the MSW permit will be made to the TCEQ.

The TCEQ has an established regulatory approval pathway pertaining to the use of land over a closed landfill as found in 30 Texas Administrative Code, Chapter 330, Subchapter T. Within Subchapter T, the TCEQ has a development permit process for development over closed landfills and more specifically, the TCEQ has promulgated rules for the development of enclosed structures over closed landfills (30 TAC 330.961).

All of this land is buildable subject to TCEQ requirements. For your reference we have provided a link to the Texas Administrative Code. This is common practice now and we can refer you to many projects on the 150 successful MSD projects (we are 151) in Harris County.

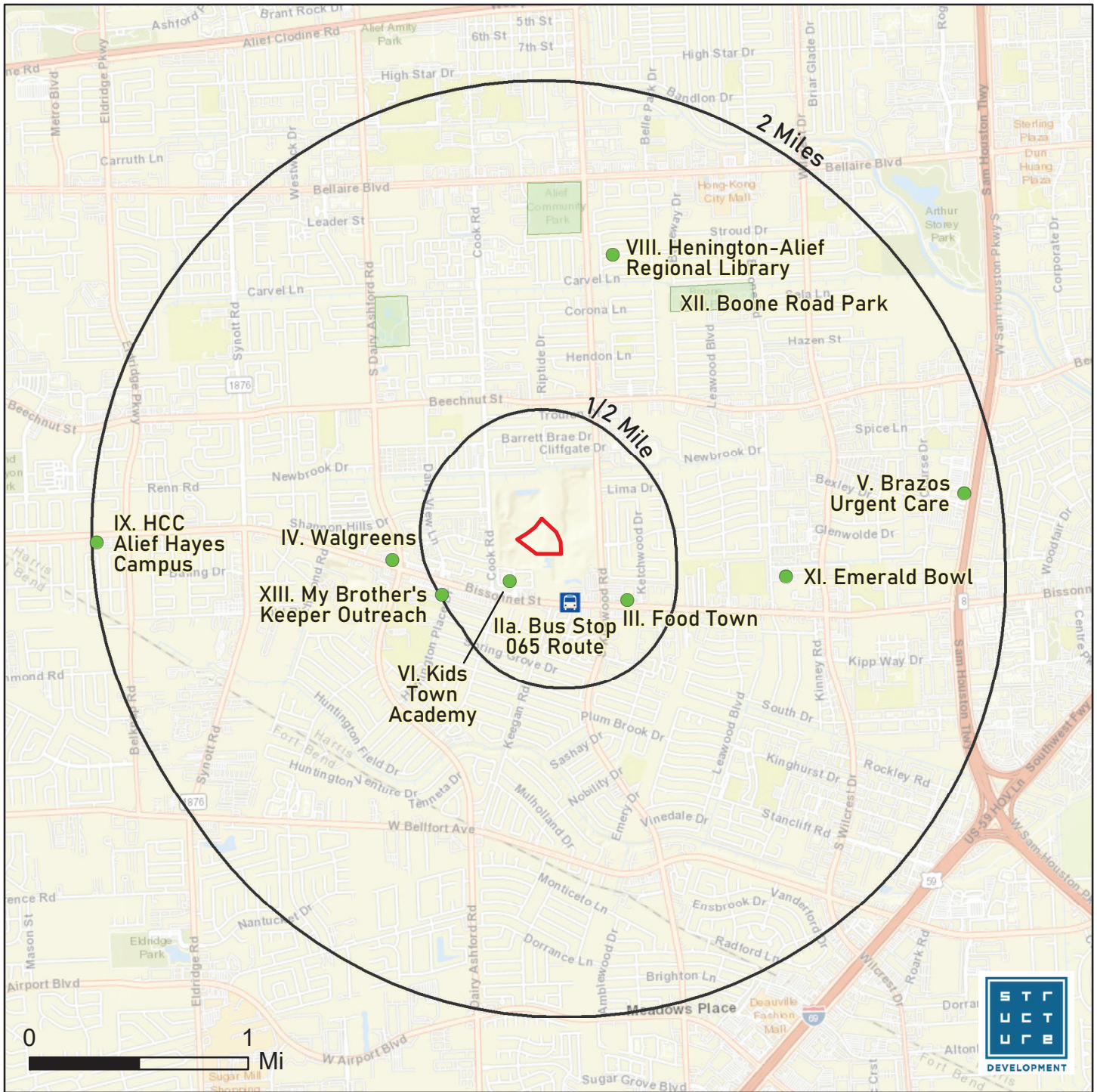
Texas Administrative Code (state.tx.us) [texreg.sos.state.tx.us]

We hope this is helpful. Please call with any questions. Happy Holidays!!!

Mark D. Lester [linkedin.com] | Principal | LANDCO ARESC, LLC [landcorealestate.com]
mlester@landcorealestate.com | T: 650 638-0900 Ext 700 | F: 650 638 0901 |

This message (including any attachments) contains confidential information intended for a specific individual and purpose, and is protected by law. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message, or the taking of any action based on it, is strictly prohibited.

IMPORTANT: The information contained in this e-mail message is confidential and is intended only for the named addressee(s). This message may be protected by the attorney/client privilege. If the reader of this e-mail message is not the intended recipient (or the individual responsible for the delivery of this e-mail message to the intended recipient), please be advised that any re-use, dissemination, distribution or copying of this e-mail message is prohibited. If you have received this e-mail message in error, please reply to the sender that you have received this e-mail message in error and then delete it. Starwood Capital Group's privacy policy can be found at the following: <https://starwoodcapital.com/disclaimer/>
Thank you.



Community Amenities

Kirkwood Crossing Apartments

II (a). Site is 0.2 miles from bus stops along the 065 route, with weekday and weekend service into downtown Houston.

XIV. Site is in the current service area of Meals on Wheels.

- Site
- METRO Bus Stops
- Amenities:

- Grocery: Food Town (0.3 mi)
- Pharmacy: Walgreens (0.8 mi)
- Health: Brazos Urgent Care (1.9 mi)
- Child care program: Kids Town Academy (0.2 mi)
- Library: HPL Hennington-Alief (1.4 mi)
- College: HCC - Alief Hayes (2 mi)
- Indoor Rec: Emerald Bowl (1.1 mi)
- Outdoor Rec: Boone Road Park (1.8 mi)
- Comm/Civic: My Brother's Keeper Outreach (0.5 mi)



City of Houston, Texas, Ordinance No. 2022- 7

A MUNICIPAL SETTING DESIGNATION ORDINANCE PROHIBITING THE USE OF DESIGNATED GROUNDWATER BENEATH A TRACT OF LAND CONTAINING 145.935 ACRES COMMONLY KNOWN AS 12000 BISSONNET STREET, HOUSTON, HARRIS COUNTY, TEXAS; SUPPORTING ISSUANCE OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AT THE REQUEST OF BISSONNET 136, LLC; CONTAINING OTHER PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, Subchapter W, "Municipal Setting Designations," of Chapter 361, "Solid Waste Disposal Act," of the Texas Health and Safety Code authorizes the Texas Commission on Environmental Quality ("TCEQ") to create municipal setting designations; and

WHEREAS, on August 22, 2007, by Ordinance No. 2007-959, the City Council adopted Article XIII, of Chapter 47, Code of Ordinances, Houston, Texas, to provide a process for establishing municipal setting designation ordinances and amended that process on July 14, 2010, by Ordinance No. 2010-556; and

WHEREAS, Sections 47-765(c) and 47-767(a) of the Code of Ordinances, Houston, Texas, authorize municipal setting designation ordinances that prohibit the use of designated groundwater as potable water and thereby enable the TCEQ to certify a municipal setting designation for designated property; and

WHEREAS, on December 14, 2020, **Bissonnet 136, LLC** ("Applicant") applied to the Director of Houston Public Works, requesting that the City Council support a municipal setting designation ordinance for property that is located generally at 12000 Bissonnet Street (145.935 acres), Houston, Harris County, Texas 77099; and

WHEREAS, on August 11, 2021, the Director of Houston Public Works conducted a public meeting via Microsoft Teams, as required by Section 47-764 of the Code of Ordinances, and notified the community when the City Council public hearing would occur; and

WHEREAS, the Regulatory and Neighborhood Affairs Council Committee, designated by the Mayor, conducted a public hearing on October 12, 2021; and

WHEREAS, the City Council finds that:

(1) the application meets the eligibility criteria of Section 361.803 of the Texas Health and Safety Code;

(2) the municipal setting designation will not have an adverse effect on the current or future water resource needs or obligations of the City of Houston;

(3) there is a public drinking water supply system that satisfies the requirements of Chapter 341 of the Texas Health and Safety Code and that supplies or is capable of supplying drinking water to the designated property and property within one-half mile of designated property; and

(4) this Municipal Setting Designation Ordinance is necessary because the concentrations of contaminants of concern exceed human ingestion protective concentration levels, and the establishment of a municipal setting designation will allow the property to be brought back into productive use; and

WHEREAS, City Council finds that the Director of Houston Public Works on behalf of City Council, in accordance with the Charter of the City of Houston, state law, and the ordinances of the City of Houston, has given the required notices, the Regulatory and Neighborhood Affairs Council Committee has held the required public hearing regarding

this Municipal Setting Designation Ordinance and all procedural requirements have been satisfied; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That for purposes of this Municipal Setting Designation Ordinance, the "designated property" means the property as described in **Exhibit A**, attached to this Ordinance and incorporated by reference herein.

Section 2. That for purposes of this Municipal Setting Designation Ordinance, "designated groundwater" means groundwater beneath the designated property to a depth not to exceed 200 feet that is prohibited from use as potable water by this Ordinance.

Section 3. That use of the designated groundwater from beneath the designated property as potable water, as that term is defined in Section 47-761 of the Code of Ordinances, Houston, Texas, is prohibited.

Section 4. That the designated property must receive a certificate of completion or other analogous documentation issued by the TCEQ or the United States Environmental Protection Agency ("EPA") showing that any site investigations and response actions required pursuant to Section 361.808 of the Texas Health and Safety Code have been completed to the satisfaction of the TCEQ or EPA within the time period required by them.

Section 5. That the City Council supports the application to the TCEQ for a municipal setting designation on the designated property, with the following comment:

The TCEQ and the EPA, as agencies charged to protect human health and the environment, are requested to thoroughly review the conditions on the designated

property and issue a certificate of completion only when all contaminants of concern, through the applicable routes of exposure, have been addressed.

Section 6. That any person owning, operating, or controlling the designated property remains responsible for complying with all applicable federal and state laws and regulations and all ordinances, rules, and regulations of the City of Houston. The City Council's approval of a municipal setting designation ordinance in itself does not change any environmental assessment or cleanup requirements applicable to the designated property.

Section 7. That approval of this Municipal Setting Designation Ordinance shall not be construed to subject the City of Houston to any responsibility or liability for any injury to persons or damages to property caused by any contaminant of concern.

Section 8. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Applicant shall provide the Director of Houston Public Works with an electronic file showing the location of the designated property and the designated groundwater in a format compatible with the City's geographic information system and its integrated land management system, and shall provide an electronic file showing the location of the designated property and the designated groundwater to the Harris County Appraisal District in a format compatible with its system.

Section 9. That within 30 days after adoption of this Municipal Setting Designation Ordinance, the Director of Houston Public Works shall send a certified copy of this ordinance to the Applicant, the TCEQ, and the EPA.

Section 10. That the Applicant shall provide the Director of Houston Public Works with a copy of the municipal setting designation certificate issued by the TCEQ pursuant

to Section 361.807 of the Texas Health and Safety Code within 30 days after issuance of the certificate.

Section 11. That within 30 days after receipt of the municipal setting designation certificate from the TCEQ, the Director of Houston Public Works shall file a certified copy of this Municipal Setting Designation Ordinance in the deed records of Harris County.

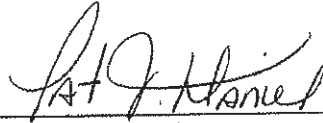
Section 12. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 13. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on that date and shall take effect immediately upon its passage and approval by the mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 5th day of January, 2022
APPROVED this _____ day of _____, 2022.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is JAN 1 1 2022.



City Secretary

(Prepared by Legal Department
(WC/jb 12/20/2021
(Requested by Carol Ellinger Haddock, P.E., Director, Houston Public Works)
(L.D. File No. 063-2100955-001)



Senior Assistant City Attorney

Meeting 1/05/2022

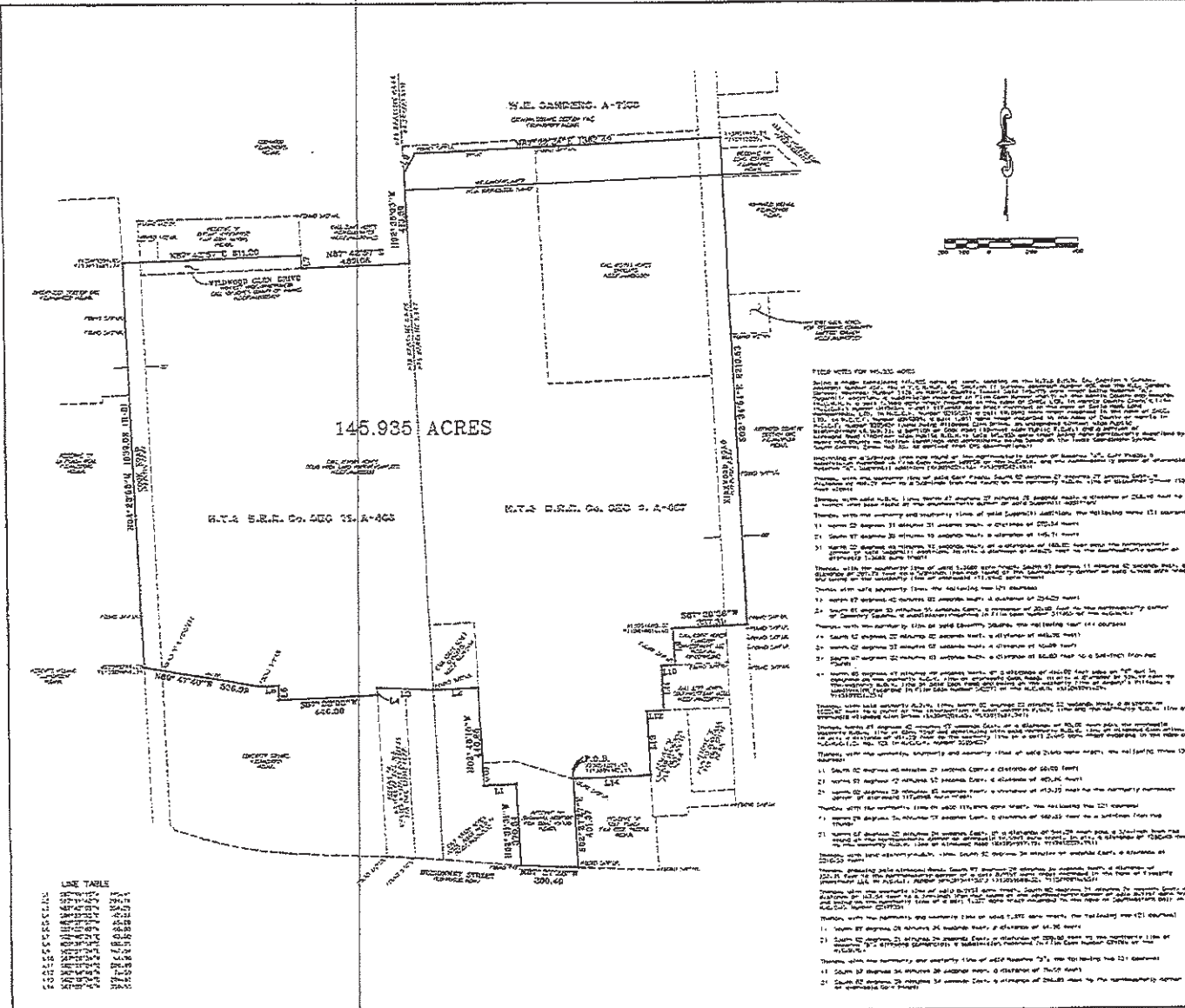
Aye	No	
✓		Mayor Turner
....	Council Members
✓		Peck
✓		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Travis
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW

Date: 1/11/2022

EXHIBIT "A"

Survey of Designated Property



NOTES

1. THIS TRACT WAS RECORDED WITHOUT THE BENEFIT OF A CONTRACT FOR TITLE ASSURANCE. THEREFORE, THE BUYER OF BUILDING LOTS AND OTHER MATTERS APPLICABLE HEREIN MAY BE SUBJECT TO THE RIGHTS OF OTHERS.
2. REVENUE AND EXPENSES ARE PAID BY THE TRACT OWNER IN FULL. THE TRACT OWNER SHALL BE RESPONSIBLE FOR ANY INTERESTS NOT INDICATED BY THIS SURVEY.
3. ALL RIGHTS RESERVED TO THE TRACT OWNER SHALL BE IN FULL FORCE AND EFFECT FOR THE FOREVER.

- FIELD NOTES FOR THIS SURVEY**
- Being a single landowner having full title to the land within the limits of the survey, the following are the notes and bearings taken on the ground during the survey of the same.
1. The survey was run on the 22nd day of August 1911, by G. B. HARRIS, Surveyor, and the following are the bearings and distances of the lines run:
1. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 2. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 3. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 4. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 5. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 6. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 7. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 8. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 9. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 10. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 11. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 12. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 13. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 14. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 15. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 16. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 17. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 18. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 19. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 20. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 21. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 22. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 23. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 24. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 25. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 26. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 27. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 28. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 29. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 30. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 31. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 32. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 33. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 34. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 35. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 36. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 37. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 38. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 39. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 40. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 41. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 42. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 43. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 44. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 45. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 46. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 47. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 48. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 49. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 50. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 51. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 52. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 53. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 54. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 55. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 56. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 57. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 58. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 59. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 60. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 61. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 62. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 63. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 64. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 65. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 66. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 67. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 68. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 69. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 70. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 71. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 72. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 73. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 74. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 75. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 76. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 77. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 78. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 79. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 80. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 81. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 82. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 83. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 84. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 85. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 86. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 87. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 88. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 89. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 90. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 91. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 92. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 93. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 94. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 95. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 96. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 97. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.
 98. South 22 degrees 22 minutes 22 seconds West, a distance of 104.71 feet.
 99. West 22 degrees 22 minutes 22 seconds North, a distance of 104.71 feet.
 100. North 22 degrees 22 minutes 22 seconds East, a distance of 254.42 feet.

LINE TABLE

1	254.42	N 22° 22' 22" E
2	104.71	S 22° 22' 22" W
3	104.71	W 22° 22' 22" N
4	254.42	N 22° 22' 22" E
5	254.42	N 22° 22' 22" E
6	104.71	S 22° 22' 22" W
7	104.71	W 22° 22' 22" N
8	254.42	N 22° 22' 22" E
9	254.42	N 22° 22' 22" E
10	104.71	S 22° 22' 22" W
11	104.71	W 22° 22' 22" N
12	254.42	N 22° 22' 22" E
13	254.42	N 22° 22' 22" E
14	104.71	S 22° 22' 22" W
15	104.71	W 22° 22' 22" N
16	254.42	N 22° 22' 22" E
17	254.42	N 22° 22' 22" E
18	104.71	S 22° 22' 22" W
19	104.71	W 22° 22' 22" N
20	254.42	N 22° 22' 22" E
21	254.42	N 22° 22' 22" E
22	104.71	S 22° 22' 22" W
23	104.71	W 22° 22' 22" N
24	254.42	N 22° 22' 22" E
25	254.42	N 22° 22' 22" E
26	104.71	S 22° 22' 22" W
27	104.71	W 22° 22' 22" N
28	254.42	N 22° 22' 22" E
29	254.42	N 22° 22' 22" E
30	104.71	S 22° 22' 22" W
31	104.71	W 22° 22' 22" N
32	254.42	N 22° 22' 22" E
33	254.42	N 22° 22' 22" E
34	104.71	S 22° 22' 22" W
35	104.71	W 22° 22' 22" N
36	254.42	N 22° 22' 22" E
37	254.42	N 22° 22' 22" E
38	104.71	S 22° 22' 22" W
39	104.71	W 22° 22' 22" N
40	254.42	N 22° 22' 22" E
41	254.42	N 22° 22' 22" E
42	104.71	S 22° 22' 22" W
43	104.71	W 22° 22' 22" N
44	254.42	N 22° 22' 22" E
45	254.42	N 22° 22' 22" E
46	104.71	S 22° 22' 22" W
47	104.71	W 22° 22' 22" N
48	254.42	N 22° 22' 22" E
49	254.42	N 22° 22' 22" E
50	104.71	S 22° 22' 22" W
51	104.71	W 22° 22' 22" N
52	254.42	N 22° 22' 22" E
53	254.42	N 22° 22' 22" E
54	104.71	S 22° 22' 22" W
55	104.71	W 22° 22' 22" N
56	254.42	N 22° 22' 22" E
57	254.42	N 22° 22' 22" E
58	104.71	S 22° 22' 22" W
59	104.71	W 22° 22' 22" N
60	254.42	N 22° 22' 22" E
61	254.42	N 22° 22' 22" E
62	104.71	S 22° 22' 22" W
63	104.71	W 22° 22' 22" N
64	254.42	N 22° 22' 22" E
65	254.42	N 22° 22' 22" E
66	104.71	S 22° 22' 22" W
67	104.71	W 22° 22' 22" N
68	254.42	N 22° 22' 22" E
69	254.42	N 22° 22' 22" E
70	104.71	S 22° 22' 22" W
71	104.71	W 22° 22' 22" N
72	254.42	N 22° 22' 22" E
73	254.42	N 22° 22' 22" E
74	104.71	S 22° 22' 22" W
75	104.71	W 22° 22' 22" N
76	254.42	N 22° 22' 22" E
77	254.42	N 22° 22' 22" E
78	104.71	S 22° 22' 22" W
79	104.71	W 22° 22' 22" N
80	254.42	N 22° 22' 22" E
81	254.42	N 22° 22' 22" E
82	104.71	S 22° 22' 22" W
83	104.71	W 22° 22' 22" N
84	254.42	N 22° 22' 22" E
85	254.42	N 22° 22' 22" E
86	104.71	S 22° 22' 22" W
87	104.71	W 22° 22' 22" N
88	254.42	N 22° 22' 22" E
89	254.42	N 22° 22' 22" E
90	104.71	S 22° 22' 22" W
91	104.71	W 22° 22' 22" N
92	254.42	N 22° 22' 22" E
93	254.42	N 22° 22' 22" E
94	104.71	S 22° 22' 22" W
95	104.71	W 22° 22' 22" N
96	254.42	N 22° 22' 22" E
97	254.42	N 22° 22' 22" E
98	104.71	S 22° 22' 22" W
99	104.71	W 22° 22' 22" N
100	254.42	N 22° 22' 22" E

TRACT EXHIBIT

145.935 ACRES

BEING THE UNDIVIDED INTEREST OF THE UNDERSIGNED AS SHOWN BY THE RECORDS OF THE COUNTY CLERK OF HARRIS COUNTY, TEXAS, IN THE BOOK OF 111, PAGE 111.

W. E. SANDERS, A-108

LOCATED BY THE
R.T.E. B.R.R. Co. SEC. 9 SURVEY, A-407
R.T.E. B.R.R. Co. SEC. 11 SURVEY, A-408
W.E. SANDERS SURVEY, A-108
HARRIS COUNTY, TEXAS

GRI PARTNERS
LAND SURVEYING CONSULTANTS
 5710 North Loop West, Houston, TX 77056
 Phone: 713-865-1234
 Fax: 713-865-1234
 Website: www.gripartners.com

DATE: 11/11/11
 BY: GRI PARTNERS
 TITLE: SURVEYOR

County: Harris
Project: Bissonnet Street
Job No. 195547
MBS No. 20-445

FIELD NOTES FOR 145.935 ACRES

Being a tract containing 145.935 acres of land, located in the H.T.& B.R.R. Co. Section 9 Survey, Abstract Number 407, the H.T.& B.R.R. Co. Section 11 Survey, Abstract Number 406 and the W.E. Sanders Survey, Abstract Number 1138 in Harris County, Texas; Said 145.935 acre tract being Reserve "A", Sugarhill Addition, a subdivision recorded in Film Code Number 450135 of the Harris County Map Records (H.C.M.R.), a call 1.3688 acre tract recorded in the name of SHGC, LTD. in Harris County Clerk's File (H.C.C.F.) Number U419454, a call 117.8988 acre tract recorded in the name of Solid Rock Land Partnership, LTD. in H.C.C.F. Number U215133, a call 18.5993 acre tract recorded in the name of SHGC, LTD. in H.C.C.F. Number U065389, a call 1.011 acre tract recorded in the name of County of Harris in H.C.C.F. Number D305424 (same being Wildwood Glen Drive, an unimproved 60-foot wide Public Right-of-Way (R.O.W.)), a portion of Cook Road (80-foot wide Public R.O.W.) and a portion of Kirkwood Road (100-foot wide Public R.O.W.); Said 145.935 acre tract being more particularly described by metes and bounds as follows (bearings and coordinates being based on the Texas Coordinate System, South Central Zone, NAD 83, as derived from GPS observations):

Beginning at a 5/8-inch iron rod found at the northwesterly corner of Reserve "A", Golf Plaza, a subdivision recorded in Film Code Number 580258 of the H.C.M.R. and the northeasterly corner of aforesaid Reserve "A", Sugarhill Addition (X:3051221.13, Y:13809342.13);

Thence, with the westerly line of said Golf Plaza, South 02 degrees 27 minutes 27 seconds East, a distance of 401.37 feet to a 5/8-inch iron rod found on the northerly R.O.W. line of Bissonnet Street (100-foot wide);

Thence, with said R.O.W. line, North 87 degrees 27 minutes 28 seconds West, a distance of 260.40 feet to a 1-inch iron pipe found at the southwesterly corner of said Sugarhill Addition;

Thence, with the westerly and southerly lines of said Sugarhill Addition, the following three (3) courses:

- 1) North 02 degrees 31 minutes 31 seconds West, a distance of 370.34 feet;
- 2) South 87 degrees 39 minutes 15 seconds West, a distance of 145.91 feet;
- 3) North 02 degrees 48 minutes 18 seconds West, at a distance of 100.03 feet pass the northwesterly corner of said Sugarhill Addition, in all, a distance of 440.25 feet to the southeasterly corner of aforesaid 1.3688 acre tract;

Thence, with the southerly line of said 1.3688 acre tract, South 87 degrees 11 minutes 42 seconds West, a distance of 201.78 feet to a 5/8-inch iron rod found at the southwesterly corner of said 1.3688 acre tract and being on the southerly line of aforesaid 117.8988 acre tract;

Thence with said southerly line, the following two (2) courses:

- 1) North 87 degrees 43 minutes 03 seconds West, a distance of 254.29 feet;
- 2) South 01 degree 33 minutes 55 seconds East, a distance of 32.03 feet to the northeasterly corner of Coventry Square, a subdivision recorded in Film Code Number 311055 of the H.C.M.R.;

Thence, with the northerly line of said Coventry Square, the following four (4) courses:

- 1) South 87 degrees 22 minutes 03 seconds West, a distance of 446.00 feet;
- 2) North 02 degrees 37 minutes 57 seconds West, a distance of 65.00 feet;
- 3) South 87 degrees 22 minutes 03 seconds West, a distance of 80.00 feet to a 5/8-inch iron rod found;
- 4) North 80 degrees 47 minutes 40 seconds West, at a distance of 456.00 feet pass an "X" cut in concrete on the easterly R.O.W. line of aforesaid Cook Road, in all, a distance of 536.99 feet to the westerly R.O.W. line of said Cook road and being on the easterly line of Regent's Village, a subdivision recorded in Film Code Number 542277 of the H.C.M.R. (X:3049281.29, Y:13809851.33);

Thence, with said westerly R.O.W. line, North 02 degrees 23 minutes 52 seconds West, a distance of 1832.02 feet to a point at the intersection of said westerly R.O.W. line and the northerly R.O.W. line of aforesaid Wildwood Glen Drive (X:3049204.65, Y:13811681.74);

Thence, North 87 degrees 42 minutes 57 seconds East, at a distance of 80.00 feet pass the aforesaid easterly R.O.W. line of Cook Road and continuing with said northerly R.O.W. line of Wildwood Glen drive, in all, a distance of 811.20 feet to the westerly line of a call 2.645 acre tract recorded in the name of H.C.W.C.I.D. No. 123 in H.C.C.F. Number D305422;

Thence, with the westerly, southerly and easterly lines of said 2.645 acre tract, the following three (3) courses:

- 1) South 02 degrees 40 minutes 21 seconds East, a distance of 60.00 feet;
- 2) North 87 degrees 42 minutes 57 seconds East, a distance of 489.06 feet;
- 3) North 02 degrees 38 minutes 03 seconds West, a distance of 413.39 feet to the northerly north-west corner of aforesaid 117.8988 acre tract;

Thence, with the northerly line of said 117.8988 acre tract, the following two (2) courses:

- 1) North 28 degrees 36 minutes 57 seconds East, a distance of 102.35 feet to a 5/8-inch iron rod found;
- 2) North 87 degrees 22 minutes 24 seconds East, at a distance of 544.38 feet pass a 3/4-inch iron rod found at the northwesterly corner of aforesaid 18.5993 acre tract, in all, a distance of 1382.49 feet to the easterly R.O.W. line of Kirkwood Road (X:3051917.73, Y:13812239.79);

Thence, with said easterly R.O.W. line, South 02 degrees 34 minutes 54 seconds East, a distance of 2210.53 feet;

Thence, crossing said Kirkwood Road, South 87 degrees 28 minutes 36 seconds West, a distance of 337.31 feet to the northwesterly corner of a call 0.9157 acre tract recorded in the name of Flagship Investment LLC in H.C.C.F. Number RP-2019-113813 (X:3051680.32, Y:13810016.65);

Thence, with the westerly line of said 0.9157 acre tract, South 02 degrees 31 minutes 24 seconds East, a distance of 167.54 feet to a 3/4-inch iron rod found at the southwesterly corner of said 0.9157 acre tract and being on the northerly line of a call 1.377 acre tract recorded in the name of Southwestern Bell in H.C.C.P. Number C287739;

Thence, with the northerly and westerly line of said 1.377 acre tract, the following two (2) courses:

- 1) South 87 degrees 28 minutes 36 seconds West, a distance of 61.90 feet;
- 2) South 02 degrees 31 minutes 24 seconds East, a distance of 200.00 feet to the northerly line of Reserve "B", Kirkwood Commercial, a subdivision recorded in Film Code Number 679786 of the H.C.M.R.;

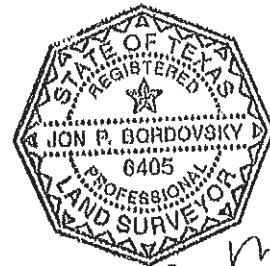
Thence, with the northerly and westerly line of said Reserve "B", the following two (2) courses:

- 1) South 87 degrees 54 minutes 08 seconds West, a distance of 76.59 feet;
- 2) South 02 degrees 38 minutes 34 seconds East, a distance of 286.03 feet to the northeasterly corner of aforesaid Golf Plaza;

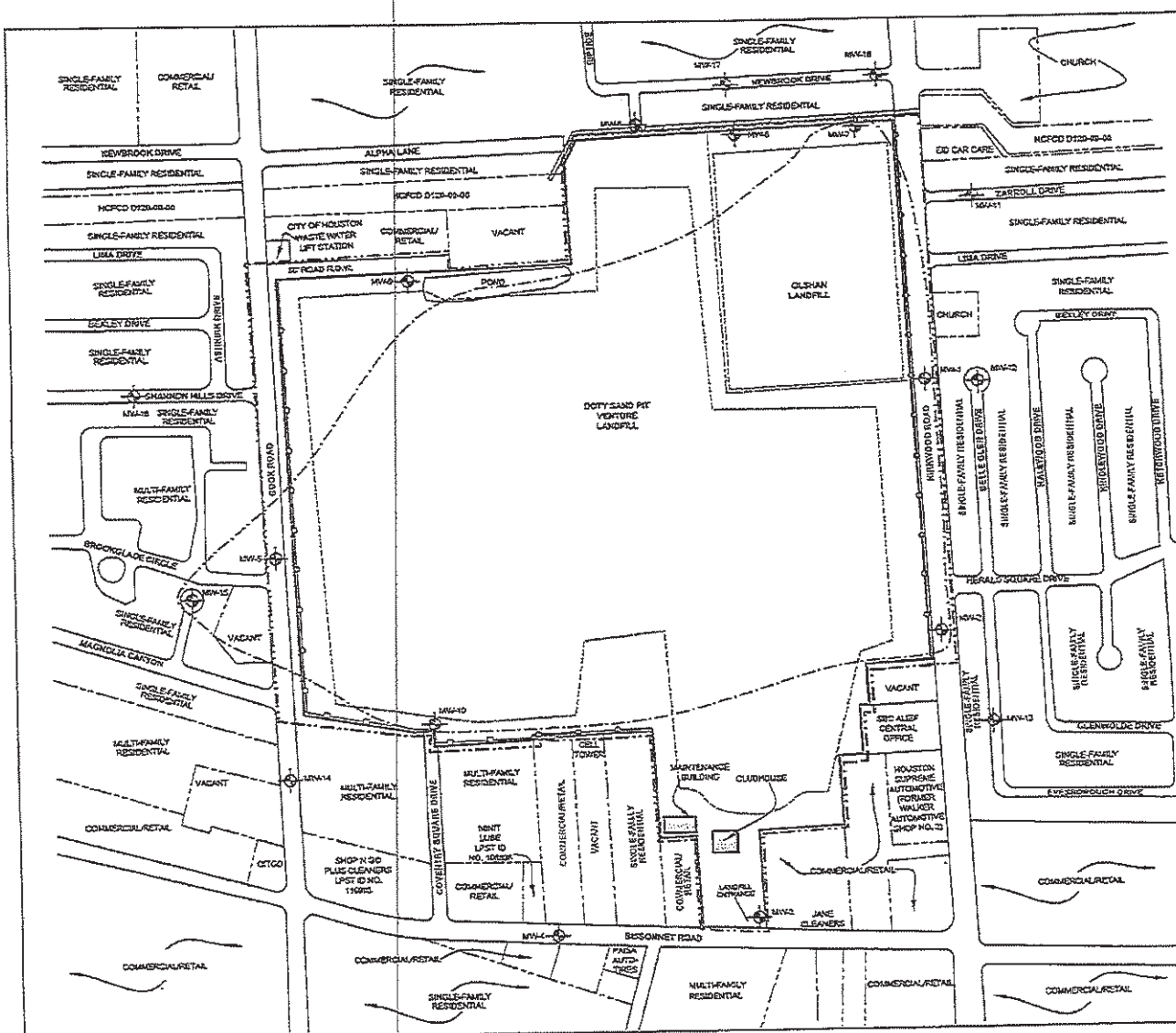
Thence, with said northerly line, South 87 degrees 22 minutes 16 seconds West, a distance of 350.55 feet the Point of Beginning and containing 145.935 acres of land.

THIS DESCRIPTION WAS PREPARED IN CONNECTION WITH A TRACT EXHIBIT FILED IN JOB NUMBER 195547 AT GBI PARTNERS.

GBI PARTNERS
TBPELS Firm No. 10130300
Ph: 281,499,4539
September 11, 2020



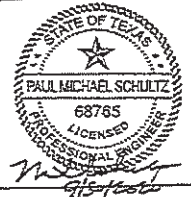
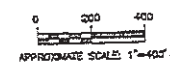
Jon P. Bordovsky
9/11/2020



- LEGEND**
- SUBJECT PROPERTY BOUNDARY
 - DESIGNATED PROPERTY BOUNDARY
 - LOT BOUNDARY
 - APPROXIMATE LANDFILL WASTE BOUNDARY
 - [Symbol] ON-SITE BUILDING
 - [Symbol] WOODEN FENCE
 - [Symbol] METAL FENCE
 - [Symbol] GROUNDWATER MONITORING WELL
 - HCFCD STORMWATER CHANNEL
 - [Symbol] HCFCD BOX CULVER
 - ARSENIC GROUNDWATER POLE ZONE

NOTES

- HCFCD REPRESENTS HARRIS COUNTY FLOOD CONTROL DISTRICT.
- CIRCULAR SHADERS ELEVATIONS WITHIN THE LANDFILL ARE INFERRED FROM SURROUNDING WELLS.
- "R.O.W." REPRESENTS RIGHT OF WAY.
- "P.O.L.E." REPRESENTS PROTECTIVE CONCENTRATION LEVEL EXCEEDED.
- "N.O.P." REPRESENTS NORMAL SOLID WASTE.
- THE ORIGINAL VERSION OF THIS DRAWING IS IN COLOR. SLACK AND WHITE COPIES MAY NOT ACCURATELY DEPICT CERTAIN INFORMATION.
- THIS DRAWING HAS BEEN PREPARED UNDER THE SUPERVISION OF A PROFESSIONAL ENGINEER OR GEOLOGIST. DO NOT ALTER THIS DOCUMENT IN ANY WAY WITHOUT THE WRITTEN CONSENT OF SKA CONSULTING, L.P.



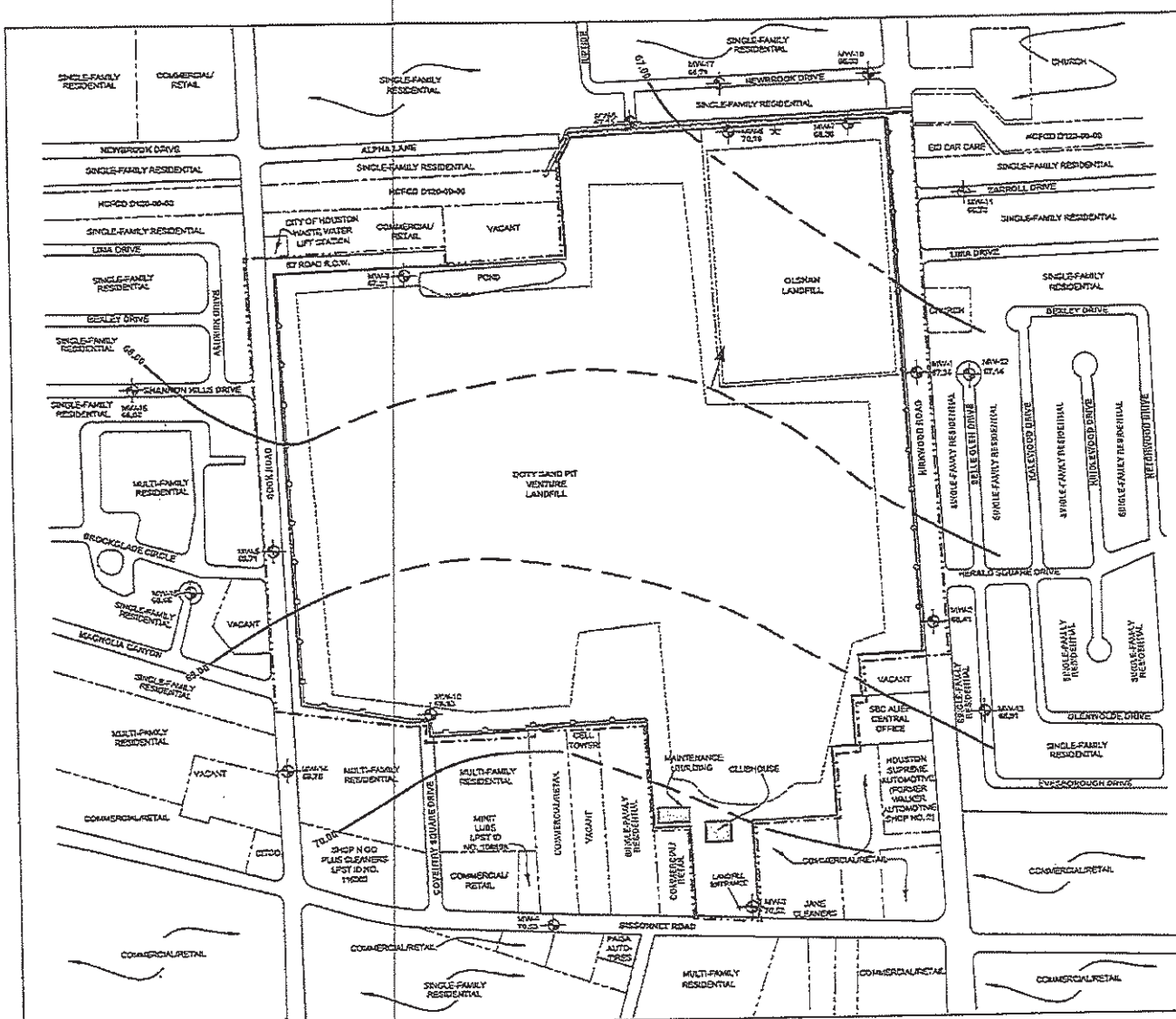
SKA CONSULTING, L.P.
1022 STEWART DRIVE, SUITE 130
HOUSTON, TEXAS 77056
Texas Registered Engineering Firm F-005002
Texas Registered Geologist Firm 50011

ARSenic GROUNDWATER POLE ZONE MAP
JULY 2020

CITY OF HOUSTON MUNICIPAL SETTING
DESIGNATION APPLICATION
DUTY SAND PIT VENTURE LANDFILL
AND OLSHAN LANDFILL PROPERTY
72000 BISSONNET STREET
HOUSTON, HARRIS COUNTY, TEXAS
MSW PERMIT No. 1247

FIGURE
C.8B

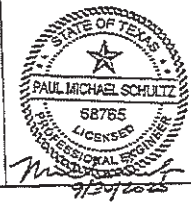
DATE: SEPTEMBER 2020	REV. NO. 5019-0001	SCALE AS SHOWN
1. FIRST REVISION	-	DRAWN BY: BT
2. SECOND REVISION	-	CHECKED BY: GAV
3. THIRD REVISION	-	APPROVED BY: [Signature]



- LEGEND**
- SUBJECT PROPERTY BOUNDARY
 - - - DESIGNATED PROPERTY BOUNDARY
 - LOT BOUNDARY
 - - - APPROXIMATE LANDFILL WASTE BOUNDARY
 - ON-SITE BUILDING
 - WOODEN FENCE
 - METAL FENCE
 - ⊕ GROUNDWATER MONITORING WELL
 - GROUNDWATER CONTOUR (FEET MSL)
 - GROUNDWATER FLOW DIRECTION
 - 67.67 GROUNDWATER ELEVATION (FEET MSL)
 - ⊗ ANCHOR KEY
 - - - HCFCD STORMWATER CHANNEL
 - ▨ HCFCD BOX CULVERT

NOTES

- "HCFCD" REPRESENTS HARRIS COUNTY FLOOD CONTROL DISTRICT.
- GROUNDWATER ELEVATIONS WITHIN THE LANDFILLS INFERRED FROM SURROUNDING WELLS.
- "FLOW" REPRESENTS DIRECTION OF FLOW.
- "MSL" REPRESENTS MEAN SEA LEVEL.
- "MSW" REPRESENTS MUNICIPAL SOLID WASTE.
- THE ORIGINAL VERSION OF THIS DRAWING IS IN COLOR. BLACK AND WHITE COPIES MAY NOT ACCURATELY DEPICT CERTAIN INFORMATION.
- THIS DRAWING HAS BEEN PREPARED UNDER THE SUPERVISION OF A PROFESSIONAL ENGINEER OR GEOSCIENTIST. DO NOT ALTER THIS DOCUMENT IN ANY WAY WITHOUT THE WRITTEN CONSENT OF SKA CONSULTING, L.P.



SKA CONSULTING, L.P.
1880 PETERS DRIVE, SUITE 100
HOUSTON, TEXAS 77042
Texas Registered Engineering Firm F-005039
Texas Registered Geoscientist Firm 50011

**GROUNDWATER GRADIENT MAP
(JULY 2020)**

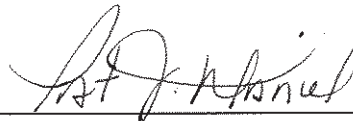
CITY OF HOUSTON MUNICIPAL SETTING
DESIGNATION APPLICATION
DUTY SAND PIT VENTURE LANDFILL
AND OLSHAN LANDFILL PROPERTY
12000 SISSONNET STREET
HOUSTON, HARRIS COUNTY, TEXAS
MSW PERMIT NO. 1247

FIGURE
C.6C

DATE: SEPTEMBER 2020	APP NO: 5019-0001	STATUS: AS SHOWN
1. PROJECT DESIGN	—	DRAWN BY: BT
2. DESIGN REVISION	—	CHECKED BY: GJM
3. THIRD APPROVAL	—	APPROVED BY: SKA

I, PAT J. DANIEL, City Secretary of the City of Houston, Texas, do hereby certify that the within and foregoing is a true and correct copy of Ordinance 2022-7 passed and adopted by the City Council of said City on the 5th day of January, 2022, as the same appears in the records in my office.

WITNESS my hand and the Seal of said City this 15th day of February, 2022.

A handwritten signature in cursive script, appearing to read "Pat J. Daniel", written in black ink.

Pat J. Daniel
City Secretary

The environmental condition of the site has been thoroughly investigated through a Phase I performed in 2019, as well as multiple subsurface investigations. These investigations identified that the subject property is part of and surrounded by the +/-118.778-acre Doty Sand Pit Venture (DSPV) Landfill. Initially a sand mining operation in the 1960s, it became a construction and demolition debris landfill between 1960 and 1999. Landfilling at the site began prior to implementation of permitting requirements; however, the site achieved a permit for the operation of a Type IV construction and demolition debris in 1981 (now identified as Municipal Solid Waste (MSW) Permit No. 1247). The landfill ceased receiving waste in 1999, and has been in the post-closure care period since that time. In the interim, the subject property has been utilized as a golf course.

The applicant has evaluated the environmental condition of the site, and has planned for the abatement of potential environmental hazards associated with the landfill, to the extent such hazards have not yet been eliminated. The following discussion provides further information on the regulatory history and status of the site, as well as abatement measures planned for site redevelopment.

- Potential for toxic contaminants has been addressed. With any older landfill, there is the potential that the wastes disposed in the landfill included hazardous materials. At the site, the landfill was permitted as a construction and demolition debris landfill. The subsurface conditions of the site have previously been investigated through the installation of test pits and monitoring wells. In the late 2010s, test pits were installed to evaluate the potential for mining to recover valuable materials from the construction and demolition debris in the landfill. Though such mining did not occur, observations of the test pits confirmed that the waste in the landfill is consistent with a Type IV construction and demolition debris landfill.

In 2019, nine groundwater monitoring wells were installed around the perimeter of the former landfill. This investigation found no constituents consistently above cleanup levels except for arsenic and manganese in the shallowest layer of groundwater. These arsenic and manganese impacts were delineated through the installation of additional monitoring wells and quarterly groundwater monitoring. Similarly, on-site borings distributed across the site did not identify contaminants above direct contact cleanup levels in soil, and no contaminants other than other than arsenic exceeded groundwater protective cleanup levels. Because shallow groundwater beneath the site is not used for consumption, and the constituents are not volatile, they are not a human health concern.

To address the regulatory status of the arsenic impacts, the site owner has obtained approval from the City of Houston for a municipal setting designation (MSD). The MSD will memorialize a prohibition on the use of groundwater, and with the MSD, soil and groundwater concentrations will no longer exceed applicable cleanup levels. The remaining step for the MSD is to obtain certification of the MSD by the TCEQ. At this time, the TCEQ MSD application is being prepared. With the MSD, no further actions will be required with respect to contaminants at the site. As a result, the potential for an environmental hazard associated with hazardous materials within or migrating from the landfill will be eliminated.

- Methane generation at the existing landfill is being addressed through a landfill gas system. The degradation of organic material in landfills can lead to the production of methane and other gases (landfill gases or "LFG"), the accumulation of which must be controlled. TCEQ rule 30 TAC 330.371(a)(2) states that LFG (methane) concentrations in soil gas and monitoring probes at the property boundary cannot exceed 5% by volume. The landfill currently has a LFG management system consisting of vents and monitoring probes. The LFG management system has been monitored and maintained, and additional vents have been installed in 2021. There have been no methane exceedances since the last additional vents were installed in July 2021.

Development will have additional features to be protective for LFG. Because the landfill is expected to generate methane into the future, the development plans for the site will incorporate appropriate measures to vent and mitigate methane. Development of land over closed landfills is regulated by the TCEQ under 30 TAC Chapter 330 Subchapter T (Subchapter T). These rules have provisions for enclosed structures and non-enclosed structures such as property infrastructure (roads, utilities, drainage). Detailed engineering plans must be reviewed and approved by the TCEQ prior to construction as part of the Subchapter T development permit. The applicant anticipates that the current land owner will obtain a permit under Subchapter T for property infrastructure, and the applicant will obtain a Subchapter T permit for the enclosed structures. The TCEQ rules for enclosed structures require LFG management systems including sub slab LFG venting, monitoring, and alarms to ensure that interior concentrations are acceptable [30 TAC 330.957(m)]. Upon TCEQ approval, these systems would be installed during the construction of the planned enclosed structures. The LFG management systems would require routine maintenance and monitoring. It is anticipated that the property management company will be responsible for the monitoring and maintenance of the LFG management systems. Based on the planned building improvements that will be consistent with Subchapter T requirements, potential exposure to LFG will be adequately mitigated.



Kirkwood Crossing Development Site Aerial View



Entrance to Kirkwood Crossing Street View at 12000 Bissonnet Street

7i

BOARD ACTION REQUEST
MULTIFAMILY FINANCE DIVISION
APRIL 14, 2022

Presentation, discussion, and possible action on staff determinations regarding Application disclosure under 10 TAC §11.101(a)(2) related to Undesirable Site Features for Heritage Estates at Edmonds (#22218) in Lewisville.

RECOMMENDED ACTION

WHEREAS, pursuant to 10 TAC §11.101(a)(2) of the 2022 Qualified Allocation Plan related to Undesirable Site Features, Development Sites within the applicable distance of any of the identified undesirable features will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility;

WHEREAS, for the items requiring disclosure under 10 TAC §11.101(a)(2), staff received such a disclosure for Heritage Estates at Edmonds (#22218) along with a request for waiver of 10 TAC §11.101(a)(2)(D) regarding high voltage powerline and support structures located within 100 feet of a proposed residential unit; and

WHEREAS, staff has conducted a review of the disclosure pursuant to 10 TAC §11.101(a)(2) and prepared a summary for the Board;

NOW, therefore, it is hereby

RESOLVED, that the Board determine whether the information regarding the undesirable site features is sufficient and supports the waiver of 10 TAC §11.101(a)(2)(D) for Heritage Estates at Edmonds (#22218).

BACKGROUND

Per 10 TAC §11.101(a)(2), Development Sites within the applicable distance of any of the undesirable features identified in the rule will be considered ineligible unless it is determined by the Board that information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility. Should the Board make the determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is final and not subject to further appeal.

In a waiver request submitted with the application on March 1, 2022, the applicant disclosed the presence of a high voltage power line and support structures located within 100 feet of some of the residential units planned on proposed Development Site. Currently, there numerous single family homes

and multifamily buildings along Edmonds Lane that are located within 100 feet of the same high voltage power lines.

According to the request, the proposed Development Site is currently zoned Single Family Residential, but the Applicant is pursuing rezoning to Planned Development in consultation with the City of Lewisville, which will allow for more flexibility than other multifamily specific designations given the unusual shape of the Development Site. However, the City applies the requirements associated with those of the zoning district most similar to the proposed actual use of the property zoned Planned Development, which the Applicant believes would be one of the three Multifamily zoning districts: MF-1, MF-2, or MF-3.

The proposed Development has a density of, “no more than 24 units per acre, the Site plan includes a minimum of 1.2 spaces per unit, and the building is no more than two stories in height,” in accordance with base zoning requirements. Configuring the Development to meet these requirements places the residential building approximately 80 feet away from the high voltage power line, which does not meet the required 100 foot high voltage power line setback as prescribed by 10 TAC §11.101(a)(2)(D).

The Applicant contends that if the buildings were to be situated at the back of the Development Site to meet the Department’s setback requirement, then the remaining site area would not allow for the minimum required amount of parking associated with the City’s Multifamily base zone requirements. Correspondence between the Applicant and the City included with the request shows the City will likely not allow parking spaces in the front setback, leaving only the rear and side building setbacks as available space for parking.

In sum, it is not possible without variances to local zoning requirements to construct the Development in a manner that simultaneously comports with the City’s nuanced setback, height, density, parking, and landscaping requirements and the Department’s high voltage power line setback requirement due to the odd shape of the Development Site, as shown in the waiver request that is attached to this BAR. This is the basis for the Applicant’s waiver argument under 10 TAC §11.207 that the need for the waiver is not within the Applicant’s control. Applicant’s request also addresses their belief that granting the waiver request will better serve TDHCA’s foundational policies and purposes enunciated in Tex. Gov’t Code chapter 2306.

Based on information and supporting documentation provided by the applicant in their request, staff recommends that the Board determine whether the information regarding the undesirable site features is sufficient and supports the waiver of 10 TAC §11.101(a)(2)(D) for Heritage Estates at Edmonds (#22218).. For federal purposes the site has not yet gone through an environmental or site and neighborhood standard review.

SOUTH CREEK

February 24, 2022

Mr. Bobby Wilkinson
Executive Director
Texas Department of Housing and Community Affairs
221 East 11th Street
Austin, TX 78701

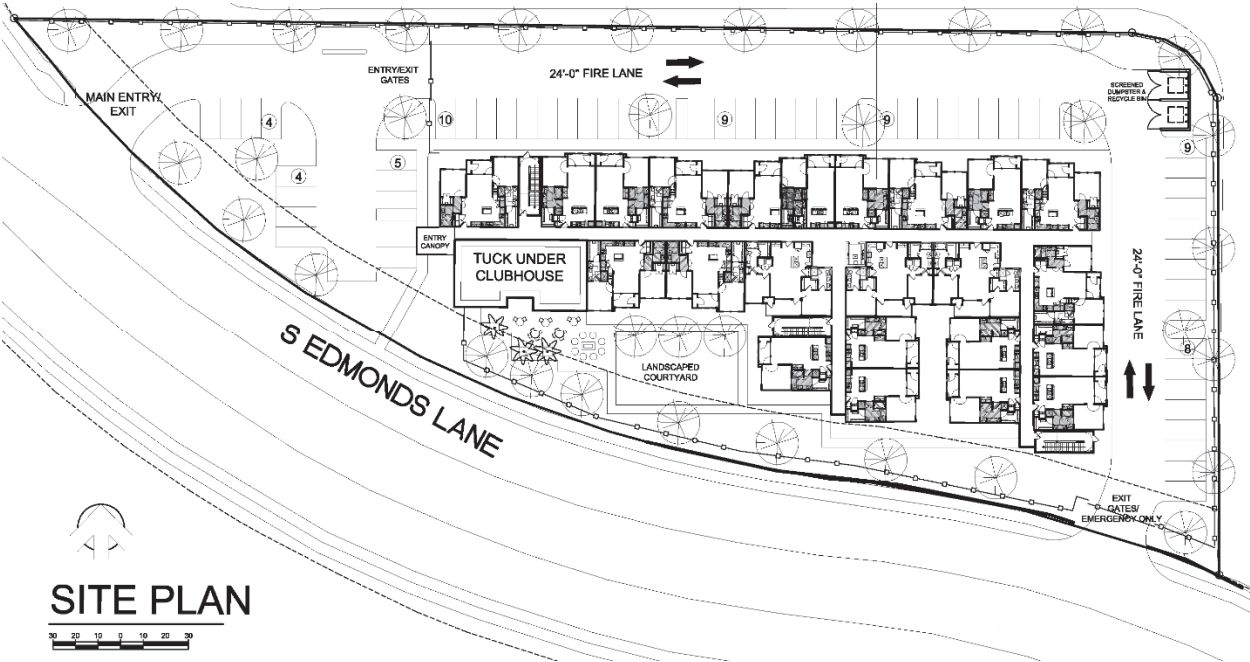
Re: Waiver Request for Heritage Estates at Edmonds, TDHCA #22218 – Undesirable Site Features, 2022
9% Housing Tax Credit Application

Dear Mr. Wilkinson,

During the course of completing the application materials for Heritage Estates at Edmonds, it was determined that a high voltage powerline and support structures are located within 100 feet of some of the residential units proposed on the development site (10 TAC §11.101(a)(2)(D)). The purpose of this letter is to request a waiver under 10 TAC §11.207 based upon the unique facts and circumstances of the Heritage Estates at Edmonds development plan. Additionally, this request will emphasize how the proposed development will further the purposes and policies of TDHCA’s governing statute, Chapter 2306.

Development Plan Summary

Heritage Estates at Edmonds is a proposed new construction development of 48 units to be located at 1727 S. Edmonds Lane in Lewisville, Texas. The development is being proposed by TX Edmonds 2022, Ltd. and will be age-restricted for elderly households. The site is a small 2.05-acre tract that currently houses an existing church. This building will be demolished and the site cleared for the development of Heritage Estates at Edmonds. Below is the proposed site plan.



The site is currently zoned R7.5, Single Family Residential. After extensive consultation with the City of Lewisville, it was determined that pursuing rezoning of the site to PD, Planned Development, is the optimal path for the development based upon the unique site characteristics and planned use for senior multifamily housing. This zoning designation allows for more flexibility than other multifamily specific designations which is appropriate given the relatively small, odd shape of the site and smaller scale of the proposed development at 48 units. Additionally, the City of Lewisville expressed a desire to for the development to have an attractive, landscaped streetscape, without parking along the Edmonds Lane. The site plan also includes a total of 58 parking spaces which is the minimum necessary (1.2 spaces per unit) under Section 6-162(a)(9) the City’s Land Development Regulations. As is evident from the proposed site plan (above), the proposed development would make maximum use of the small site to increase affordable housing opportunities for low-income seniors in Lewisville, a high opportunity and underserved area. To the extent that the site remained zoned R7.5 and were redeveloped as such, the minimum dwelling size for this zoning category is 1,700 square feet, which would certainly render any such residence financially inaccessible to any lower income households.

Powerline Characteristics

The high voltage power line that is the subject of this request is constructed in the Edmonds Lane median running southeast to northwest along the southern boundary of the site. All high voltage components are located well above street level and are affixed to high strength, steel poles designed to meet all required strength, load, and durability specifications. In many cases, high voltage components are located in fenced areas at ground level, but in this case the high voltage components are safely located far from reach without appropriate equipment. Moreover, the support structures are located in the roadway median thereby being two lanes of traffic plus the 25-foot setback from the buildings. This is approximately 80 feet from the actual residential building. There is simply no reason to conclude that the high voltage lines represent a risk to the health and safety of the future residents of Heritage Estates at Edmonds. Additional context and detail follows.



Nature of Waiver Request

In accordance with 10 TAC §11.207(1), the need for this waiver is not within the control of the Applicant and is due to an overwhelming need. While there is flexibility under the PD zoning district, the City applies the requirements associated with those of the zoning district most similar to the proposed actual use. Section 17-26(c)(2) of the City of Lewisville Code of Ordinances states, “In the PD District, uses shall conform to the standards and regulations of the base zoning district to which it is most similar. The base zoning district shall be stated in the granting ordinance.” In the subject case, the building setbacks, for example, associated with one of the multifamily specific zoning districts would be applicable when developing multifamily housing in a PD zone. Thus, we anticipate that the “base zoning district” for subject development would be one of the three MF zoning districts (MF-1, MF-2, or MF-3), although this will ultimately be determined after more review by the City.

Due to the nuances of setback, height, density, parking, and landscaping requirements under any of the MF zoning districts, the development of 48 units as proposed would not be attainable without variances from the base district. If the building were situated to meet TDHCA's high voltage powerline setback requirement of 100' then one or more variances would be necessary. This point is best illustrated with an example. As proposed, the density of Heritage Estates at Edmonds is no more than 24 units per acre, the site plan includes a minimum of 1.2 spaces per unit, and the building is no more than two stories in height - all important base zone requirements. Likewise, it is evident that there is very little unused space in the plan, so a reduction in the area that could be utilized for building would result in one or another deviations from these base zone requirements. Hypothetically, for example, if the buildings were to be situated at the back of the site (25' from the rear/northern property line and 25' from the eastern property line) then the remaining site area would not allow for the minimum required amount of parking. This is in large part because required parking spaces are allowable in the rear and side building setbacks but prohibited in the front setback. These two setbacks constitute more than 14,000 SF (16% of the site) that can have parking but not a building. The point is that situating the parking at the rear the site allows the proposed plan to conform more completely with the City's requirements, but the resulting plan places the residential building shy of meeting TDHCA's 100' setback. The apparent conflict between these requirements is simply outside of the Applicant's control and clearly meets the standard of being an overwhelming need, in accordance with 10 TAC §11.207(1).

It is also important to understand that this is not merely an issue of conflicting requirements. In fact, there is simply no evidence that the high voltage powerline represents a health or safety risk to future residents of Heritage Estates at Edmonds. It is exceedingly common for residential and commercial buildings to be located in close proximity to high voltage power lines such as these, particularly in urban and suburban environments. In fact, numerous single family homes and multifamily buildings along Edmonds Lane are also located within 100 feet of the same high voltage powerlines and there are no known adverse incidences from this proximity. The Applicant reviewed historical imagery of the area and found that these transmission lines have coexisted with the surrounding residential neighborhood since the area was originally developed in the 1980s, more than 30 years ago. In fact, the transmission lines were installed when Edmonds Lane was extended and widened in the 1980s to provide the electrical capacity necessary for the surrounding residential neighborhoods and facilitate the growth Lewisville has experienced over the last 30+ years.

Moreover, it is becoming ever more common for high voltage lines to be within 100 feet of residential properties as best practices in urban planning promote the development of street-facing buildings with parking areas hidden from view at the rear of properties. This configuration has been shown to increase pedestrian activity and create a more connected, dense built environment. Many urban and suburban cities throughout the country are adopting maximum setbacks and other mechanisms to facilitate this style of development. The fact is buildings located close to streets and sidewalks are inherently more likely to be located within 100 feet of high voltage powerlines which are frequently located along those same streets in narrow utility easements. This practice is increasingly popular because it contributes to healthier cities and neighborhoods rather than presenting health or safety risks. In fact, locating the parking in the rear will also create a safer environment for residents of the property than parking located immediately adjacent to the high traffic Edmonds Lane where unauthorized trespassing is easier for non-residents and monitoring by property security is more difficult.

Additionally, the proposed development site abuts an existing single family residential neighborhood on the north and east boundary of the site. The homes are well-kempt predominately single story homes with backyards framed by 6 foot privacy fences. If the buildings were located adjacent to the north and/or east boundaries, more than a dozen of the proposed second floor units would peer directly into living room or bedroom windows of the adjacent property owners. As a result, the proposed site configuration retains an appropriate buffer between the proposed multifamily use and adjacent single family neighborhood, again in keeping with best practices.

Lastly, the proposed Heritage Estates at Edmonds will be the first and only housing tax credit development in this area of Lewisville. In fact, there are currently no housing tax credit properties within this census tract or any of the adjacent census tracts. The subject application qualifies for both the maximum Opportunity Index points and Underserved Area points as a result. According to Zillow, each of the neighboring single family residences is valued at more than \$300,000 and this is consistent with the housing values in the area more generally. Rents for single family homes in the area are approximately \$2K per month. The closest multifamily property, Cottages on Edmond, currently has no units available for lease. Heritage Estates at Edmonds will provide high quality affordable housing to a neighborhood that would otherwise be cost prohibitive to low income seniors.

Conclusion

In accordance with 10 TAC §11.207(2), a waiver must establish how granting the waiver will better serve specific sections of the TDHCA's governing statute, Chapter 2306, than not granting the waiver. The Applicant asserts that granting the subject waiver request will better serve the following policies and purposes in Chapter 2306:

- “provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income” (§2306.001(2));
- “encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace” (§2306.6701(1)); and
- “maximize the number of suitable, affordable residential rental units added to the state’s housing supply” (§2306.6701(2)).

Approval of this waiver will facilitate the development of a best practice-aligned multifamily property targeting low income Texans. The waiver will allow the Applicant to maximize the number of suitable, affordable rental units on the proposed site, which is located in a significantly underserved and a highly desirable, high opportunity area of the state. There are no existing housing tax credit properties in the area even after decades of the program’s existence. The area has high market rents and a lack of available units at nearby multifamily properties. To the extent that such a waiver is not provided, the prospective tenants of Heritage Estates at Edmonds will find it near impossible to find local, affordable options in the private marketplace. Furthermore, the waiver will not adversely impact the health or safety of the residents and will add much needed affordable rental units to the state’s housing supply.

Based on the information contained herein, the Applicant asserts that this request for a waiver meets all elements of the QAP’s provisions governing the granting of a waiver. We respectfully request that staff and the board support a waiver of 10 TAC §11.101(a)(2)(D). We believe that the unique characteristics of the Heritage Estates at Edmonds development are an ideal example of the need for a waiver process.

Should additional information to support this waiver request be necessary, we will make every effort to provide the information in a timely manner. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH', is positioned above the printed name and title. The signature is stylized and cursive.

Charlie Heritage
Manager



LEWISVILLE

Deep Roots. Broad Wings. Bright Future.

Economic Development &
Planning

March 1, 2022

Charlie Heritage
TX Edmonds 2022, Ltd.
PO Box 543
Summerfield, NC 27358

Re: PD Zoning - 1727 S. Edmonds Lane

Mr. Heritage,

The City of Lewisville appreciates your interest in developing affordable senior housing in our community. With regard to your planned development rezoning application, we feel it is important to provide you and with some understanding of what will be required for the City of Lewisville staff to recommend approval your rezoning request to the Planning and Zoning Commission and City Council. Below are a few design items that should be included in your concept plan.

Building Height and Location: Based on the proximity to single-story single-family homes we request that you limit the height of the building to two stories, comparable to the existing church. In addition, we request that you move the building as far from the residential ally on the north and east sides as possible. This will push the building closer to the street and locate the parking in the rear. This location will help mitigate the impact of the building on the adjacent residential. Ideally the building would be in approximately the same location as the current two-story church, with parking at the rear.

Exterior Materials: The City of Lewisville has a preference for at least 80% of the exterior of multifamily developments to consist of brick and/or stone. The required 30-foot landscape buffer may be reduced provided 80% brick or stone is met.

Please note this is not a comprehensive list of requirements, just two of the key items that significantly impact site design and project cost. We are currently performing the full review of your application look forward to more discussions on this project. Formal comments on the planned development zoning application will be sent in approximately two weeks.

Thank you,

Michele Berry, AICP
Planning Manager
City of Lewisville